AGENDA FOR THE COUNCIL MEETING
CITY OF PORTAGE
September 25, 2012

7:30 p.m. Call to Order.

Invocation: Pastor Daniel Teerman of The Bridge

Pledge of Allegiance.

Roll Call.

Proclamation:

A. Approval of the Special and Regular Meeting Minutes of September 11, 2012.

* B. Approval of Consent Agenda Motions.

* C. Communication from the City Manager recommending that City Council approve the Accounts Payable Register of September 25, 2012, as presented.

D. Public Hearings:

E. Petitions and Statements of Citizens:

F. Reports from the Administration:

* 1. Communication from the City Manager recommending that City Council approve the City of Kalamazoo – City of Portage Water Supply Agreement and authorize the Mayor to sign the agreement on behalf of the city.

* 2. Communication from the City Manager recommending that City Council amend the General Appropriations Act (budget) for the fiscal year ending June 30, 2013.

* 3. Communication from the City Manager recommending that City Council:
   a. accept the order of the Construction Board of Appeals to demolish the pole barn and accessory loading dock at 1518 East Centre Avenue; and
   b. authorize the City Administration to take the necessary action to demolish the pole barn and accessory loading dock at 1518 East Centre Avenue, place a lien and assess the property to recover the costs associated with demolition consistent with the ordinance.

* 4. Communication from the City Manager recommending that City Council appoint a City Council 50th Anniversary Committee to consider additional suggested activities and events from Advisory Board and Commissions and Portage residents and present the additional suggested activities and events to the City Council no later than October 23, 2012.

* 5. Communication from the City Manager recommending that City Council establish Friday, November 16, 2012, as the date of the 2012 City Council Goal Setting Session.

* 6. Communication from the City Manager regarding donation boxes – Information Only.

* 7. Communication from the City Manager regarding the August 2012 Summary Environmental Activity Report - Information Only.

* 8. Department Monthly Reports.

G. Communications:

H. Unfinished Business:

* I. Minutes of Boards and Commissions Meetings:

1. Portage Human Services Board of August 2, 2012.
2. Portage Zoning Board of Appeals of August 13, 2012.
3. Portage Planning Commission of August 16 and September 6, 2012.

J. Ad-Hoc Committee Reports:

K. New Business:

L. Bid Tabulations:

* 1. Communication from the City Manager recommending that City Council approve the lease of 141 Lenovo replacement computers and peripheral equipment from Capital Advantage Leasing of Grand Rapids, Michigan, at a total lease price of $106,286.40 and authorize the City Manager to execute all documents related to this action on behalf of the city.

* 2. Communication from the City Manager recommending that City Council approve an annual licensing and software maintenance services agreement with SunGard, Incorporated, at a total cost of $66,338 and authorize the City Manager to execute all documents related to this agreement on behalf of the city.

* 3. Communication from the City Manager recommending that City Council accept the quote submitted by Bell Equipment of Lake Orion, Michigan, in the amount of $25,500 for rental of two Whirlwind vacuum sweepers for the Fall Leaf Pickup Program and authorize the City Manager to execute all documents related to this action on behalf of the city.

M. Other City Matters:

1. Statements of Citizens.

2. From City Council and City Manager.

* 3. Reminder of Meetings:

a. Thursday, September 27, 4:30 p.m., Public Media Network Board of Directors, 359 South Kalamazoo Mall, 3rd Floor, Kalamazoo.
b. Wednesday, October 3, 8:15 a.m., Historic District Commission, City Hall Room #2.
c. Thursday, October 4, 6:30 p.m., Human Services Board, City Hall Room #1.
d. Thursday, October 4, 7:00 p.m., Planning Commission, Council Chambers.
e. Monday, October 8, 6:30 p.m., Youth Advisory Committee, City Hall Room #1.
f. Monday, October 8, 7:00 p.m., Zoning Board of Appeals, Council Chambers.
g. Tuesday, October 9, 5:15 p.m., City Council Special Meeting to Interview Board and Commission Applicants, City Hall Room #1.

N. Materials Transmitted of September 11, 2012.

Adjournment.

CITY COUNCIL MEETING SUMMARY

September 11, 2012

CHECK REGISTER

- Approved the Check Register of September 11, 2012, as presented.

PUBLIC HEARINGS

- Approved Rezoning Application #11-04 and rezoned 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and all but the northern 50 feet of 801, 809, 815, 821 and 827 East Centre Avenue to OS-1, office service, with the northern 50 feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential.
- Adopted Resolution No. 4-12, approving the Industrial Facilities Exemption Certificate for the planned FEMA Corporation's $3.65 million building addition and machinery and equipment purchase at 1716 Vanderbilt Avenue; and approved the tax abatement agreement and the affidavit between the City of Portage and FEMA Corporation.

REPORTS FROM THE ADMINISTRATION

- Approved the Kalamazoo Metro, Special Weapons and Tactics Team Agreement and authorize the City Manager to execute the agreement on behalf of the city.
- Approved the requested 120-day extension for consideration of conditional approval of the Repertoire Coffee House and Theater, Inc., 2010 Liquor License application.
- Accepted as presented the activities, events and actions to commemorate the 50th Anniversary of the City of Portage; appointed a City Council Ad Hoc Committee to consider additional suggested activities and events from Advisory Boards and Commissions and Portage residents; and requested that the Ad Hoc Committee present the additional suggested activities and events to the City Council no later than October 23, 2012.
- Directed the City Administration to include the installation of water main on Metsa Court for consideration in the Fiscal Year 2013-2014 Capital Improvement Budget.
- Set a Special Meeting on Tuesday, October 9, 2012, beginning at 5:15 p.m. to interview board and commission applicants.

COMMUNICATION

- Received the communication from Mr. Michael Marshburn of PCL Curtis, LLC, regarding Renewing of Previously Approved Conceptual Plan for NW Corner of Centre and Shaver, granted a waiver from the CPD, Commercial Planned Development, Conceptual Plan resubmission requirement; and approved a two-year extension of the conceptual plan for the Portage Creek Landings – City Centre development project, 412 West Centre Avenue.

UNFINISHED BUSINESS

- Provided direction to the Portage COG Representatives to approve the revised By-Laws as presented or amended.

AD HOC COMMITTTEE REPORT

- Received the presentation from Councilmember Elizabeth Campbell regarding the recent activity of the FOIA/Information Request Committee.

NEW BUSINESS

- Appointed David Artley with unfulfilled term ending May 31, 2013, to the Planning Commission.

BID TABULATIONS

- Awarded a three-year contract to Waste Management of Michigan, Incorporated, to provide the annual Spring Cleanup service in the amount of $134,000 for Fiscal Year 2012-2013, $138,000 for Fiscal Year 2013-2014 and $142,000 for Fiscal Year 2014 -2015 with the option to renew the contract for up to three years and authorized the City Manager to execute all documents related to the contract and subsequent renewals on behalf of the city.
- Authorized the purchase of 70 radios, accessories, tower and repeater service from State Systems Radio at a total cost of $73,975 and authorized the City Manager to execute all documents related to this purchase on behalf of the city.
- Awarded an engineering services contract for the South 12th Street Lift Station Renovations to Abonmarche, Incorporated, with the low cost proposal in the not to exceed amount of $33,100 and authorized the City Manager to execute all documents related to the contract on behalf of the city.
- Awarded a contract to A-1 Asphalt of Wayland, Michigan for Central Cemetery asphalt drive resurfacing in the amount of $26,412.21 and authorized the City Manager to execute all documents related to this agreement on behalf of the city.

STATEMENTS OF CITY COUNCIL

- Councilmember Urban reminded the community of the upcoming meeting of the Long Lake Governmental Lake Board. He stated that this meeting is to review and consider approval of the Special Assessment Roll.
- Councilmember Sackley commented on the success of the Kalamazoo Area Foot Chase held at Celery Flats, Saturday, September 9, 2011, and Mayor Pro Tem Reid thanked her fellow Councilmembers for participating and Portage Parks for their assistance. She also mentioned that the cause will benefit the family of the police officer who was killed in the line of duty this week.
- Mayor Strazdas called for ideas and volunteers to assist with the commemoration of the 50th Anniversary of Portage.

****

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.

DRAFT

MINUTES OF THE SPECIAL MEETING OF THE PORTAGE CITY COUNCIL OF SEPTEMBER 11, 2012 – PLANNING COMMISSION APPLICANTS

Mayor Peter Strazdas called the meeting to order at 6:29 p.m. The following Councilmembers were present: Councilmembers Jim Pearson, Patricia Randall, Edward Sackley and Terry Urban, Mayor Pro Tem Claudette Reid and Mayor Peter Strazdas. Councilmember Elizabeth Campbell was absent with notice. Also present were City Manager Maurice Evans and City Clerk James Hudson.

All present introduced one another and City Council interviewed the applicants for the Planning Commission. Planning Commission Chair James Cheesebro was present for questions.

* 6:32-7:26 p.m., Jim Ebert, David Artley, Betty Schimmel and Lowell Seyburn. Discussion followed. Councilmember Campbell arrived at 7:24 p.m. Discussion followed.

ADJOURN: Mayor Strazdas adjourned the meeting at 7:26 p.m.

_____

James R. Hudson, City Clerk

CITY COUNCIL MEETING MINUTES FROM SEPTEMBER 11, 2012

DRAFT

The Regular Meeting was called to order by Mayor Strazdas at 7:32 p.m.

At the request of Mayor Strazdas, Pastor Neil Kelly of The Rock of Portage gave an invocation and City Council and the audience recited the Pledge of Allegiance.

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

APPROVAL OF MINUTES: Motion by Reid, seconded by Pearson, to approve the August 28, 2012 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Reid to read the Consent Agenda. Mayor Strazdas removed Item F.1, Regional Special Weapons and Tactics Team Agreement, from the Consent Agenda. Councilmember Urban asked that item F.2, 2010 Liquor License application - Consideration of Conditional Approval of the Repertoire Coffee House and Theater, Inc., be removed from the Consent Agenda. Motion by Pearson, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF SEPTEMBER 11, 2012:** Motion by Pearson, seconded by Reid, to approve the Accounts Payable Register of September 11, 2012. Upon a roll call vote, motion carried 7 to 0.

PUBLIC HEARINGS:

REZONING APPLICATION #11-04, EAST CENTRE AVENUE BETWEEN LAKEWOOD DRIVE AND GARDEN LANE: Mayor Strazdas opened the public hearing and Community Development Director Vicki Georgeau reviewed the history of the Rezoning Application #11-04 request to rezone various properties on East Centre Avenue between Lakewood Drive and Garden Lane. She indicated that the Rezoning Application #11-04 is a reconsideration of the request to rezone 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue to OS-1, office service, with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential. She provided a background of the process, the Planning Commission discussion of the options, including buffer areas, and the zoning uses of surrounding parcels. She explained the reasoning behind each of the alternatives discussed in her communication to the Planning Commission dated July 27, 2012, and indicated that the staff recommendation is still Alternative #3 outlined above as it is the most consistent with the Comprehensive Plan.

Mayor Strazdas called the applicant, Thomas Rogers, 895 Treasure Island Drive, Mattawan, who spoke in favor of Alternative #5 and indicated that four of the five property owner concurred with the remaining property owner neutral on the matter as he owned a "HUD home" and was in the process of selling it. He outlined the procedures followed by the Planning Commission and his opinion that the Planning Commission felt pressure from City Council on the reconsideration order to ratify the recommendation of staff. At the request of Mayor Strazdas, Ms. Georgeau provided a rationale in support of Alternative #3 and explained her opinion why this is the most viable option; however, she did admit that Alternative #5 is also a viable option, although not as consistent with the Comprehensive Plan as Alternative #3. Discussion followed.

At the request of Mayor Strazdas, City Attorney Brown explained "Taking" and the "Substantive Due Process Clause" which requires utilization of the reasonableness standard, and can not

be arbitrary and capricious; he distinguished this case by applying the concept of a "sliding scale" approach to the question of damages. According to Mr. Brown, the lowest risk to the City would be to rezone the property OS-1, office service, even though this is not in complete conformance with the Future Land Use Map. With regard to Alternative #3 and Alternative #5, he indicated each of them may have problems; but, he indicated that between the two, Alternative #3 has the next lowest risk factor because it is more in conformance with the Comprehensive Plan. Also, if these parcels can be developed individually, not assembled necessarily, so that each one of those parcels can develop residential without extreme excessive burdens and without the hinging upon the consent of particular property owners to get some type of access, then he indicated that Alternative #3 is the next lowest risk alternative. Finally, he pointed out that Alternative #5 is not necessarily a high risk, but a court could say it is not a taking but it does violate due process because the question arises, why do you need a 50' buffer strip because it is an office and one of the purposes of an office is to buffer anyway, so deal with it in the city ordinances if you want to, but not as a rezoning.

When Mayor Strazdas asked him to discuss the process of logic of rezoning for elected officials, Mr. Brown advised the use of consistency with Future Land Use Map and the Comprehensive Plan, compatibility with surrounding uses and traffic patterns as being the most cited, and the fact that a rezoning diminishes the value of the property is not a consideration because that is a real estate matter as it deals with the highest and best use of property, not zoning standards and there is no due process claim as long as it does not take the entire value of the property. At the request of Councilmembers Urban, Campbell and Pearson, Ms. Georgeau helped sort out and distinguish the Alternatives further for City Council and explained the pro's and con's of each of the options. Discussion followed. In response to concerns raised by Councilmember Pearson, City Attorney Brown explained that a covenant not to sue is probably illegal under Michigan law and was not considered and nothing was brought up regarding litigation; and with only four of the five property owners in agreement; further, if the property changes hands, the transfer of land to the new owner creates a situation where the new owner did not sign a covenant not to sue and could bring suit at that time. Discussion followed and Ms. Georgeau distinguished some of the options in more detail in response to questions by Council.

Mayor Strazdas opened the public hearing to the public and Leroy Butler, 821 East Centre Avenue, commented that he talked with the owner of parcel known as "815" who indicated that he would go along with whatever was decided and spoke in opposition to splitting the properties and spoke in favor of all OS-1, office service, or OS-1, office service, with a 50' buffer.

Leroy Butler, 821 East Centre Avenue, spoke in opposition to splitting the properties and spoke in favor of the application as presented.

Steve Nuss, 809 East Centre Avenue, spoke in opposition to splitting the properties, indicated he had no problem with the 50' buffer and would prefer having his property withdrawn should City Council decide to split the zoning. Discussion followed.

Bryan Mohney, 7911 Lakewood Drive, indicated he filed a Petition in Partial Opposition to Rezoning Application #11-04, asked for depth control to protect the neighborhood and spoke in favor of the 50' buffer and Alternative #3. Discussion followed.

Thomas Rogers spoke in opposition to having to traverse a parcel zoned OS-1, office service, in order to access a parcel zoned R-1, Residential. Discussion followed.

Discussion followed regarding site plan review procedures, such as set back requirements, screening, positioning of the screening, permitted uses in OS-1, office service. Discussion followed.

Motion by Sackley, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 7 to 0. Motion by Sackley, seconded by Campbell, to approve Rezoning Application #11-04 and rezone 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and all but the north 50 feet of 801, 809, 815, 821 and 827 East Centre Avenue to OS-1, office service, with the northern 50 feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential, with the rationale that it is generally consistent with the Future Land Use Plan, is supported by the majority of the applicants here tonight, is consistent with the discussion of the Planning Commission during various sessions over the summer and the 50' buffer is a reasonable application to protect surrounding residential uses. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

FEMA CORPORATION, 1716 VANDERBILT AVENUE – PA 198 TAX ABATEMENT: Mayor Strazdas opened the public hearing and introduced Community Development Director Vicki Georgeau, who provided an explanation of the tax abatement process thus far regarding the application for tax abatement filed by FEMA Corporation for a $3.65 million building addition and machinery and equipment purchase. Discussion followed.

In answer to Mayor Strazdas, John Pula, FEMA Corporation, indicated that the footings are being looked at with the goal of occupancy by the first of the year, and the hiring process continues.

Motion by Sackley, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 7 to 0.

Motion by Campbell, seconded by Sackley, to adopt Resolution No. 4-12, approving the Industrial Facilities Exemption Certificate for the planned FEMA Corporation's $3.65 million building addition and machinery and equipment purchase at 1716 Vanderbilt Avenue; and approve the tax abatement agreement and the affidavit between the City of Portage and FEMA Corporation. Mayor Strazdas thanked John Pula and the owners of FEMA Corporation who were present, and discussion followed. Upon a roll call vote, motion carried 7 to 0.

REPORTS FROM THE ADMINISTRATION:

REGIONAL SPECIAL WEAPONS AND TACTICS TEAM AGREEMENT: At the request of Mayor Strazdas, Public Safety Director Richard White explained that this is a collaborative effort with other enforcement agencies in Kalamazoo County. Although minimal savings are anticipated, Mr. White indicated that there will be benefits operationally and the KM-SWAT Team will work in a more coordinated fashion. Discussion followed.

Motion by Urban, seconded by Reid, to approve the Kalamazoo Metro, Special Weapons and Tactics Team Agreement and authorize the City Manager to execute the agreement on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

2010 CENSUS LIQUOR LICENSE – CONSIDERATION OF CONDITIONAL APPROVAL FOR THE REPERTOIRE COFFEE HOUSE AND THEATER, INC.: Councilmember Urban indicated that he was in support of this business and looked forward to its development, but he expressed a concern about all of the changes that have taken place since the initial approval.

Gary Barton , Barton Group, explained all of the lease issues incurred by the applicants since City Council approval of the original application.

Motion by Urban, seconded by Sackley, to approve the requested 120-day extension for consideration of conditional approval of the Repertoire Coffee House and Theater, Inc., 2010 Liquor License application. Upon a roll call vote, motion carried 7 to 0.

* **CITY OF PORTAGE 50TH ANNIVERSARY EVENTS:** Motion by Pearson, seconded by Reid, to accept as presented the activities, events and actions to commemorate the 50th Anniversary of the City of Portage; appoint a City Council Ad Hoc Committee to consider additional suggested activities and events from Advisory Boards and Commissions and Portage residents; and request that the Ad Hoc Committee present the additional suggested activities and events to the City Council no later than October 23, 2012. Upon a roll call vote, motion carried 7 to 0.

* **SPECIAL ASSESSMENT PETITION - METSA COURT WATER:** Motion by Pearson, seconded by Reid, to direct the City Administration to include the installation of water main on Metsa Court for consideration in the Fiscal Year 2013-2014 Capital Improvement Budget. Upon a roll call vote, motion carried 7 to 0.

* **SPECIAL MEETING WITH BOARD AND COMMISSION APPLICANTS:** Motion by Pearson, seconded by Reid, to set a Special Meeting on Tuesday, October 9, 2012, beginning at 5:15 p.m. to interview board and commission applicants. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATION:

COMMUNICATION FROM MR. MICHAEL MARSHBURN OF PCL CURTIS, LLC: At the request of Mayor Strazdas, Ms. Georgeau explained the request from Mr. Michael Marshburn of PCL Curtis, LLC, regarding Renewing of Previously Approved Conceptual Plan for NW Corner of Centre and Shaver. In answer to Councilmember Pearson, Ms. Georgeau indicated that the Site Plan will still go through the regular process. Discussion followed.

Motion by Pearson, seconded by Randall, to receive the communication from Mr. Michael Marshburn of PCL Curtis, LLC, regarding Renewing of Previously Approved Conceptual Plan for NW Corner of Centre and Shaver; and grant a waiver from the CPD, Commercial Planned Development, Conceptual Plan resubmission requirement; and approve a two-year extension of the conceptual plan for the Portage Creek Landings – City Centre development project, 412 West Centre Avenue, pursuant to the standards in the ordinance based on the facts and circumstances of this particular application. Upon a roll call vote, motion carried 7 to 0.

UNFINISHED BUSINESS:

KALAMAZOO COUNTY COUNCIL OF GOVERNMENTS (COG) VICE PRESIDENT MAYOR PRO TEM CLAUDETTE REID: Mayor Pro Tem Reid explained the reason for considering new By-laws at this time. Motion by Sackley, seconded by Pearson, to direct the Portage COG Representatives to approve the revised By-laws as presented or amended. Councilmember Urban asked why this action is being requested for this organization and Mayor Pro Tem Reid explained it was agreed by the COG members that direction from the respective Boards was appropriate. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

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

Portage Historic District Commission of June 6, 2012.
Portage Park Board of August 1, 2012.

AD HOC COMMITTEE REPORT:

FOIA/INFORMATION REQUEST COMMITTEE: Councilmember Elizabeth Campbell provided a summary of the meeting. She indicated that the members are Jim Pearson, Terry Urban and herself and that this was their second meeting. She said the committee discussed the follow-up report provided by City Clerk Jim Hudson regarding questions raised at the first FOIA committee meeting and the current FOIA policy that the committee found to be effective and appropriate with no changes necessary at this time. She indicated that Ms. Georgeau was present for questions regarding Community Development utilization of the FOIA system. When Councilmember Pearson inquired as to the reasons why there should be a formal City Council Policy for Councilmembers seeking public information and City Manager Maurice Evans discussed the April 2010 communications policy which works well, but offered to look into the practices of other municipalities to check their policy with regard to serial requesters and how information is provided to elected officials. Also, she indicated that the committee agreed to meet one more time to review this information. Discussion followed.

Motion by Reid, seconded by Campbell, to receive the presentation from Councilmember Elizabeth Campbell regarding the recent activity of the FOIA/Information Request Committee. Upon a voice vote, motion carried 7 to 0.

DRAFT

NEW BUSINESS:

* **APPOINTMENTS TO PLANNING COMMISSION:** Motion by Pearson, seconded by Reid, to appoint David Artley with unfulfilled term ending May 31, 2013, to the Planning Commission. Upon a roll call vote, motion carried 7 to 0.

BID TABULATIONS:

* **SPRING CLEANUP VENDOR - RECOMMENDATION:** Motion by Pearson, seconded by Reid, to award a three-year contract to Waste Management of Michigan, Incorporated, to provide the annual Spring Cleanup service in the amount of $134,000 for Fiscal Year 2012-2013, $138,000 for Fiscal Year 2013-2014 and $142,000 for Fiscal Year 2014 -2015 with the option to renew the contract for up to three years and authorize the City Manager to execute all documents related to the contract and subsequent renewals on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **TWO-WAY RADIO COMMUNICATION UPGRADE RECOMMENDATION:** Motion by Pearson, seconded by Reid, to authorize the purchase of 70 radios, accessories, tower and repeater service from State Systems Radio at a total cost of $73,975 and authorize the City Manager to execute all documents related to this purchase on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **SOUTH 12TH STREET LIFT STATION RENOVATIONS:** Motion by Pearson, seconded by Reid, to award an engineering services contract for the South 12th Street Lift Station Renovations to Abonmarche, Incorporated, with the low cost proposal in the not to exceed amount of $33,100 and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **CENTRAL CEMETERY ASPHALT DRIVE RESURFACING – RECOMMENDATION:** Motion by Pearson, seconded by Reid, to award a contract to A-1 Asphalt of Wayland, Michigan for Central Cemetery asphalt drive resurfacing in the amount of $26,412.21 and authorize the City Manager to execute all documents related to this agreement on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL: Councilmember Urban reminded the community of the upcoming meeting of the Long Lake Governmental Lake Board. He stated that this meeting is to review and consider approval of the Special Assessment Roll.

Councilmember Sackley commented on the success of the Kalamazoo Area Foot Chase held at Celery Flats, Saturday, September 9, 2011, and Mayor Pro Tem Reid thanked her fellow Councilmembers for participating and Portage Parks for their assistance. She also mentioned that the cause will benefit the family of the police officer who was killed in the line of duty this week.

Mayor Strazdas called for ideas and volunteers to assist with the commemoration of the 50th Anniversary of Portage.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:45 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:** September 17, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Accounts Payable Register

ACTION RECOMMENDED: That City Council approve the Accounts Payable Register of September 25, 2012 as presented.

Attached please find the Accounts Payable Register for the period September 2, 2012 through September 16, 2012, which is recommended for approval.

c: Daniel S. Foecking, Finance Director

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
09/11/2012	282262	MICHIGAN DEPT OF LICENSING	999999	600.00
09/14/2012	282263	A I S CONSTRUCTION EQUIP. CO.	640	1,825.00
09/14/2012	282264	A. RIFKIN CO.	4328	1,512.47
09/14/2012	282265	AT&T	849	3,874.69
09/14/2012	282266	AGRO SALES NORTH LLC	3943	46.42
09/14/2012	282267	ALL-PHASE ELECTRIC SUPPLY CO.	108	92.93
09/14/2012	282268	MY ALARM CENTER	109	81.00
09/14/2012	282269	ALLEGRA PRINT & IMAGING	533	531.33
09/14/2012	282270	AMERICAN HYDROGEOLOGY CORP.	114	19,570.00
09/14/2012	282271	TODD ARBANAS ENTERPRISES INC.	1704	600.00
09/14/2012	282272	AUSTIN, MARTHA	999999	140.00
09/14/2012	282273	ADP, INC.	3305	882.01
09/14/2012	282274	BANK OF NEW YORK MELLON	3939	200.00
09/14/2012	282275	BARKER, DAVID	532	200.00
09/14/2012	282276	BATES, LOIS	999999	70.00
09/14/2012	282277	BECKER, LUCILLE	999999	78.51
09/14/2012	282278	BESCO WATER TREATMENT, INC.	3339	17.70
09/14/2012	282279	BLUE CROSS/BLUE SHIELD OF MICH	642	98,258.05
09/14/2012	282280	BORGESS HEALTH ALLIANCE	151	378.00
09/14/2012	282281	BOYNE	999999	208.05
09/14/2012	282282	BRINK WOOD PRODUCTS, INC.	3537	1,253.04
09/14/2012	282283	BRINK'S, INC	153	258.71
09/14/2012	282284	BRONSON HEALTHCARE GROUP	4813	225.00
09/14/2012	282285	BRONSON WELLNESS SERVICES	4380	75.00
09/14/2012	282286	BROWNELL'S INCORPORATED	2677	37.76
09/14/2012	282287	BUIST ELECTRIC, INC.	3757	767.00
09/14/2012	282288	BYHOLT INC.	68	648.63
09/14/2012	282289	C A L E A	1080	650.00
09/14/2012	282290	C C H INC.	171	275.54
09/14/2012	282291	C T S TELECOM, INC.	4768	674.17
09/14/2012	282292	CAMPBELL AUTO SUPPLY	437	151.32
09/14/2012	282293	CAMPBELL MURCH MEMORIALS, INC	1525	50.00
09/14/2012	282294	CARLETON EQUIPMENT CO.	168	715.00
09/14/2012	282295	CARLEY, ILENE	999999	75.00
09/14/2012	282296	CHARTER COMMUNICATIONS	3080	274.53
09/14/2012	282297	CITY OF KALAMAZOO (TRANS MILLA	4649	225,052.04
09/14/2012	282298	CITY OF PORTAGE	177	54,411.26
09/14/2012	282299	COMPREHENSIVE RETAIL SOLUTIONS	2619	21.00
09/14/2012	282300	COMSTOCK PUBLIC SCHOOLS	1671	79,739.18
09/14/2012	282301	CONSUMERS CONCRETE CORP.	187	13.18
09/14/2012	282302	CONSUMERS CREDIT UNION	999999	2,063.16
09/14/2012	282303	CONSUMERS ENERGY	743	38,699.22
09/14/2012	282304	CONSUMERS ENERGY-BILL PMT CNT	189	8,918.00
09/14/2012	282305	CONTRACTORS EQUIPMENT & SUPPLY	192	113.00
09/14/2012	282306	CORELOGIC	999999	61,469.08
09/14/2012	282307	COULSTON, KATE	999999	100.00
09/14/2012	282308	CROSSROADS CAR WASH	195	149.50
09/14/2012	282309	CROSSROADS EXPERT AUTO SERVICE	4109	100.82
09/14/2012	282310	DELOOF BUILDERS	999999	1,050.00
09/14/2012	282311	DENOOYER BROTHERS, INC.	210	430.78
09/14/2012	282312	DEPATIE FLUID POWER CO., INC.	211	1,472.18

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
09/14/2012	282313	DEWOLF & ASSOCIATES, LLC	4374	595.00
09/14/2012	282314	DOELKER, SHARON	999999	62.00
09/14/2012	282315	EMERGENCY VEHICLE PRODUCTS	2948	2,502.03
09/14/2012	282316	FERGUSON, ROBERT	999999	135.00
09/14/2012	282317	FLINT NEW HOLLAND, INC.	1114	147.28
09/14/2012	282318	FORTIER, SANDRA JO	999999	85.00
09/14/2012	282319	FREIGHTLINER OF GRAND RAPIDS,	4400	171.28
09/14/2012	282320	FUN SERVICES	4811	998.75
09/14/2012	282321	GARCIA, LYDIA	999999	75.00
09/14/2012	282322	GIRL SCOUTS HEART OF MICHIGAN	4798	325.00
09/14/2012	282323	GOLDEN, ALICE	999999	75.00
09/14/2012	282324	GORDON WATER SYSTEMS	517	22.25
09/14/2012	282325	GRAHAM FORESTRY SERVICE, INC.	464	1,080.00
09/14/2012	282326	GRODE, BETH	999999	100.00
09/14/2012	282327	GRUBE, SHARON	999999	75.00
09/14/2012	282328	HARGUS, ELIZABETH	999999	70.00
09/14/2012	282329	HARTMAN, CHARLES	913	47.00
09/14/2012	282330	HAUN, KEVIN L	674	141.00
09/14/2012	282331	HEARTLAND SERVICES, INC.	3179	230.43
09/14/2012	282332	HINKLEY, STEVE	999999	385.00
09/14/2012	282333	HOADLEY, LEO	4228	88.00
09/14/2012	282335	HOME DEPOT	691	1,506.21
09/14/2012	282336	HOMETOWN URGENT CARE AND WORKC	4752	440.00
09/14/2012	282337	HYLAND ASSOCIATES LLC	999999	45.98
09/14/2012	282338	INDIANA WIPING CLOTH, INC.	61	1,298.00
09/14/2012	282339	THE IRRIGATOR	2047	1,448.02
09/14/2012	282340	J & J LAWN SERVICE, INC.	457	33,194.50
09/14/2012	282341	JOHNSON, EDITH	999999	85.00
09/14/2012	282342	KAL CO MEDICAL CONTROL AUTH	735	189.25
09/14/2012	282343	KALAMAZOO COUNTY ROAD COMMISSI	87	400.00
09/14/2012	282344	KALAMAZOO COUNTY TREASURER	514	4,490.80
09/14/2012	282345	KALAMAZOO GAZETTE	4756	41.55
09/14/2012	282347	KALAMAZOO LANDSCAPE SUPPLIES	90	2,201.00
09/14/2012	282348	KALAMAZOO OIL COMPANY	4511	109.35
09/14/2012	282349	KALAMAZOO REG'L EDUC SVS AGENG	721	1,590.93
09/14/2012	282350	KALAMAZOO VALLEY COMMUNITY COL	230	676.73
09/14/2012	282351	KALAMAZOO VALLEY FAMILY PRACTI	4473	190.00
09/14/2012	282352	KELLY RADIATOR & AUTO REPAIR	4591	81.90
09/14/2012	282353	KENT COMPANIES, INC.	838	1,550.00
09/14/2012	282354	KLINE, ERIC	532	250.00
09/14/2012	282355	KOZAR, MARIE	999999	70.00
09/14/2012	282356	KRAMES STAYWELL, LLC	1736	142.74
09/14/2012	282357	KZOO TIRE COMPANY	564	1,009.00
09/14/2012	282358	LAKE MICHIGAN MAILERS, INC.	682	142.72
09/14/2012	282359	LANGUAGE LINE, INC	1093	75.90
09/14/2012	282360	LAWLER, DON & FAY	999999	382.00
09/14/2012	282361	LAWSON PRODUCTS, INC	240	1,557.83
09/14/2012	282362	LEMMEN OIL CO.	2595	13,104.72
09/14/2012	282363	LERETA LLC	999999	17,481.64
09/14/2012	282364	LOWE'S HOME CENTER	2630	190.55
09/14/2012	282365	MARTIN SPRING & DRIVE, INC.	2124	71.72

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
09/14/2012	282366	MATYAS, PAUL	999999	100.00
09/14/2012	282369	MAURER'S TEXTILE RENTAL SERVIC	4746	462.91
09/14/2012	282370	MCNALLY ELEVATOR CO.	256	102.84
09/14/2012	282371	MENARDS, INC	258	29.96
09/14/2012	282372	MICAMP TREASURER	999999	50.00
09/14/2012	282373	MICH AMATEUR SOFTBALL ASSOC	1435	840.00
09/14/2012	282374	MICHIGAN ELECTION RESOURCES, L	264	1,750.05
09/14/2012	282375	MIDWEST COMMUNICATION SERVICES	1983	448.00
09/14/2012	282376	MONKS, SUE	999999	155.00
09/14/2012	282377	MOWRY, DANIEL	999999	135.00
09/14/2012	282378	MUHA, STAPHANIE	999999	250.00
09/14/2012	282379	N.T.O.A.	999999	150.00
09/14/2012	282380	NEW FRESH CLEANING SERVICE	4351	4,999.00
09/14/2012	282381	NICHOLSON, SANDY	999999	62.00
09/14/2012	282382	NYE UNIFORMS	299	1,144.43
09/14/2012	282383	OFFICE DEPOT, INC.	1721	713.21
09/14/2012	282384	OFFICEMAX INCORPORATED	301	222.79
09/14/2012	282385	ONE WAY PRODUCTS	440	2,403.17
09/14/2012	282386	P K CONTRACTING, INC.	1737	1,549.00
09/14/2012	282387	PATESEL, TERRY	4455	188.00
09/14/2012	282388	PATTI THOMPSON	532	206.35
09/14/2012	282392	PETERMAN CONCRETE CO.	310	12,304.73
09/14/2012	282393	PORTAGE DISTRICT LIBRARY	810	364.68
09/14/2012	282394	PORTAGE GLASS & MIRROR	4396	1,999.02
09/14/2012	282395	PORTAGE PUBLIC SCHOOLS	590	3,818.10
09/14/2012	282396	POSTMAN INC., THE	4790	200.00
09/14/2012	282397	PRINTEK, INC.	4711	86.51
09/14/2012	282398	RATHCO SAFETY SUPPLY, INC.	327	836.40
09/14/2012	282399	RELIABLE MANAGEMENT SYSTEMS, I	4354	331.00
09/14/2012	282400	RENEWED EARTH, INC.	4686	7,916.66
09/14/2012	282401	REPUBLIC SERVICES OF WEST MICH	4443	43,156.74
09/14/2012	282402	RHINO PRODUCTS, INC.	736	378.20
09/14/2012	282403	RIDGE AUTO NAPA	438	287.52
09/14/2012	282404	RIETH-RILEY CONSTRUCTION CO.,	4386	1,142.21
09/14/2012	282405	RIVERSIDE INTEGRATED SYSTEMS,	3598	527.00
09/14/2012	282406	ROMENCE GARDENS, INC	343	82.88
09/14/2012	282407	RYAN LLC	999999	20.00
09/14/2012	282408	SCHUUR, MAYNARD & JUDITH	999999	150.00
09/14/2012	282409	SHARP SHOP	354	79.20
09/14/2012	282410	SHAVER OAKS PROPERTIES	999999	10.00
09/14/2012	282411	SHERWIN WILLIAMS	356	981.94
09/14/2012	282412	SHORT, MARY	999999	70.00
09/14/2012	282413	SIGNWRITER & SERIGRAPHICS	2376	1,120.00
09/14/2012	282414	SIMMONS FORD	2064	120.26
09/14/2012	282415	SOUTHSIDE DOJO	999999	36.00
09/14/2012	282416	STAP BROS LAWN & LANDSCAPE,INC	366	210.00
09/14/2012	282417	STATE INDUSTRIAL PRODUCTS CORP	2010	788.60
09/14/2012	282418	STATE SYSTEMS RADIO, INC	369	1,619.93
09/14/2012	282420	STEENSMA LAWN & POWER EQUIPMEN	3222	2,052.56
09/14/2012	282421	STEGMAN, LOIS	999999	70.00
09/14/2012	282422	SUZANNE'S SENSIBLE SOLUTIONS	4673	265.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
09/14/2012	282423	T D S METROCOM, LLC	4539	3,036.28
09/14/2012	282424	T-MOBILE USA INC	3665	29.99
09/14/2012	282425	TELE-RAD INC	4820	623.94
09/14/2012	282426	JOHANNA THOMPSON	4682	2,904.43
09/14/2012	282427	THOMPSON, PATTI	532	350.00
09/14/2012	282428	TOO CLEAN JANITORIAL	2220	3,110.00
09/14/2012	282429	TRACTOR SUPPLY CORP.	2817	614.45
09/14/2012	282430	TRUGREEN	390	57.00
09/14/2012	282431	U S POSTMASTER	391	190.00
09/14/2012	282432	U S POSTMASTER	392	3,500.00
09/14/2012	282433	UNITED PARCEL SERVICE	545	64.30
09/14/2012	282436	VERIZON WIRELESS SERVICES, LLC	4653	4,679.33
09/14/2012	282437	WAGGONER, MARYILYN	999999	70.00
09/14/2012	282438	WEEKES FOREST PRODUCTS, INC.	3498	2,206.40
09/14/2012	282439	WELLNESS COUNCILS OF AMERICA	3938	292.00
09/14/2012	282440	WESSENDORF, GREG	532	285.00
09/14/2012	282441	WEST BEND MUTUAL	999999	50.00
09/14/2012	282442	WEST SHORE FIRE, INC.	419	1,102.00
09/14/2012	282443	WHITE, RICHARD	532	500.00
09/14/2012	282444	WIGHTMAN & ASSOCIATES, INC.	3785	13,168.75
09/14/2012	282445	WIGHTMAN & ASSOCIATES, INC.	4779	8,700.00
09/14/2012	282446	WINDEMULLER ELECTRIC, INC.	3061	2,869.30
09/14/2012	282447	WINDER POLICE EQUIPMENT, INC.	429	250.69
09/14/2012	282448	WINGFOOT COMMERCIAL TIRE	2613	229.42
09/14/2012	282449	XEROX CORPORATION	2684	8.63
09/14/2012	282450	7TH DISTRICT COURT	999999	300.00
			DATE RANGE TOTAL *	846,706.08 *

PAYMENT NO	VENDOR NO	VENDOR NAME	TRANSFER DATE	AMOUNT	TRACE NUMBER	EFT BATCH	BANK CODE
1398		ADMIRAL LOCK & KEY SERVICE	09/14/2012	695.00	072000320000001	0000001	00
1399		ANIMAL REMOVAL SERVICE, LLC	09/14/2012	865.00	072000320000002	0000001	00
1400		BATTERIES PLUS	09/14/2012	319.12	072000320000003	0000001	00
1401		BEEBE, RON	09/14/2012	188.00	072000320000004	0000001	00
1402		BLUE CARE NETWORK-GREAT LAKES	09/14/2012	61,003.52	072000320000005	0000001	00
1403		C D W GOVERNMENT, INC.	09/14/2012	760.00	072000320000006	0000001	00
1404		ETNA SUPPLY, INC.	09/14/2012	834.21	072000320000007	0000001	00
1405		FORSHEE, MARK	09/14/2012	88.00	072000320000008	0000001	00
1406		GRAINGER INC, W W	09/14/2012	62.73	072000320000009	0000001	00
1407		HI-TECH ELECTRIC CO.	09/14/2012	1,397.59	072000320000010	0000001	00
1408		INDUSCO SUPPLY CO., INC.	09/14/2012	150.84	072000320000011	0000001	00
1409		IRISH AYRES ENTERPRISES, LLC	09/14/2012	7,353.75	072000320000012	0000001	00
1410		KEHOE, EDWARD J	09/14/2012	190.00	072000320000013	0000001	00
1411		KOPEC, CASEY	09/14/2012	90.00	072000320000014	0000001	00
1412		KUIPER BUILDING SERVICES LLC	09/14/2012	550.00	072000320000015	0000001	00
1413		MALZ, DONALD	09/14/2012	90.00	072000320000016	0000001	00
1414		MCCARTHY SMITH LAW GROUP, PLC	09/14/2012	4,234.22	072000320000017	0000001	00
1415		MEDEMA, TIMOTHY	09/14/2012	47.00	072000320000018	0000001	00
1416		MEJEUR ELECTRIC LLC	09/14/2012	980.50	072000320000019	0000001	00
1417		PACIFIC TELEMGMT SERVS, JAROTH INC	09/14/2012	303.00	072000320000020	0000001	00
1418		PLEUNE SERVICE COMPANY	09/14/2012	205.00	072000320000021	0000001	00
1419		PRECISION PRINTER SERVICES INC	09/14/2012	2,213.00	072000320000022	0000001	00
1420		QUALITY AIR HEATING & COOLING, INC.	09/14/2012	832.37	072000320000023	0000001	00
1421		SAFETY SERVICES, INCORPORATED	09/14/2012	422.51	072000320000024	0000001	00
1422		SNELL, DEBRA	09/14/2012	105.00	072000320000025	0000001	00
1423		THOMPSON, HELENE	09/14/2012	209.00	072000320000026	0000001	00
1424		U S SIGNAL COMPANY, LLC	09/14/2012	557.24	072000320000027	0000001	00
1425		VISION SERVICE PLAN INSURANCE CO	09/14/2012	1,983.89	072000320000028	0000001	00
1426		WEST, STEVE	09/14/2012	141.00	072000320000029	0000001	00

GRAND TOTAL: 86,871.49 NO. OF CHECKS: 29

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 20, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Water Supply Agreement with City of Kalamazoo

ACTION RECOMMENDED: That City Council approve the City of Kalamazoo – City of Portage Water Supply Agreement and authorize the Mayor to sign the agreement on behalf of the city.

The City of Portage and City of Kalamazoo have three separate franchise agreements for the City of Kalamazoo to provide water service to some 1,103 customers within the City of Portage (see attached map). Since June of 2009, both city administrations have been in discussions regarding the consolidation of the three agreements to one document. Customers included in the franchise areas represent 8 percent of the total 13,752 City of Portage water services customers. While the City of Kalamazoo provides the water service franchise districts, the City of Portage bills the customers directly. Of the three agreements, one expired in 2004, followed by another in 2010, while the final agreement is set to expire in 2019.

The following is provided as additional background for consideration:

- On August 7, 1956, the Electors of Portage Township granted a 30 year public water utility franchise to the City of Kalamazoo to provide water service to certain areas of Portage. On October 21, 1956 Portage Township contracted with the City of Kalamazoo to install and operate water mains and appurtenances in the Plat of Ridgebrook. In 1967, the agreement was amended to include the Plats of Timberbrook, Stonehenge, and Fairfield and the area bounded by Kilgore Road, Lovers Lane, I-94 and the New York Central railroad. This agreement was extended by the City of Portage and the City of Kalamazoo in July, 1989.

- On May 28, 1974, the City of Portage granted a water franchise to the City of Kalamazoo to provide water service to the Plats of Rudgate Downs, Leveland Acres and Burket Heights and the area bounded by US-131, South 12th Street, West Centre Avenue and West Milham Avenue.

- On April 21, 1980, the City of Portage granted a water franchise to the City of Kalamazoo to provide water service to the area bounded by the Portage-Kalamazoo city limits, US-131, I-94 and South 12th Street.

As noted, the administrations of both cities have worked cooperatively to update and consolidate the three agreements into one. Highlights of the new water supply agreement are:

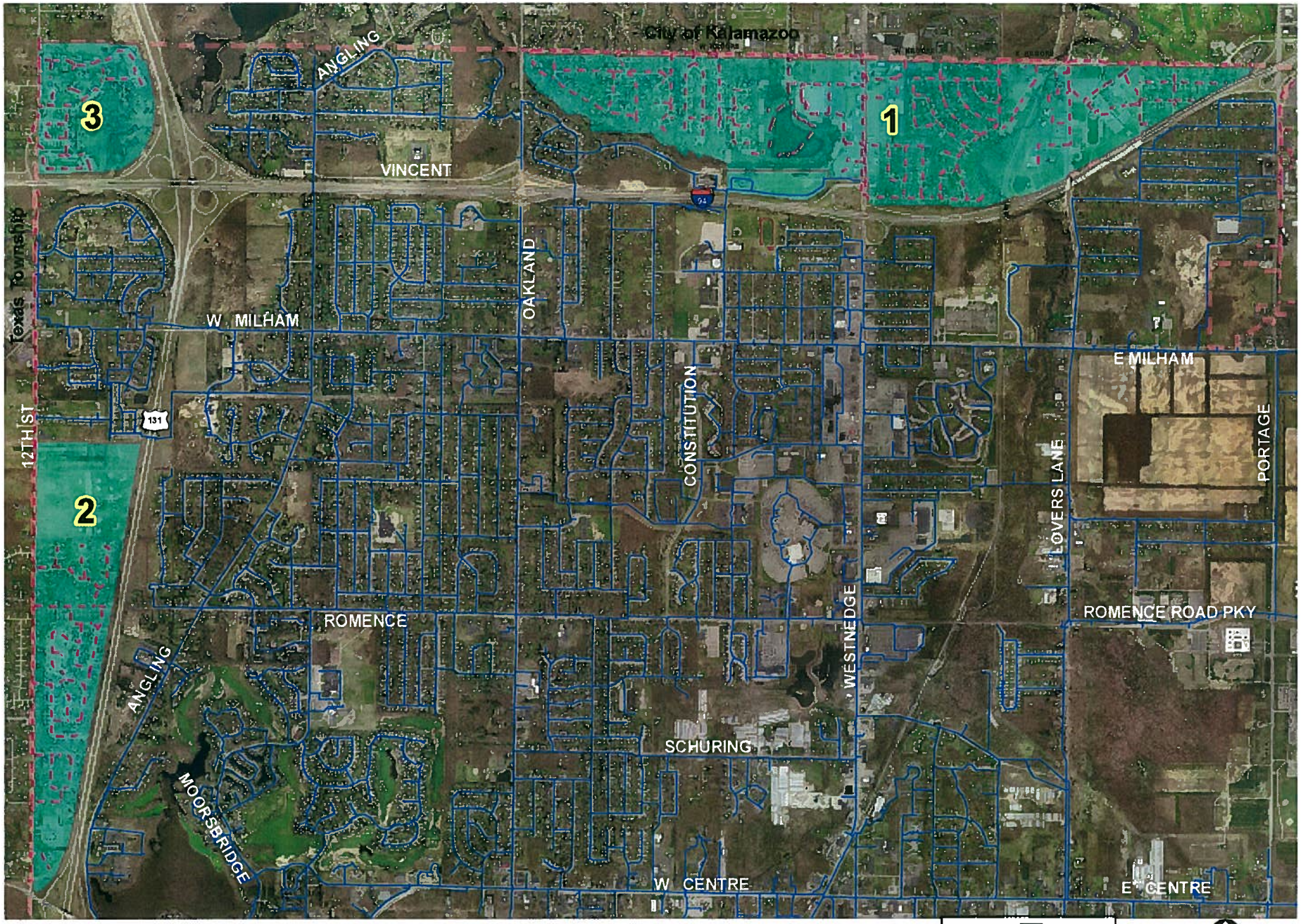
* The agreement combines three franchise agreements into one comprehensive agreement;
* The agreement removes Trade Centre Way from the franchise area;
* The agreement term is for a period of 30 years;
* The agreement defines operation and maintenance and billing responsibilities;
* The agreement defines ownership and replacement responsibilities; and
* The agreement contains dispute resolution language to resolve any future concerns or disagreements.

The proposed consolidated water franchise agreement has been reviewed and approved as to form by the City Attorney. It is recommended that City Council approve the *City of Kalamazoo – City of Portage Water Supply Agreement* and authorize the Mayor to sign the agreement on behalf of the City of Portage. It is understood that the Kalamazoo City Commission will address the proposed agreement at its next meeting on October 1, 2012.

Attachment

CITY OF PORTAGE
A Place for Opportunities to Grow

Water Franchise District Areas 1,2 & 3



Pictometry Imagery: March 30, 2007

6/12/2009 9:35 AM
R:\GIS\ADMIN\MapProjects\TU\water_franchise_areas.mxd

Water Main
Franchise District
Portage
Kalamazoo

N

1 inch = 2,500 feet

CITY OF KALAMAZOO – CITY OF PORTAGE

WATER SERVICE AGREEMENT

THIS WATER SERVICE AGREEMENT (the "Agreement") is entered into this _____day of _____, between the City of Kalamazoo, a Michigan municipal corporation, Kalamazoo, Michigan ("Kalamazoo") and the City of Portage, a Michigan municipal corporation, Portage, Michigan ("Portage").

WHEREAS, Kalamazoo owns and operates a Water System and has the capacity to serve some of the areas of Portage, and

WHEREAS, Portage desires to enter into an agreement with Kalamazoo pursuant to which Kalamazoo agrees to provide water service to customers within the jurisdictional boundaries of Portage and Kalamazoo is willing to provide such service in accordance with the terms of this Agreement.

NOW THEREFORE, in consideration of the promises and undertakings of the parties hereto, it is agreed:

1. Definitions.

"Customer Service Connections": are the pipes from the water mains to the water meters, including all necessary valves and accessories.

"Emergency": is any situation due to natural or man-made causes that results in the loss of water pressure, quantity or quality of the water being provided by Kalamazoo.

"Force Majeure": Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to, Acts of God, Government restrictions, wars, insurrections and/or any other cause beyond reasonable control of the party whose performance was affected.

"Imbedded cost of water utility debt": is that cost associated with the debt Kalamazoo has incurred as a result of implementing capital improvements to the Kalamazoo water system.

"Production Facilities": are Kalamazoo's wells, pumps, building, chemical treatment equipment, wellfield collector mains and all appurtenances that together act to supply potable water to the system.

"Ratemaking Process": is the process used by Kalamazoo to determine the price charged by Kalamazoo to its customers which shall be at a rate which is based on the actual cost of service as determined under the utility basis of ratemaking per MCL 123.141 (as amended.)

"**Service Area**": The area currently served by Kalamazoo within Portage, plus the areas to be served in the future, as depicted in the Strategic Plan, and any other areas to which service may be expanded pursuant to Section 10, provided however, that the Service Area shall always be defined to end at the West Fork of Portage Creek, and not I-94, and the Trade Center on the north side of I-94 shall not be included within the Service Area.

"**Storage Facilities**": are Kalamazoo's elevated or ground tanks and all appurtenances that store water for the Water System, and establish and maintain an even pressure in an area.

"**Strategic Plan**": is the City of Kalamazoo's "Water System Strategic Plan" as developed by Fishbeck, Thompson, Carr, & Huber, Inc. dated January 2005 and as periodically updated and amended.

"**Water System**": is a system of water mains, pipes, fittings, valves, fire hydrants, transmission lines and all accessory equipment and appurtenances thereto, for providing, transmitting and distributing potable water within the jurisdictional boundaries of Portage.

2. Undertaking.

Kalamazoo agrees to faithfully provide water service to customers in the Service Area as described in this Agreement and Portage agrees that water customers within the Service Area shall pay for service in the manner and as described in this Agreement. Portage grants to Kalamazoo the exclusive power, right, and authority to provide water service to the Service Area, for a period of thirty (30) years from the date of acceptance of this Agreement by both parties, unless the parties agree otherwise. Kalamazoo agrees to perform all the terms and conditions as set forth in this Agreement.

3. Service Area Water System.

A. **System Design:** All plans and specifications for the construction, alteration or addition to the system shall be prepared by Kalamazoo's City Engineer or other registered professional engineer in accordance with the Great Lakes Upper Mississippi River Board of State Public Health and Environmental Managers Recommended Standards For Water Works (Ten States Standards) as may be amended from time to time and with the cooperation and assistance of the Portage Director of Utilities and Transportation or designee, and shall be subject to the approval of Kalamazoo, acting through its Director of Public Services, as well as that required by any duly authorized state regulatory agency.

B. **Installation:** Any necessary improvements to the Water System will be furnished, installed, and connected to the Water System without capital expense on the part of Kalamazoo, except for water meters, and production and storage facilities. Storage facilities to meet customer needs shall be provided by Kalamazoo when, in its opinion, sound engineering practices indicate such service is warranted, and the economic analysis justifies the investment. After installation, all portions of the Water System paid for by Kalamazoo shall be deemed to be the property of Kalamazoo for the term of this Agreement. Ownership, control and use of facilities after termination of this Agreement are subject to Section 16.

Improvements to the Water System, or any part thereof may be installed by Kalamazoo, provided however, that Kalamazoo shall have submitted a proposal based on the reasonable costs thereof which is acceptable to Portage. In the event that a proposal is not accepted, then Portage may get proposals from any other person or entity as is agreeable to both Portage and

Kalamazoo. An inspector will be provided by Kalamazoo if any other person or entity installs any part of the Water System and the cost of such inspector will be borne by Portage. The presence of an inspector on the job shall not relieve the person or entity making the installation of any liability or responsibility for which he or she would otherwise be liable, without an inspector.

In the case of design or construction by anyone other than Kalamazoo, detailed plans and records of the proposed and completed construction, alteration, addition, or relocation shall be kept, and furnished to Kalamazoo.

C. **Construction Quality:** The installation and construction of all mains, and other appurtenances of the Water System, shall be done in a reasonable and workman like manner under the supervision and control of, and according to the specifications of Kalamazoo, and shall be performed in accordance with the same policies as adopted from time to time by Kalamazoo for such installations within the boundaries of Kalamazoo.

D. **Financing:** The cost of each project for the installation of Water System facilities and appurtenances by Kalamazoo shall be paid in full by Portage, except as provided in this paragraph, and subject to Section 10. Portage and Kalamazoo agree that new customers shall pay their proportionate share of costs incurred by the Water System because of such project. Accordingly, in the event of expansion, or the installation of new storage facilities, pressure reduction stations, or production facilities, Kalamazoo shall determine the cost thereof, by pressure district, service area, jurisdictional boundaries, or otherwise, in accordance with Kalamazoo's rate making process. Where water mains larger than 12 inches in diameter are installed in order to provide water service to customers outside of Portage, or where water main is installed abutting more than one unit of government, Kalamazoo's City Manager or his/her designee shall determine the added cost of this greater sized water main and provide Portage with the basis for such determination which added costs Kalamazoo shall pay.

E. **Operation:** After the Water System facilities have been installed and connected, Kalamazoo will operate the system, and furnish water service to customers in the Service Area in Portage in the same manner at the same level and quality of service as provided customers within Kalamazoo, except as hereinafter provided.

Kalamazoo agrees to keep the Water System in good repair, including the maintenance and painting of fire hydrants, the repair of leaks and items of similar nature typically associated with the routine maintenance and operation of a public water supply system.

F. **Customer Service Connections:** Individual residential water service connections for new construction may be installed by a person or entity other than Kalamazoo. New water main installed by another person or entity can also be tapped and service run to the property line at time of the water main installation.

Residential water service connections installed by a person or entity other than Kalamazoo are subject to the inspection requirements in Subsections 3.B. and 3.C. above. Such other person or entity shall have a licensed plumber install the residential water service connections. When a water main is tapped for a service installation, persons with appropriate Michigan Department of Environmental Quality, or its successors, certifications to make such installation shall be present at all times.

G. **Customer Meters:** Kalamazoo will provide, at its expense, all meters necessary for measuring water used by customers.

H. **Hydrants and Mains:** Kalamazoo, as it may determine by established and good engineering practices, or upon written request by Portage or others, will install or relocate fire hydrants and-related water mains. The cost of any such installation or relocation will be at the expense of Portage or others making the request.

Installation of new fire hydrants associated with new water mains must be constructed to meet the requirements of Sections 3.B. and 3.C. above, without capital expense to Kalamazoo.

I. **Changes and Damages:** The parties agree that Kalamazoo is to be reimbursed by the appropriate responsible party or the cost of all changes in, or damages to the Water System and service connections as may be incurred by road redevelopment programs, street grading programs, sewer construction or other public works, other than changes or damage caused by activities of Kalamazoo or its contractors.

4. Construction and Maintenance Liability.

The City of Kalamazoo, its contractors, employees, subcontractors and volunteers agree to save, defend, indemnify and hold harmless the City of Portage, its board, officers and employees (the indemnified party) from and against all claims, damages, demands, expenses, liabilities and losses (including, but not limited to, fines, costs, fees and penalties imposed by any court administrative agency), injury or damage to persons or property relating to the design, installation, construction, placement, maintenance and/or repair of the Water System. Provided, however if such injury or damages are caused in whole or in part by the acts or omissions of the indemnified party, the indemnification obligation shall be reduced in proportion to the indemnified parties' percentage of responsibility for such injury or damage. The indemnification obligation provided herein shall include the payment of all reasonable attorney fees and other expenses not covered through insurance relating to any of the above-referenced claims, damages and losses. This indemnification does not constitute nor should be interpreted as providing any benefit to a third party and shall not be construed as a waiver of any claim of governmental immunity by Kalamazoo which it may assert under law, except such claim of governmental immunity shall not be asserted against the City of Portage.

5. Operating Liability.

Kalamazoo will use reasonable diligence to provide and maintain regular and uninterrupted service, but it does not guarantee uninterrupted service. Kalamazoo shall not be liable to Portage, nor shall this Agreement create any rights on the behalf of persons not a party to this Agreement, for damages of any nature caused by the service or use of the potable water meeting requirements as established by the State of Michigan furnished by Kalamazoo.

6. Rates and Annual Report.

Kalamazoo shall establish rates applicable to Portage businesses and residents and directly bill such users for water service. The rates charged by Kalamazoo shall be reasonable and based on the actual cost of service as determined under the utility basis of ratemaking.

The parties acknowledge that establishment of separate customer classes are inherent in developing cost of service water rates and that the physical location within and without the Kalamazoo City limits is an important customer class differentiator. For purposes of this section, Portage businesses and

residents shall be referred to as outside Kalamazoo, non-owner customers. Business and residents located within the Kalamazoo city limits shall be referred to as inside Kalamazoo, owner customers.

The utility basis of ratemaking shall be utilized to determine water rates for non-owner customers, as set forth in the following Subsections A through G:

A. The Operation and Maintenance Expense element of the utility basis revenue requirements shall be allocated to customers on a proportional use basis, regardless of ownership status of Water System.

B. The Depreciation Expense element of the utility basis revenue requirements shall exclude depreciation on assets contributed by Portage and other non-Kalamazoo sources. This element shall also be allocated to customers on a proportional use basis, regardless of ownership status of Water System.

C. The Rate Base element used to formulate the utility basis revenue requirements shall be stated on an original cost less depreciation basis. Water System assets contributed by Portage and other non-Kalamazoo sources shall be excluded from the rate base. This element shall be allocated to customers on a proportional use basis, regardless of ownership status of Water System.

D. Kalamazoo may include a Working Capital element in the rate base as part of the ratemaking process. Such element shall be a reasonable allowance and shall not exceed 180 days of budgeted operation and maintenance expense.

E. The Rate of Return on Kalamazoo investment as an element of the utility basis revenue requirement for rates to outside Kalamazoo customers shall be calculated based on the imbedded cost of the water utility debt.

F. Kalamazoo may include a Payment in Lieu of Taxes (PILOT) element in the utility basis revenue requirements. If Kalamazoo elects to do so, such PILOT shall be limited to a level computed by applying the Kalamazoo millage rate to water utility property located within Kalamazoo City limits. This element shall also be allocated to customers on a proportional use basis, regardless of ownership status of Water System.

G. Kalamazoo may include an administrative fee for general fund services provided to the water utility as a component of the operating expense element of the utility basis revenue requirements. If Kalamazoo elects to do so, the administrative fee shall be limited to a level computed by application of an industry standard allocation procedure, and shall be supported by a study of such administrative fees made available to Portage in accordance with this Section.

Nothing in this Section shall preclude Kalamazoo from establishing water rates in a manner that reflects the geographic location of specific facilities and services, and assigns such costs to benefitting customers accordingly.

The parties acknowledge that the methodology set forth above will likely result in a differential between rates charged to inside Kalamazoo and outside Kalamazoo customers, including the Portage users. This Agreement does not set any limitation on such differential.

Kalamazoo shall give written notice of any changes in the rates. Not less than 60 days prior to the Kalamazoo City Commission formally adopting any changes in the rates, Kalamazoo shall provide Portage with a written notice of a proposed rate and the underlying data used to calculate the rate and calculation of the rate. Kalamazoo shall meet with Portage to review the rate and the data. At the convenience of either party, such notice and review of the proposed rate and data may be conducted with all other municipalities in which Kalamazoo provides water services to customers within such municipalities at a mutually agreed location and time.

Kalamazoo agrees to provide to Portage a written Annual Report regarding the Water System by April 1 of each year for the previous year beginning the first full year after this agreement is approved. This report shall include, as a minimum, the following items: summary data related to the operation of the Water System (such as the financial status of the Water System, need for adjustments in rates, total water pumped, number of water mains and services, ongoing maintenance of the Water System); major capital projects completed; major capital projects planned for the next year; long-term planning issues and concerns; compliance status with state and federal regulations; summary of customer complaints and responses; and any other data related to the overall operation of the Water System.

Not more than 90 days and not less than 30 days prior to each five year anniversary date of this agreement or any successful extension of this agreement by either party, the parties shall meet to review the water rates along with the most recent annual report and true up report. Either party believes that rate adjustments are necessary, the parties shall submit a proposal in accordance with Article 17.

If the parties cannot agree on any water rate amendment, resolution shall be in accordance with applicable State of Michigan law

7. True-Up.

Kalamazoo shall, at least every two years, review actual costs of providing water service, and actual revenue received from customers, and adjust for imbalances in the prospective rates. However, if the imbalance amounts to less than 1% of the total System Operations and Maintenance budget for the years for which the review is conducted, no such adjustment will be made.

8. Water Tower Leases.

Portage agrees that Kalamazoo may, at its sole discretion, establish and collect rents for lease space on water towers owned by Kalamazoo, and retain such rents in Kalamazoo's general fund.

9. Collections of Delinquent Accounts.

Water service charges shall be billed and collected by Kalamazoo, and shall constitute a lien on the properties receiving water services as provided by the provision of Sec. 21, Act 94, Public Acts of Michigan, 1993, as amended.

Kalamazoo will provide a list of potential liens to be placed on property to Portage on a quarterly basis. The list will be sent out on or about January 15, April 15, July 15, and November 15 each year.

Kalamazoo will also provide a list of all utility customers within Portage on an annual basis.

Kalamazoo will annually provide a list of liens to be placed by Portage on such properties. This list will be provided by October 1 of each year or on a mutually determined date. Kalamazoo will remove any accounts that have payment arrangements with Kalamazoo and are current or new service customers. If a

customer owing delinquent amounts thereafter returns to the Service Area, Kalamazoo will transfer the amount owing to the new account of the customer and remove that customer from the list of delinquent accounts subject to lien.

Delinquent amounts turned over to Portage for placement of property liens shall be paid by Portage to Kalamazoo within 30 days of Portage's receipt of the lien list. It shall then be the responsibility of Portage to collect such delinquent amounts from the customer. Once the delinquent amounts have been paid by Portage, Kalamazoo will make an appropriate notation and no longer collect such delinquent amounts from the customer. The affected customer will be directed to Portage to pay the delinquent amounts and satisfy the lien.

10. Expansion of Service Area.

In order to provide for the orderly extension of water service beyond the then existing Service Area, Portage shall give written notice to Kalamazoo's City Manager or his/her designee whenever it proposes an expansion to the Service Area. Said notice will contain all relevant data regarding the proposed boundaries of the proposed expansion as well as the anticipated population and desired level of service, including projections of residential, commercial, industrial, medical, and fire usage, as applicable.

Kalamazoo will respond within 30 days. Kalamazoo shall be under no obligation to expand the Service Area if, in Kalamazoo's reasonable judgment, the proposed expansion would overtax the existing capacity of its present water production or if it would overload existing or reasonably anticipated peak load demands within the Water System.

In the event Kalamazoo determines it cannot expand the Service Area as requested by Portage, or in the event that Kalamazoo does not, within 6 months after deposit of necessary construction money by Portage or another entity for the construction of the necessary facilities required to permit the requested expansion, commence construction of such facilities, Portage shall have the right and authority to obtain or furnish water service to such area outside of the Service Area other than pursuant to this Agreement, notwithstanding any of the other provisions and limitations contained within this Agreement; and such Water System improvement will not then be considered a part of the Water System. Any delay beyond the control of either party shall not be included as a part of the 6 month period.

11. Rights-of-Way.

Portage agrees to acquire by purchase, gift, condemnation or otherwise, such rights of way as may be necessary in its opinion for the continued operation of the Water System. Portage shall not unreasonably deny to Kalamazoo, for the term of this Agreement, the use of such highways, streets, alleys, rights-of-way and other public places as may be reasonably necessary to permit Kalamazoo to operate, maintain and repair the Water System in the Service Area. To enable Kalamazoo to operate, repair and maintain the Water System in the Service Area, it may request easements, rights-of-way and consents in recordable form as may, from time to time, be needed, the provisions of which to be mutually agreed upon by the parties. The easements, rights-of-way and consents shall provide for indemnification of Portage by Kalamazoo, release of liability and that Kalamazoo be responsible for the reasonable repair of any damage or loss to any public right-of-way.

12. Other Authorities.

Kalamazoo agrees to and accepts responsibility to obtain any permits, consents or other required approvals from local, state or federal authorities as may be necessary for the construction, installation, operation, maintenance or repair of the Water System within the Service Area. Kalamazoo agrees to annually provide to the Portage City Engineer, a record of as-built drawings of any additions, changes, modifications or

deletions of water mains or associated appurtenances within the City of Portage. Such as-built drawings shall be provided in hard copy and electronically, in a mutually agreed upon format. In the event that Kalamazoo has to conduct emergency repair on the Water system in Portage, Kalamazoo shall notify Portage as soon as feasible of such repair.

13. Ground Water Protection.

Portage agrees to cooperate with Kalamazoo by adopting and promoting measures of aid and assistance to the prompt, safe, and efficient operation of the Water System. Kalamazoo and Portage agree to cooperatively implement their Wellhead Protection programs, on a watershed basis, to support both programs regarding ongoing enforcement and development issues.

Portage agrees to provide Kalamazoo with information related to any proposed development in Portage within of any of Kalamazoo's Wellhead Protection Areas (WHPAs). Such areas shall correspond to areas designated by Portage as "Area A" under Portage's Storm Water Design Criteria. Kalamazoo agrees to communicate, in a timely fashion, any concerns to Portage regarding any such proposed development.

Portage shall allow Kalamazoo to enforce Kalamazoo's Cross Connection Program within the Service Area per Section R 345.431 – R 325.440 of the Michigan Administrative Code, Kalamazoo's Cross Connection Ordinance and Kalamazoo's approved cross connection program as amended from time to time.

14. Kalamazoo Commitment.

All rules, regulations, and services as provided within Kalamazoo, for the administration of its own water utility system, except as otherwise provided herein, shall be considered to apply to the Service Area. Kalamazoo agrees to administer such rules in an impartial manner with respect to all its customers both within and outside its boundaries.

15. Water Exploration and Production.

Portage grants to Kalamazoo its consent during the period of this contract to conduct exploration and production projects within Kalamazoo's current wellfields located within Portage. This consent includes, but is not necessarily limited to, rehabilitation of existing wells, drilling of new production wells, installation of monitoring wells, and other associated work that will enhance the Water System.

16. Termination and Renewal of Water Service Agreement.

The initial term of this Agreement is for a period of thirty (30) years from its effective date. The effective date of this Agreement shall be the date that this Agreement is approved by the Kalamazoo City Commission and the Portage City Commission, whichever is later. Not more than 90 days and not less than 30 days prior to each successive 10 year anniversary date of the initial term of this Agreement or any extension of the initial term of this Agreement, Portage and Kalamazoo agree to consider the approval of a 10 year extension of the term of this Agreement on the same terms and provisions or other mutually agreeable terms and provisions.

17. Amendments, Ensuring Equality of Agreement Terms.

The parties may from time to time consider it in their best interest to change, modify, or extend a term, condition, or covenant of this Agreement. Any such change, or extension, shall be incorporated in a written amendment to this Agreement signed by the parties. Such amendments shall not invalidate this Agreement nor relieve or release either party of any of its respective obligations under this Agreement unless so stated in the amendment. The party desiring to amend this Agreement shall submit the proposed amendment language to the other party, in writing. The other party shall respond as promptly as possible, and the parties if agreeable to an amendment, will then have 180 days to mutually agree to amendment language. If no

agreement on the proposed amendment is reached, there shall be no such amendment. The effective date of any amendment to this Agreement shall be the date that the amendment is approved by the Kalamazoo City Commission or the Portage City Commission, whichever is later. No amendment to this Agreement shall be effective and binding upon the parties unless it expressly makes reference to this Agreement, is in writing, and is approved by both the Kalamazoo City Commission and the Portage City Commission and signed by an authorized representative of both Kalamazoo and Portage.

If Kalamazoo enters into any agreement with another municipality or customer, and the terms of such an agreement are more favorable than the terms of this Agreement, Portage may elect to adopt all of such other agreement's terms. However, Portage shall be required, at the same time, to accept all differing terms of the other agreement in their entirety and may not be selective among the various terms contained in the agreements.

Except as provided in Section 3 above the rights, powers and authority herein granted by Portage to Kalamazoo shall be for the exclusive use and benefit of Kalamazoo during the term of this Agreement; it being intended that Portage shall not grant like rights, powers, or authority as herein granted, to any other person, firm, corporation or municipality, and shall not directly or indirectly allow, permit or consent to the use of any public places within the boundaries, hereinbefore defined in any manner inconsistent or competitive with the terms, conditions, and purposes of this Agreement.

18. Successors.

This Agreement is binding upon any successor of Portage which may, during the term hereof, become vested by law with the right to control the use of the public street, avenues, boulevards, alleys, rights-of-way, and public places hereinbefore described, and also all successor municipalities, if any of Kalamazoo.

19. Casualty.

Each Party hereto shall be excused from any breach of this Agreement and from any liability or damage caused by any force majeure event.

20. Emergency, Commingling, and Water Rationing Notifications.

For the protection of the health of all customers served by the Water System, the parties agree to guard against all forms of contamination. Should contamination occur, the area or areas affected shall immediately by shut off and isolated, and shall remain so until such conditions have been abated, and the water declared safe and fit for human consumptions based upon approved state and federal analytical testing methodologies. Portage shall immediately notify Kalamazoo and Kalamazoo shall immediately notify Portage, of any emergency or condition that may affect the quality of water in the Water System.

Portage shall not permit water from any other source of supply to be mixed or mingled with the water from the Water System, without prior written approval of Kalamazoo. In cases of emergency, sources of water that are used other than from Kalamazoo shall meet the requirements of the State of Michigan Department of Environmental Quality, or its successors, and then only in such quantities as shall be necessary to relieve the emergency.

Any customer within Portage that has a private well and continues to use a private well after connection to the Water System shall adequately isolate the private well from the Water System. Any private well that is abandoned by the customer after connection to the Water System shall be adequately and completely abandoned according to established state and federal procedures and regulations. A customer within Portage that has had a private well prior to connection to the Water System shall be subject to inspection and/or enforcement by Kalamazoo and Kalamazoo County, to ensure that prior isolation or abandonment has

properly occurred.

From time to time, based on emergency conditions or temporary periods of scarcity within the Kalamazoo water supply system, water rationing may be required within Service Area. The need for water rationing shall be reasonably determined by Kalamazoo at its sole discretion. Upon determining the need for such water rationing, Kalamazoo shall notify Portage verbally and in writing of the type of required rationing within Portage. Kalamazoo will also provide adequate notice to appropriate media outlets to inform Portage's customers of the need for and requirements of any water rationing. Kalamazoo will endeavor to mitigate any circumstances that may require any water rationing and will endeavor to abate any such circumstances at the earliest possible time. Portage agrees to enforce any water rationing requirements within the Service Area for the duration of any such water rationing period. Kalamazoo will provide Portage with written updates every 7 calendar days regarding the status of the circumstances requiring the water rationing and when such circumstances are anticipated to be abated. Upon lifting of water rationing requirements by Kalamazoo, Kalamazoo will promptly inform Portage in writing. Kalamazoo will also utilize all available local media outlets to inform Service Area residents of the termination of any water rationing requirements.

Kalamazoo and Portage agree to abide by any requirements as established by the state or federal governments in emergency situations. Portage shall inform Kalamazoo on an annual basis, or more frequently if changes occur, of appropriate contact information for designated Portage emergency management officials. Each party is responsible for providing and maintaining up to date emergency contact information regarding the other. The failure of Portage to provide and maintain designated Portage emergency contact information shall not obviate Portage's obligations as set forth above.

21. Dispute Resolution.

A. The parties agree that it is in their collective best interest to establish a dispute resolution procedure to allow for faster resolution of problems, reduce expenses for attorneys, fees and costs and to improve their working relationship. Any and all claims, counterclaims, disputes and other matters in question between the parties alleging a breach of or arising under this Agreement, except claims requiring immediate relief to prevent irreparable harm to a party, the public health or environment, or seeking specific performance of the terms of this Agreement shall be submitted to the alternative dispute resolution process set forth herein. No litigation, other than a suit in equity seeking immediate relief to prevent irreparable harm to a party, the public health or environment or seeking specific performance of the terms of this Agreement may be brought by the parties to this Agreement.

B. **Negotiation by Parties:** If any party has a dispute with another regarding the meaning, operation, or enforcement of any provision of this Agreement, the parties agreed to meet and confer to negotiate a resolution of the dispute. Either party may initiate negotiations by providing written notice to the other party, setting forth the subject of the dispute and the relief requested. The recipient of such notice shall respond in writing within 30 business days with a statement of its position on and its recommended solution to the dispute. If the dispute is not resolved by this exchange of correspondence the representatives of each party shall meet at a mutually agreeable time and place within 28 days of the date of the response in order to exchange relevant information and perspectives, and attempt to resolve the dispute. The time frame for conducting negotiations to resolve the dispute shall not exceed 72 days from the date of issuance of the written notice, unless the parties agree to a longer informal negotiation timeframe. If

the dispute is not resolved by these negotiations, the matter shall be submitted to facilitated mediation.

C. **Facilitated Mediation:** If the parties are unable to resolve the dispute themselves and before formally instituting any other dispute resolution mechanism, they shall utilize the services of a mutually acceptable neutral mediator, who meets the qualifications of MCR 2.411, to bring the parties together in at least one mediation session. Either party may initiate the facilitated mediation process by providing notice in writing to the other party.

The parties shall select a qualified facilitator within 30 days of the notice initiating the facilitated mediation process. The cost for the facilitator shall be shared equally by the parties. The facilitator shall be neutral and impartial, with no conflict of interest with either party in no significant financial or personal interest in the outcome of the dispute. If no mutually acceptable facilitator can be identified and selected within the 30 day period, then the dispute resolution under this paragraph shall be terminated.

The facilitator shall be free to meet and communicate separately as he or she deems appropriate with each party, but will schedule joint meetings of all parties with the time, place, and agenda to be established by the facilitator in consultation with the parties. No stenographic, video or record will be made of the meetings conducted by the facilitator, and formal rules of evidence and civil procedure will not apply to the materials presented and discussed.

The facilitation process may be terminated by the facilitator to any time if he or she determines that one or more parties is not acting in good faith, or if the facilitator concludes that further dispute resolution efforts would not be useful in achieving a resolution. The facilitation process will automatically terminate after 90 days from the date the facilitator is retained, unless the time period is extended by agreement of all parties and the facilitator.

If a settlement is reached, a preliminary Memorandum of Understanding shall be prepared and signed or initials before the parties separated. Thereafter, either the facilitator or the parties themselves, will promptly and not later than 30 days following the execution of the Memorandum of Understanding draft a written settlement document incorporating the terms of the settlement. This draft document shall be circulated, amended as necessary and then formally executed by the parties. It is recognized that in some cases, formal execution of the settlement agreement may be deferred pending review and consideration of the document by the governing bodies of the parties.

D. **Arbitration:** If the parties are unable to resolve the dispute through facilitated mediation, the dispute shall be decided by final and binding arbitration by an arbitrator agreed upon by the parties. Unless a longer time is agreed upon by the parties, either party must demand arbitration of the claim or dispute within 30 days after the facilitation process is terminated either by the facilitator or by expiration from the first notice of the claim or dispute and, if not, the claim is deemed waived.

The facilitated mediator may serve as arbitrator by agreement of the parties. If the parties are unable to agree upon the arbitrator, they shall apply to the presiding judge of the Kalamazoo County Circuit Court for the selection of the person to serve as arbitrator. The

person chosen as arbitrator by the court shall have experience in arbitration of commercial disputes. The selection by the presiding circuit judge shall be binding upon the parties and no challenge may be made to that selection.

The dispute shall not be submitted to the American Arbitration Association (AAA) for administration, but the arbitrator selected may nevertheless conduct the arbitration in accordance with the latest published commercial arbitration rules promulgated by the AAA. The arbitrator may utilize whatever rules he or she may deems most effective and efficient for the arbitration process to take place. The arbitrator may also determine if the expense of the arbitrator shall be shared equally or may be assumed partially by one party if it is determined that the issue arbitrated is frivolous without merit. The parties agree that time is of the essence and as such the arbitrator shall proceed asked expeditiously without interfering in the further performance of the parties under this Agreement. Judgment upon the award rendered by the arbitrator may be entered in Kalamazoo County Circuit Court.

E. **Venue:** All meetings, hearings and actions to resolve the dispute shall be held in Kalamazoo County.

F. **Notice:** Written notice of a claim or dispute under this agreement shall be given to the other party not later than 90 days after the occurrence giving rise to the dispute becomes known or should have become known. Any claim or dispute not timely noticed in writing is deemed waived.

CITY OF KALAMAZOO

By:_____

Its: Mayor

CITY OF PORTAGE

By:_____

Its: Mayor

Form Approved
Sept 19, 2012
CJR
City Attorney

APPROVED AS TO FORM
DATE 9/21/12
CITY ATTORNEY

CITY OF PORTAGE COMMUNICATION

TO: Honorable Mayor and City Council **DATE:** September 17, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Recommended Budget Amendments - End of Fiscal Year Housekeeping

ACTION RECOMMENDED: That City Council amend the General Appropriations Act (budget) for the fiscal year ending June 30, 2013.

The normal government procurement process involves issuance of purchase orders to obtain goods and services necessary to provide service to citizens. Purchase orders specify description, quantity and price of the required goods. With each purchase order, an encumbrance is entered in the city accounting system to reserve budgeted funds to pay for the goods. As goods are received and the purchase orders paid, the encumbrances are removed. At the end of each fiscal year, open purchase orders and the encumbrances must be carried forward to the next fiscal year to reserve funds required to pay for goods and services already ordered. In effect, this is done by adding the reserved funds to the next annual budget. The "encumbrance carry forward" process is a standard practice in governmental accounting. City Charter Section 7.6(d) requires the production of this listing for approval by City Council.

The attached list shows the dollar value of the open purchase orders as of June 30, 2012, all of which are for necessary supplies and services. Receipt of these goods and services will require subsequent payment by the city. Council action in this amendment of the 2012/2013 budget is to move funds from the "Reserved for Encumbrances" account to the appropriate budget lines to allow payment for these goods and services in the 2012/2013 fiscal year.

It is recommended that Council amend the General Appropriations Act (budget) for the fiscal year ending June 30, 2013.

Attachment

PO Number	Vendor Name	PO Carry Forward
58013	KUIPER BROTHERS	$ 178.48
58024	SOUTHWEST MICHIG	8,200.00
58039	SARCOM, INC	84.52
57089	AMERICAN HYDROGE	13,000.00
57449	HOMETOWN URGENT	364.99
58048	MLIVE MEDIA GROU	409.56
51379	CONSUMERS ENERGY	558.07
58444	CITY OF PORTAGE	505,000.00
55297	PUBLIC MEDIA NET	80,000.00
57478	RELIABLE MANAGEM	264.80
53761	AUTOMATIC MICROF	10,213.30
54571	WINDEMULLER ELEC	6,233.47
55007	MICROSYSTEMS, IN	3,181.73
55010	KALAMAZOO COUNTY	7,528.34
57486	BREAKAWAY BICYCL	332.04
55019	MICROSYSTEMS, IN	836.00
58064	KALAMAZOO COUNTY	3,829.36
55027	MLIVE MEDIA GROU	500.00
58398	SHULTS EQUIPMENT	1,760.40
59050	STATE SYSTEMS	2,442.00
39313	CITY OF PORTAGE	130,000.00
55088	ETNA SUPPLY, INC	108.59
55103	MCNALLY ELEVATOR	396.30
55143	CUSTOMIZED CLEAN	760.00
57487	ARROW UNIFORM RE	44.70
55147	LOEDEMAN'S CARPE	1,000.00
58080	ALLIED MECHANICA	225.00
55161	GRIFFIN PEST SOL	268.50
57490	DEATON & SON INC	126.74
55385	UNITED WATER	154,271.51
55188	STAP BROS LAWN	75.00
55205	BORGESS HEALTH	646.00
57947	BELL EQUIPMENT	9,600.00
55216	MCNALLY ELEVATOR	339.17
57491	STAP BROS LAWN	136.00
58106	BELL EQUIPMENT	941.04
55350	CITY OF KALAMAZOO	309,984.60
55376	MLIVE MEDIA GROUP	83.40
42735	CITY OF PORTAGE	197,000.00
57492	HI-TECH ELECTRIC	1,664.00
55470	HOFFMAN BROTHERS	4,620.00
55554	PRECISION PRINTERS	531.26
58116	CHARTER COMMUNIC	120.00
57550	A-1 SIGNS	1,000.00
51285	CITY OF PORTAGE	200,000.00
57555	STAP BROS LAWN	160.00
58123	NYE UNIFORMS	232.50
57586	AQUATIC SERVICES	18,550.00
55176	STAP BROS LAWN	100.00
58131	WEST SHORE SERVI	9,860.00
57602	BRONSON METHODIS	474.00
57133	COSTAR REALTY IN	83.96
57145	SUBURBAN MECHANI	355.00
57620	PIPELINE SERVICE	1,600.00

PO Number	Vendor Name	PO Carry Forward
55862	KUHN'S YARD & GA	76.39
57170	KENT COUNTY DPW	230.00
57187	GORDON WATER SYS	161.50
57209	KLOSTERMAN DISTR	596.07
58134	A-1 SIGNS	80.00
58367	AUTOMATIC MICROF	7,000.00
34877	CITY OF PORTAGE	150,000.00
57270	IRRIGATOR, THE	288.04
55966	CARLETON EQUIPME	1,750.00
57275	MAIL MANAGEMENT	992.36
57628	SAFETY SERVICES	730.11
57351	PETERS CONSTRUCT	5,905.59
57364	MICHIGAN PAVEMEN	1,052.33
56293	PUBLIC MEDIA NET	4,763.70
57368	CITY OF PORTAGE	160,000.00
57382	CAMPBELL AUTO	567.36
57416	MAURER'S TEXTILE	255.70
57653	GORDON WATER SYS	112.29
58137	WOOD PLUMBING	500.00
56367	KALAMAZOO COUNTY	4,524.81
57421	PLEUNE SERVICE	1,900.00
56388	REPUBLIC SERVICE	277.14
55151	ALLEGRA PRINT	206.15
57662	BEACON ATHLETICS	274.95
56417	WOLVERINE POWER	256.10
58138	SECANT TECHNOLOG	4,760.00
57663	PROFESSIONAL LAK	494.67
56501	MENARDS, INC	594.57
56520	AUTOMATIC DATA	5,538.19
58435	CITY OF PORTAGE	199,900.00
57677	PICTOMETRY INTER	9,600.00
58154	STATE SYSTEMS	6,341.00
56608	BITTERSWEET ACRE	200.00
57681	SHULTS EQUIPMENT	887.70
56633	TRACTOR SUPPLY	192.41
58162	PICTOMETRY INTER	400.00
56669	WOLVERINE POWER	229.00
57681	SHULTS EQUIPMENT	887.70
56697	GRAHAM FORESTRY	135.00
55209	WINDEMULLER ELEC	10,800.00
55017	CITY OF PORTAGE	220,000.00
57703	ARBANAS ENTERPRI	850.00
58163	WASHCO, LLC	400.00
56801	WIGHTMAN ENVIRON	500.00
56804	IRISH AYRES ENTE	5,148.20
57734	CLEAN EARTH ENVI	1,500.00
56867	B & B YARDSCAPE	1,215.00
58206	PUBLIC MEDIA NET	30,000.00
57777	ETNA SUPPLY, INC	483.88
57948	BELL EQUIPMENT	600.00
56896	PROFESSIONAL LAK	435.60
57972	TECHNOLOGY SOLUT	2,486.25
57981	MIDWEST CUSTOM E	637.18
57784	C T S TELECOM	7,176.47

PO Number	Vendor Name	PO Carry Forward
56970	FLETCHER ENTERPR	150.00
58226	MUNICIPAL CODE C	260.00
57013	HOME DEPOT	196.51
57785	EMPLOYMENT GROUP	349.29
55144	FLETCHER ENTERPR	140.00
58416	CITY OF PORTAGE	71,453.05
57016	CAMPBELL AUTO SU	78.38
58231	VERIZON WIRELESS	1,342.44
57787	WEST SHORE SERVI	9,430.00
58417	CITY OF PORTAGE	78,500.00
57823	DELL MARKETING	513.97
58418	CITY OF PORTAGE	80,000.00
58368	AUTOMATIC MICROF	2,000.00
58238	FELDER COMMUNICA	1,500.00
57831	PROFESSIONAL TREE	1,075.00
58433	CITY OF PORTAGE	280,411.00
58281	CITY OF PORTAGE	66,320.00
57846	CARLETON EQUIPME	525.00
58256	J J KELLER & ASS	602.00
58301	WASHCO, LLC	800.00
58315	A-1 SIGNS	167.80
58370	AUTOMATIC MICROF	1,800.00
58434	CITY OF PORTAGE	210,000.00
58317	MIDWEST CUSTOM	208.00
58322	KENT COMPANIES,	525.00
58347	SHULTS EQUIPMENT	1,760.40
57853	SARCOM, INC	62.43
58353	ALLEGRA PRINT	900.00
55154	NEW FRESH CLEANI	804.00
58365	NIEWOONDER & SON	2,242.95
58265	NYE UNIFORMS	1,377.80
57872	TECHNOLOGY SOLUT	2,458.50
58374	J & J LAWN SERVI	400.00
58379	AUTOMATIC MICROF	1,250.00
58382	WEST SHORE SERVI	11,556.00
58388	PEERLESS, INC.	110.00
57874	WOOD PLUMBING LL	123.50
58389	KUIPER BROTHERS	178.00
58273	LANDS END	406.87
58402	SHULTS EQUIPMENT	1,760.40
58408	LIFEGUARD STORE	200.00
57898	AMERICAN SAFETY	88.75
58275	SARCOM, INC	684.00
57902	MEJEUR ELECTRIC	500.00
59051	STATE SYSTEMS	2,976.60
59052	A T & T	1,000.00
57903	TERRA I/S, LLC	1,000.00
57906	IYETEK LLC	698.00
57925	ARBANAS ENTERPRI	600.00
57946	O'BOYLE-COLWELL	2,120.00
		3,388,773.38

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 17, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Construction Board of Appeals Raze Order – 1518 East Centre Avenue

ACTION RECOMMENDED: That City Council:

a. accept the order of the Construction Board of Appeals to demolish the pole barn and accessory loading dock at 1518 East Centre Avenue; and

b. authorize the City Administration to take the necessary action to demolish the pole barn and accessory loading dock at 1518 East Centre Avenue, place a lien and assess the property to recover the costs associated with demolition consistent with the ordinance.

The continued deterioration and property maintenance concerns associated with the vacant pole barn and loading dock at 1518 East Centre Avenue are in need of corrective action. Complaints have been received from the neighborhood regarding the condition of the property. The parcel is currently bank-owned and city remediation efforts with the property owner have been unsuccessful to date.

Information from Community Development Director Georgeau is attached regarding the Construction Board of Appeals order that the vacant pole barn and loading dock be demolished. The property owner has been notified of the unsafe structure and show cause proceedings before the Construction Board of Appeals. If City Council approves the demolition order and authorizes the City Administration to take the necessary action to raze the pole barn and loading dock, the cost of the demolition and site restoration will be placed as a lien against the real property and reported to the City Assessor and Finance Director to assess the costs of the demolition against the property. If not paid, the cost will be added to the tax roll and collected consistent with the ordinance.

The pole barn and loading dock remain in disrepair, continue to deteriorate and create a negative impact on the surrounding area. It is recommended that City Council approve the Construction Board of Appeals order and authorize the City Administration to take necessary actions to raze the structures.

Attachments: September 17, 2012 Communication from the Community Development Department

CITY OF PORTAGE **COMMUNICATION**

TO: Maurice S. Evans, City Manager **DATE:** September 17, 2012

FROM: Vicki Georgeau, Director of Community Development

SUBJECT: Construction Board of Appeals Raze Order – 1518 East Centre Avenue

Property and building maintenance of the vacant pole barn and accessory loading dock located at 1518 East Centre Avenue has not been accomplished. Complaints have been received and enforcement action has been necessary by the Department of Community Development regarding debris on the site and the deteriorating condition of the pole barn and greenhouse structures. As background information, Portage Commerce Bank acquired the property in April 2011 through foreclosure. The debris and greenhouse structures have been removed from the site, however, the vacant pole barn with large sections of roof missing has not been repaired or demolished.

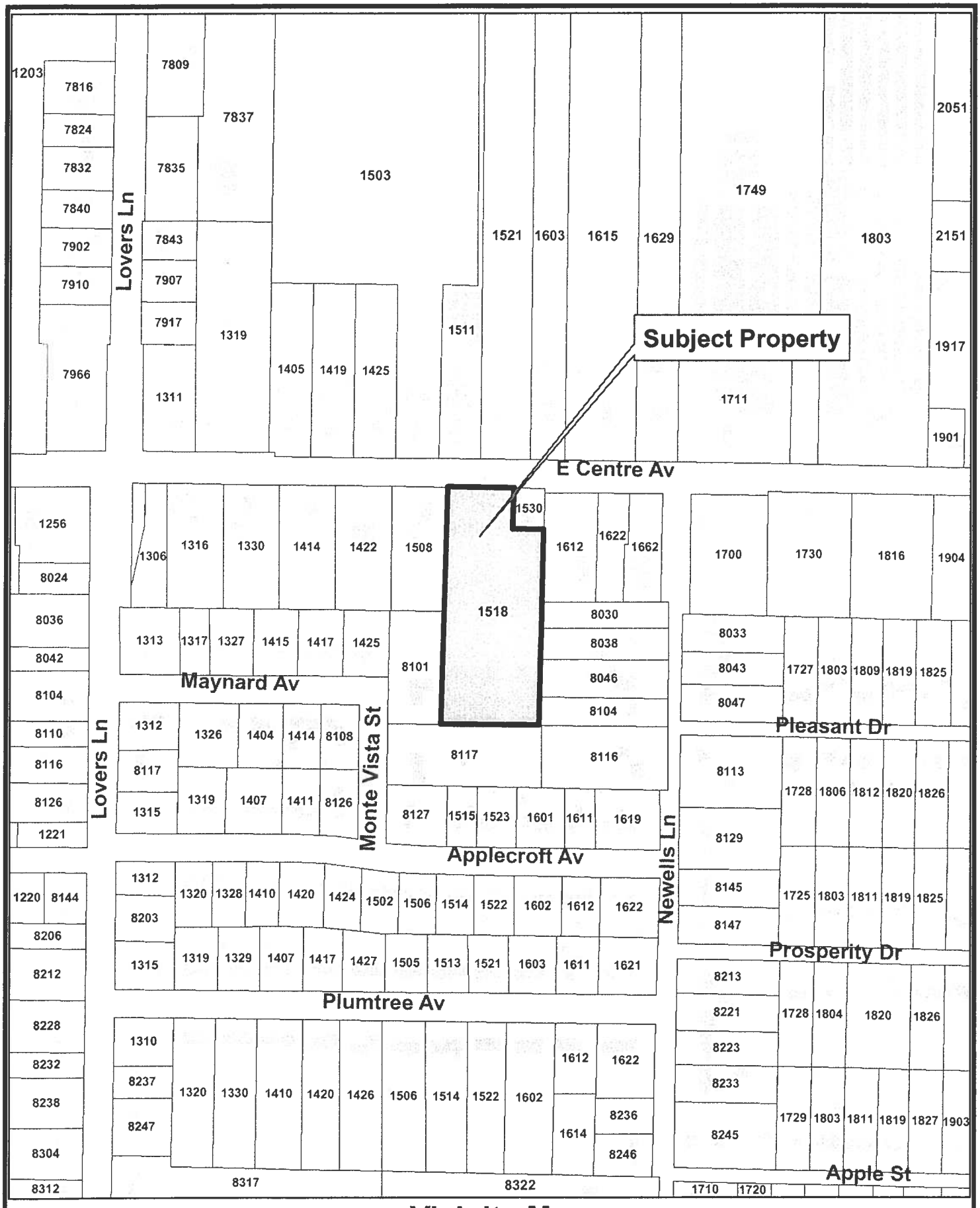
On July 30, 2012 the Construction Board of Appeals held a Show Cause Hearing for the pole barn located at 1518 East Centre Avenue. At the conclusion of the hearing, an order was established by the Board requiring that: the pole barn, foundation and accessory loading dock on the property be demolished and removed, and the site restored within 30-days. If the owner failed to complete the demolition and site restoration, the Construction Board of Appeals recommended that the matter be transmitted to City Council for authorization to raze and remove the building and accessory loading dock and complete site restoration.

The property owner was provided notice of the Construction Board of Appeals raze order, but has failed to comply. The condition of the pole barn and loading dock at 1518 East Centre Avenue continues to create a detrimental impact on the adjacent properties and surrounding neighborhood. The pole barn shows characteristics of neglect and lack of maintenance by the property owner. The approximately four foot high ramped loading dock on the site presents an attractive nuisance. An estimated cost for the removal of the building and accessory loading dock is below $10,000. It is recommended that City Council authorize the City Administration to proceed with the raze order and site restoration of 1518 East Centre Avenue.

I am available to further discuss this matter at your convenience.

Attachments: Vicinity Map
September 17, 2012 photographs of 1518 East Centre Avenue
July 30, 2012 Construction Board of Appeals Agenda Materials and Meeting Minutes.

S:\2012-2013 Department Files\Memos\Manager\2012 029 14 VG 1518 East Centre Raze Order Raze Order.doc



Vicinity Map
1518 E Centre Avenue

Imagery: March 2009

1 inch = 300 feet

Path: R:\GISADMIN\karl\projects\DEPTS\COM DEV\building_services\1518 e centre.mxd

09/17/2012 09:24

09/17/2012 09:25

09/17/2012 09:23

09/17/2012 09:20

09/17/2012 09:21

09/17/2012 09:20

09/17/2012 09:18

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

TO: Construction Board of Appeals

FROM: Vicki Georgeau, Director of Community Development

DATE: July 24, 2012

SUBJECT: Show Cause Hearing – 1518 East Centre Avenue

CODE SECTION: Article 13, Section 42-1341 - Unsafe Structures, City of Portage Codified Ordinances

STAFF RECOM-MENDATION: The vacant pole barn formerly used for agricultural purposes at 1518 East Centre Avenue has not been made useable or safe in accordance with the provisions of the Codified Ordinances of the City of Portage.

In compliance with the Unsafe Structure Ordinance, a March 9, 2012 unsafe structure notice was sent certified mail and posted on the vacant pole barn advising that the property owner had 30-days to bring the property into compliance or further enforcement action would be pursued (e.g., buildings repaired or razed and debris removed from the site). On July 10, 2012, a Show Cause Hearing notice was sent certified mail and posted on the site due to the lack of action to repair or raze the pole barn.

The condition of the pole barn is substandard and continues to deteriorate and create a negative impact on the adjacent properties. A large portion of the pole barn roof is missing allowing weather and animal intrusion. The fiberglass roof panels have become brittle as a result of their age and the weathering process and are easily detached from the roof trusses. The missing roof has allowed water damage to occur to the interior of the structure, including damage to the electrical equipment within the building. Michigan Commerce Bank, owner of the property, has removed a dilapidated greenhouse and debris formerly located on the property, however, no action has occurred to correct or remove the pole barn.

As information, the property is zoned R-1B, One-family Residential. Future use of the property will need to conform to the requirements of the City of Portage Zoning Code applicable to land uses permitted in the one-family residential zoning districts. A commercial business is not permitted in the R-1A zoning district.

Staff is aware of the difficulties associated with the current real estate market and has attempted to provide the property owner with time to address the situation. However, the unsafe condition of the pole barn to creates a negative impact on the surrounding

Page 2 of 2

properties and neighborhood. It is the recommendation of staff that the vacant pole barn, including the slab foundation be razed and removed from the property within 30-days. Failure to comply with the order will result in the matter being referred to City Council for a demolition order to have the building removed. The costs associated with removing the structure shall be provided in accordance with Chapter 42, Article 13, Unsafe Structures, City of Portage Codified Ordinances.

Attachments: Unsafe structure notification dated March 9, 2012
Show Cause Hearing notification dated July 10, 2012
Vicinity Map of 1518 East Centre Avenue
Photographs of 1518 East Centre Avenue
Article 13, Unsafe Structures, City of Portage Codified Ordinances

S:\2012-2013 Department Files\Board Files\Construction Board\2012 7 20 VG Show Cause Recommendation 1518 East Centre Avenue.doc

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

Mr. Bart Hamlin
Michigan Commerce Bank
800 East Milham Avenue
Portage, MI 49002

March 9, 2012

Sent Certified Mail and Posted on Site

Dear Mr. Hamlin:

Re: Unsafe Structure, 1518 East Centre Avenue - Notice to Owner

According to City of Portage records, Michigan Commerce Bank is the owner of the property and the property improvements located at 1518 East Centre Avenue. On March 6, 2012 a complaint was received by the Department of Community Development regarding the dilapidated and unsafe condition of the buildings located at 1518 East Centre Avenue. On March 7, 2012, an inspection of the property was completed and the following defects, conditions and/or violations of the City Codes were identified (see attached photographs).

1. A large portion of the pole barn building roof is missing allowing weather and animal intrusion. The fiberglass roof panels have become brittle as a result of their age and weathering process and are easily detached from the roof trusses. As a result of recent high winds, building/roofing material was found on the property and had also blown across East Centre Avenue creating a potential public safety hazard. The missing roof has also allowed water damage to occur to the interior of the structure, including electrical equipment areas.
2. The former greenhouse on the property is in disrepair, is missing a roof and has lost its functionality.
3. Miscellaneous debris and building related material is located on the property.

Because of these significant violations/deficiencies and building deterioration, the above referenced building has been determined to be unsafe as defined in Section 42-1341 of the City of Portage Building and Housing Code. Action within **10 days** of receipt of this letter is required to secure or remove the remaining roof panels to eliminate the potential public health and safety risk. Within **30 days**, progress to fully repair or remove the vacant buildings and debris is required in order to avoid enforcement action, including proceedings for unsafe structures. If you choose to retain the pole barn, a State of Michigan licensed architect or engineer will need to confirm that the existing roof trusses and new roof deck material meet the requirements of the 2009 State of Michigan Building Code. As you may know, this site and building was previously used for specialized agricultural purposes and pursuant to applicable state law, construction permits or inspections were not required. Since the agricultural use has been abandoned, construction permits and inspections are now necessary.

With regard to reuse of the property, please also be aware the property is zoned R-1B, one-family residential. Any future use must meet the requirements of Division 4, Subdivision 2 of the City of Portage Zoning Code applicable to land uses permitted in the one-family residential zoning districts.

Upon receipt of this notice, please contact Terry Novak, Deputy Director of Building and Housing Services, at 269-329-4477 to discuss your schedule to correct the City Code violations, and any questions or comments you may have regarding this matter.

Sincerely,

Vicki Georgeau, AICP
Director

Attachments: Photographs of violations

c. Mr. Mick Kasten, 8065 Cox's Drive, Portage, MI 49002

ec: Terry A. Novak, Deputy Director of Building and Housing Services
Christopher Forth, Deputy Director of Planning, Development and Neighborhood Services

S:\2011-2012 Department Files\Address Files\C\Centre East\2012 03 08 TAN 1518 East Centre Avenue Unsafe Structures.docm

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

July 10, 2012

Sent Certified Mail and Posted on Site

Mr. Bart Hamlin
Michigan Commerce Bank/Portage Commerce Bank
800 East Milham Avenue
Portage, MI 49002

Dear Mr. Hamlin:

RE: Notice of Show Cause Hearing – 1518 East Centre Avenue

The vacant pole barn located at 1518 East Centre Avenue has not been made safe in accordance with the provisions of the Codified Ordinances of the City of Portage, Michigan. The following defects, conditions and/or violations cited in the March 9, 2012 Unsafe Structure notice (attached) has not been properly addressed:

1. A large portion of the pole barn's roof is missing allowing weather and animal intrusion. The fiberglass roof panels have become brittle as a result of their age and the weathering process and are easily detached from the roof trusses. The missing roof has allowed water damage to occur to the interior or the strutting, including damage to the electrical equipment within the building.

As a result of these continued violations, you are hereby notified that a hearing on the condition of the pole barn will be held before the Construction Board of Appeals at 5:00 p.m. on July 30, 2012. The meeting will be held in Conference Room One of Portage City Hall, 7900 South Westnedge Avenue, Portage, Michigan. At this hearing, you will have the opportunity to show cause as to why the pole barn should not be ordered demolished or otherwise made safe. The owner and any occupant of the pole barn shall have the right at the hearing to cross-examine witnesses who testify against the owner's and/or occupant's interests and the right to produce witnesses on your own behalf, including the use of pictures, video tapes or other recording devices.

The decision of the Construction Board of Appeals may be appealed to City Council for review within ten (10) days after the decision of the Board and, after review by Council, may be appealed to the Kalamazoo County Circuit Court within twenty (20) days after the decision of the Council.

If you have any questions, please contact the Division of Building Services, Department of Development, 329-4477.

Sincerely,

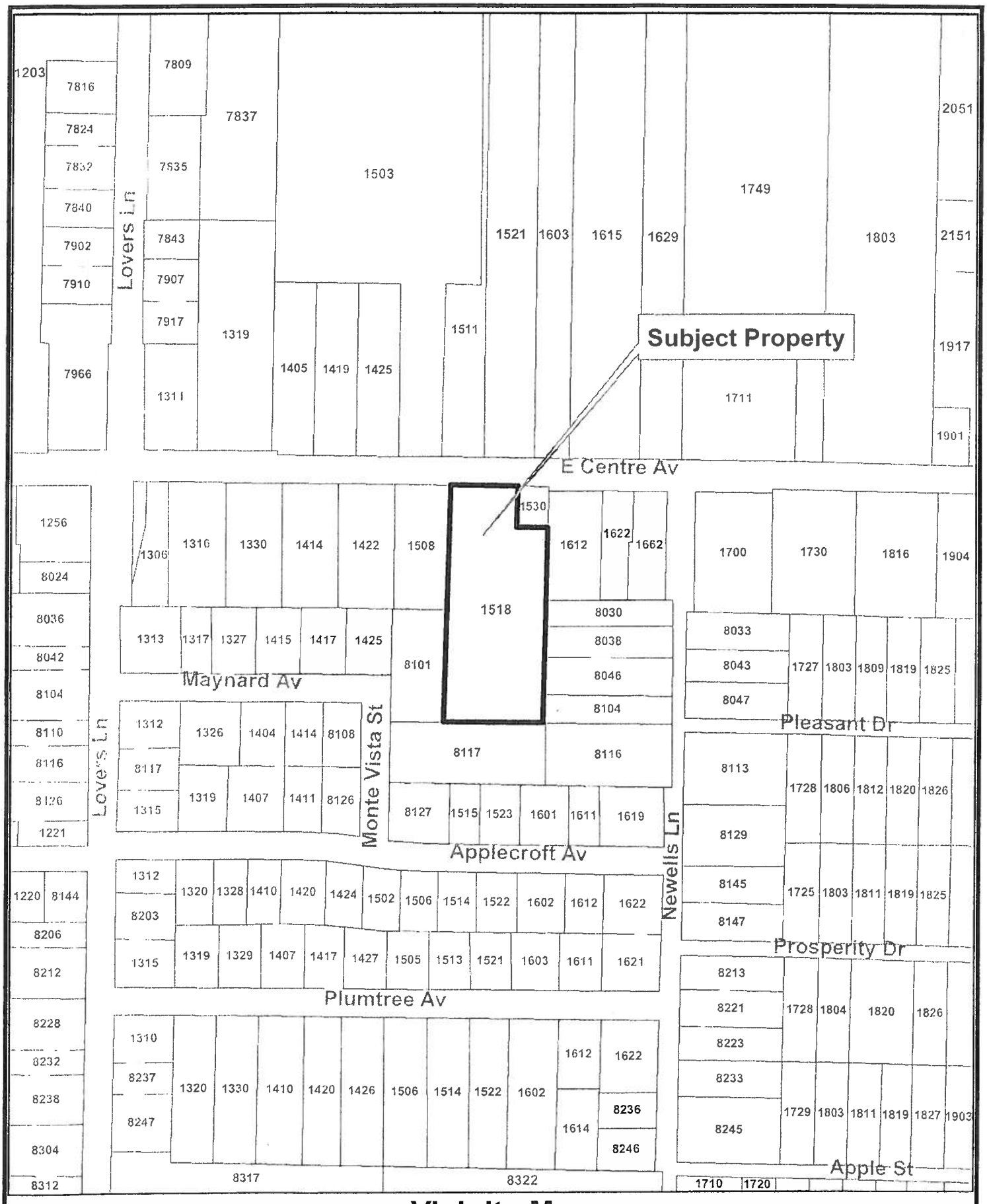
Vicki Georgeau, AICP
Director

Attachment: Copy of March 9, 2012 Unsafe Structure Notice

c. Karen Willis, 200 North Washington Square, Lansing, MI 48933

ec: Terry A. Novak, Deputy Director of Building and Housing Services
Christopher Forth, Deputy Director of Planning, Development and Neighborhood Services

S:\2012-2013 Department Files\Address Files\C\Centre East\2012 07 09 VG 1518 East Centre Avenue Show Cause.doc



Vicinity Map
1518 E Centre Avenue

Imagery: March 2009

1 inch = 300 feet

Path: R:\GISADMIN\kari\projects\DEPTS\COM DEV\building_services\1518 e centre.mxd

CITY OF PORTAGE CONSTRUCTION BOARD OF APPEALS

DRAFT

Minutes of Meeting – July 30, 2012

The City of Portage Construction Board of Appeals meeting of July 30, 2012 was called to order at 5:00 PM in Conference Room #1 of Portage City Hall, 7900 South Westnedge Avenue, Portage, Michigan.

MEMBERS PRESENT:

Carllyn Compton, Gary Gilchrist, William Koopsen, John Kounelis William Leach, Lawrence Schmidt and George Theodoru

MEMBERS ABSENT:

None

MEMBERS EXCUSED:

None

IN ATTENDANCE:

Terry Novak, Deputy Director of Building and Housing Services and Mike Beery Building Inspector.

APPROVAL OF MINUTES:

The minutes of November 28, 2011 were approved.

BOARD ACTION:

1518 East Centre Avenue – Show Cause Hearing for vacant pole barn:

Chairman Schmidt presented the item to the Board. No representatives from Michigan Commerce Bank, owners of the property, were in attendance. Deputy Director Novak provided background information pertaining to the history of the site including the prior use as agriculture, the complaint received regarding roof panels detaching from the structure and blowing across East Centre Avenue and previous meetings and conversations with Michigan Commerce Bank regarding the matter. Building Inspector Beery gave an overview of the condition of the building and damaged caused to the structure due to the missing roof sections. Several of the Board members indicated that they had visited the site and noted the dilapidated condition of the unsecured building. Members of the Board also discussed the potential hazards associated with the loading dock at the site. A concern was raised by the Board regarding the recent sale of plants utilizing a cash drop box on the front portion of the property. Deputy Director Novak advised that this was not a permitted activity and that Community Development was following up on the matter.

After further discussion a motion was made by Member Miller that the pole barn, foundation and accessory loading dock on the property be demolished and removed, and the site restored within 30 days. If the owner fails to complete the demolition and site restoration, the matter is to be transmitted to City Council seeking authorization to raze and remove the structures and complete site restoration.

Member Theodoru seconded the motion. The motion passed 6 - 1.

ADJOURNMENT:

The Board meeting adjourned at 5:40 PM

Respectfully Submitted,

Terry A. Novak,
Deputy Director of Building and Housing Services

S:\2011-2012 Department Files\Board Files\CONSTRUCTION BOARD\Minutes\CBA Min. 11-28-2011.doc

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 18, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: City Council 50th Anniversary Committee

ACTION RECOMMENDED: That City Council appoint a City Council 50th Anniversary Committee to consider additional suggested activities and events from Advisory Board and Commissions and Portage residents and present the additional suggested activities and events to the City Council no later than October 23, 2012.

As previously discussed at the September 11, 2012 meeting, City Council approved appointment of an Ad Hoc Advisory Committee to consider additional suggested activities and events to commemorate the city's 50th anniversary.

Councilmembers Pearson, Sackley and Urban responded with interest in serving on the newly proposed committee.

Appointment of the 50th Anniversary Committee to consider additional suggested activities and events from Advisory Board and Commissions and Portage residents for presentation to City Council no later than October 23, 2012 is recommended.

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 17, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: 2012 City Council Goal Setting Session

ACTION RECOMMENDED: That City Council establish Friday, November 16, 2012 as the date of the 2012 City Council Goal Setting Session.

Arrangements are being made to hold the annual City Council Goal Setting Session on Friday, November 16, 2012 at The Oaklands on the campus of Western Michigan University. A tentative schedule of activities and meeting materials will be provided in the near future.

It is recommended that City Council establish Friday, November 16, 2012 as the date of the 2012 City Council Goal Setting Session.

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 17, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Donation Boxes- Information Only

As requested by City Council at the August 14, 2012 meeting, the Department of Community Development has evaluated donation boxes utilized by both non-profit and for profit organizations throughout the city.

The attached communication from Community Development Director Georgeau provides information regarding the location and number of existing donation boxes within the community and presents regulatory options and best practices utilized in other communities regarding this type of business use.

A staff survey of commercial business areas has revealed the existence of eighteen (18) donation boxes located throughout the city. While the city lacks regulations specific to donation boxes, similar to other accessory uses, once aware of the existence of a donation box staff ensures the donation boxes are located in a manner that does not result in a hazard. Action is also taken in those instances where items placed outside the donation boxes casts off debris.

In regard to the issue of further regulation of donation boxes, exclusion of donation boxes from the community is viewed as problematic, especially in consideration of other exterior accessory uses that have been in the community for many years. Additionally, review by the City Attorney indicates that the city cannot distinguish, from a regulatory perspective, between charitable or for-profit donation boxes. The Michigan Consumer Protection Act and Charitable Organizations and Solicitations Act regulate charitable clothing donation boxes, which intend to ensure proper disclosure regarding the operation of donation boxes. Accordingly, any regulation developed to address donation boxes will be universally applied, regardless of the donation box sponsor.

In considering further regulation of donation boxes, staff believes development of a permitting process will assist in addressing locational issues in a pro-active manner, as well as with clean-up notification requirements, should they become necessary subsequent to installation of the donation boxes. As a result, unless directed otherwise by the Council, the City Administration will work with the Office of the City Attorney to develop a proposed ordinance for regulation of the donation boxes, with the emphasis of the ordinance being focused on location of donation boxes, the number of donation boxes per property and maintenance of donation boxes in the community.

Attachment: September 17, 2012 Communication from the Community Development Department

CITY OF PORTAGE **COMMUNICATION**

TO: Maurice S. Evans, City Manager **DATE:** September 17, 2012

FROM: Vicki Georgeau, Director of Community Development

SUBJECT: Donation Boxes

As discussed at the August 14, 2012 City Council meeting, the Department of Community Development has evaluated the presence of donation boxes throughout the city, regulatory options, and best practices utilized in other communities regarding this type of business use that has recently become more prevalent in the community. The following information is provided in regard to this matter.

Location and Number of Donation Boxes: A survey of all commercially zoned properties has been accomplished, and 18 donation boxes were identified throughout the city. The attached Donation Box Location Map illustrates the location of the donation boxes identified. A series of photos is also attached that provides the address, principal use, and illustrates the location and condition of each donation box.

Eight of the donation boxes are operated by Planet Aid, three are operated by the Cancer Federation, two are operated by Community Patriots, two are operated by Homeless Empowerment Relationship Organization (HERO), one is operated by Childhood Disease Research Foundation, one is operated by USAgain, and one is operated by Metro Charity. Planet Aid, the Cancer Federation, HERO, Childhood Disease Research Foundation and Metro Charity are non-profit organizations, whereas Community Patriots and USAgain are for profit organizations.

Regulatory Options: Donation boxes have been in existence within the city in the past, and it is acknowledged that this use has recently increased throughout the community. Provided donation boxes do not interfere with required parking spaces, maneuvering lanes, access drives, and do not otherwise present an attractive nuisance, city ordinances do not specifically regulate this type of use. Many businesses in the community have other exterior accessory uses such as bagged ice freezers, propane tank racks, seasonal yard/garden products, video rental and other vending machines. These exterior accessory uses, which are directly or indirectly related to the principal use on the property, have been handled in a similar fashion. If problems with exterior accessory uses arise, a notice is provided to the property owner where the donation box/accessory use is located, requesting a resolution of the issue.

As shown in the attached photos of the identified donation boxes, many are located in a manner that is visible from the public street right-of-way, several are located within the parking lot interior, and one is located against the exterior building wall. The location of the identified donation boxes do not create problems with regard to obstruction of required parking spaces or maneuvering lanes, internal or external traffic flow, or vision obstructions. Two of the donation boxes at Wal-Mart had litter on the ground and resolution of this issue has been requested of the Wal-Mart store manager.

In addition to public health, safety and community quality concerns with the donation boxes, some concern has been expressed with regard to whether the donation boxes are operated by non-profit or for-profit organizations, and whether the donation boxes are operated by "legitimate" non-profit organizations. As noted above, the donation boxes are operated by both non-profit and for-profit

organizations. The City Attorney has reviewed this matter and determined that the city cannot distinguish, from a regulatory perspective, between a charitable or for-profit accessory use. The City Attorney has indicated that there are State statutes (the Michigan Consumer Protection Act, and the Charitable Organizations and Solicitations Act) that regulate charitable clothing donation boxes, which are intended to ensure proper disclosure regarding the operation of boxes.

As required by the Michigan Consumer Protection Act, the donation boxes have wording that identifies the organization responsible for the use, which have not been considered "signs" regulated by the Zoning Code. This determination is similar to wording/advertising on vending machines, gas pumps, and ATM/ drive-through facilities that are oriented to the customer, as opposed to the public street right-of-way.

Best Practices: The Department has contacted several communities in southwest Michigan regarding donation boxes and other similar exterior accessory uses (including: the cities Kalamazoo, Wyoming, and Kentwood, and the townships of Oshtemo, Texas, Kalamazoo, and Plainfield). None of the southwest Michigan communities surveyed have specific regulations for these types of accessory uses. With the exception of Kalamazoo Township, the manner in which these communities address concerns with donation boxes and other accessory uses is similar to the approach utilized by the City of Portage, as noted above. Kalamazoo Township has taken the approach that the donation boxes are not an approved use specified in the Zoning Code and are therefore not permitted.

Some communities in southeast Michigan and outside of the State of Michigan have recently adopted regulations for donation boxes. For example, the cities of Romulus and Grosse Ile, Michigan recently adopted regulations, and the City of Wayne and Brownstown Township are in the process of adopting regulations for donation boxes. Of the identified communities that have adopted ordinances for donation boxes, regulations typically include the following provisions:

- Requirement for a Permit: permit applications must include property owner permission, contact information for the donation box operator, and a drawing of the donation box location;
- Location Requirements: donation boxes are prohibited in residential zoning districts, cannot be located in a required front, side and/or rear yard area, and must be located in a manner that does not obstruct or impede fire lanes, exit doors, off-street parking and maneuvering lanes, access drives and sidewalks;
- Limits on Number of Boxes: many communities restrict the number of donation boxes on one specific property;
- Maintenance Requirements: specifications on the condition of the donation box, and prohibition of junk/debris in the immediate area surrounding the donation boxes.

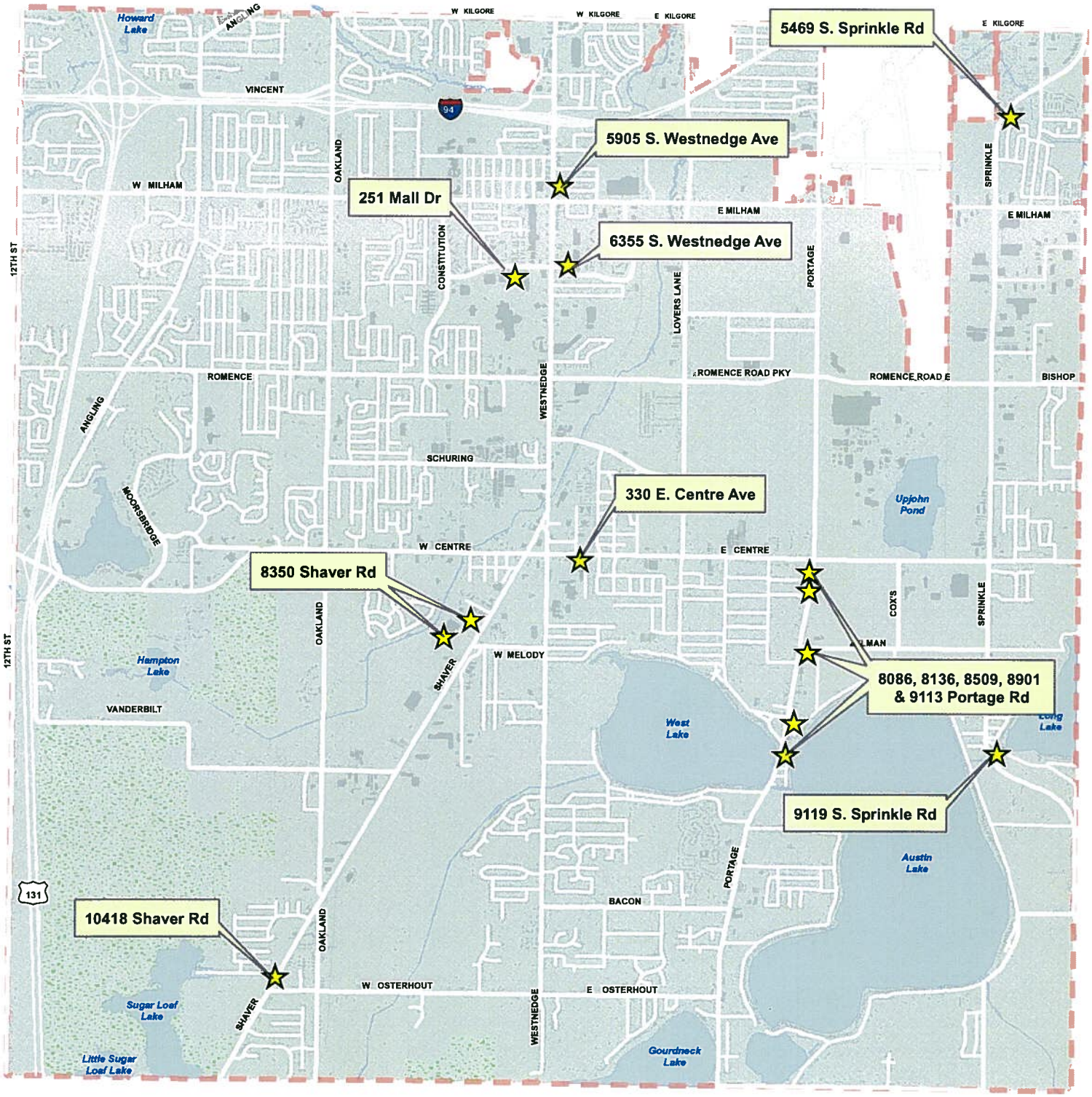
There has been an increase in the number of donation boxes within the City of Portage in recent months. While lacking specific regulations regarding donation boxes, similar to other accessory uses, the existing donation boxes are located in a manner that does not cause a hazard. However, there is the potential for a proliferation of donation boxes to cause blight, as items have been placed on the ground outside of the donation boxes, which may or may not be cast off debris. It may be problematic for the city to prohibit this type of business use altogether, especially in consideration of other exterior accessory uses that have been in existence throughout the community for many years. At this time, two options are available: 1) continue to pro-actively monitor the impacts of the donation boxes; or 2) the Department can proceed with the drafting of an ordinance to regulate donation boxes either as part of the Zoning Code or included in the general Code of Ordinances, as determined appropriate. Of these two options, it is recommended that the Department work with the City Attorney to develop a donation box ordinance.

Attachments: Donation Box Location Map
Photos of Donation Boxes

CITY OF PORTAGE
A Place for Opportunities to Grow

Donation Box Location Map

Date: 9/17/2012



☆ Donation Box

1 inch = 4,200 feet

Path: R:\GISADMIN\karl\projects\DEPT\SCOM DEV\donation boxes.mxd

Hardings, 251 Mall Drive

Former K-Mart, 6355 S. Westnedge

Hoffman Party, 5905 S. Westnedge

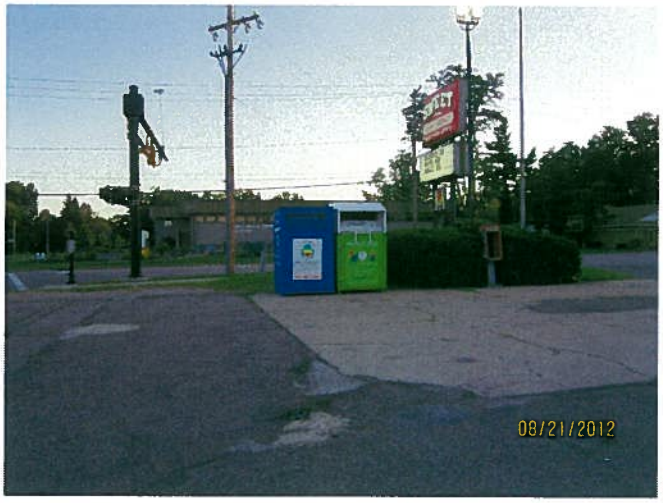
Sprinkle Rd. Laundry, 5469 Sprinkle

Lakeshore Market, 9119 Sprinkle

Wal-Mart (North), 8350 Shaver

Wal-Mart (South), 8350 Shaver

Shaver Rd. Party Store 10418 Shaver



Sweets Convenience, 330 E. Centre

Shiney Brite, 8086 Portage

Joy Fong, 8136 Portage

Former Speedway, 8509 Portage

Daanes, 8901 Portage

H & B Market, 9113 Portage

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 14, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: August 2012 Summary Environmental Activity Report – Information Only

Attached please find the August 2012 Summary Environmental Activity Report from Department of Transportation & Utilities Director, W. Christopher Barnes. New material, or material of specific interest to City Council is presented in italics.

These items serve to update the Council on environmental affairs.

c: W. Christopher Barnes, Director of Transportation & Utilities
Planning Commission
Portage Environmental Board

CITY OF PORTAGE **COMMUNICATION**

TO: Maurice S. Evans, City Manager **DATE:** September 14, 2012

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

SUBJECT: August 2012 Environmental Activity Report – Information Only

In keeping with goals and objectives adopted by the Council emphasizing the need to enhance environmental quality and protect natural resources, the following information is intended to keep the Council, Planning Commission and Environmental Board apprised of current environmental issues.

Important environmental issues being monitored and coordinated by the Administration are attached. The Summary Environmental Activity Report will continue to be provided on a monthly basis to the Council, Planning Commission and Environmental Board.

Attachment

SUMMARY ENVIRONMENTAL ACTIVITY REPORT
August 2012 (*updates in italics*)

Project/Activity	**Description**	**Status**
Portage City Landfill	Ongoing groundwater monitoring of former municipal landfill.	-City Council awarded a 3 year contract to American Hydrogeologic Corporation (AHC) on February 23, 2010 to perform annual groundwater sampling. The site groundwater data will continue to be monitored to confirm continuation of the natural attenuation process. Sampling shows continued improvement in groundwater quality. Sampling completed in April 2010. Annual report submitted to MDNRE in June 2010. General groundwater quality continues to improve, but site will require monitoring for the foreseeable future. 2011 sampling completed in March. 2011 annual report submitted to MDEQ, with moderate groundwater quality improvements. *Investigation into methane gas presence in the groundwater is underway.* First round of sampling completed in April 2012. Second round of sampling completed in June 2012. Initial results indicate no off-site impact. *Annual report under staff review for submission to MDEQ. Review meeting set for September 21, 2012.*
Site Inspection/Development Project Review	Review of existing business & industries and review of proposed business and industrial development projects for environmental protection purposes and/or building plans completed.	-Coordination with property owners and City or State agencies ongoing. *-Review of 5 site/building plans and/or plats completed in August 2012.*
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	*-Sanitary sewer hookup permits issued in August 2012: 5 residential; 1 commercial. One connection made as part of the mandatory sewer connection program.*
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions.	-Five Year Lake Management Assessment District process was approved by City Council on March 23, 2010. Construction began on the Austin Dam reconstruction in December 2006 and new structure completed in March 2007. Filtration system construction was substantially completed in July 2008. The 2011 lake survey and treatment preparations are complete. Additional areas requested by the Association for treatment. Amendment to the 2011 Treatment Program approved by City Council on August 9, 2011. Lake Association has completed 2012 plan and lake treatment completed in May 2012. *Review of program underway by Lakeshore Environmental Consultants. Additional treatment is likely based on consultants review.*

Retention Basin Sampling Program (Groundwater Elevation)	Investigation regarding potential impact of retention basins on groundwater levels.	-Historical monitoring continues to show minor impacts at most basins. From 1993 through 2009 the monitoring program showed stable groundwater impacts due to stormwater infiltration. Alternative road salt practices continue to be considered and evaluated. On March 23, 2010, City Council awarded a four-year contract to Wightman Environmental. Program will focus primarily on groundwater level information. The 2011 annual report received. Groundwater results show that the general groundwater table on the east side of Portage has risen approximately one foot in 2011 and is generally at levels seen in 2009. *Groundwater levels, especially on the east side of Portage, have decreased in 2012 as a result of seasonal rainfall deficiencies.*
Wellhead Protection Program (WHPP)	Development of program to protect City well fields and surrounding area from contamination resulting from improper land use.	-Wellhead Protection Grant award received from MDEQ on August 30, 1999 and Council accepted the grant on October 5, 1999. Council also awarded contract to Earth Tech to complete WHPP. Earth Tech completed the final wellhead protection plan and MDEQ submittal was made on October 14, 2000. Plan was reviewed by MDEQ with written approval received in March, 2001. Staff has met internally to discuss the future needs to update the plan pending grant opportunities. Plan implementation is ongoing.
Leaf Compost Monitoring Program	Monitoring and analysis of groundwater at the new Oakland Drive Leaf Compost site.	-City Council awarded contract on August 21, 2001 to Soil & Materials Engineers for monitoring and analysis of groundwater impact of the new compost operation. Drilling was completed in October 2001 and first sampling cycle was completed in February 2002. *Semi annual sampling was performed from 2002 to 2011 in June and January.* Sampling and analysis results continue to show no groundwater impacts from the leaf composting. Sampling schedule was reduced to annual sampling in 2009 with results showing continued minor impact on groundwater quality. Annual sampling completed in June 2011 minimal impacts noted. *Sampling completed in June 2012.*
National Pollution Discharge Elimination System (NPDES) permit implementation	Five year plan to implement the current NPDES stormwater permit.	-Received NPDES general permit on August 15, 2001. Renewal Application submission was made to MDEQ on March 7, 2003. New permit received in 2004 mandates involvement in several county watershed groups. City staff completed the submission of a Stormwater Pollution Prevention Initiative (SWIPPI) as required by NPDES permit. SWIPPI submitted on October 21, 2005. New certificate of coverage permit was issued by MDEQ on September 30, 2009. New permit covers a 5 year timeframe with first work item (updating the Public Participation Plan) due December 11, 2009. Plan update completed with other local governments and submitted November 24, 2009. Staff completed an updated SWIPPI submittal to MDNRE. SWIPPI was submitted for MDNRE approval on June 25, 2010. Permit implementation is ongoing. Received a notice from MDNRE rescinding the 2008 permit due to a recent court case ruling. MDNRE reinstated the 2003 permit for implementation. Information on new

		permit requirement was received February 2011. MDNRE expected to issue new permit in 2014. City staff presented public information with other local agencies at the 2011 Home Expo on March 9-12, 2011. Tour of Liberty Park Stormwater treatment was held September 6, 2011 for the Southwest Michigan Soil Control Association. 2010-11 annual report was submitted on January 20, 2012. Implementation is ongoing. Stormwater informational talk was given to Pfizer, Inc., employees on April 28, 2012. MDEQ scheduled an audit of the program for July 12, 2012. Audit completed with satisfactory results. Several follow-up items with MDEQ to be addressed by staff. *Program implementation is ongoing.*
National Pollution Discharge Elimination System (NPDES) permit implementation	Kalamazoo River Mainstem Watershed Management Plan	-First meeting was held September 17, 2004. Proposals for completing the watershed plan were received by Kalamazoo County on September 15, 2005 and a contract awarded to Kieser & Associates in November 2005. Draft watershed plan submitted to MDEQ on December 30, 2005. Review comments received from MDEQ and revised watershed plan due in December 2006. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Kalamazoo River Water Festival was held on August 14, 2010 with City of Portage participation. Preliminary grant request submitted September 16, 2010 for West Fork of Portage Creek storm water enhancements. Complete grant application was submitted on October 25, 2010. Notice received July 18, 2011 that grant application was not awarded. Kalamazoo River Watershed council completed a watershed update in November, 2011. No new developments.
	Portage River Watershed Management Plan	-Public participation plan submitted June 28, 2004. Proposals for a Watershed Management Plan were received by the Kalamazoo County Road Commission and a contract awarded to the Kalamazoo County Conservation Service in November 2005. Draft watershed plan submitted to MDEQ on December 30, 2005. Follow-up meetings are held monthly to facilitate an implementation schedule. Portage River Watershed public meeting held in Vicksburg on April 11, 2006. Review comments received from MDEQ and revised watershed plan due November 2006. Revised Watershed Plan submitted November 30, 2006, follow up meetings to be held as necessary. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Based upon MDEQ comments, the plan was revised and resubmitted on December 21, 2009. Interest has been raised by local conservation groups to update the current Watershed Plan using grant funds. Meeting held on May 9, 2011 among stakeholders to determine interest in updating the current water shed plan. Second meeting held on June 20, 2011, and grant application submitted by Kalamazoo and Calhoun County Conservation District to update the Watershed Plan. Grant outcome

		pending.
	Plan to implement and maintain an Illicit Discharge Elimination Program (IDEP).	-On October 21, 2001, City Council awarded a contract to Fishbeck, Thompson, Carr and Huber for the Portage Creek element of the IDEP, which was completed in July 2002. On February 19, 2002, City Council approved a new ordinance as required by the NPDES permit titled "Storm Water Illicit Discharges and Connections". On April 28, 2004, City Council accepted a grant from the State of Michigan in the amount of $152,264 and awarded a contract to Fishbeck, Thompson, Carr and Huber in the amount of $184,264 for the remainder of the IDEP for the entire city. Program implementation is ongoing as funding allows. Continued outfall sampling is required by permit and will be budgeted accordingly. IDEP program was updated for submittal to MDNRE on June 25, 2010, and part of the SWIPPI. Implementation is ongoing.
	Storm Sewer Outfall Testing	On March 23, 2011 City Council awarded a four year contract to Wightman Environmental to perform testing of (selected storm sewers). Surface water discharges. This work is required as part of the NPDES permit. 2011 annual report received with minor surface water impacts from the Woodland Avenue discharge. *Testing will continue in November 2012 and June 2013. Testing results are reported to MDEQ.*
Garden Lane Arsenic Removal Facility	Construction of a water treatment facility at the Garden Lane Wellfield to remove arsenic, iron and manganese from the groundwater.	-City Council approved an agreement with Fishbeck, Thompson, Carr & Huber, Inc. on January 10, 2006 to prepare a feasibility study to meet new USEPA arsenic standards for drinking water. Feasibility study completed in August 2006. Engineering proposals for the project were received August 14, 2007. Project engineering awarded to Earth Tech by City Council on September 11, 2007. Contract awarded by City Council on December16, 2008 to Adams Building Contractors, Inc., Jackson, Michigan. Preconstruction meeting was held January 29, 2009. Facility is in operation with ribbon cutting held August 2, 2010. City staff gave a presentation on August 9, 2010 to the Michigan Chapter of the American Water Works Association about the arsenic removal of the facility. The facility is producing approximately one million gallons of water per day. Staff conducted a tour of the facility on April 27, 2011 to the local Chapter of the National Society of Professional Engineers. Facility is in regular operation. Plant tour for Stryker Engineering group was held on June 19, 2012. City Staff in conjunction with the Environmental Board is working on a sustainable native planting landscape design with Native Connections Inc. for the facility. *Installation to begin in October 2012.*
Environmental Incident/Spill Clean Up Notification	Environmental Protection Program to assist Portage Police/Fire Departments	*-The number of environmental incident/spill investigations performed in August 2012 – 0. Number of environmental cleanups in August – 0.* Emergency spill

	with spill containment and spill cleanup.	response contract for 2012-13 with Terra Contracting is in place.
Hampton Wetland Area Water Level	Assistance with the Inverness Condominium Association to Review Surface Water Levels	-Ongoing assistance with the Condominium Association to develop appropriate measures to regulate the rising water level in Hampton Wetlands Area located on the north side of West Centre Avenue and east of Angling Road. Met with MDNRE staff to determine feasible method to lower water levels. Association currently working with MDNRE permit staff on February 26, 2010 to clarify permit requirements. Lower groundwater table elevation has reduced the concerns from the Condominium Association. Conference call with MDNRE held on December 8, 2010 to discuss permit submission updates. Condo Association discussing project with other property owners for support. Association submitted a letter to City Administration asking that the city consider the Wetland Water Level Regulation a municipal project. On March 22, 2011, city staff response recommending the Association consider governmental lake board. The Association is considering next steps. No new developments.
Southwest Michigan Regional Sustainability Covenant	Collaborative effort with local government, academic, and other stakeholders to lead toward environmental, economic and social sustainability.	-On May 12, 2009, City Council approved the Southwest Michigan Regional Sustainability Covenant. A sustainability work session was held April 14, 2010, to review elements of the covenant in cooperation with the City of Kalamazoo and the City of Battle Creek. A grant application was made to MDNRE for a greenhouse gas inventory study of the area. Notice received July 15, 2010 that the grant application was not successful. City staff attended a September 10, 2010 meeting in Grand Rapids to discuss sustainable economic, environment, and society programs. No new developments.

t:\t & u monthly reports\envrpt 2012.doc

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 18, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Computer Replacement

ACTION RECOMMENDED: That City Council approve the lease of 141 Lenovo replacement computers and peripheral equipment from Capital Advantage Leasing of Grand Rapids, Michigan at a total lease price of $106,286.40 and authorize the City Manager to execute all documents related to this action on behalf of the city.

The technology infrastructure of the City of Portage is an important asset that promotes efficiency and cost savings in the every day operation of the city organization. As such, regular maintenance and upgrades are necessary to take advantage of the most current technology available and ensure system reliability and compatibility. The city budget provides for maintaining and upgrading this important infrastructure through a cost-efficient technology leasing program allowing for the continuous replacement of city computers and related equipment.

The proposed lease includes the replacement of approximately 60 percent of city computer workstations which have been in service for approximately four years. The proposed lease combines two previous leases that expire this month. The term of this proposed lease will be for a period of three years with 12 quarterly payments of $8,857.20. An annual lease savings of $4,857.56 will be realized through the new lease. The City of Portage participated in a special State of Michigan government pricing program called IPA to obtain the lowest and best bid pricing for the replacement computer workstations.

It is recommended that City Council approve the lease of 141 Lenovo replacement computers and peripheral equipment from Capital Advantage Leasing at a total lease price of $106,286.40 and authorize the City Manager to execute all documents related to this action. Funds are available and budgeted in the 2012-13 Capital Improvement Budget for this purpose.

City of Portage

PC leases with Capital Advantage Leasing

As of 9.07.2011

CAL-4921
Started October 2008, 36 month term ending Oct 2011
Equipment: 43 HP DC5800 small form PC's w/19" monitors
7 HP XW 6600 PC workstations, 3 20" monitors
2 HP 6735B notebooks, 2 HP 2710P notebooks
2 HP 2700 series docking stations
(pending 1 year lease renewal through Oct 2012) – $2,672.00/qrtr.

Original cost 4,523.74

– $ ~~4,529.80~~

CAL-5068
Started October 2009, 36 month term ending Oct 2012
Equipment: 62 HP DC5800 small form PC's w/19" monitors
9 HP 6735B notebooks w/docking stations
3 HP LP2065 20" monitors

– $5,547.85/qrtr.

CAL-5140
Started June 2010, 48 month term ending June of 2014
Equipment: 49 HP #6000 small form PC's w/19" monitors
6 HP 6540B notebooks w/docking stations
2 Panasonic P8600 Toughbook notebooks
1 HP Z600 workstation w/19" monitor

– $3857.30/qrtr.

Suggestions: Extend lease CAL-4921 for 1 year which would end at the same time as lease CAL-5068.
Lease equipment to replace all of the equipment on these 2 contracts in the fall of 2012
Write a 36 month contract in 2012 including the equipment on lease CAL-5140, OR
Do a 48 month contract and replace the equipment on contract CAL-5140 in 2014 or 2015

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 18, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Annual SunGard Enterprise Software Licensing and Maintenance Fee

ACTION RECOMMENDED: That City Council approve an annual licensing and software maintenance services agreement with SunGard, Incorporated, at a total cost of $66,338 and authorize the City Manager to execute all documents related to this agreement on behalf of the city.

Since 1998, the City of Portage has used the SunGard enterprise software application to perform key operations such as purchasing and inventory, accounting, permitting, planning and zoning, fleet and asset management, land management and other key operations. SunGard is the only vendor providing maintenance support services for this software application, including 24/7 toll-free telephone and email support, product updates, fixes and new releases, including online training for basic module operations.

Licensing and maintenance service agreements are subject to renewal on a yearly basis. The purchase of annual licensing and software maintenance allows the city to continue utilizing this software application and take advantage of the latest updates. The renewal cost for Fiscal Year 2012-13 is $66,338 and includes the 16 SunGard modules currently utilized by the city. The prior fiscal year 2011-2012 renewal cost was $66,276.

It is recommended that City Council approve the annual licensing and maintenance services agreement with SunGard in the amount of $66,338 and authorize the City Manager to execute all related documents. Funds are budgeted and available in the Fiscal Year 2012-13 Information/Technology operating budget for this purpose.

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 20, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Sweeper Rental for Fall Leaf Pickup Program

ACTION RECOMMENDED: That City Council accept the quote submitted by Bell Equipment of Lake Orion, Michigan, in the amount of $25,500 for rental of two Whirlwind vacuum sweepers for the Fall Leaf Pickup Program and authorize the City Manager to execute all documents related to this action on behalf of the city.

Due to the high replacement cost, maintenance cost and excessive wear on street sweepers used in conjunction with the spring water hydrant flushing program and the Fall Leaf Pickup Program, it was determined that street sweepers should be rented and not purchased for future special city programs. As a cost-saving measure during the winter of 2012, the City Administration opted to sell two street sweepers that were beyond their serviceable life and proceed with rental of sweepers for these programs.

Two rental sweepers will be necessary for street sweeping in coordination with the planned 2012 Fall Leaf Pickup Program. Due to the specialized nature of this equipment, Bell Equipment Company of Lake Orion, Michigan was selected as the sole-source vendor for this item. A quote was received from Bell Equipment for rental of two Whirlwind vacuum sweepers for the Fall Leaf Pickup Program in the amount of $25,500.

It is recommended that City Council accept the quote from Bell Equipment for the rental of two Whirlwind vacuum sweepers in the amount of $25,500 and authorize the City Manager to execute all documents related to this action on behalf of the city. Funds are available in the Fiscal Year 2012-2013 Fall Leaf Pickup Program budget for the rental of this equipment.

CITY OF
PORTAGE
A Place for Opportunities to Grow

MATERIALS TRANSMITTED

Tuesday, September 11, 2012

1. **To Be Added to the September 11, 2012 City Council Agenda as Item H.1:** Communication from Mayor Pro Tem Claudette Reid as Kalamazoo County Council of Governments (COG) Vice President recommending that City Council review, discuss and provide direction to the Portage COG Representatives to approve the revised By-Laws as presented.

2. **To Be Added to the September 11, 2012 City Council Agenda as Item J.1:** Presentation from Councilmember Elizabeth Campbell regarding the recent activity of the FOIA/Information Request Committee.

Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager