

7:00 p.m. Tree City USA – Tree Planting Ceremony.

7:30 p.m. Call to Order.

Invocation: Elder Chris Vandenoever of the First Reformed Church of Portage.

Pledge of Allegiance.

Roll Call.

Proclamations: National Arbor Day

National Children's Mental Health Awareness Day

- A. Approval of the Regular Meeting Minutes of April 9 and Budget Work Session of April 11, 2013.
- * B. Approval of Consent Agenda Motions.
- * C. Communication from the City Manager recommending that City Council approve the Accounts Payable Register of April 23, 2013, as presented.
- D. Public Hearings:
 - 1. Communication from the City Manager recommending that subsequent to conduct of the public hearing, City Council adopt the 2013 sewer and water rate Resolutions establishing sewer and water utility rates, sewer and water franchise area fees, service fees and charges as outlined in the 2013 Utility Rate Financial Study as recommended by the City Administration and the City Council Water and Sewer Rate Study Committee and eliminate the current Senior Citizen Discount Program, effective October 1, 2013.
 - 2. Communication from the City Manager recommending that City Council take final action by approving an ordinance amendment to the Codified Ordinances of the City of Portage to modify an existing Payment in Lieu of Taxes (PILOT) for the Spring Manor Apartments located at 610 Mall Drive.
- E. Petitions and Statements of Citizens:
- F. Reports from the Administration:
 - * 1. Communication from the City Manager recommending that City Council adopt the Resolution setting a public hearing on May 14, 2013, for the Fiscal Year 2013-2014 proposed city budget and the proposed 2013 tax levy.
 - * 2. Communication from the City Manager recommending that City Council approve:
 - a) a budget amendment to transfer \$200,000 from the Fiscal Year 2012-13 General Fund budget to the Fiscal Year 2012-13 Capital Improvement Fund budget;
 - b) a change order in the not to exceed amount of \$191,601 for additional street reconstruction at extended unit pricing with Michigan Paving & Materials Company to expand the 2012 Local Street Reconstruction Program;
 - c) a contract amendment with Jones & Henry Engineers, LTD, for construction administration and material testing for the streets added to the 2012 Local Street Reconstruction Program at no increase in hourly rate in the not to exceed amount of \$27,350; andauthorize the City Manager to execute all documents related to this action on behalf of the city.
 - * 3. Communication from the City Manager recommending that City Council adopt a Resolution to grant an access easement to Consumers Energy over a portion of city-owned property addressed as 6301 Newport Road, place the Resolution on file with the City Clerk for 28 days, take final action on May 28, 2013, and authorize the City Manager to execute the access easement on behalf of the city.
 - * 4. Communication from the City Manager recommending that City Council adopt the resolution granting the request for a New Hotel B Liquor License to C.Y. of Portage for 400 Trade Centre Way, Portage, MI 49002.

- * 5. Communication from the City Manager recommending that City Council:
 - a) approve the request for a transfer of ownership and location of an Escrowed 2012 Resort Class C Liquor License issued under MCL 436.1531(2), Minimum Seating: 100, to Celebration Banquets, L.L.C., 6600 Ring Road, Portage, MI 49024, Kalamazoo County; and
 - b) resolve to continue/discontinue future consideration of liquor license transfer requests.
- * 6. Communication from the City Manager recommending that City Council affirm the plan to recognize Advisory Board and Commission members as part of the City of Portage 50th Anniversary, approve the expenditure of up to \$2,500 for the event and commit to assisting with event activities.
- * 7. Communication from the City Manager regarding the March 2013 Summary Environmental Activity Report - Information Only.
- * 8. Department Monthly Reports.

G. Communications:

- 1. Annual Presentation by Park Board Chairperson Susan Williams.
- 2. Annual Presentation by Human Services Board Chairperson Sandra Sheppard.

H. Unfinished Business:

- * 1. Communication from the City Manager recommending that City Council take final action to adopt a resolution to relinquish 89.15 feet of an existing water main easement located on the west side of the existing Mueller Refrigeration building, replaced with a new water main easement for the portion of the vacated water main.

* I. Minutes of Boards and Commissions Meetings:

- 1. Portage Zoning Board of Appeals of February 11, 2013.
- 2. Portage Planning Commission of March 21, 2013.
- 3. Portage Board of Education Special of March 26, 2013.

J. Ad-Hoc Committee Reports:

- 1. Communication from Mayor Peter J. Strazdas and Ted Vliek, Sr., Former Councilmember, recommending that City Council approve the expenditure of up to \$2,000 for printing of the City of Portage history book update.

K. New Business:

L. Bid Tabulations:

- * 1. Communication from the City Manager recommending that City Council approve the low bid for a two-year contract with Hurst Mechanical in the amount of \$76,166.27 for Heat, Ventilation and Air Conditioning (HVAC) maintenance of city owned facilities, with an option for two one-year contract extensions 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, April 25, 4:30 p.m., Public Media Network Board of Directors, 359 S. Kalamazoo Mall, Kalamazoo.
 - b. Tuesday, April 30, 4:30 p.m., Budget Review Session, City Hall Room #1.
 - c. Wednesday, May 1, 8:15 a.m., Historic District Commission, City Hall Room #2.

- d. Wednesday, May 1, 6:30 p.m., Park Board, West Lake Nature Preserve.
- e. Thursday, May 2, 7:00 p.m., Planning Commission, Council Chambers.
- f. Wednesday, May 8, 7:00 p.m., Environmental Board, City Hall Room #1.
- g. Monday, May 13, 6:30 p.m., Youth Advisory Committee, City Hall Room #1.
- h. Monday, May 13, 7:00 p.m., Zoning Board of Appeals, Council Chambers.

N. Materials Transmitted of April 9, 2013.

Adjournment.

City Council Meeting Summary

April 9, 2013

PROCLAMATIONS

- ◆ Mayor Strazdas issued a 50th Anniversary of the Portage United Church of Christ, a Fair Housing Resolution and a Resolution of Respect for Mayor Engel Corstange to be placed in the Heritage Room at the Portage District Library.

ACCOUNTS PAYABLE REGISTER

- ◆ Approved the Accounts Payable Register of April 9, 2013, as presented.

REPORTS FROM THE ADMINISTRATION

- ◆ Received the Presentation of the Fiscal Year 2013-2014 proposed Budget.
- ◆ Accepted for first reading an ordinance amendment to the Codified Ordinances of the City of Portage to modify an existing Payment in Lieu of Taxes (PILOT) for the Spring Manor Apartments located at 610 Mall Drive; with final action on April 23, 2013, at 7:30 p.m. or as soon thereafter as may be heard.
- ◆ Set a Special Meeting on Tuesday, May 14, 2013, beginning at 5:15 p.m., to interview board and commission applicants.
- ◆ Received the communication from the City Manager regarding the Tree City USA Tree Planting and Proclamation as information only.
- ◆ Held a closed session immediately following the regularly scheduled City Council Meeting of April 9, 2013, to discuss a City Attorney communication.

COMMUNICATIONS

- ◆ Received a communication from the Planning Commission regarding the City of Portage FY 2013-2023 Capital Improvement Program.

UNFINISHED BUSINESS

- ◆ Relinquished the northerly and southerly 12 feet of an existing easement for drainage, sewage and other public purposes over a previously vacated section of Burt Drive and authorized the City Manager to sign the License Agreement to locate an Accessory Structure in the easement area.
- ◆ Received the communication from the City Manager regarding a report from Park Board Chair Susan Williams concerning the Ice Rink Discount Card Program for information only and asked the Administration to proceed with the preparation for a discount card for next season consistent with the recommendation in the Park Board Report.

AD HOC COMMITTEE REPORTS

- ◆ Received a presentation from Councilmember Sackley regarding the recent activity of the Lake Center Business Committee and scheduled a stakeholder meeting, Tuesday, April 23, 2013, at 2 p.m. at Bucky's Café, 8675 Portage Road, at a cost not to exceed \$500 with no cost for facilitation.
- ◆ Received a presentation from Councilmember Sackley regarding the recent activity of the Sign Ordinance Committee, ratified the retention of Tim Fallon at a not to exceed amount of \$2,750 and approved \$100 for refreshments.

BID TABULATION

- ◆ Approved the low bid for emergency equipment and installation of equipment on the Battalion Chief Vehicle to Emergency Vehicle Products of Kalamazoo, Michigan, in the amount of \$23,971.22 and authorized the City Manager to execute all documents related to this matter on behalf of the city.

STATEMENTS OF CITY COUNCIL

- ◆ Councilmember Sackley extended congratulations and praise to the Kalamazoo Area Math and Science Center (KAMSC) students who swept the first, second and third places of the ACM High School Programming Contest and indicated that the winners were all from Portage Northern and Portage Central High Schools. He said there was Portage High School representation in the Computer Science and the Engineering Competitions at the University of Michigan Dearborn Engineering & Computer Science Experience, and KAMSC students in the Web Design Competition.
- ◆ As a promotion to Bike Week, May 11 through 18, 2013, Councilmember Randall announced a Bike Rally among Portage City Council, Kalamazoo City Commission and the Kalamazoo Area Bike Club at 9 a.m. on Saturday, May 18, 2013, starting in Portage, *A Natural Place to Move*, at Portage Celery Flats, Garden Lane, and progressing north to Mayors' Riverfront Park, 251 Mills Street, and "loop back" for a total of 16 miles with promotional details to follow and be posted on the respective websites. She mentioned that she has approached some Kalamazoo County Commissioners, also.
- ◆ Mayor Pro Tem Reid indicated that the absentee ballots for the May 7, 2013 Special Election with the Renewal of the Transit Millage issue have gone out, encouraged voters to vote and that registered voters can take home an absentee ballot Saturday before the election from 8 a.m. until 2 p.m., can obtain and vote an absentee ballot in City Hall the Monday before the election from 8 a.m. until 4 p.m. and can obtain an absentee ballot on Tuesday, May 7, 2013, in the case of an emergency until 4 p.m.
- ◆ Mayor Strazdas thanked City Council for all they are doing for the City of Portage, asked for positive changes to continue in Portage city government, and requested citizen input at the Business Sign Forum that will take place at 8:30 a.m., Saturday, April 13, 2013, in City Council Chambers and encouraged everyone to voice their opinions. He referenced the budget as the most significant responsibility of City Council, asked Portage citizens for input as a challenge to City Council and the Administration to make sure we are doing the right thing for our city because it starts with the dollars and it is important that we all focus on that.

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



City of Portage Proclamation

NATIONAL ARBOR DAY

WHEREAS, the importance of trees to the quality of the environment is recognized by designation of April 26th as National Arbor Day; and

WHEREAS, The National Arbor Day Foundation is a non-profit group committed to tree planting and conservation; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, the City of Portage has been designated as a Tree City USA by The National Arbor Day Foundation for its efforts in tree planting and tree conservation; and

WHEREAS, the Portage City Council will hold a ceremonial tree planting, Tuesday, April 23rd on City property in recognition of National Arbor Day:

NOW THEREFORE, I, Peter Strazdas, Mayor of the City of Portage, Michigan do hereby proclaim April 26, 2013 as Arbor Day in Portage and do hereby encourage all residents to plant trees at their homes and places of work.



Signed this 23rd day of April 2013

Peter J. Strazdas, Mayor



City of Portage Proclamation

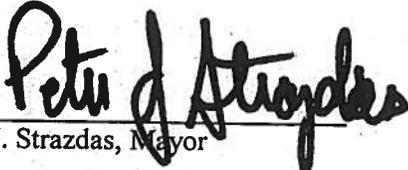
NATIONAL CHILDREN'S MENTAL HEALTH AWARENESS DAY

- WHEREAS,** addressing the complex mental health needs of children, youth and families today are fundamental to the future of the City of Portage; and
- WHEREAS,** the need for comprehensive, coordinated mental health services for children, youth and families places upon our community a critical responsibility; and
- WHEREAS,** it is appropriate that a day should be set aside each year for the direction of our thoughts toward our children's mental health and well-being; and
- WHEREAS,** Kalamazoo Wraps, through its unique and collaborative approach to serving children, youth and families, is improving the System of Care supporting the mental health needs of all children, youth and families in our community; and
- WHEREAS,** May 2nd has been designated "National Children's Mental Health Awareness Day" and Kalamazoo Wraps is committed to caring for every child's mental health through education, raising awareness and eliminating stigma.

NOW, THEREFORE, I, Peter J. Strazdas, Mayor of the City of Portage, do hereby proclaim Thursday, May 2, 2013, as **NATIONAL CHILDREN'S MENTAL HEALTH AWARENESS DAY** in the City of Portage and urge our citizens and all agencies and organizations interested in meeting every child's mental health needs to unite on that day in the observance of such exercises as will acquaint the people of the City of Portage with the fundamental necessity of providing comprehensive and coordinated services for children and youth with mental health needs and their families.



Signed this 23rd day of April, 2013


Peter J. Strazdas, Mayor

CITY COUNCIL MEETING MINUTES FROM APRIL 9, 2013

DRAFT

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

At the request of Mayor Strazdas, Portage United Church of Christ Member Don Werme gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

The City Clerk called the roll with the following members present: Councilmembers Elizabeth A. Campbell, Jim Pearson, Patricia M. Randall, Edward J. Sackley and 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 Sackley, to approve the March 26, 2013 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 5 to 0 with Councilmembers Campbell and Urban abstaining.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Urban to read the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda motions as presented. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE OF APRIL 9, 2013:** Motion by Urban, seconded by Reid, to approve the Check Register of April 9, 2013. Upon a roll call vote, motion carried 7 to 0.

REPORTS FROM THE ADMINISTRATION:

PRESENTATION OF THE FISCAL YEAR 2013-2014 PROPOSED BUDGET: City Council received the Proposed Budget for Fiscal Year 2013-14, Supplemental Budget and Detail Line Item Budget. At the request of Mayor Strazdas, City Manager Evans presented the proposed 2013-14 Fiscal Year Budget to City Council and indicated that he is presenting it in accordance with the requirements of the Portage City Charter, as well as the City Council Goals and Objectives, and that a conservative approach was utilized in formulating this balanced proposed budget that provides for the core services of Police, Fire, Water and Sewer, for Fiscal Year 2013-14.

He indicated that the total budget is \$62.59 million that includes the General Fund, the Capital Improvement Fund, Curbside Recycling Fund, Leaf Pick-up Fund, Spring Clean-up Fund and the Municipal Street Fund. He pointed out that this proposed budget maintains the overall city tax rate (millage) at 10.7778 mills, the same as Fiscal Year 2012-13, and the incorporation of an approximate 2 percent reduction in property tax revenue, combined with an approximate 4 percent increase in state revenue sharing, and the Economic Vitality Incentive Program (EVIP) payments from the State of Michigan. He reviewed the major categories of the city budget and indicated that they are supplemented where possible by Federal Highway Funds, the Municipal Street Fund revenue as well as transfers from the General Fund. He indicated that remaining elements of the original South Westnedge Enhancement Projects (SWEPS) have been deferred or eliminated and significant resources previously obligated to these projects have been redirected to other primary street related capital improvements. He reviewed how the city plans to address improvements in municipal sanitary sewer service, treatment of "Tier 1," "Tier 2," and "Tier 3," street construction areas, water utility improvements and the *Placemaking* initiative undertaken in order to capitalize on past infrastructure investments directed to bikeway and trailway development; specifically, the initial development of the Eliason Nature Reserve as a major addition to the many park and recreation opportunities in the city.

He listed the top five projects in the Capital Improvement Program (CIP). He noted that this budget reflects a reduction in debt and has some service adjustments to address continuing constricted revenue as well as to ensure compliance with the Affordable Care Act (ACA). He indicated that support for human service programs remains at the Council-prescribed policy level of 0.55 percent of the General Fund and that the ending fund balance is at 25 percent of General Fund expenditures. Lastly, he indicated that the City of Portage continues to remain in the lower 25 percent of all Michigan cities of greater than 25,000 in population in terms of millage level. He said he anticipates that the proposed budget would be on the city website by the end of the week and provided notice of the City Council Budget Work Sessions, open to the public, on Thursday, April 11, 2013, from 4:30 p.m. until 8:30 p.m. and on Tuesday, April 30, 2013, from 4:30 p.m. until 8:30 p.m., Conference Room Number one. Discussion followed. At the request of Councilmember Randall, Mr. Evans agreed to provide City Council with an itinerary of each of the meetings and to post them on the city website. Discussion followed.

* **TAX EXEMPTION FOR SPRING MANOR APARTMENTS:** Motion by Urban, seconded by Reid, to accept for first reading an ordinance amendment to the Codified Ordinances of the City of Portage to modify an existing Payment in Lieu of Taxes (PILOT) for the Spring Manor Apartments located at 610 Mall Drive; and take final action on April 23, 2013, at 7:30 p.m. or as soon thereafter as may be heard. Upon a roll call vote, motion carried 7 to 0.

* **SPECIAL MEETING WITH BOARD AND COMMISSION APPLICANTS:** Motion by Urban, seconded by Reid, to set a Special Meeting on Tuesday, May 14, 2013, beginning at 5:15 p.m., to interview board and commission applicants. Upon a roll call vote, motion carried 7 to 0.

* **TREE CITY USA TREE PLANTING AND PROCLAMATION:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the Tree City USA Tree Planting and Proclamation as information only. Upon a roll call vote, motion carried 7 to 0.

* **CLOSED SESSION:** Motion by Urban, seconded by Reid, to hold a closed session immediately following the regularly scheduled City Council Meeting of April 9, 2013, to discuss a City Attorney communication. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATION:

PORTAGE PLANNING COMMISSION: After discussion, motion by Sackley, seconded by Campbell, to accept the communication from the Planning Commission regarding the City of Portage FY 2013-2023 Capital Improvement Program. Upon a voice vote, motion carried 7 to 0.

UNFINISHED BUSINESS:

* **EASEMENT RELINQUISHMENT REQUEST, BURT DRIVE (LICENSE AGREEMENT):** Motion by Urban, seconded by Reid, to relinquish the northerly and southerly 12 feet of an existing easement for drainage, sewage and other public purposes over a previously vacated section of Burt Drive and authorize the City Manager to sign the License Agreement to locate an Accessory Structure in the easement area. Upon a roll call vote, motion carried 7 to 0.

ICE RINK DISCOUNT CARD PROGRAM: City Manager Evans provided some background of the request for action regarding the Ice Rink Discount Card Program. At the request of Mayor Strazdas, City Attorney Brown indicated that it is up to City Council whether to receive and/or take action on the communication from the Park Board Chair. Discussion followed. Motion by Sackley, seconded by Campbell, to receive the communication from the City Manager regarding a report from Park Board Chair Susan Williams concerning the Ice Rink Discount Card Program for information only and asked the Administration to proceed with the preparation for a discount card for next season consistent with the recommendation in the Park Board Report. 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 Public Schools Board of Education Special and Regular of February 25, Special of March 4, Special and Committee of the Whole Work Session of March 11, and Policy Governance of March 14, 2013.

Portage Park Board of March 6, 2013.

Portage Human Services Board of March 7, 2013.

Portage Youth Advisory Committee of March 11, 2013.

AD HOC COMMITTEE REPORTS:

LAKE CENTER BUSINESS COMMITTEE: Councilmember Sackley reviewed his communication provided to City Council dated March 27, 2013, and provided background information on the designation of an area, zoned commercial, on both sides of Portage Road just north of Centre Avenue south to Clarence Drive as a Commercial Revitalization Area under the City of Portage Comprehensive Plan. He reviewed the planned reconstruction of Portage Road in this area during the 2014 construction season, including: roadway improvements, pedestrian refuge islands and sidewalk upgrades and noted that undergrounding of utilities is not in the planned project at this time.

He referenced the City Council Retreat discussion of the need for discussion among business owners, property owners, area residents and Portage citizens in general at this time since it does affect the city-at-large and the stakeholders in that area. He indicated that the goals of the Committee are to hear from stakeholders regarding the proposed capital improvements in the area scheduled for 2014, any potential changes and/or additions to the proposed work under the Capital Improvement Program (CIP) and potential expansion of the project into other items. He mentioned that the Committee discussed the prospect of overlay zoning plans in the area as a means of providing stability and certainty for property owners and businesses that may not be in compliance with city codes as many of the structures were in place before Portage was a city and before the city had a code of ordinances for zoning which makes it difficult for property owners to make changes to the property. He also said that this area of the city has many unique characteristics as the oldest commercial and retail area of the city and is preserved as such.

He explained that the State of Michigan has expanded the Office of Urban and Metropolitan Initiatives and now has a local Representative, Andrew Haan, based downtown Kalamazoo at Southwest Michigan First, who is familiar with the area, is from the area and has confirmed his availability to assist. He reviewed the date, time, place and cost of the meeting of the Committee for discussion among business and property owners, area residents and Portage citizens in general as mentioned. Discussion followed regarding the challenges of this unique area of the city owing to its age and character. Discussion followed.

Motion by Sackley, seconded by Reid, to receive the presentation from Councilmember Sackley regarding the recent activity of the Lake Center Business Committee and scheduled a stakeholder meeting, Tuesday, April 23, 2013, at 2 p.m. at Bucky's Café, 8675 Portage Road, at a cost not to exceed \$500 with no cost for facilitation. Upon a roll call vote, motion carried 7 to 0.

SIGN ORDINANCE COMMITTEE: Councilmember Sackley announced a Business Sign Forum that will take place at 8:30 a.m., Saturday, April 13, 2013, in City Council Chambers. He discussed cost and the intent to retain the services of Tim Fallon, who has met with the Sign Committee and staff in the past. He explained the proposed content and format of the meeting and potential attendees and contributors with the purpose of the meeting to listen to citizens to see if there is a need to make adjustments to the Portage Sign Ordinance or leave it as it is. He invited all to attend and Mayor Strazdas concurred and expressed his appreciation to Community Development Director Vicki Georgeau as a facilitator. Discussion followed.

In response to Councilmember Pearson, Councilmember Sackley explained that the agenda and workflow is for the participants and staff. Mayor Strazdas offered him any information he might need and asked Ms. Georgeau to accommodate him. Discussion followed.

After thanking the Planning Commission and the Zoning Board of Appeals of their assistance, motion by Sackley, seconded by Reid, to receive the presentation from Councilmember Sackley regarding the recent activity of the Sign Ordinance Committee, ratified the retention of Tim Fallon at a not to exceed amount of \$2,750 and approve \$100 for refreshments. Upon a roll call vote, motion carried 7 to 0.

BID TABULATION:

* **EMERGENCY EQUIPMENT INSTALLATION – FORD F-250 TRUCK:** Motion by Urban, seconded by Reid, to approve the low bid for emergency equipment and installation of equipment on the Battalion Chief Vehicle to Emergency Vehicle Products of Kalamazoo, Michigan, in the amount of \$23,971.22, and authorize the City Manager to execute all documents related to this matter on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

CLOSED SESSION: 8:29 p.m.

RECONVENE: 8:54 p.m.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Sackley extended congratulations and praise to the Kalamazoo Area Math and Science Center (KAMSC) students who swept the first, second and third places of the ACM High School Programming Contest and indicated that the winners were all from Portage Northern and Portage Central High Schools. He said there was Portage High School representation in the Computer Science and the Engineering Competitions at the University of Michigan Dearborn Engineering & Computer Science Experience, and KAMSC students in the Web Design Competition.

As a promotion to Bike Week, May 11 through 18, 2013, Councilmember Randall announced a Bike Rally among Portage City Council, Kalamazoo City Commission and the Kalamazoo Area Bike Club at 9 a.m. on Saturday, May 18, 2013, starting in Portage, *A Natural Place to Move*, at Portage Celery Flats, Garden Lane, and progressing north to Mayors' Riverfront Park, 251 Mills Street, and "loop back" for a total of 16 miles with promotional details to follow and be posted on the respective websites. She mentioned that she has approached some Kalamazoo County Commissioners, also.

Mayor Pro Tem Reid indicated that the absentee ballots for the May 7, 2013 Special Election with the Renewal of the Transit Millage issue have gone out, encouraged voters to vote and that registered voters can take home an absentee ballot Saturday before the election from 8 a.m. until 2 p.m., can obtain and vote an absentee ballot in City Hall the Monday before the election from 8 a.m. until 4 p.m. and can obtain an absentee ballot on Tuesday, May 7, 2013, in the case of an emergency until 4 p.m.

Mayor Strazdas thanked City Council for all they are doing for the City of Portage, asked for positive changes to continue in Portage city government, and requested citizen input at the Business Sign Forum that will take place at 8:30 a.m., Saturday, April 13, 2013, in City Council Chambers and encouraged everyone to voice their opinions. He referenced the budget as the most significant responsibility of City Council, asked Portage citizens for input as a challenge to City Council and the Administration to make sure we are doing the right thing for our city because it starts with the dollars and it is important that we all focus on that.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:00 p.m.

James R. Hudson, City Clerk

*Indicates items included on the Consent Agenda.

MINUTES OF THE BUDGET WORK SESSION OF THE PORTAGE CITY COUNCIL April 11, 2013

Meeting was called to order by Mayor Strazdas at 4:30 p.m.

The following members of Council were present:
Councilmembers Jim Pearson, Patricia Randall, Ed Sackley, and Terry Urban, Mayor Pro Tem Claudette Reid and Mayor Peter Strazdas. Councilmember Elizabeth Campbell arrived at 7:20 p.m. Also in attendance were City Manager Maurice Evans, Deputy City Manager Brian Bowling, Financial Services Director Bob Luders, Finance Director Daniel Foecking, Deputy Finance Director Patricia Fitnitch and City Clerk James Hudson.

Mayor Strazdas provided introductory remarks and introduced City Manager Maurice Evans, who presented the proposed 2013-14 Fiscal Year Budget to City Council and indicated that a fiscally conservative approach was utilized in formulating this balanced proposed budget. He indicated that the core services are guarded in the budget while containment measures continue as in the past, and that a conservative approach is appropriate as this is a time of constricted revenues, lowering of property values, slow economic recovery and the many challenges for Congress and the President with the proposed Federal Budgets. Discussion followed.

He indicated that the remaining elements of the original South Westnedge Enhancement Projects (SWEPs) have been deferred or eliminated and significant resources previously obligated to these projects have been redirected to other primary street related capital improvements.

He reviewed how the city plans to address improvements in municipal sanitary sewer services, treatment of "Tier 1," "Tier 2," and "Tier 3," street construction areas, water utility improvements and the incorporation of the *Placemaking* initiative undertaken in order to capitalize on past infrastructure investments directed to bikeway and trailway development; specifically, the initial development of the Eliason Nature Reserve as a wonderful addition to the park system in the city.

He reviewed the utilization of part time and seasonal employment as a means of reducing the budget while still ensuring compliance with the Affordable Care Act (ACA) after a service review. He mentioned that Benefit Services Director Patti Thompson would explain this for them when she presents her budget overview and Director of Parks Bill Deming will provide some of the service reductions when he presents an overview of his budget. Discussion followed regarding SEWPs Projects, the ACA, outsourcing, and the challenges of tracking the hours worked by city employees.

Benefit Services Director Patti Thompson indicated that the main areas of focus for the department are: compensation, benefits, self-insured workers compensation and various legal mandates such as the Family Medical Leave Act (FMLA), the Fair Labor Standards Act (FLSA), the Consolidated Omnibus Budget

Reconciliation Act (COBRA), and the Affordable Care Act (ACA). She indicated that the primary goal of the department is to maintain competitive compensation and benefit plans for the recruitment and retention of city employees focusing on cost control while still meeting legal mandates. She stressed that labor cost control measures are still important for the city in order to provide vital services and explained. She described the proactive approach taken many years ago to the defined contribution plans, long-term funded liabilities such as the retiree health plan, the retiree health savings plan for new hires, savings in health insurance costs for non-union and Department Head personnel, and measures taken to reduce the cost of compensation for new hires. She explained department activities and successes involved in the administration of the Self-insured Workers Compensation Program and the Health Management Program.

She discussed Public Act 152 (Publicly Funded Health Insurance Contribution Act), which limits the amount of contribution allowed by the employer to an employee's health insurance, a positive factor for the city but a challenge for the employees because the excess of the cap is passed on to the employee. She mentioned the increase in deductibles and co-pays in the city insurance carrier contracts and discussed some of the details and challenges of the ACA and measures taken to be in compliance with the ACA. Discussion followed.

Information Technology Services (IT) Director Devin Mackinder announced that despite the acquisition of SARCOM in 2013 by PC Mall (PCM), increases in costs savings, operational efficiencies and computer expertise as a result of the contractual arrangement between the City of Portage and PCM continues. In fact, he indicated that additional resources have become available at no charge as a result of the new owner, including: access to a highly skilled consultant, help with regional support and increases in cost-savings for hardware and software purchases. He said that the operating budget supports the contract, the entire citywide technology infrastructure, hardware, software, voice communications, cabling infrastructure, all networks, internet, intranet, security, disaster recovery and help desk support.

He indicated that the budget reflects a reduction as a result of the drop in the accumulated funds requirement for hardware and software projects as the funds are now sufficient to begin these projects, which he said are quite large in scope and long overdue, and cited the replacement of HTE Software as an example which includes major functions for the city such as financial, permitting, building inspections, etc., and has fourteen modules altogether. He also indicated that the budget includes a major upgrade to the server farm, a renovation to the server, MicroSoft Office and a migration from Novell Network to MicroSoft Network.

He discussed IT successes in the areas of contract management/customer services and revealed a satisfaction with

customer service, but a dissatisfaction with the infrastructure owing to unacceptable cell phones coverage and slowness of the computers and the in e-mail system. Discussion followed efficiencies and cost-saving measures regarding printer maintenance. Discussion followed.

In reviewing the Cable Television Fund, Mr. Mackinder indicated that the City has a nonexclusive franchise agreement with Charter and AT&T and discussed Cable activities, cable-related activity and infrastructure. He noted that the budget reflects a continuation of 40% of the franchise fees received from Charter and AT&T go to Public Media Network (PMN) for cable services, 60% of the fees go to the city to maintain the technology and infrastructure projects, and 100% of the public service fees go to PMN, specifically for equipment purchases only. He discussed the fee amounts and indicated that the city continues the GPS unit at the Waylee Building for government productions, and internal productions can be viewed on the city website. He cited the two new large monitors and the multipurpose podium in the Council Chambers as the most recent upgrades and future replacements include a new lighting rack and new monitors on the dais. Discussion followed.

Mr. Mackinder indicated that the three primary uses of the city website are to market the city, to do business with residents with several on line services at their disposal and to provide information. He reviewed the many awards received by the website and the new Apps and some of the services that have been added to the website. Discussion followed.

Financial Services Director Bob Luders provided a brief background of the department work functions related to the budget, and emphasized procurement of goods and services, various risk management services and management of city contracts. In relation to procurement of goods, services, equipment and capital improvement, he stressed the department strives to perfect the procurement system by focusing on competition, effectiveness and partnership with the business community as well as promoting integrity within the system. He indicated that the Purchasing Department supports the various user departments each year with approximately 3,000-4,000 purchase orders, 30-35 sealed bids, the issuance of 50-60 formal contracts and over 225 other contracts.

Mr. Luders also discussed the Purchasing Department responsibilities in the areas of liability, property and automobile insurance seeking to minimize injury and loss to the city and working with Michigan Municipal Risk Authority (MMRA) for any insurance claims. He reviewed department successes in the areas of risk assessment, good relations with the business community, long term contracts such as United Water, a MMRA premium reduction, and the cooperative purchasing efforts with the County of Kalamazoo, City of Kalamazoo, Kalamazoo County Road Commission. He did mention that the savings have been minimal with the cooperative purchasing efforts, except for the use of MiDeal. He summed up and offered to answer any questions. Discussion followed.

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RECESS: 5:22 p.m.

RECONVENE: 6:22 p.m.

Transportation and Utilities Director Chris Barnes indicated that the Department is responsible for street and utility improvements as part of the Capital Improvement Program (CIP) and is a department of six employees that will go down to five employees once the Contract Administrator retires. He provided an overview of the improvements to various roadways in Portage for the upcoming construction season, including: the major streets projects of Mall Drive, Forest Drive, Portage Road and Angling Road. He also mentioned the Kilgore Road bridge reconstruction over Portage Creek and the traffic signal interconnection program. He indicated that all of the projects have received Federal Aid commitments; all are part of the KATS Improvement Program; and, all are on schedule. Next, he reviewed the Major Street Budget and the Water and Utilities Budget and some portion of the General Fund Budget.

Mr. Barnes then discussed traffic engineering, water and sewer, coordination of railroad signals and crossings, MDOT Contracts, site plan review in cooperation with the Department of Community Development and Act 151 Street Administrator responsibilities. With regard to Environmental Program responsibilities, he listed storm basin monitoring, hazardous spill response and clean-up, South Westnedge Park ground water monitoring, and storm water discharge reports and permits. With regard to the General Public Services portion of the Budget, he indicated that the department performed an audit of the city street lights in cooperation with Consumers Energy and a three-year program is planned to replace all mercury vapor light bulbs with high pressure sodium bulbs. He also mentioned that this portion of the budget contains the city share of funding for the Austin Lake and West Lake water quality improvements.

When Mayor Pro Tem Reid asked about when and where placing utilities underground might be indicated, he said that because of the cost born by the local unit of one million to two million dollars a mile, it isn't always fiscally possible, especially with street assessments being eliminated. Deputy City Manager Brian Bowling discussed a review performed several years ago wherein Consumers Energy was reluctant to place utility wiring underground because the voltage was very high. Discussion followed.

Discussion ensued regarding construction and road maintenance, PACER ratings, or condition rating of the streets, and the Mill and Fill Program. After reviewing the street and utility portions of the Street Budget, he discussed the Major Street Traffic Signal System, School Crossings and Railroad Crossing maintenance and shared Signals and Crossings with the City of Kalamazoo, Kalamazoo County Road Commission and the Michigan Department of Transportation, and Local Streets traffic signal maintenance and railroad expenses.

He discussed water and sewer assessments in general, the United Water Contract, the administration of the Garden Lane Arsenic Plant Project by United Water, the savings since the privatization in 1997 of the public utilities department of one million dollars per year and the upcoming public hearing regarding the adoption of the 2013 sewer and water rate Resolutions establishing sewer and water utility rates, sewer and water franchise area fees, service fees and charges as outlined in the 2013 Utility Rate Financial Study as recommended by the City Administration and the City Council Water and Sewer Rate Study Committee. He discussed the Sewer Fund and the Water Fund and discussion with City Council followed.

Parks, Recreation & Public Services Director William Deming discussed the challenges of combining the talents of the two departments and the efforts of the use of the City of Portage logo and tagline, "A natural Place to Move" by the Parks & Recreation Department as another guide to provide foresight into amenities that would help attract young, talented individuals to the community. He discussed Federal Mandates and how they affected staffing levels, the reduction of some services and the Department priority of the effective use of resources. He discussed the modification of the hours at Ramona Park Beach and Millennium Park to focus on consistent use, the elimination of programs that had minimum interest, the refinement of the hours for Park Rangers to focus less on event assistance and more on security and patrol and explained that the Summer Entertainment Series at the end of the 2013 Season will be discontinued and explained.

Mr. Deming explained that the Parks & Recreation Division will focus more on the private rental of park facilities and cited the Hayloft Theatre, Stuart Manor, the Grain Elevator, the Overlander Bandshell and the Schrier Park facility as examples. He discussed efficiencies, the use of cost control, grants and foundation applications, expanded use of volunteers and taking advantage of the technological savvy of area youth. He also discussed grounds maintenance, cemeteries, parks, discretionary funds, keeping parks accessible, contractual services, Tree City USA, the trail system, the Eliason Nature Reserve, recreation and sports options, walk/run events, the Youth Scholarship Program, Senior Citizens Services, cultural affairs, and combined resources with the Portage District Library.

Mr. Deming reviewed the Public Services Division Budget, including the Major Streets Fund, Mill and Fill Program, Crack Filling Program, purchase of a road repair machine, Local Streets Fund, salt usage, Fleet and Facilities Fund, Equipment Fund, Operation and Maintenance Fund, and described three large examples of capital outlay to ensure an updated fleet. Discussion followed. He also discussed the Curbside Recycling Program, Leaf Pick-up and Spring Cleanup Program and the Leaf/Branch Removal/Management Program. Discussion followed.

Public Safety Director Richard White reviewed the Public Safety Budget for Police and Fire Services. He shared some of

the efforts of the Department as it relates to City Council Goal to promote quality of life in Portage through prevention and enforcement concerning substance abuse. He cited the continuation of participation in the Kalamazoo Substance Abuse Task Force, specifically, Prevention Works, and he explained the "under-aged" prevention program called "Parents who Host Lose the Most" and mentioned the letters of concern from executives of agencies in the County that continue to be mailed.

He described the Secure Your Meds Program, mentioned the Red Mail Box in the Police Building lobby for the purpose of depositing unused and outdated drugs and outlined the promotional efforts to get the information out to the public regarding this very successful program.

He also cited a recent compliance check of 48 businesses selling alcohol and all passed, and he promised to have another check campaign before graduation to emphasize the importance and necessity that businesses holding liquor licenses remain in compliance with the law. He noted that the Police Liaison Officers in the high schools gave classes on the alcohol and drug awareness and made use of "fatal vision goggles" that simulate the effects of being intoxicated and explained how the students learned from the experience.

With regard to the City Council goal of pursuing revenue enhancement through alternative funding opportunities, Mr. White indicated that this area is very competitive and sometimes the Department has to pursue grants three to four times before being successful.

He discussed the effect on the quality of life in Portage as a result of the frequency of crime and traffic crashes and the retention of a \$50,000 grant that resulted from the research by other cities which studied the crime patterns and traffic crash locations within their cities with some areas that overlap. He noted that these cities made the decision to provide highly visible traffic enforcement in those areas which resulted in a lowering of the traffic accidents and an impact on crime in those areas. He also outlined some of the positive results from Portage Police efforts thus far.

With regard to the Federal Communications Commission (FCC) requirement that the city half-band all radio frequencies, Mr. White indicated that the process has been completed through the use of a Federal Emergency Management Agency (FEMA) Grant of \$35,000 cooperatively written countywide which enabled the Public Safety Department to half-band Fire Department equipment to pagers and still retain high quality integrity in the system.

He cited the recent notice of receipt of a \$25,000 Justice Assistance Grant (JAG) to purchase mobile dual band radios for the command vehicles that operate on both 150 megahertz frequency, the current system, and 850 megahertz frequency, the digital system used by surrounding communities and the State of Michigan, including Western Michigan University.

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The last grant he mentioned is the \$633,000 grant to replace all of the self-contained breathing apparatus. He noted that this grant was a collaboration effort for quite some time among six other fire departments, so it not only benefits the City of Portage, but also Alamo, Comstock, Pavilion, Texas and Oshtemo Townships, and the South County Fire Authority. He explained that the City of Portage wrote the grant, accepted fiduciary responsibility for the collection of the matching funds and the responsibility for the distribution of the equipment. He pointed out that this allows for standardization of the equipment and uniformity within the other communities in the County. He further described some of the advantages of the upgraded equipment.

He explained how the Alternative Medical Response Program has resulted in the reduction of response time by 2-2½ minutes for most census tracts and realized savings on fuel and repair bills since the smaller, more maneuverable vehicles are being used for responses to medical emergencies instead of the big fire trucks. He indicated that he plans to provide a report to City Council once the final set of data has been gathered.

With regard to the City Council goals of providing high quality, effective and cost efficient delivery of police services, Mr. White discussed retirements, the accreditation process, staff training and a recent extended leave for one of the Deputy Police Chief which allowed for movement of staff into various temporary positions from Deputy Chief, to Lieutenant to Sergeant to determine whether or not the position would be something of interest to him or her in the future. He mentioned that it was also an opportunity for the Public Safety Director and the Deputies to evaluate the personnel involved. Finally, he indicated that all staff members were introduced to the budget process, including the use of the HTE System, and were responsible for writing all of the narratives in the Public Safety Budget Division information pages. Discussion followed.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 8:23 p.m.

James R. Hudson, City Clerk



TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager

SUBJECT: Accounts Payable Register

SUPPORTING PERSONNEL: Daniel Foecking, Director of Finance

ACTION RECOMMENDED: That City Council approve the Accounts Payable Register of April 23, 2013 as presented.

EXECUTIVE SUMMARY:

The City Council bi-weekly reviews and approves the Accounts Payable Register that includes checks issued to vendors and the electronic funds transfers. The time period noted totals \$619,371.29 for checks issued to vendors and \$373,433.67 for electronic transfers or a total of \$992,804.96.

BACKGROUND INFORMATION:

Attached please find the Accounts Payable Register for the period March 31, 2013 through April 14, 2013, which is recommended for approval.

FUNDING: N/A

Attachments: Accounts Payable Register

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
04/12/2013	284650	AT&T	849	5,994.41
04/12/2013	284651	AT&T	849	49.50
04/12/2013	284652	A-1 SIGNS	2873	3,730.00
04/12/2013	284653	ABSOLUTE VIDEO PRODUCTIONS	3682	270.00
04/12/2013	284654	ADELSPERGER, MAUREEN	999999	92.52
04/12/2013	284655	ALLEGRA PRINT & IMAGING	533	986.64
04/12/2013	284656	APPLIED INDUSTRIAL TECHNOLOGIE	1944	3,389.81
04/12/2013	284657	TODD ARBANAS ENTERPRISES INC.	1704	2,960.00
04/12/2013	284658	ADP, INC.	3305	1,724.56
04/12/2013	284659	AUTOMATIC MICROFILMING CO.	863	124.30
04/12/2013	284660	AUTOMOTIVE CONCEPTS CARSTAR	4399	1,711.20
04/12/2013	284661	BAILEY CONTRACTORS INC., ROBER	999999	1,500.00
04/12/2013	284662	BAKER, JUSTIN	999999	115.50
04/12/2013	284663	BARKER, DAVID	532	1,955.00
04/12/2013	284664	BEACON ATHLETICS	4168	50.00
04/12/2013	284665	BERT & BARB MURPHY	999999	57.80
04/12/2013	284666	BESCO WATER TREATMENT, INC.	3339	750.00
04/12/2013	284667	BEST WAY DISPOSAL, INC.	142	1,253.04
04/12/2013	284668	BRINK WOOD PRODUCTS, INC.	3537	279.71
04/12/2013	284669	BRINK'S, INC	153	77.00
04/12/2013	284670	RANDALL L BROWN & ASSOC. PLC	2351	500.00
04/12/2013	284671	BROWN, JOHN BARNARD	3990	238.00
04/12/2013	284672	RUSH, BERT & LLOYD	999999	15.45
04/12/2013	284673	C B C INNOVIS INC	2887	97.00
04/12/2013	284674	C C I SOUTH, INC.	4842	674.17
04/12/2013	284675	C. T. S. TELECOM, INC.	4768	528.58
04/12/2013	284676	CAMPBELL AUTO SUPPLY	437	188.71
04/12/2013	284677	CHARTER COMMUNICATIONS	3080	117.38
04/12/2013	284678	CHILDS, BARBARA	999999	470.45
04/12/2013	284679	CITY OF KALAMAZOO (TRANS MILLA	4649	26.86
04/12/2013	284680	CITY OF KALAMAZOO TREASURER	540	55.13
04/12/2013	284681	CITY OF PORTAGE	177	39,846.70
04/12/2013	284682	CONSUMERS ENERGY	743	1,000.00
04/12/2013	284683	CONSUMERS ENERGY	4063	4,118.46
04/12/2013	284684	CONSUMERS ENERGY-BILL PMT CNT	189	294.68
04/12/2013	284685	COSTAR REALTY INFORMATION, INC	4620	454.59
04/12/2013	284686	CREDIT BUREAU COLLECTIONS	999999	97.95
04/12/2013	284687	DATA CONSTRUCTS LLC	4741	105.74
04/12/2013	284688	DEAF & HARD OF HEARING SERVICE	999999	100.00
04/12/2013	284689	DEGRAFF, JOAN	999999	512.49
04/12/2013	284690	DIGITAL HIGHWAY WIRELESS SOLUT	4839	9.82
04/12/2013	284691	DRAMATIC PUBLISHING	999999	2,399.66
04/12/2013	284692	ELECTION SYSTEMS & SOFTWARE, I	3367	232.00
04/12/2013	284693	EMERGENCY VEHICLE PRODUCTS	2948	490.00
04/12/2013	284694	ENCORE MAGAZINE	999999	85.00
04/12/2013	284695	FAWLEY OVERHEAD DOOR, INC.	690	97.50
04/12/2013	284696	FELDER COMMUNICATIONS GROUP, I	3025	876.50
04/12/2013	284697	FISHBECK, THOMPSON, CARR & HUB	17	11.70
04/12/2013	284698	FOLEY TRANSCRIPTION SERVICE	4867	14.30
04/12/2013	284699	GALL'S, AN ARAMARK COMPANY	25	156.00
04/12/2013	284700	GORDON WATER SYSTEMS	517	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
04/12/2013	284701	GRAHAM FORESTRY SERVICE, INC.	464	540.00
04/12/2013	284702	GRIFFIN PEST SOLUTIONS, INC.	598	3,695.00
04/12/2013	284703	STEPHEN R GUERTIN MD	4870	300.00
04/12/2013	284704	HAMILTON, SHIRLEY	999999	3,309.00
04/12/2013	284705	HOME DEPOT	691	417.49
04/12/2013	284706	J-AD GRAPHICS, INC	4444	1,886.00
04/12/2013	284707	KALAMAZOO COUNTY HEALTH & COMM	84	200.00
04/12/2013	284708	KALAMAZOO COUNTY TREASURER	514	11,351.63
04/12/2013	284709	KALAMAZOO COUNTY 9TH CIRCUIT	1117	198.25
04/12/2013	284710	KALAMAZOO COUNTY TREASURER	999999	346.40
04/12/2013	284711	KALAMAZOO LANDSCAPE SUPPLIES	90	673.75
04/12/2013	284712	KALAMAZOO REG'L EDUC SVS AGENG	721	5,727.16
04/12/2013	284713	KALAMAZOO VALLEY COMMUNITY COL	230	3,363.23
04/12/2013	284714	KNAPHEIDE TRUCK EQUIPMENT FLIN	4832	11,014.00
04/12/2013	284715	KZOO TIRE COMPANY	564	731.00
04/12/2013	284716	LACOSTA FACILITY SUPPORT SERVI	4838	3,625.00
04/12/2013	284717	LAWSON PRODUCTS, INC	240	226.49
04/12/2013	284718	LEMEN OIL CO.	2595	29,378.25
04/12/2013	284719	LONG LAKE LAKE BOARD	1720	675.00
04/12/2013	284720	LOWE'S HOME CENTER	2630	813.52
04/12/2013	284721	M & M CUSTOM FABRICATING INC.	4576	23.19
04/12/2013	284722	MARCINIAK, EUGENE	999999	17.43
04/12/2013	284723	MARTIN SPRING & DRIVE, INC.	532	158.28
04/12/2013	284724	MATTSON, NICHOLAS	2124	310.50
04/12/2013	284726	MAURER'S TEXTILE RENTAL SERVIC	4746	304.90
04/12/2013	284727	MCDONALD'S TOWING & RESCUE, IN	728	170.00
04/12/2013	284728	MENARDS, INC	258	866.44
04/12/2013	284729	MID-MICHIGAN ARMA	999999	300.00
04/12/2013	284730	MLIVE MEDIA GROUP	4476	2,014.21
04/12/2013	284731	MML UNEMPLOYMENT FUND	4804	38,573.27
04/12/2013	284732	MODERN MACHINE & AUTOMATION	999999	400.00
04/12/2013	284733	MONKS, SANDRA	999999	42.00
04/12/2013	284734	MRWA	999999	175.00
04/12/2013	284735	MUNICIPAL FINANCIAL CONSULTANT	681	750.00
04/12/2013	284736	National Trust for Historic	999999	125.00
04/12/2013	284737	NYE UNIFORMS	299	783.75
04/12/2013	284738	O'BOYLE-COLWELL-BLALOCK & AS.	860	3,500.00
04/12/2013	284739	OFFICE DEPOT, INC.	1721	721.79
04/12/2013	284740	OFFICEMAX INCORPORATED	301	326.51
04/12/2013	284741	ONE WAY PRODUCTS	440	403.98
04/12/2013	284742	PATENGALE, PHILIP	999999	268.25
04/12/2013	284743	PCM SALES, INC.	4852	387.00
04/12/2013	284744	PEERLESS, INC.	1171	255.00
04/12/2013	284745	PETERS CONSTRUCTION CO.	1638	4,638.61
04/12/2013	284746	PETTY CASH-CITY HALL	767	285.02
04/12/2013	284747	PETTY CASH-POLICE DEPT.	890	291.90
04/12/2013	284748	PIERRE & PHYLEASE DOBBINS	999999	988.00
04/12/2013	284749	POLDERMAN'S FLOWER SHOP	4157	98.90
04/12/2013	284750	PORTAGE CENTRAL FOOTBALL BOOST	4782	425.00
04/12/2013	284751	PORTAGE DISTRICT LIBRARY	810	1,022.21
04/12/2013	284752	PORTAGE PUBLIC SCHOOLS	590	10,637.08

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
04/12/2013	284753	PORTAGE TYPEWRITER SALES	889	242.00
04/12/2013	284754	PRO-FLEET	3209	1,954.00
04/12/2013	284755	RATHCO SAFETY SUPPLY, INC.	327	1,350.00
04/12/2013	284756	RENEWED EARTH, INC.	4686	7,916.66
04/12/2013	284757	REPUBLIC SERVICES OF WEST MICH	4443	42,882.23
04/12/2013	284758	RICHARDSON BUSINESS SOLUTIONS	4865	175.00
04/12/2013	284759	ROMENCE GARDENS, INC	343	136.15
04/12/2013	284760	ROODBEEN, MARK	999999	44.00
04/12/2013	284761	SACKETT'S FIREPLACE LLC	4863	484.00
04/12/2013	284762	SHELburnE LAURIE	532	208.77
04/12/2013	284763	STATE OF MICHIGAN (TREASURY)	722	
04/12/2013	284764	STATE OF MICHIGAN/MLCC	999999	50.00
04/12/2013	284765	STATE OF MICHIGAN/MLCC	999999	50.00
04/12/2013	284766	STRYKER CORP INSTRUMENTS DIV	999999	30,807.00
04/12/2013	284767	STRYKER MEDICAL	999999	58,623.60
04/12/2013	284768	SYMPRO INC.	3528	3,149.40
04/12/2013	284769	T D S METROOM, LLC	4539	29.99
04/12/2013	284770	T-MOBILE USA INC	3665	1,631.74
04/12/2013	284771	TERRYBERRY CO.	801	991.00
04/12/2013	284772	JOHANNA THOMPSON	4682	240.04
04/12/2013	284773	TRACTOR SUPPLY CORP.	2817	3,000.00
04/12/2013	284774	STEVE TRUDELL ENTERTAINMENT LL	4869	6,800.00
04/12/2013	284775	U S POSTMASTER	391	24.00
04/12/2013	284776	UNITED PARCEL SERVICE	545	2,139.04
04/12/2013	284778	VERIZON WIRELESS SERVICES, LLC	4653	5,441.25
04/12/2013	284779	WIGHTMAN & ASSOCIATES, INC.	425	3,780.00
04/12/2013	284780	WINDMULLER ELECTRIC, INC.	4779	3,930.99
04/12/2013	284781	WINGFOOT COMMERCIAL TIRE	3061	1,108.21
04/12/2013	284782	WOLTERS KLUWER LAW & BUSINESS	2613	495.00
04/12/2013	284783	WOLVERINE LAWN SERVICE, INC.	3141	2,237.00
04/12/2013	284784	WOLVERINE POWER SYSTEMS	1089	1,568.98
04/12/2013	284785	WOLVERINE POWER SYSTEMS	4322	491.27
04/12/2013	284786	XEROX CORPORATION	2684	2,307.69
04/12/2013	284787	ZERO WASTE USA, INC.	4435	

DATE RANGE TOTAL * 619,371.29 *

PAYMENT VENDOR		TRANSFER		TRACE		EFT		BANK	
NO	VENDOR NAME	NO	DATE	AMOUNT	NUMBER	BATCH	CODE	NUMBER	CODE
1850	ABONMARCHE CONSULTANTS, INC	04/12/2013	04/12/2013	2,609.01	072000320000001	0000001	00	0000001	00
1851	ADMIRAL LOCK & KEY SERVICE	04/12/2013	04/12/2013	38.50	072000320000002	0000001	00	0000001	00
1852	ALL-TRONICS, INC.	04/12/2013	04/12/2013	78.00	072000320000003	0000001	00	0000001	00
1853	ANIMAL REMOVAL SERVICE, LLC	04/12/2013	04/12/2013	1,310.00	072000320000004	0000001	00	0000001	00
1854	B & B YARDSCAPE	04/12/2013	04/12/2013	5,486.25	072000320000005	0000001	00	0000001	00
1855	C D W GOVERNMENT, INC.	04/12/2013	04/12/2013	5,239.66	072000320000006	0000001	00	0000001	00
1856	CLEAN EARTH ENVIRONMENTAL SERV	04/12/2013	04/12/2013	1,062.16	072000320000007	0000001	00	0000001	00
1857	CONTINENTAL LINEN SERVICES	04/12/2013	04/12/2013	39.99	072000320000008	0000001	00	0000001	00
1858	CROWN TROPHY	04/12/2013	04/12/2013	250.00	072000320000009	0000001	00	0000001	00
1859	D & D PRINTING CO.	04/12/2013	04/12/2013	57.00	072000320000010	0000001	00	0000001	00
1860	EMPLOYMENT GROUP, INC.	04/12/2013	04/12/2013	1,125.56	072000320000011	0000001	00	0000001	00
1861	ENGINEERED PROTECTION SYSTEMS, INC.	04/12/2013	04/12/2013	375.25	072000320000012	0000001	00	0000001	00
1862	ENTENMANN-ROVIN CO.	04/12/2013	04/12/2013	177.25	072000320000013	0000001	00	0000001	00
1863	ETNA SUPPLY, INC.	04/12/2013	04/12/2013	1,392.89	072000320000014	0000001	00	0000001	00
1864	FIRE SERVICE MANAGEMENT	04/12/2013	04/12/2013	920.73	072000320000015	0000001	00	0000001	00
1865	HI-TECH ELECTRIC CO.	04/12/2013	04/12/2013	2,404.32	072000320000016	0000001	00	0000001	00
1866	INDUSCO SUPPLY CO., INC.	04/12/2013	04/12/2013	74.92	072000320000017	0000001	00	0000001	00
1867	KEHOE, EDWARD J	04/12/2013	04/12/2013	160.00	072000320000018	0000001	00	0000001	00
1868	LAND & RESOURCE ENGINEERING & SURVE	04/12/2013	04/12/2013	2,964.89	072000320000019	0000001	00	0000001	00
1869	MCCARTHY SMITH LAW GROUP, PLC	04/12/2013	04/12/2013	5,919.75	072000320000020	0000001	00	0000001	00
1870	MEJEUR ELECTRIC LLC	04/12/2013	04/12/2013	517.00	072000320000021	0000001	00	0000001	00
1871	MORRIS, JOY E	04/12/2013	04/12/2013	180.00	072000320000022	0000001	00	0000001	00
1872	PACIFIC TELEMGT SERV, JAROTH INC	04/12/2013	04/12/2013	303.00	072000320000023	0000001	00	0000001	00
1873	POULIOT, GRETCHEN	04/12/2013	04/12/2013	60.00	072000320000024	0000001	00	0000001	00
1874	PRECISION PRINTER SERVICES INC	04/12/2013	04/12/2013	778.75	072000320000025	0000001	00	0000001	00
1875	SAFETY SERVICES, INCORPORATED	04/12/2013	04/12/2013	1,745.85	072000320000026	0000001	00	0000001	00
1876	SNELL, DEBRA	04/12/2013	04/12/2013	144.00	072000320000027	0000001	00	0000001	00
1877	SUBURBAN MECHANICAL	04/12/2013	04/12/2013	303.75	072000320000028	0000001	00	0000001	00
1878	UNITED PETROLEUM	04/12/2013	04/12/2013	145.00	072000320000029	0000001	00	0000001	00
1879	UNITED WATER ENVIRONMENTAL SERVICES	04/12/2013	04/12/2013	335,550.80	072000320000030	0000001	00	0000001	00
1880	VISION SERVICE PLAN INSURANCE CO	04/12/2013	04/12/2013	2,029.39	072000320000031	0000001	00	0000001	00

GRAND TOTAL: 373,433.67 NO. OF CHECKS: 31

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager 

SUBJECT: 2013 Utility Rate Financial Study

SUPPORTING PERSONNEL: W. Christopher Barnes, Director of Transportation & Utilities

ACTION RECOMMENDED: That subsequent to conduct of the public hearing, City Council adopt the 2013 sewer and water rate Resolutions establishing sewer and water utility rates, sewer and water franchise area fees, service fees and charges as outlined in the 2013 Utility Rate Financial Study as recommended by the City Administration and the City Council Water and Sewer Rate Study Committee and eliminate the current Senior Citizen Discount Program, effective October 1, 2013.

EXECUTIVE SUMMARY:

The 2013 Utility Rate Financial Study has been prepared by the City Administration and reviewed by the City Council Water/Sewer (Utility) Rate Study Committee (Mayor Pro Tem Reid, Councilmembers Campbell and Sackley, citizens Nasim Ansari and Ted W. Vliek, Sr). The Committee, after a thorough review of the study, unanimously recommended to City Council on March 26, 2013 that the water and sewer rates and charges as outlined in the 2013 Study be adopted for Fiscal Year 2013-14.

BACKGROUND INFORMATION:

On November 16, 2010, City Council awarded a contract to Utility Financial Solutions, LLC, (UFS) to conduct a comprehensive financial analysis of the utility. The model completed by UFS was used by city staff in the preparation of the 2013 Utility Rate Financial Study. The 2013 Utility Rate Financial Study continued the focus on ensuring the long-term financial health and stability of the Water and Sewer Funds.

For Fiscal Year 2013-14, the sewer commodity rate is recommended to be reduced from \$4.81 to \$4.70 per thousand gallons of metered water. The water commodity rate is recommended to remain at \$3.19 per thousand gallons of metered water. Basic quarterly charges for both sewer and water use, which are calculated to provide funding for certain fixed costs for the utility systems, are recommended to be increased to meet current expenditures.

The net effect of the combined sewer and water rate recommendations on the typical residential customer is an overall utility rate increase of 2.73 percent. The combined utility rate recommendations represent an annual increase of approximately \$19.40 (from approximately \$709.85 per year to approximately \$729.25 per year) for the typical residential customer with both public sewer and water service. On a monthly basis, the recommended rates would result in an increased monthly cost of \$1.61 to the typical residential customer.

Charges and fees reviewed in the context of the 2013 Utility Rate Financial Study include water connection charges, meter charges, meter box charges, hydrant meter charges and water processing fees. It is recommended that all current charges remain unchanged.

The Senior Citizen Discount Program has been found to be non-compliant with current non-discrimination requirements. As a result discontinuation of the program is recommended, effective October 1, 2013.

It is recommended that City Council adopt the 2013 sewer and water rate Resolutions establishing sewer and water utility rates, sewer and water franchise area fees and other fees and charges as set forth in the 2013 Utility Rate Financial Study and recommended by the City Administration and the City Council Water and Sewer Rate Study Committee as well as eliminate the Senior Citizen Discount Program, effective October 1, 2013.

FUNDING: N/A

Attachments: Resolution for Sewer Rates
Resolution for Water Rates

CITY OF PORTAGE

RESOLUTION

SEWER RATES

At a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan, held in Council Chambers in the Portage City Hall in said City on the _____ day of _____, 2013 at 7:30 p.m.

PRESENT:

ABSENT:

The following resolution was offered by Councilmember _____ and seconded by Councilmember _____:

WHEREAS, it is necessary for the Council to establish by resolution rates for sewer service in the City of Portage.

NOW, THEREFORE BE IT RESOLVED: That the following rates are hereby established for charges to be paid by users of wastewater service rendered by the wastewater system in the City of Portage, said rates to be in effect commencing with the first billing after September 30, 2013.

A. **CUSTOMER CHARGES**

The charges to be paid by users of wastewater service rendered by the sewer system shall consist of a basic quarterly charge plus commodity charges as follows:

<u>Meter Size</u>	<u>Basic Quarterly Charge</u>
5/8"	\$ 30.00
3/4"	\$ 45.00
1"	\$ 67.50
1-1/2"	\$ 120.00
2"	\$ 180.00
3"	\$ 300.00
4"	\$ 600.00
6"	\$1050.00
8"	\$1500.00

COMMODITY CHARGES

For all metered use, except as may be provided under Township Customer Charges, the following commodity rate per thousand gallons shall be applied:

Total Commodity Rate
Per 1000 Gallons
 \$4.70

B. MINIMUM FOR NON-METERED (FLAT RATE) CUSTOMERS

The flat rate for non-metered customers shall be established based on water usage of 15,000 gallons per quarter.

	<u>Flat Charge</u>	<u>Basic Charge</u>	<u>Total Charge</u>
Per quarter based on commodity charge for 15,000 gallons	\$70.50	\$30.00	\$100.50

C. IRRIGATION ALLOWANCE

Residential customers shall be given a discount if the customer is eligible for an irrigation discount under City Ordinance as follows: 1) Charges for such customers shall be based on actual water consumption, except that there shall be no sewage charge for the water consumption exceeding 125 percent of the water consumption for the most recent quarter billing in which the month of January is included; 2) Residential customers who do not have a quarterly billing in which the month of January is included or who have a zero (0) water usage for the quarter which includes the month of January, shall have the sewer charge for the other three quarters established at the maximum rate volume of 15,000 gallons or actual usage, if less, per quarter until such time as quarterly billing information, in which the month of January is included, is available.

D. SURCHARGES AND CREDITS

Surcharges for pollutant loadings above standard domestic waste will be charged rates established by ordinance of the City of Kalamazoo. Industries which pretreat may qualify for credits for pollutant loading at a strength below standard domestic strength in accordance with rates established by ordinances of the City of Kalamazoo.

E. ADDITIONAL CHARGES

Additional charges shall be as follows:

- (1) Equal to the actual expense incurred by the City for removing prohibited material discharged or caused or allowed to be discharged by the user and/or for the handling and/or treating of material in the wastewater system; and
- (2) Equal to the actual expense incurred by the City for cleaning or repairing the waste water system or any part thereof as required by a discharge by, or caused or allowed by, a user.

F. TOWNSHIP CUSTOMER CHARGES

The basic quarterly charge for Schoolcraft Township customers shall be the same as charged to city customers, as detailed in Section "A" above. Commodity charges for Schoolcraft Township customers shall be set at \$5.28 per thousand gallons of water used. Other charges and fees to township customers shall be the same as for City of Portage customers.

G. NON-SUFFICIENT FUNDS

A fee of \$30 per occurrence will be charged for any returned/unpaid check or other failed financial instrument which results in uncollected funds.

H. UTILITY BILLING AUTOMATIC PAYMENT PLAN

A credit of \$1.00 for each normal quarterly bill will be given to each customer on the utility billing automatic payment plan.

I. LATE FEE

The utility billing late fee shall be waived by the Finance Director under the following conditions:

1. (a) The customer has paid all of the last 12 or more quarterly utility bills on time; and
(b) The customer requests that the late fee be waived; or
2. The customer requests participation in the city's automatic payment program and the amount due is taken from their bank account on the due date. However, if the customer discontinues participation in the automatic payment program, no further waivers shall be granted under subsections 1(a) and (b) or this subsection 2.

YEAS:

NAYS:

James R. Hudson, City Clerk

CERTIFICATION

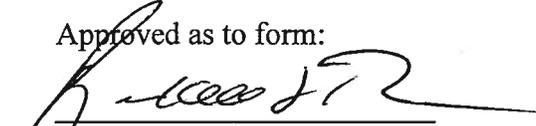
STATE OF MICHIGAN)
)
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified and acting City Clerk of the City of Portage, County of Kalamazoo, State of Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said city, held on the ____ day of _____ 2013, the original of which is on file in my office.

IN WITNESS THEREOF, I have hereto affixed my official signature the _____ day of _____, 2013.

James R. Hudson, City Clerk

Approved as to form:



Randall Brown, City Attorney

CITY OF PORTAGE

RESOLUTION

WATER RATES

At a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan, held in Council Chambers in the Portage City Hall in said City on the _____ day of _____, 2013 at 7:30 p.m.

PRESENT:

ABSENT:

The following resolution was offered by Councilmember _____ and seconded by Councilmember _____:

WHEREAS, it is necessary for the Council to establish by resolution rates for water service in the City of Portage.

NOW, THEREFORE BE IT RESOLVED: That the following rates are hereby established for charges to be paid by users of water service rendered by the water system in the City of Portage, said rates to be in effect commencing with the first billing after September 30, 2013.

A. CUSTOMER CHARGES

The charges to be paid by users of water service rendered by the water system shall consist of a basic quarterly charge plus commodity charges as follows:

<u>Meter Size</u>	<u>Basic Quarterly Charge</u>
5/8"	\$ 22.00
3/4"	\$ 33.00
1"	\$ 49.50
1-1/2"	\$ 88.00
2"	\$ 132.00
3"	\$ 220.00
4"	\$ 440.00
6"	\$ 770.00
8"	\$1100.00

COMMODITY CHARGES

For all use, except as may be provided under Hydrant Meter Charges, Fire Protection Service Charges and Township Customer Charges, the following commodity rate per thousand gallons shall be applied:

Total Commodity Rate
Per 1000 Gallons
\$3.19

B. TOWNSHIP CUSTOMER CHARGES

The basic quarterly charge for Pavilion Township and Schoolcraft Township customers shall be the same as charged to City customers, as detailed in section "A" above. Commodity charges for Pavilion Township and Schoolcraft Township customers shall be set at \$3.83 per thousand gallons of water used. Other charges and fees to township customers will be the same as for City of Portage customers.

C. FIRE PROTECTION SERVICE CHARGES

The charges to be paid by users of fire protection service rendered by the water system shall consist of a basic quarterly charge as follows:

<u>Service Size</u>	<u>Basic Quarterly Charge</u>
4"	\$ 15.00
6"	\$ 35.00
8"	\$ 60.00
10"	\$ 95.00
12"	\$135.00
16"	\$240.00

For all use metered on Fire Protection Services the following commodity rate per thousand gallons shall be applied:

Total Commodity Rate
Per 1000 Gallons
\$6.40

D. METER CHARGES

The charges to be paid for installing meters are as follows:

<u>Meter Size</u>	<u>Meter Charge</u>
5/8"	\$ 225
3/4"	\$ 280
1"	\$ 345
1 1/2"	\$ 815
2" SR (Irrigation)	\$ 1,010
2" (Compound)	\$ 2,225
3" (Compound)	\$ 2,925
4" (Compound)	\$ 4,530
6" (Compound)	\$ 7,840

E. METER BOX CHARGES

The charges to be paid for Meter Boxes are as follows:

<u>Service Provided</u>	<u>Meter Box Charge</u>
Meter Box 3/4"	\$ 950
Meter Box 1"	\$1,000
Meter Box 1-1/4"	\$1,050

F. HYDRANT METER CHARGES

The charges to be paid for installation of hydrant meters and use of hydrant water are as follows:

<u>Service Provided</u>	<u>Hydrant Meter Charge</u>
Meter installation	\$150*
Hydrant Use	\$6.40/thousand gallons

*Charge includes 15,000 gallons of water.

Furthermore, a deposit of \$250 will be required before installation of the hydrant meter. The deposit will be applied to the charges and water usage.

H. HYDRANT FLOW TEST

A charge of \$135 per occurrence will be charged for a fire hydrant flow test to determine the quantity of water available for fire fighting use.

I. PROCESSING FEE

The charge to be paid by users having water service turned on is as follows:

<u>Service Provided</u>	<u>Processing Fee</u>
Turning on water service	\$50 (except for first time customers and customer repairs)
	\$100 (turn on after normal working hours)

This fee also applies to services that are turned off for delinquency and is applied once a city work order has been issued.

J. NON-SUFFICIENT FUNDS

A fee of \$30 per occurrence will be charged for any returned/unpaid check or other failed financial instrument which results in uncollected funds.

K. UTILITY BILLING AUTOMATIC PAYMENT PLAN

A credit of \$1.00 for each normal quarterly bill will be given to each customer on the utility billing automatic payment plan.

L. WATER SHUT OFF DUE TO NON-PAYMENT

An amount past due of more than \$60.00 is established as the water shut-off level amount.

M. LATE FEE

The utility billing late fee shall be waived by the Finance Director under the following conditions:

1. (a) The customer has paid all of the last 12 or more quarterly utility bills on time; and

(b) The customer requests that the late fee be waived; or
2. The customer requests participation in the city's automatic payment program and the amount due is taken from their bank account on the due date. However, if the customer discontinues participation in the automatic payment program, no further waivers shall be granted under subsections 1(a) and (b) or this subsection 2.

YEAS:

NAYS:

James R. Hudson, City Clerk

CERTIFICATION

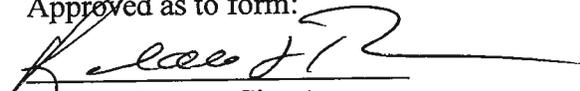
STATE OF MICHIGAN)
)
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified and acting City Clerk of the City of Portage, County of Kalamazoo, State of Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said city, held on the _____ day of _____ 2013, the original of which is on file in my office.

IN WITNESS THEREOF, I have hereto affixed my official signature the _____ day of _____, 2013.

James R. Hudson, City Clerk

Approved as to form:



Randall Brown, City Attorney

WaterRateresolution2013

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: Tax Exemption for Spring Manor Apartments

SUPPORTING PERSONNEL: Victoria Georgeau, Director of Community Development

ACTION RECOMMENDED: That City Council take final action by approving an ordinance amendment to the Codified Ordinances of the City of Portage to modify an existing Payment in Lieu of Taxes (PILOT) for the Spring Manor Apartments located at 610 Mall Drive.

BACKGROUND INFORMATION:

An amendment to the existing Payment in Lieu of Taxes (PILOT) ordinance for the Spring Manor Apartments located at 610 Mall Drive was accepted by Council for first reading on April 9, 2013 (see attached City Council Communication). Notice of the proposed ordinance amendment was subsequently published in the *Kalamazoo Gazette* on April 12, 2013. The Office of the City Clerk received no comments.

REVIEW / RECOMMENDATION:

The City Administration has reviewed the application with the applicant and the Office of the City Attorney. In addition, the City Attorney has approved the proposed PILOT ordinance amendment as to form. Second reading and approval of the ordinance amendment, which includes a tax exemption with a five percent PILOT, is recommended.

FUNDING: N/A

Attachments: April 9, 2013 Communication from the City Manager

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager 

SUBJECT: Tax Exemption for Spring Manor Apartments

SUPPORTING PERSONNEL: Victoria Georgeau, Director of Community Development

ACTION RECOMMENDED:

That City Council:

- a) accept for first reading an ordinance amendment to the Codified Ordinances of the City of Portage to modify an existing Payment in Lieu of Taxes (PILOT) for the Spring Manor Apartments located at 610 Mall Drive; and
- b) take final action on April 23, 2013.

EXECUTIVE SUMMARY:

An amendment to the existing Payment in Lieu of Taxes (PILOT) ordinance for the Spring Manor Apartments, located at 610 Mall Drive, is proposed in order to facilitate a refinancing and completion of capital improvements, and also increase support staff for service coordination for the current senior residents of the development. While the applicant initially requested continuation of the current four percent PILOT, consistent with other more recent PILOT ordinance amendments, the applicant has agreed to a PILOT of five percent of annual shelter rents. This amount was determined appropriate based on the economic feasibility of the project and because 100 percent of the dwelling units within the development are offered at affordable rental rates for elderly households.

BACKGROUND INFORMATION:

The Hollander Development Corporation has requested an amendment to the existing Payment in Lieu of Taxes (PILOT) ordinance for the refinance and rehabilitation of Spring Manor Apartments (formerly known as Mall Drive Apartments), a 102-unit multiple-family elderly housing complex located at 610 Mall Drive. When the Spring Manor Apartments were constructed in 1996, the city adopted an ordinance that provided a tax exemption and established a Payment in Lieu of Taxes (PILOT). The PILOT requires payment to the city equal to four percent of the annual shelter rent as permitted by State Housing Development Authority Act (Public Act 346 of 1966, as amended). At that time, the PILOT ordinance facilitated affordable rental housing, with all 102 dwelling units in the development reserved for low income seniors. The city has also adopted PILOT ordinances for The Crossings II Apartments, Barrington Woods Apartments, the Hearthside Apartments I & II, and a single-family affordable rental dwelling at 1506 Schuring Road (owned by the Kalamazoo Family Non-Profit Housing Corporation).

As outlined in the included correspondence from Hollander Development Corporation, refinancing and rehabilitation of the development is proposed, which will be financed with a new mortgage

available through the U.S. Department of Housing and Urban Development (HUD) Section 223(f) Program. When the Spring Manor development was first constructed, it was financed with a mortgage and was awarded Low Income Housing Tax Credits (LIHTC) through the Michigan State Housing Development Authority (MSHDA). As explained by the applicant, the award of LIHTC from MSHDA includes a Regulatory Agreement/Restrictive Covenant that requires the development be rented at affordable rates to low income seniors. As part of the current proposal, the number of housing units reserved for low income seniors will remain at 102 units. Refinancing will permit rehabilitation of the development and allow for the creation of a staff position to provide support services for the elderly residents of Spring Manor Apartments.

Michigan Public Act 346 of 1966

Public Act 346 was enacted to provide safe and sanitary dwelling accommodations that are within the financial means of low or moderate income individuals or families. Parameters within the Act stipulate: 1) that a tax exemption granted for eligible projects remains in effect for as long as the authority or federally-aided mortgage is outstanding; 2) any payments in lieu of taxes received by the city must be distributed to the affected taxing units in the same proportion as the property tax in the previous calendar year; and 3) the city establish a service charge to be paid in lieu of taxes in order to implement the tax exemption for the eligible housing project. The service charge is negotiable, but may not exceed the property tax that would be paid without a service charge.

The current four percent PILOT ordinance for the development will remain in effect until 2029 should the proposed refinancing and rehabilitation project not come to fruition. While the applicant initially requested a continuation of the four percent PILOT, consistent with other more recent PILOT ordinance amendments, the applicant has agreed to a PILOT of five percent of annual shelter rents. This amount was determined appropriate based on the economic feasibility of the project and because 100 percent of the dwelling units within the development are offered at affordable rental rates for elderly households. The proposed PILOT amendment is for 35 years, which coincides with the term of the proposed mortgage and associated "affordability period" for the rental housing units reserved for low income seniors.

Project Benefits and Costs

There are a number of community benefits made possible by this project:

- The project fulfills goals of the 2011-2015 Consolidated Plan approved by City Council, as part of the Community Development Block Grant (CDBG) program;
- The project will fulfill the goal to partner with for-profit and non-profit developers by providing a Payment in Lieu of Taxes (PILOT) incentive to help meet financing requirements for affordable housing;
- Approval of the proposed project will demonstrate the continued commitment on the part of the city to enhance the range of housing choice for low income and special needs residents. As reference, the Consolidated Plan identifies approximately 4,350 low income households in Portage that have a housing cost burden, who are paying over 30% of their income on housing expenses. Among low income renters, 60% of these households have a housing cost burden;
- The project is consistent with the Comprehensive Plan, and
- Refinancing will facilitate the rehabilitation of the property and the provision of additional support services for the residents of the development.

The current PILOT results in \$3,550 of annual revenue to the city and \$17,840 for all units of governments (based on the most recent two years of PILOT payments). The proposed ordinance amendment provides for an annual service charge increase from four percent to five percent with an increase in the minimum annual service charge from \$17,357 to \$32,283.

As with all developments, there are costs to the City of Portage and other taxing jurisdictions to provide municipal services. In this case, and with similar housing developments, costs also include foregone tax revenues due to the existing and proposed PILOT. The service costs for the development include public safety and general government services. The cost per dwelling to provide city services to a multiple-family development has been estimated by the Finance Department as shown in the following table:

General Fund	Estimated Annual Cost Per Unit
Police	\$414
Fire	\$217
Other	\$446
Subtotal	\$1,077
TOTAL COST (102 units)	\$109,854

With regard to foregone tax revenue, the development has been tax exempt since its construction in 1996. Based on a recent as-is condition appraisal completed for the applicant, the property has an estimated value of \$4.28 million. If not tax exempt, the development would have an estimated annual Ad-Valorem Tax Liability of \$122,157. The table below illustrates annual foregone tax revenue for all taxing units, compared to average annual tax revenue (over 35 years) that would be received from the proposed PILOT.

Taxing Unit	Estimated Average Annual Tax Revenue Without Tax Exemption/PILOT	Estimated Average Annual Revenue with PILOT
City of Portage	\$24,274	\$8,927
State Education	\$12,840	\$4,722
School Operating	\$38,520	\$14,165
School Building/Debt	\$12,412	\$4,564
Portage District Library	\$3,210	\$1,180
KVCC	\$6,021	\$2,214
KRESA	\$10,415	\$3,830
Kalamazoo County	\$13,131	\$4,829
County Transport	\$856	\$315
County Juvenile	\$478	\$176
Annual Total:	\$122,157	\$44,922

As noted above, the current estimated annual cost of services incurred by the City of Portage is \$109,854 compared to the \$8,927 average annual revenue that would be received by the city with the proposed PILOT. The minimum PILOT payment to all taxing units proposed by the ordinance amendment is \$32,283, while the PILOT payment is projected to increase to \$60,236 over the 35-year period of the PILOT (with an average annual payment of \$44,922).

Review/Recommendation

The City Administration has reviewed the application with the applicant and the Office of the City Attorney. In addition, the City Attorney has approved the proposed PILOT ordinance amendment as to form. A tax exemption with a five percent PILOT is recommended as referenced in the attached amendment to Chapter 70, Article 2, Division 4, of the Code of Ordinances.

FUNDING: Not applicable.

Attachments: Vicinity Map
Correspondence from Centre Hollander Development Corporation
Proposed PILOT Ordinance amendment



6206

6205

629

623

617

609

601

537

6220

6221

Date St

6226

6227

Victoria Ct

6232

6233

6239

6245

6251

6257

6307

640

520

714

708

Thomas Ct

719

713

707

Mall Dr

670

665

543



Imagery: March 2009

Vicinity Map 610 Mall Drive

1 inch = 100 feet



February 12, 2013

Mr. Maurice Evans
City Manager
Portage City Hall
7900 South Westnedge Ave.
Portage, Michigan 49002

Dear Mr. Evans:

In response to staff's request, this will attempt to summarize recent correspondence in connection with our request for amendments to the existing ordinance which established a 4% service charge in lieu of taxes ("P.I.L.O.T.") for Spring Manor senior apartments at 610 Mall Drive. The changes have become necessary because we are refinancing the original loan by the Michigan State Housing Development Authority ("MSHDA") with a loan insured by HUD.

Description of P.I.L.O.T. and Spring Manor

Spring Manor is financed with a combination of federal low income housing tax credits and a loan from MSHDA at a 9% interest rate. The MSHDA loan is being refinanced by a new loan insured by HUD at a much lower but as yet undetermined interest rate. The existing rent and income restrictions will continue unchanged under the new loan. HUD will conduct annual physical inspections rather than MSHDA. Spring Manor will continue as affordable housing for the elderly.

The amendments to the existing P.I.L.O.T. ordinance are necessary because of technical issues. The existing P.I.L.O.T. ordinance authorizes a service charge in lieu of taxes based upon MSHDA financing. The existing ordinance does not authorize a service charge if Spring Manor is refinanced with a HUD loan. The continued feasibility of Spring Manor after the refinancing depends upon continuation of the P.I.L.O.T.

The new loan will be 35 years and fully amortizing. The use restrictions in the existing regulatory agreement are in perpetuity. The new loan will be subordinate to these restrictions. There will also be a HUD regulatory agreement.

We are not requesting a new ordinance, merely several minor amendments to the existing ordinance which will permit the existing P.I.L.O.T. to continue with different

Mr. Maurice Evans
February 12, 2012
Page Two

financing. Unlike other projects which have previously received a P.I.L.O.T. from the City and have sought new ones, 1) there will be no change in ownership of Spring Manor; 2) 100% of the units at Spring Manor will remain rent and income restricted; and 3) there will be no market rate units which benefit from the P.I.L.O.T.

Spring Manor was built in 1996 to provide affordable housing for individuals over 60 years of age. As there are a minimum of services provided to the residents, Spring Manor is considered "independent living" housing. There are 102 unfurnished one- and two-bedroom apartments, each with a fully equipped kitchen, bath, living/dining room and laundry/storage room. There are also 5 similarly equipped efficiency units. Five of the apartments are barrier free.

The project consists of a single fully accessible 2 ½ story building served by three elevators. There is extensive common area space, much of which has been modeled in a late 19th Century décor. Included are an ice cream parlor, theater, library, fitness room, beauty salon/barber shop, community store and crafts room. There is also a large common area room with attached kitchen.

Benefits of Refinancing

The anticipated interest rate for a project refinanced under HUD's Section 223(f) program is currently about 3.25%. The annual debt service payments under the new loan will be about \$105,000 less than the current MSHDA loan. The annual savings in loan costs will be used to replace a MSHDA rent subsidy, fund the cost of needed repairs and improvements and provide additional services to our residents.

The average age of Spring Manor residents is over 80. Many have lived at the community since it first opened. A number of the residents have become frail and in need of an increasing level of services. Refinancing the existing MSHDA loan will allow us to add a part time service coordinator and provide residents with scheduled transportation to doctors' appointments, third party health service providers located offsite (such as PACE) and provide access to similar services needed by the residents.

It will also allow us to accelerate some of the improvements such as replacing the HVAC system in each apartment with a more energy efficient system. The new loan will provide funds to make certain immediate repairs and establish escrows which will assure sufficient funds for future improvements.

We presently receive an annual rent subsidy from MSHDA in the amount of \$42,800. Per agreement with MSHDA this subsidy is used to reduce "rent overburden" for some of our lowest income residents. Rent overburden occurs when a resident pays more than 40% of the resident's income for shelter costs (i.e., rent and utilities). This subsidy is included as rental income for the purpose of calculating the amount

Mr. Maurice Evans
February 12, 2013
Page Three

paid annually to the City as a P.I.L.O.T. When the MSHDA loan is paid off, we will lose this subsidy. The reduced debt service payments will make up for the lost rent subsidy. It will allow us to continue the same reduced rents to our lowest income residents.

Our goal is to facilitate the delivery of these services in an environment in which our increasingly frail resident population may continue to live independently and with dignity.

Amount of Service Charge

In discussions with staff, it is apparent that the City would like to increase the amount of the 4% service charge which we are presently paying. Other projects have agreed to pay a 6% service charge. We have stressed that our circumstances are markedly different from other projects (see above) and that a substantial increase would marginalize our operations and make it far more difficult to service the needs of our residents. A 5% P.I.L.O.T. (a 25% increase) would be manageable and still allow us to move forward with our mission.

Spring Manor has been an important resource for the Portage community for more than sixteen years. Its prime location near Hardings, the Crossroads and Southland Malls and shopping and services along South Westnedge Avenue cannot be equaled or duplicated. It is an ideal location for the residential population which it serves.

We respectfully request that the Portage City Council act on these amendments at its earliest convenience.

Yours very truly,



Joseph H. Hollander

cc. Mayor Peter Strazdas

SPRING MANOR APARTMENTS

TYPE	Percent of Area M. I.	UNITS	SQ FT	TOTAL SQ FT	Per SF	Max. LIHTC Rents	Utility Allowance	Max. Contract Rent	Annual Potential
Studio	60%	5	495	2,475	\$1.32	\$655.00	\$30.00	\$ 625.00	\$ 37,500
1BR/1BA	50%	31	668	20,708	\$0.88	\$585.00	\$39.00	\$ 546.00	\$ 203,112
1BR/1BA	60%	61	668	40,748	\$1.05	\$702.00	\$39.00	\$ 663.00	\$ 485,316
2BR/1BA	60%	<u>10</u>	<u>883</u>	<u>8,830</u>	<u>\$0.95</u>	<u>\$841.00</u>	<u>\$41.00</u>	<u>\$ 800.00</u>	<u>\$ 96,000</u>
TOTAL/AVG		<u>107</u>	<u>680</u>	<u>72,761</u>	<u>\$0.94</u>			<u>\$640.13</u>	<u>\$ 821,928</u>

Audited-Operations				Annualized		BUDGET UNDER NEW LOAN			
2009	2010	2011	2012	Per Unit	Pro Forma				
802770	814135	814267	811980			Gross Rent Potential	7682	821928	
						Subsidy	(400)	(42800)	
						Other Income	0		
6347	6667	6617	6700			Carports	62	6617	
			400			Late Fees	0		
11143	20449	29363	225			Interest Income	0		
1127	11572	1770				Miscellaneous	17	1770	
						Vacancy Gross Up	0		
<u>18617</u>	<u>38688</u>	<u>37750</u>	<u>7325</u>			Total Other Income	<u>(322)</u>	<u>(34413)</u>	
821387	852823	852017	819305			GROSS INCOME	7360	787515	
(33204)	(71202)	(61352)	(67660)			Vacancy	(587)	(62860)	
<u>788183</u>	<u>781621</u>	<u>790665</u>	<u>751645</u>			EFFECTIVE GROSS	6772	724655	
53607	48792	49327	46135			Management Fee	6.00%	406	43479
27746	27844	26634	27852			PILOT & Other taxes	5.00%	302	32283
22362	21847	21114	20677			Insurance		206	22000
21316	22959	23738	23300			Electricity		224	24000
43946	41738	43666	32677			Gas		327	35000
16155	19449	18372	19000			Water & Sewer		187	20000
2716	3355	3650	3755			Rubbish Removal		36	3800
110409	(44133)	1045	12592			Exterminating		56	6000
14125	12498	8851	17556			Landscaping & Grounds		84	9000
2642	2837	2292	3000			Snow Removal		34	3600
3930	6060	5107	13236			Janitor & Cleaning		84	9000
42341	30058	23000	4260			Unit Redecorating		121	13000
32806	37659	11945	31303			Repairs & Maintenance		336	36000
12331	7202	8420	901			Maintenance Supplies & Other		37	4000
						Service Coordinator		234	25000
28950	31459	27423	34366			Payroll - Maintenance		355	38000
31815	29175	29107	36412			Payroll - Office		355	38000
13175	13256	15567	19569			Payroll - Tax & Benefits		224	24000
23138	36478	11520	18574			General Administrative		182	19453
						Vehicle Expense		144	15400
8900	8900	9125	8390			Accounting & Audit		70	7500
354	110	145	65			Legal & Professional		3	300
4774	4459	4585	4683			Telephone		45	4800
(4489)	(77)	3875	21			Misc. (Senior Center Services)		47	5000
6982	6838	7819	9917			Advertising & Marketing		84	9000
		80100	120476			Replacement Reserve		600	64200
<u>520031</u>	<u>368763</u>	<u>436427</u>	<u>508717</u>			TOTAL EXPENSES	<u>70.6%</u>	<u>4783</u>	<u>511815</u>
<u>268152</u>	<u>412858</u>	<u>354238</u>	<u>242928</u>			NET OPERATING INCOME		<u>1989</u>	<u>212840</u>
						DEBT SERVICE			<u>187912</u>
						SURPLUS (DEFICIT)			<u>24928</u>

SPRING MANOR APARTMENTS

PROJECTED 5% P.I.L.O.T. ANALYSIS

PILOT %	YEAR	GROSS		SITE PAID UTILITIES	NET	ESTIMATED
		RENT POTENTIAL	VACANCY LOSS		SHELTER RENTS	PILOT PAYMENT
5.00%	1	787,515	(63,001)	(79,000)	645,514	32,276
5.00%	2	803,265	(64,261)	(81,370)	657,634	32,882
5.00%	3	819,331	(65,546)	(83,811)	669,973	33,499
5.00%	4	835,717	(66,857)	(86,325)	682,534	34,127
5.00%	5	852,432	(68,195)	(88,915)	695,322	34,766
5.00%	6	869,480	(69,558)	(91,583)	708,339	35,417
5.00%	7	886,870	(70,950)	(94,330)	721,590	36,080
5.00%	8	904,607	(72,369)	(97,160)	735,079	36,754
5.00%	9	922,699	(73,816)	(100,075)	748,809	37,440
5.00%	10	941,153	(75,292)	(103,077)	762,784	38,139
5.00%	11	959,976	(76,798)	(106,169)	777,009	38,850
5.00%	12	979,176	(78,334)	(109,354)	791,487	39,574
5.00%	13	998,759	(79,901)	(112,635)	806,224	40,311
5.00%	14	1,018,735	(81,499)	(116,014)	821,222	41,061
5.00%	15	1,039,109	(83,129)	(119,495)	836,486	41,824
5.00%	16	1,059,892	(84,791)	(123,079)	852,021	42,601
5.00%	17	1,081,089	(86,487)	(126,772)	867,830	43,392
5.00%	18	1,102,711	(88,217)	(130,575)	883,919	44,196
5.00%	19	1,124,765	(89,981)	(134,492)	900,292	45,015
5.00%	20	1,147,261	(91,781)	(138,527)	916,953	45,848
5.00%	21	1,170,206	(93,616)	(142,683)	933,907	46,695
5.00%	22	1,193,610	(95,489)	(146,963)	951,158	47,558
5.00%	23	1,217,482	(97,399)	(151,372)	968,711	48,436
5.00%	24	1,241,832	(99,347)	(155,913)	986,572	49,329
5.00%	25	1,266,668	(101,333)	(160,591)	1,004,744	50,237
5.00%	26	1,292,002	(103,360)	(165,408)	1,023,233	51,162
5.00%	27	1,317,842	(105,427)	(170,371)	1,042,044	52,102
5.00%	28	1,344,199	(107,536)	(175,482)	1,061,181	53,059
5.00%	29	1,371,083	(109,687)	(180,746)	1,080,650	54,032
5.00%	30	1,398,504	(111,880)	(186,169)	1,100,455	55,023
5.00%	31	1,426,474	(114,118)	(191,754)	1,120,603	56,030
5.00%	32	1,455,004	(116,400)	(197,506)	1,141,097	57,055
5.00%	33	1,484,104	(118,728)	(203,432)	1,161,944	58,097
5.00%	34	1,513,786	(121,103)	(209,534)	1,183,149	59,157
5.00%	35	1,544,062	(123,525)	(215,821)	1,204,716	<u>60,236</u>

TOTAL ESTIMATED PILOT CHARGES PAID DURING THE MORTGAGE TERM

1,572,259

HUD > Program Offices > Housing > Multifamily > Programs > Multifamily Housing - Program Description

Mortgage Insurance for Purchase or Refinancing of Existing Multifamily Rental Housing: Sections 207/223(F)

Want More Information?

Program instructions are in HUD Handbooks, Notices and Forms which can be found on **HUDclips**.

Prospective applicants should contact the local **HUD Multifamily Hub or Program Center** with jurisdiction for the property.

Summary:

Section 207/223(f) insures mortgage loans to facilitate the purchase or refinancing of existing multifamily rental housing. These projects may have been financed originally with conventional or FHA insured mortgages. Properties requiring substantial rehabilitation are not eligible for mortgage insurance under this program. HUD permits the completion of non-critical repairs after endorsement for mortgage insurance.

Purpose:

Section 223(f) insures lenders against loss on mortgage defaults. The program allows for long-term mortgages (up to 35 years) that can be financed with Government National Mortgage Association (GNMA) Mortgage-Backed Securities. This eligibility for purchase in the secondary mortgage market improves the availability of loan funds and permits more favorable interest rates.

Type of Assistance:

FHA mortgage insurance for HUD-approved lenders.

Eligible Activities:

The property must contain at least 5 residential units with complete kitchens and baths and have been completed or substantially rehabilitated for at least 3 years prior to the date of the application for mortgage insurance. The program allows for non-critical repairs that must be completed within 12 months of loan closing. Projects requiring substantial rehabilitation are not acceptable under this section and may not involve the replacement of more than one major system. The remaining economic life of the project must be long enough to permit a ten-year mortgage. The mortgage term cannot exceed 35 years or 75 percent of the estimated life of the physical

improvements, whichever is less. Davis Bacon prevailing wage requirements do not apply to this program.

The maximum mortgage limitation for a purchase transaction is the lesser of:

(1) 85 percent of HUD appraised value; (2) 85 percent of the acquisition cost; (3) Section 207 statutory per unit limits, adjusted by the local Field Office high cost percentage for the locality; or (4) a mortgage amount supported by 85 percent of net income.

The maximum mortgage limitation for a refinance transaction is the lesser of:

(1) 85 percent of HUD appraised value; (2) Section 207 statutory per unit limits, adjusted by the local field Office high cost percentage for the locality; (3) the mortgage amount supported by 85 percent of net income; or (4) the greater of the cost to refinance or 80 percent of HUD appraised value.

Eligible Borrowers:

Owners or prospective purchasers of eligible multifamily properties may apply for insured mortgages through HUD-approved lenders.

Eligible Customers:

All persons are eligible to occupy such projects subject to normal occupancy restrictions.

Application:

Section 223(f) is eligible for Multifamily Accelerated Processing (MAP). The sponsor works with the MAP-approved lender who submits required exhibits for Firm Commitment application, including a full underwriting package to the local Multifamily Hub or Program Center for review. The Multifamily Hub or Program Center reviews the application to determine whether the proposed loan is an acceptable risk. Considerations include market need and the capabilities of the borrower. FHA underwriting analysis must determine that there is enough project income to repay the loan, taking into account all necessary project expenses. If the proposed project meets program requirements, the local Multifamily Hub or Program Center issues a commitment to the lender for mortgage insurance.

Applications submitted by non-MAP lenders must be processed by HUD field office staff under Traditional Application Processing (TAP). Under TAP, there are only two processing stages: the conditional commitment stage and the firm commitment stage. The sponsor is required to have a pre-application conference during the conditional commitment stage to determine the appraised value and maximum mortgage amount. At the firm commitment stage the local HUD Multifamily Hub or Program Center determines the amount of the mortgage available to the purchaser or refinancing borrower in the proposed transaction. If the proposal meets FHA program requirements, the local Multifamily Hub or Program Center issues a commitment to the lender for mortgage insurance.

Technical Guidance:

Section 223(f) of the National Housing Act was added by Section 311(a) of the Housing and Community Development Act of 1974. Regulations are found at 24 CFR, Part 200. For processing and underwriting instructions refer to HUD Handbook 4565.1- Mortgage Insurance for the Purchase of Existing Multifamily Housing Projects available on **HUDclips**. Refer to the MAP web site for guidelines and instructions, lender approval requirements, and MAP coordinators. The program is administered by the Office of Multifamily Housing Development.

Program Accomplishments:

In fiscal year 2012, the Department insured mortgages for 644 projects with 91,969 units, totaling \$5.6 billion.

LIBER 1875 PG 1279

7067

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
401 South Washington Square - 4th Floor Plaza One Building
Post Office Box 30044
Lansing, Michigan 48909

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0

**REGULATORY AGREEMENT/RESTRICTIVE COVENANT
LOW INCOME HOUSING TAX CREDIT**

This Agreement, which shall serve as a Regulatory Agreement and have the full force of a restrictive covenant running with the land pursuant to Public Act 346 of the Michigan Public Acts of 1966, as amended, is dated as of this 19TH day of August, 1996, and made by and between the Michigan State Housing Development Authority (the "Authority") as the low income housing tax credit agency for the State of Michigan and Spring Manor LDRA LP.

WHEREAS, the Authority is the designated housing credit agency for the State of Michigan with respect to the low income housing tax credit authorized by Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Owner is the Owner of certain real property, more particularly described in Exhibit A, attached hereto, and incorporated herein by reference; and

29239

WHEREAS, the Owner has applied to the Authority for an allocation of Low Income Housing Tax Credit authority for a residential rental development which has been or will be constructed on the property; and

WHEREAS, the Authority has determined, pursuant to the provisions of Section 42 of the Code, that an allocation of credit to the Project in the amount of Five Hundred Forty-One thousand, Four hundred Dollars (\$541,400) is the maximum appropriate amount of tax credit authority to be allocated to the Project; and

WHEREAS, Section 42(h) of the Code requires that the Authority and the Owner enter into an "extended low income housing commitment", which shall be recorded as a restrictive covenant in order for the Owner to be allowed the benefit of the Low Income Housing Tax Credit.

NOW, THEREFORE, in consideration of receipt of the benefit of the Low Income Housing Tax Credit, the promises and covenants set forth hereafter including those enumerated in Exhibit B, attached hereto and incorporated by reference herein, the receipt and sufficiency of which are hereby acknowledged, the Owner and the Authority agree and covenant as follows:

- 1) All words and phrases used herein shall have the same meaning as defined in Section 42 of the Code.
- 2) The Owner is a Limited Partnership, duly organized and existing under the laws of the State of Michigan, and has all the powers necessary to conduct business and to execute and deliver this Regulatory Agreement.

Revised 11-95

CLERK-REGISTER

96 AUG 27 AM 8 52

COURT CLERK
MICHIGAN
RECORDS & REGISTRY
LANSING

There is no action or proceeding in law or in equity now pending, or, to the knowledge of the Owner, threatened, which, if adversely determined, would materially impair the rights of the Owner to carry on business as contemplated by this Agreement, or would materially affect the Owner's financial condition.

3) The building(s), which do or will constitute a qualified housing project as defined in Section 42 of the Code, and regulations promulgated thereunder, the rental units of which will be rented or available for rental on a continuous basis to members of the general public throughout the length of this Agreement, shall be known as Spring Manor.

4) As a condition and in consideration of receipt of the Low Income Housing Tax Credit, the Owner, for itself and all successors in interest to the buildings in the Project, agrees to maintain the applicable fraction, as defined in Section 42 (c)(1)(B) of the Code and stated below, for the period of time this Agreement is in effect, that being the initial compliance period of 15 years, and into perpetuity (the longer of an additional 15 years or that period agreed to by the Owner in its application for the credit), in accordance with the provisions of Section 42(h)(6)(E) of the Code.

5) The applicable fraction, as defined in Section 42(c)(1)(B) of the Code, is 1/1, which fraction shall not be decreased during any taxable year of the extended use period, except in accordance with the provisions described below.

6) The extended use period shall be the period beginning on the first day in the compliance period, as defined in Section 42 of the Code, on which a building is part of the qualified low-income housing Project, and extending into perpetuity (the longer of fifteen years or that period agreed to by the Owner in its application for tax credit) after the initial fifteen year compliance period; provided, however, that the extended use period shall terminate, subject to the provisions hereafter regarding low income tenancy and gross rent restrictions, on the date the building(s) are acquired by foreclosure (or instrument given in lieu of foreclosure). SHOULD THE EXTENDED USE PERIOD TERMINATE IN THIS FASHION, FOR A THREE YEAR PERIOD AFTER SUCH TERMINATION, NO LOW INCOME TENANT MAY BE EVICTED FOR OTHER THAN GOOD CAUSE, NOR MAY THE GROSS RENTS ATTRIBUTABLE TO THE LOW INCOME UNITS BE INCREASED BEYOND THAT PERMITTED UNDER THE CODE AND REGULATIONS PROMULGATED THEREUNDER.

7) This Agreement constitutes an 'agreement' between the parties which shall be enforceable in the courts of the State of Michigan by the Authority as the state credit agency, or by any individual(s), whether prospective, present, or former occupant(s) of the Project, who meet the income limitation applicable to the Project under Section 42(g) of the Code, such individuals being express beneficiaries of this Agreement.

8) The Owner agrees to obtain the consent of any prior recorded lien-holder on the property to this agreement, and such consent shall be a condition precedent to the issuance of IRS Form 8609, or any document constituting a carryover allocation.

- 9) The Owner covenants and agrees that no portion of a building to which this agreement applies may be disposed of, transferred, or sold, unless the entire building is disposed of, transferred, or sold to such person.
- 10) The Owner covenants and agrees that the refusal to lease a unit in a building covered by this Agreement to the holder of a voucher or certificate of eligibility under §8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder is prohibited.
- 11) It is the intent of the parties that these covenants constitute use and occupancy restrictions and be covenants running with the land, binding on all successors and assigns of each party.
- 12) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Section 42 of the Code and the provisions of this Agreement. Further, the Owner covenants to take any required action, including amendment of this Agreement, as may be necessary, in the opinion of the Authority, to comply with the Code and all applicable regulations, rules, and procedures of the Internal Revenue Service or the United States Department of Treasury.
- 13) The Owner hereby agrees that the representations and covenants set forth herein may be relied upon by the Authority.
- 14) The Owner covenants and agrees that it will maintain records at the Project and file reports with the Authority with respect to the occupancy and rent requirements and will permit the Authority to inspect such records at all reasonable times.
- 15) In the event the Authority determines that the Project is in non-compliance with the rent and occupancy requirements of Section 42 of the Code, and the Owner, upon notification by the Authority, does not take immediate steps to correct such non-compliance, the Authority shall notify the Internal Revenue Service, and shall be entitled to take such other actions as it deems necessary to enforce the provisions of the Code and this Agreement.
- 16) The Owner covenants and agrees to complete and send to the Authority an annual report, or, if more frequent reports are requested by an authorized officer of the Authority, status reports, in form and substance acceptable to the Authority, which shall demonstrate on-going compliance with the provisions of Section 42 of the Code.
- 17) The Owner covenants and agrees that, in the event it sells or otherwise transfers ownership of the Project or any part thereof, it will notify the Authority in writing and further, that it will enter into any such agreements with the purchaser or transferee as may be prescribed by the Authority, which have the effect of causing such purchaser or transferee to be bound by these restrictions, or any amendments thereto.
- 18) In the event of any conflict between the covenants contained in this Agreement and the requirements of the Code, the Code requirements shall prevail.

19) The invalidity of any clause or provision of this Agreement shall not affect the validity of the remaining portions thereof.

IN WITNESS WHEREOF, the parties have set their hands as of this 19th day of August, 1996.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY

Elizabeth A. Hunter
Elizabeth A. Hunter
Janet Irer
Janet Irer

By: Jeane L. Peterson
Jeane L. Peterson
Director of Legal Affairs

State of Michigan, Ingham County. The foregoing instrument was sworn and subscribed to before me this 19th day of August, 1996, by Jeane L. Peterson, Director of Legal Affairs, Michigan State Housing Development Authority.

CHARLENE K. JOHNSON
Notary Public, Eastern District of Michigan
Ingham County, Michigan
My Comm. Expires Aug. 13, 1998

Charlene K. Johnson
Notary Public
Ingham County, Michigan
My commission expires _____

SCRAMBLER LIMITED DIVIDEND HOUSING ASSOCIATION
(Owner) LIMITED PARTNERSHIP

By: Joseph H. Hollander
(Signature of Owner)

Susan M. Fender
SUSAN M. FENDER
Bruce E. Jensen
BRUCE E. JENSEN

JOSEPH H. HOLLANDER
(Typed Name of Owner)
834 KING HWY STE 107
KALAMAZOO, MI 49001
(Address of Owner)

State of Michigan, KALAMAZOO County.
The foregoing instrument was sworn and subscribed to before me

this 26th day of August, 1996, by

JOSEPH H. HOLLANDER, GENERAL PARTNER
(name) (title)

Susan M. Fender
SUSAN M. FENDER, Notary Public

PREPARED BY and RETURN TO:
Jeane L. Peterson
Director of Legal Affairs
MSHDA
PO Box 30044
Lansing, MI 48909

KALAMAZOO County, Michigan

My Commission expires: 8-3-2000

EXHIBIT A

The following described premises situated in the City of Portage
County of Kalamazoo
State of Michigan, to-wit:

Parcel 1: A parcel of land situated in the Northeast quarter of Section
9, Town 3 South, Range 11 West, described as follows:

Commencing at the Northeast corner of Section 9, Town 3 South, Range 11 West;
thence South along the East line of said Section a distance of 1997.34 feet;
thence North 89 49' 25" West 1585.0 feet; thence North 66.00 feet for the
place of beginning of the land hereinafter described; thence North 89 49' 25"
West 409.20 feet to a point on the Easterly line and 66.00 feet northerly of
the Southeast corner of the recorded Plat of "Southland Village No. 3"; thence
North along the Easterly line of said Plat 437.04 feet; thence North 18 34'
East along the Easterly line of said Plat, 352.52 feet to the Southerly line
of the recorded Plat of "Southland Village No. 2"; thence South 89 52' 40"
East along said Southerly line 169.72 feet; thence continuing along said
Southerly line North 70 East 135.35 feet; thence South 818.40 feet to the
place of beginning.

EXHIBIT B

The owner acknowledges that it has made certain representations with respect to the development, all of which remain true. Further, these criteria have been considered by the Authority in awarding tax credit and shall be binding on the owner and on any successor(s) in interest in the development unless the Authority, in its sole discretion, grants a specific waiver of any such requirement. All applicable are checked.

1. _____ Credit has been allocated to this development on the basis that a bona fide 501(c)(3) or 501(c)(4) nonprofit organization, having the fostering of housing as one of its exempt purposes and having no affiliation with or control by a for profit entity, has an ownership interest in the development and materially participates in the development's operation.
2. Credit has been allocated to this development on the basis that it is designed to serve and will serve the elderly population, that term being the most restrictive of the definition of "elderly" in the Authority's Act, any applicable tax abatement ordinance or resolution, or any applicable regulations under which the development has received assistance.
3. _____ Credit has been allocated to this development on the basis that it will serve developmentally disabled persons under a qualified program of the Michigan Department of Mental Health.
4. _____ Credit has been allocated to this development on the basis that it will serve either a homeless population or as transitional housing.
5. Credit has been allocated to this development on the basis that it will serve tenants at certain area median income restrictions below the maximums permitted and will also concomitantly reduce rents to those tenants. The number of units so assisted and the incomes of residents for those units is as follows:

29.4% of the units will be rented to families whose income does not exceed 50% of the area gross median income.

DRAFT REPORT



**PROJECT CAPITAL NEEDS ASSESSMENT
SPRING MANOR
610 MALL DRIVE
PORTAGE, MICHIGAN 49024**

**D3G PROJECT NUMBER:
2012-1940**

**DRAFT REPORT ISSUE DATE:
NOVEMBER 9, 2012**

**INSPECTION DATE:
NOVEMBER 1, 2012**

**PREPARED FOR:
BERKELEY POINT CAPITAL LLC
4550 MONTGOMERY AVENUE, SUITE 1100
BETHESDA, MARYLAND 20814**

Dale L. Baxter
Senior Construction Inspector

Signature

Mike Ferguson, P.E.
Director of Engineering Services

Signature

CORPORATE HEADQUARTERS ♦ 4121 COX ROAD, SUITE 200 ♦ GLEN ALLEN, VIRGINIA 23060-3316
804.358.2020 ♦ FAX 804.358.3003 ♦ WWW.D3G.BIZ

Providing nationwide service to protect your investments

DRAFT REPORT



EXECUTIVE PROPERTY DESCRIPTION

Property: Spring Manor
610 Mall Drive
Portage, Michigan 49024

Site Description: Spring Manor, located at 610 Mall Drive in Portage, Kalamazoo, County, Michigan consists of one (1) two and three-story age-restricted apartment building and one (1) one-story enclosed garage that is a part of one (1) of the carports at the north side of the apartment building. The age-restricted apartment building contains one hundred seven (107) dwelling units. According to the owner, the apartment building was constructed in 1995 and is situated on 7.047 acres according to the owner provided survey. According to the reviewed construction documents and field measurements, the gross area of the apartment buildings is 108,050 square feet. The property was observed in good physical condition. Additional improvements consist of paved parking areas, concrete sidewalks, and mature landscaping.

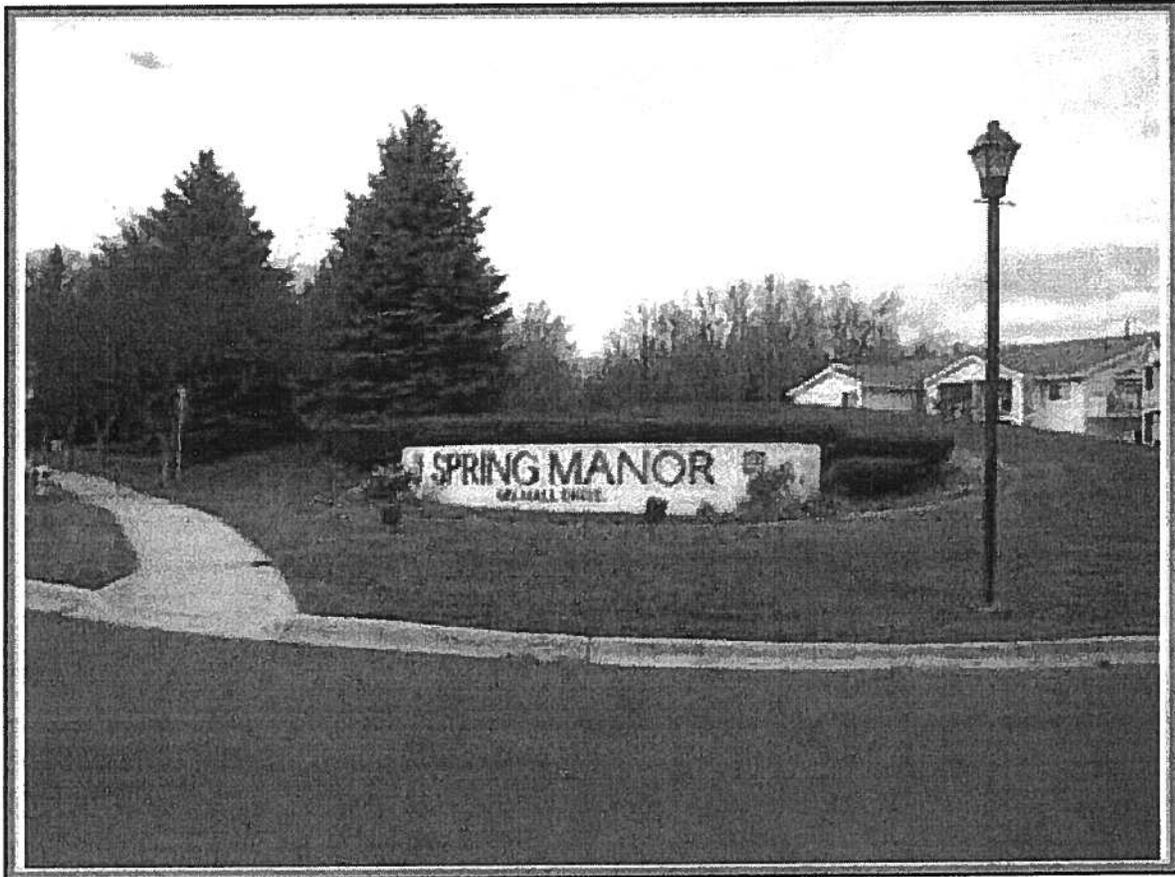


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DRAFT REPORT

Date of Construction: 1995

Zoning: Pending a response from the local municipality

Utility and Contract Services:

Electricity	-	Consumers Energy
Gas	-	Consumers Energy
Water	-	City of Portage
Sewer	-	City of Portage
Solid Waste	-	Best Way Disposal
Telephone	-	Charter
Pest Control	-	Eradico
Landscaping	-	Currently In-house / In 2013 - Devisser
Mechanical Service	-	A-1 Mechanical
Electrical	-	In-house
Plumbing	-	Roto-Rooter
Fire Protection	-	VanWall Fire Protection / Riverside
Elevator Service	-	Thyssen Krupp

1.3 Critical Repairs

Critical repairs are physical deficiencies that require immediate action as a result of existing potentially unsafe conditions, building code violations, poor or deteriorated conditions of a critical element or system, or a condition that if left "as is" would result in a critical element or system failure. Items with no cost are to be performed as routine maintenance tasks. Additionally included are issues that affect sustainable occupancy or egress to the property. An investigation of the subject property identified the following "Critical Repairs":

DRAFT REPORT

CRITICAL REPAIR (IMMEDIATE NEEDS)	TOTAL
<p>1. The surveyed dwelling unit kitchens were observed with only partial (electrical outlets located within the immediate vicinity of a water source) Ground Fault Circuit Interrupt (GFCI) protection for the countertop area electrical outlets. The installation of GFCI protection for all electrical outlets servicing a kitchen countertop area are required to be GFCI protected according to the most recent National Electric Code (NEC) guideline; therefore, the installation of GFCI protected outlets is required. (107 EA @ \$35.00)</p>	\$ 3,745.00
<p>2. The designated handicap dwelling unit kitchen and bathroom sinks, as well as the public/tenant usage unisex restrooms located adjacent to the community room and the hair-wash sink in the beauty salon were observed without proper anti-scald/abrasion protection on the exposed sink plumbing. The installation of anti-scald/abrasion protection on the exposed sin plumbing in these areas is required in order to comply with the American's with Disabilities Act Accessibility Guidelines (ADAAG) and the Americans National Standards Institute (ANSI A117.1). (23 EA @ \$35.00)</p>	\$ 805.00
<p>3. The lease office entrance door was observed with non-accessible (knob style) hardware. The installation of accessible (lever handled) door hardware is required in order to comply with ADAAG (1 EA @ \$125.00)</p>	\$ 125.00
<p>4. The concrete steps leading the entrance at the northwest corner of the structure were observed to be 4-foot wide and only feature metal handrails along one (1) side of these steps. It is therefore recommended that additional handrails be installed on the opposite side of these steps in order to prevent a potential fall hazard. (1 EA @ \$350.00)</p>	\$ 350.00
<p>5. Based upon the one hundred five (105) total parking spaces (62 carport spaces and 43 open spaces) available at the property, five (5) handicap designated parking spaces, inclusive of one (1) van accessible handicap parking space is required to comply with the American's with Disabilities Act Accessibility Guidelines (ADAAG). The subject property currently features ten (10) handicap parking spaces located on the left and right sides of the main entrance on the northeast side of the building. These handicap parking spaces feature vertical signs, pavement markings, and feature shared 5-foot wide and 8-foot wide access aisles with flush sidewalk access but none of the spaces are designated as van accessible. In addition, none of the carport spaces are designated as handicap accessible. In order to comply with ADAAG, as well as FHA, D3G recommends that one (1) of the existing handicap parking spaces with the shared 8-foot wide access aisle be designated as a van accessible handicap parking space for the property to comply with ADAAG and that one (1) of the carport spaces be designated as handicap accessible in order to comply with FHA. (1 Lump Sum @ \$225.00)</p>	\$ 225.00
TOTAL:	\$ 5,250.00

DRAFT REPORT

1.4 Non-Critical Repairs

Non-Critical Repairs are defined as physical deficiencies that include deferred maintenance, that may not warrant immediate attention, but requiring repairs or replacements that should be undertaken on a priority basis, taking precedence over routine preventative maintenance work within a zero to one-year time frame. Included are such physical deficiencies resulting from improper design, faulty installation, and/or substandard quality of original systems or materials. An investigation of the subject property identified the following Non-Critical Repairs:

NON-CRITICAL REPAIRS (12-MONTH PROPERTY CONDITION)	TOTAL
<p>1. The dwelling units do not feature a Carbon Monoxide (CO) detector in the dwelling units despite the natural gas-fired furnaces and water heaters that are located in the dwelling units. According to the National Conference of State Legislatures (at web address: http://www.ncsl.org/?tabid=13238), Michigan requires newly constructed and existing boarding houses, hotels, motels and other residential buildings where occupants are primarily transient in nature to install an operational carbon monoxide device in each area where a mechanism is present that provides a common source of heat from a fossil-fuel-burning furnace, boiler, or water heater. In addition, the State of Michigan authorizes the Director of the Department of Consumer and Industry Services to provide for the installation of at least one carbon monoxide device within the vicinity of the bedrooms within newly constructed or renovated single-family or multifamily dwellings. D3G's interpretation of Mich. Comp. Laws Ann. § 125.1504d and Mich. Comp. Laws Ann. § 125.1504f is that the apartment building is in compliance until a renovation is performed; however, the owner has elected to proceed with the installation of carbon monoxide detectors in the dwelling units even though the property is not required to do so until a renovation. (107 EA @ \$35.00)</p>	<p>\$ 3,745.00</p>
<p>2. It was reported by the owner that trouble with roof leaks at the leading edge of the roofs and overhangs has been recently occurring due to HVAC ductwork repairs that have been required at the subject property since original construction. In addition, the asphalt shingles are nearing the end of the Estimated Useful Life (EUL) for the asphalt shingles that were installed at the time of construction; therefore, D3G recommends replacement of the asphalt shingles and repair of the roof sheathing as necessary in order to prevent moisture intrusion. * (46,648 SF @ \$1.85)</p>	<p>\$ 86,298.80</p>
<p>3. The base cabinet in the ice-cream parlor/coffee shop does not feature removable base cabinets to allow for a forward approach at the sink nor does the ice-cream parlor/coffee shop kitchen area feature sufficient 30"X48" clear floor space at the sink area to allow for a parallel approach at the sink. It was reported that the ice-cream parlor/coffee shop kitchen area is available for usage by the tenants for social events; therefore, removal of the base cabinet at the sink area is recommended in order to comply with FHA. It is further recommended that the exposed sink plumbing be protected with anti-scald/abrasion protection and that the flooring be finished within the whole open area. (1 EA @ \$450.00)</p>	<p>\$ 450.00</p>
Total:	\$ 90,493.80

* It should be noted that the Detroit HUD Office hub requires three (3) estimates for repairs over \$25,000

DRAFT REPORT

1.5 Near Term (Replacement Reserve) Summary Table

Replacement reserves are defined as non-routine maintenance items that will require significant expenditure during the near term of the mortgage. Included are items that will reach the end of their Estimated Useful Life during the next ten (10) years or in the opinion of the engineer, will require attention during that time. An investigation of the subject property identified the items noted in Section 1.9, as requiring replacement, repair, or significant maintenance over the following 10-year period:

PROPERTY IMPROVEMENTS		
1- 10 YEAR TERM	TOTAL RESERVE	AVERAGE ANNUAL COST PER UNIT
Un-inflated Cost	\$630,842	\$590
Inflated Cost (2.5%/year)	\$711,936	\$665
RECOMMENDED INITIAL DEPOSIT CALCULATION: \$620,600 (\$ 5,800 /UNIT)		
RECOMMENDED ANNUAL DEPOSIT CALCULATION: \$58,850 (\$ 550 /UNIT)		

1.6 Long Term Summary Table

Long-term costs are defined as non-routine maintenance items that will require significant expenditure during the extended life (11-20 years) of the mortgage. Included are items that will reach the end of their Estimated Useful Life during the 11 to 20 year period of the loan, or in the opinion of the engineer, will require attention during that time. An investigation of the subject property identified the items noted in Section 1.9, as requiring replacement, repair, or significant maintenance over the 11 to 20 year period of the mortgage:

11-20 YEAR TERM	TOTAL RESERVE	AVERAGE ANNUAL COST PER UNIT
Un-inflated Cost	\$909,777	\$850
Inflated Cost (2.5%/year)	\$1,320,847	\$1,234

1.7 Remainder of Loan Term Summary Table

Remainder replacement reserves are defined as non-routine maintenance items that will require significant expenditure during the last portion of the 35-year mortgage, plus two additional years (21 to 37 years). Included are items that will reach the end of their Estimated Useful Life during this period. An investigation of the subject property identified the items noted in Section 1.9, as requiring replacement, repair, or significant maintenance during this period:

21-37 YEAR TERM	TOTAL RESERVE	AVERAGE ANNUAL COST PER UNIT
Un-inflated Cost	\$1,189,967	\$654
Inflated Cost (2.5%/year)	\$2,361,509	\$1,298

DRAFT REPORT

- The carport attached storage garage will require refurbishment during the loan term.

It should be noted that our reserve schedules do not include costs associated with routine maintenance (items less than \$500, plumbing and miscellaneous repairs included under the maintenance budget).

2.0 LIMITATIONS

This report has been prepared for, and can be relied upon by the Client, Berkeley Point Capital LLC, and the United States Department of Housing and Urban Development (HUD). This report was prepared in accordance with generally accepted industry standards of practice for building inspection services, including the ASTM E-2018 *Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process*, as well as the protocols outlined in HUD Handbook 4600.01 Revision 2 and 4460.1. In addition, the inspection was performed in accordance with the U.S. Department of Housing and Urban Development Multifamily Accelerated Processing (MAP) Guide, Chapters 5 and 6, Revised November 23, 2011. No other warranty, either expressed or implied, is made. This report is not to be reproduced, either in whole or in part, without written consent from D3G.

The statements in this report are professional opinions about the present condition of the subject property. They are based upon visual evidence available during the inspection of reasonably accessible areas at the subject property. We did not remove any surface materials, perform any destructive testing, or move any furnishings. The study is not an exhaustive technical evaluation. Such an evaluation would entail a significantly larger scope of work than was determined for this project. Accordingly, we cannot comment on the condition of systems that we could not see, such as buried structures and utilities, nor are we responsible for conditions that could not be seen or were not within the scope of our services at the time of inspection. We did not undertake activities that would completely assess the stability of the building or the underlying foundation soil since this effort would require excavation and destructive testing. Likewise, this is not a seismic assessment, nor do we make any conclusions or comments regarding wood destroying organisms/insects.

Our on-site observations pertain only to specific locations at specific times on specific dates. Our observations and conclusions do not reflect variations in conditions that may exist, in unexplored areas of the site, or at times other than those represented by our observations. Limited architectural drawings were available at the site for review during the inspection. This report and conclusions herein are based upon data collection between October 5, 2012 and November 9, 2012.

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING DIVISION 4 OF ARTICLE 2 OF CHAPTER 70, TAXATION, SPRING MANOR APARTMENTS (FORMERLY KNOWN AS MALL DRIVE APARTMENTS) PROVIDING FOR A SERVICE CHARGE IN LIEU OF TAXES.

THE CITY OF PORTAGE ORDAINS:

That Division 4 of Article 2 of Chapter 70, Taxation, is hereby amended as follows:

DIVISION 4. MALL DRIVE APARTMENTS PROJECT SPRING MANOR APARTMENTS

Sec. 70-111. Preamble.

It is acknowledged that the Spring Manor Apartments has received tax credits under the LIHTC Program from the authority and is subject to extended use and rent restrictions.

Sec. 70-1124. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the State Housing Development Authority Act (MCL 125.1401 et seq., MSA 116.114(1) et seq.).

Annual shelter rent means the total collections during a calendar year or part thereof from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electric or other utilities furnished the occupants.

Authority means the state housing development authority.

Elderly means those persons defined as elderly pursuant to the federally-aided mortgage loan program in which the sponsor participates.

LIHTC Program means the Low Income Housing Tax Credit Program administered by the authority under Section 42 of the Internal Revenue Code of 1986, as amended.

Housing development means a development which contains a significant element of housing for persons of low or moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the authority determines to improve the quality of the development as it relates to housing for persons of low or moderate income.

Mortgage loan means a federally-aided mortgage as defined in Section 11(c) of the Act the state housing development authority.

Senior citizen means those persons exempted under section 501(1)(c) of Public Act No. 453 of 1976 (MCL 37.2503(1)(c), MSA 3.548(503), (1)(c)) whose income does not exceed 60 percent of the county area median income adjusted for family size.

Sponsor means the persons who have applied to the authority for a federally-aided mortgage loan to finance a housing development.

Sec. 70-1132. Exemption of senior citizen housing developments.

It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes under this division shall be ~~senior center~~ elderly housing developments which are financed or assisted pursuant to the act (MCL 125.1401 et seq., MSA 6.114(1) et seq.). It is further determined that the housing development known as Mall Drive Spring Manor Apartments is of this class.

Sec. 70-1143. Amount of service charge on part of development occupied by senior citizens.

The housing development identified as Mall Drive Spring Manor aApartment Project and the property on which shall be constructed shall be exempt from all property taxes from and after the date when the project was refinanced and rehabilitation commenced. The city, acknowledging that the sponsor and the authority has established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this division and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this division, and in consideration of the Authority's allocation of the low income housing tax credit to the housing development and in consideration of the mortgage loan authority's offer to the sponsor to finance the sponsor's rehabilitation ~~make a mortgage loan to finance the sponsor's construction~~ of the housing development, subject to the satisfaction of all the terms and conditions of the mortgage loan commitment to the sponsor, hereby agrees to accept payment of a service charge for public services in lieu of all property taxes from the sponsor. The annual service charge shall be ~~four~~ five percent of the annual shelter rents on that part of the housing development which is occupied by ~~senior~~ elderly citizens, or the tax on the property on which the project is located for the tax year before the date rehabilitation construction commenced, whichever is greater. Effective the first full calendar year of operation, however, the annual service charge shall not be less than ~~\$32,283~~ 17,357.00 . The sponsor shall pay the annual service charge for a period of 15 years of operation, beginning after the commencement of construction issuance of a certificate of compliance for the rehabilitation project. Thereafter, for the 16th through the 35th years, the annual service charge shall be reviewed, and if ~~the a mortgage loan from the authority~~ federally-aided mortgage loan is still in effect, the annual service charge stated in this section shall not change.

~~**Sec. 70-114. Amount of service charge on part of development occupied by other than senior citizens.**~~

~~Notwithstanding section 70-113, the service charge to be paid each year in lieu of taxes for that part of the housing development which is tax exempt and which is occupied by other than senior citizens shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.~~

Sec. 70-115. Contractual effect of division.

Notwithstanding the provisions of section 15a(5) of the act (MCL 125.1415a(5)), to the contrary, a contract between the city and the Authority with the sponsor as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as described in this division, is effectuated by enactment of this division.

Sec. 70-116. Payment of service charge.

The service charge in lieu of taxes, as determined according to this division, shall be payable in the same manner as general property taxes are payable to the city, except that the annual payment shall be made as follows:

- (1) ~~One-half of~~ The minimum payment of \$32,283.00 is due on or before December 31 of each year.
- (2) ~~One-half of the minimum payment, plus~~ Based on an audit all additional amounts owing from the previous year, is due by July 1 of each year.

Sec. 70-117. Verification of annual shelter rent.

The sponsor shall verify annual shelter rent revenues to the city with a statement of profit and loss as reported ~~by the sponsor to the state housing development authority or other form of financial documentation deemed suitable by the city.~~

Sec. 70-118. Effective period of division.

This division shall:

- (1) Become effective only after sponsor receives and closes a federally-aided mortgage loan; and
- (2) Remain in effect and shall not terminate so long as a federally-aided mortgage loan remains outstanding and unpaid, but not to exceed thirty-five (35) years from the closing of a federally-aided mortgage loan, or so long as the housing development remains subject to the extended use restrictions of the LIHTC program, or the Authority has any interest in the property, provided that rehabilitation of the housing development commences within one year from the effective date of the ordinance codified in this division. Upon satisfaction in full of any the federally-aided mortgage loan, this division shall automatically terminate.

~~This division shall remain in effect and shall not terminate so long as a mortgage loan remains outstanding and unpaid, or the state housing development authority has any interest in the property, provided that rehabilitation of the housing development commences within one year from the effective date of the ordinance codified in this division. Upon satisfaction in full of the authority mortgage loan, this division shall automatically terminate.~~

Peter J. Strazdas, Mayor

FIRST READING: _____

SECOND READING: _____

ORDINANCE #: _____

EFFECTIVE DATE: _____

CERTIFICATION

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the __ day of _____, 2013.

James R. Hudson, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
City Attorney
1662 East Centre Avenue
Portage, MI 49002

Approved as to Form:

Date: _____

City Attorney

| Z:\Jody\PORTAGE\ORD\NONZONE\PILOT Spring Manor - amending Mall Drive Apt.031313.doc

**FIRST READING
CITY OF PORTAGE, MICHIGAN
NOTICE**

**TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF PORTAGE AND
ALL OTHER INTERESTED PERSONS.**

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Article 2 of Chapter 70, Taxation, of the Codified Ordinances of Portage, Michigan, was introduced for first reading at a regular meeting of the City Council held on _____, 2013, and that the Council will hold a public hearing on the proposed amendment at the Portage City Hall in said City on _____, 2013, at 7:30 p.m. or as soon thereafter as may be heard.

NOTICE IS FURTHER GIVEN that the proposed amendment to Article 2 of Chapter 70, Taxation, of the Codified Ordinances of Portage, Michigan reads as follows:

THE CITY OF PORTAGE ORDAINS:

That Division 4 of Article 2 of Chapter 70, Taxation, is hereby amended as follows:

DIVISION 4. SPRING MANOR APARTMENTS

Sec. 70-111. Preamble.

It is acknowledged that the Spring Manor Apartments has received tax credits under the LIHTC Program from the authority and is subject to extended use and rent restrictions.

Sec. 70-112. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the State Housing Development Authority Act (MCL 125.1401 et seq., MSA 116.114(1) et seq.).

Annual shelter rent means the total collections during a calendar year or part thereof from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electric or other utilities furnished the occupants.

Authority means the state housing development authority.

Elderly means those persons defined as elderly pursuant to the federally-aided mortgage loan program in which the sponsor participates.

LIHTC Program means the Low Income Housing Tax Credit Program administered by the authority under Section 42 of the Internal Revenue Code of 1986, as amended.

Housing development means a development which contains a significant element of housing for persons of low or moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the authority determines to improve the quality of the development as it relates to housing for persons of low or moderate income.

Mortgage loan means a federally-aided mortgage as defined in Section 11(c) of the Act.

Senior citizen means those persons exempted under section 501(1)(c) of Public Act No. 453 of 1976 (MCL 37.2503(1)(c), MSA 3.548(503), (1)(c)) whose income does not exceed 60 percent of the county area median income adjusted for family size.

Sponsor means the persons who have applied for a federally-aided mortgage loan to finance a housing development.

Sec. 70-113. Exemption of senior citizen housing developments.

It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes under this division shall be elderly housing developments which are financed or assisted pursuant to the act (MCL 125.1401 et seq., MSA 6.114(1) et seq.). It is further determined that the housing development known as Spring Manor Apartments is of this class.

Sec. 70-114. Amount of service charge on part of development occupied by senior citizens.

The housing development identified as Spring Manor Apartments Project and the property on which shall be constructed shall be exempt from all property taxes from and after the date when the project was refinanced and rehabilitation commenced. The city, acknowledging that the sponsor has established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this division and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this division, and in consideration of the Authority's allocation of the low income housing tax credit to the housing development and in consideration of the mortgage loan to the sponsor to finance the sponsor's rehabilitation of the housing development, subject to the satisfaction of all the terms and conditions of the mortgage loan commitment to the sponsor, hereby agrees to accept payment of a service charge for public services in lieu of all property taxes from the sponsor. The annual service charge shall be five percent of the annual shelter rents on that part of the housing development which is occupied by elderly citizens, or the tax on the property on which the project is located for the tax year before the date rehabilitation commenced, whichever is greater. Effective the first full calendar year of operation, however, the annual service charge shall not be less than \$32,283.00. The sponsor shall pay the annual service charge for a period of 15 years of operation, beginning after the issuance of a certificate of compliance for the rehabilitation project. Thereafter, for the 16th through the 35th years, the annual service charge shall be reviewed, and if a federally-aided mortgage loan is still in effect, the annual service charge stated in this section shall not change.

Sec. 70-115. Contractual effect of division.

Notwithstanding the provisions of section 15a(5) of the act (MCL 125.1415a(5)), to the contrary, a contract between the city and the Authority with the sponsor as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as described in this division, is effectuated by enactment of this division.

Sec. 70-116. Payment of service charge.

The service charge in lieu of taxes, as determined according to this division, shall be payable in the same manner as general property taxes are payable to the city, except that the annual payment shall be made as follows:

- (1) The minimum payment of \$32,283.00 is due on or before December 31 of each year.
- (2) Based on an audit all additional amounts owing from the previous year, is due by July 1 of each year.

Sec. 70-117. Verification of annual shelter rent.

The sponsor shall verify annual shelter rent revenues to the city with a statement of profit and loss as reported by the sponsor or other form of financial documentation deemed suitable by the city.

Sec. 70-118. Effective period of division.

This division shall:

- (1) Become effective only after sponsor receives and closes a federally-aided mortgage loan; and
- (2) Remain in effect and shall not terminate so long as a federally-aided mortgage loan remains outstanding and unpaid, but not to exceed thirty-five (35) years from the closing of a federally-aided mortgage loan, or so long as the housing development remains subject to the extended use restrictions of the LIHTC program, provided that rehabilitation of the housing development commences within one year from the effective date of the ordinance codified in this division. Upon satisfaction in full of any federally-aided mortgage loan, this division shall automatically terminate.

Dated: _____

James R. Hudson, City Clerk

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING DIVISION 4 OF ARTICLE 2 OF CHAPTER 70, TAXATION, SPRING MANOR APARTMENTS (FORMERLY KNOWN AS MALL DRIVE APARTMENTS) PROVIDING FOR A SERVICE CHARGE IN LIEU OF TAXES.

THE CITY OF PORTAGE ORDAINS:

That Division 4 of Article 2 of Chapter 70, Taxation, is hereby amended as follows:

DIVISION 4. SPRING MANOR APARTMENTS

Sec. 70-111. Preamble.

It is acknowledged that the Spring Manor Apartments has received tax credits under the LIHTC Program from the authority and is subject to extended use and rent restrictions.

Sec. 70-112. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the State Housing Development Authority Act (MCL 125.1401 et seq., MSA 116.114(1) et seq.).

Annual shelter rent means the total collections during a calendar year or part thereof from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electric or other utilities furnished the occupants.

Authority means the state housing development authority.

Elderly means those persons defined as elderly pursuant to the federally-aided mortgage loan program in which the sponsor participates.

LIHTC Program means the Low Income Housing Tax Credit Program administered by the authority under Section 42 of the Internal Revenue Code of 1986, as amended.

Housing development means a development which contains a significant element of housing for persons of low or moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the authority determines to improve the quality of the development as it relates to housing for persons of low or moderate income.

Mortgage loan means a federally-aided mortgage as defined in Section 11(c) of the Act.

Senior citizen means those persons exempted under section 501(1)(c) of Public Act No. 453 of 1976 (MCL 37.2503(1)(c), MSA 3.548(503), (1)(c)) whose income does not exceed 60 percent of the county area median income adjusted for family size.

Sponsor means the persons who have applied for a federally-aided mortgage loan to finance a housing development.

Sec. 70-113. Exemption of senior citizen housing developments.

It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes under this division shall be elderly housing developments which are financed or assisted pursuant to the act (MCL 125.1401 et seq., MSA 6.114(1) et seq.). It is further determined that the housing development known as Spring Manor Apartments is of this class.

Sec. 70-114. Amount of service charge on part of development occupied by senior citizens.

The housing development identified as Spring Manor Apartments Project and the property on which shall be constructed shall be exempt from all property taxes from and after the date when the project was refinanced and rehabilitation commenced. The city, acknowledging that the sponsor has established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this division and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this division, and in consideration of the Authority's allocation of the low income housing tax credit to the housing development and in consideration of the mortgage loan to the sponsor to finance the sponsor's rehabilitation of the housing development, subject to the satisfaction of all the terms and conditions of the mortgage loan commitment to the sponsor, hereby agrees to accept payment of a service charge for public services in lieu of all property taxes from the sponsor. The annual service charge shall be five percent of the annual shelter rents on that part of the housing development which is occupied by elderly citizens, or the tax on the property on which the project is located for the tax year before the date rehabilitation commenced, whichever is greater. Effective the first full calendar year of operation, however, the annual service charge shall not be less than \$32,283.00. The sponsor shall pay the annual service charge for a period of 15 years of operation, beginning after the issuance of a certificate of compliance for the rehabilitation project. Thereafter, for the 16th through the 35th years, the annual service charge shall be reviewed, and if a federally-aided mortgage loan is still in effect, the annual service charge stated in this section shall not change.

Sec. 70-115. Contractual effect of division.

Notwithstanding the provisions of section 15a(5) of the act (MCL 125.1415a(5)), to the contrary, a contract between the city and the Authority with the sponsor as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as described in this division, is effectuated by enactment of this division.

Sec. 70-116. Payment of service charge.

The service charge in lieu of taxes, as determined according to this division, shall be payable in the same manner as general property taxes are payable to the city, except that the annual payment shall be made as follows:

- (1) The minimum payment of \$32,283.00 is due on or before December 31 of each year.

- (2) Based on an audit all additional amounts owing from the previous year, is due by July 1 of each year.

Sec. 70-117. Verification of annual shelter rent.

The sponsor shall verify annual shelter rent revenues to the city with a statement of profit and loss as reported by the sponsor or other form of financial documentation deemed suitable by the city.

Sec. 70-118. Effective period of division.

This division shall:

- (1) Become effective only after sponsor receives and closes a federally-aided mortgage loan; and
- (2) Remain in effect and shall not terminate so long as a federally-aided mortgage loan remains outstanding and unpaid, but not to exceed thirty-five (35) years from the closing of a federally-aided mortgage loan, or so long as the housing development remains subject to the extended use restrictions of the LIHTC program, provided that rehabilitation of the housing development commences within one year from the effective date of the ordinance codified in this division. Upon satisfaction in full of any federally-aided mortgage loan, this division shall automatically terminate.

Peter J. Strazdas, Mayor

FIRST READING: _____

SECOND READING: _____

ORDINANCE #: _____

EFFECTIVE DATE: _____

CERTIFICATION

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the ___ day of _____, 2013.

James R. Hudson, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
City Attorney
1662 East Centre Avenue
Portage, MI 49002

Approved as to Form:

Date: 3/28/13


City Attorney

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: Public Hearing on Fiscal Year 2013-2014 Budget

SUPPORTING PERSONNEL: Daniel Foecking, Director of Finance

ACTION RECOMMENDED: That City Council adopt the Resolution setting a public hearing on May 14, 2013 for the Fiscal Year 2013-2014 proposed city budget and the proposed 2013 tax levy.

EXECUTIVE SUMMARY:

During the April 9, 2013 City Council meeting, the Fiscal Year 2013-2014 proposed budget was presented by the City Administration in accordance with provisions of the City Charter, consistent with the Goals and Objectives adopted by the City Council. The next step of the process for adoption of the proposed budget is setting the appropriate public hearing on the budget and the tax rate.

BACKGROUND INFORMATION:

In order to permit adoption of the Fiscal Year 2013-2014 Budget on May 28, 2013 and satisfy the requirements of the City Charter and state law, a public hearing must be held at the regular City Council meeting of May 14, 2013.

Public Act 5 of 1982 requires that any millage rate above the "base tax rate" must be identified separately in the Notice of Public Hearing on the proposed 2013 tax levy. The "base tax rate" as defined by Public Act 5 of 1982 is the prior year operating millage adjusted for the inflationary growth in the Taxable Value of property in the city. As the proposed tax levy does not exceed the base tax rate, no Truth in Taxation hearing is required for 2013. However, a public hearing on the proposed budget and the tax rate needed to support the proposed budget is still required.

City Council adoption of the attached Resolution is recommended.

FUNDING: N/A

Attachments: Resolution setting the budget hearing for May 14, 2013

CITY OF PORTAGE
RESOLUTION OF CITY OF PORTAGE

Minutes of a regular meeting of the City Council for the City of Portage, Michigan held on April 23, 2013 at 7:30 p.m. local time at the Council Chambers in the City of Portage, Michigan.

Present: _____

Absent: _____

The following resolution was offered by:

Councilmember _____, and supported by:

Councilmember _____.

NOW THEREFORE, BE IT RESOLVED:

That the City of Portage set a public hearing for 7:30 p.m., or as soon thereafter as may be heard, on May 14, 2013, on the proposed 2013-2014 City budget as required by Chapter Seven of the City Charter and state law.

Be it further resolved:

That notice, in substantially the following form, be published in a newspaper of general circulation within the City, giving notice of the City's intent to set the public hearing.

CITY OF PORTAGE, MICHIGAN
NOTICE OF PUBLIC HEARING
ON PROPOSED CITY BUDGET AND
PROPOSED PROPERTY TAXES

The City Council of the City of Portage will hold a public hearing at 7:30 p.m., or as soon thereafter as may be heard, on May 14, 2013 in the Council Chambers at 7900 South Westnedge Avenue on the proposed 2013-2014 City budget and on the proposed 2013 City tax levy. Copies of the proposed budget are available for public inspection during regular business hours in the offices of the City Clerk and the Finance Director.

The hearing is being held for the purpose of receiving testimony and discussing the proposed levy of the millage needed to support the proposed budget.

Public comments, oral or written, are welcome at the hearing on the proposed City budget and the proposed millage rate.

This notice published by: CITY OF PORTAGE
7900 SOUTH WESTNEDGE AVENUE
PORTAGE, MICHIGAN 49002
(269) 329-4412

Dated: _____, 2013

City Clerk

AYES: Councilmember _____

NAYS: Councilmember _____

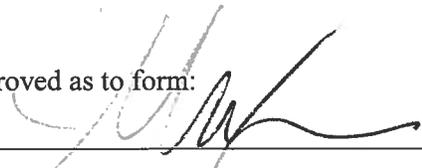
ABSENT: Councilmember _____

RESOLUTION DECLARED ADOPTED: _____

I hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan held on April 23, 2013, the original of which is in the official proceedings of the City Council.

City Clerk

Approved as to form:



John R. Axe, Axe and Ecklund PC

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager 

SUBJECT: 2012 Local Street Paving Reconstruction – Additional Street Recommendations

SUPPORTING PERSONNEL: W. Christopher Barnes, Director of Transportation & Utilities

ACTION RECOMMENDED:

That City Council approve:

- a) a budget amendment to transfer \$200,000 from the Fiscal Year 2012-13 General Fund budget to the Fiscal Year 2012-13 Capital Improvement Fund budget;
 - b) a change order in the not to exceed amount of \$191,601 for additional street reconstruction at extended unit pricing with Michigan Paving & Materials Company to expand the 2012 Local Street Reconstruction Program;
 - c) a contract amendment with Jones & Henry Engineers, LTD, for construction administration and material testing for the streets added to the 2012 Local Street Reconstruction Program at no increase in hourly rate in the not to exceed amount of \$27,350; and
- authorize the City Manager to execute all documents related to this action on behalf of the city.

EXECUTIVE SUMMARY:

One of City Council's adopted goals regarding transportation is to "*continue to plan and implement improvements to move people and commerce safely and effectively through the community.*" A Council objective to reach this goal is to "*continue appropriate improvement of the local street system.*" The City Administration has maximized favorable pricing regarding street projects over the years to address this goal and objective. Due to the favorable pricing received for projects in the spring of 2012, street project savings have been realized in the Local Street funding. Additionally, previously accumulated funds were encumbered in the General Fund for additional street paving purposes. As a result, a fund transfer of \$200,000 is being recommended to support additional paving work. The additional Local Street projects are being recommended for approval through a change order to Michigan Paving & Materials Company for projects in the 2013 construction season. In addition, a construction administrative services contract for this additional street work with Jones & Henry Engineers, LTD, is being recommended.

BACKGROUND INFORMATION:

The Fiscal Year 2012-2013 Capital Improvement Program budget includes funding for the reconstruction of selected local streets. Bids were received on May 24, 2012 to perform the work with the low bid submitted by Michigan Paving & Materials Company of Kalamazoo, Michigan. On June 12, 2012, City Council awarded a contract to Michigan Paving & Materials Company in the amount of \$750,784.77. To maximize favorable pricing and utilize surplus funds remaining in the 2012-13 Local Street fund, the City Administration is recommending a change order to resurface additional streets under this contract. Monies previously accumulated and encumbered in the

General Fund are programmed for transfer to the Capital Improvement Fund to support a portion of this work. Project savings realized during the 2012 construction year will fund the remainder of the work. Additionally, the City Administration has negotiated a unit price reduction with Michigan Paving & Materials for the asphalt materials noted in the contract for the additional local street reconstruction locations.

Additional street reconstruction locations have been identified based on street conditions, as determined by the Pavement Surface Evaluation and Rating (PASER) road classification system and continuity with the current 2012 Local Street Reconstruction program. If approved by City Council, this additional paving will be included for completion under the current contract during the 2013 construction season. The additional street locations include:

Cheshire Street, Farnham to Pittsford
Farnham Avenue, Cheshire to Belard
Cranston Street, Farnham to Pittsford
Pittsford Avenue, Meredith to Dead End
Mount Vernon Avenue, Milham to Dead End
Alice Avenue, Mount Vernon to Monticello
Portside Avenue, Mariner to Spinnaker

Spinnaker Street, Bay Side to Stanley
Sailor Court, Bay Side to Cul-de-sac
Sea Breeze Court, Bay Side to Cul-de-sac
Bay Side Avenue, Mariner to Sea Breeze
Joshua Tree Court, Brickleton Woods to Cul-de-sac
Brickleton Woods Drive, Joshua Tree to Romence
Shallowford Way, Brickleton Woods to Cul-de-sac

City Council awarded a contract to Jones & Henry Engineers, LTD, on June 12, 2012 for project layout, construction inspection and material testing for Local Street Reconstruction projects. Jones & Henry Engineers, LTD, has submitted a proposal to add the additional engineering services required for the expanded work in the amount of \$27,350 at no hourly increase. Jones & Henry, LTD, performed timely and professional services during the 2012 Local Street Reconstruction project. After reviewing the proposal, the City Administration is confident that the fee proposal represents an exceptional value for the required construction administrative services.

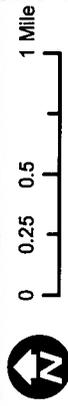
It is recommended that City Council approve a budget amendment to transfer \$200,000 from the Fiscal Year 2012-13 General Fund budget to the Fiscal Year 2012-13 Capital Improvement budget; approve a contract change order to Michigan Paving & Materials Company for additional locations in the 2012 Local Street Reconstruction Program in the not to exceed amount of \$191,601; a contract amendment with Jones & Henry Engineers, Ltd, for additional construction administration and material testing in the not to exceed amount of \$27,350 and authorize the City Manager to execute all documents related to this action on behalf of the city.

FUNDING: Budget savings in the General Fund to be transferred to the Capital Improvement Fund.

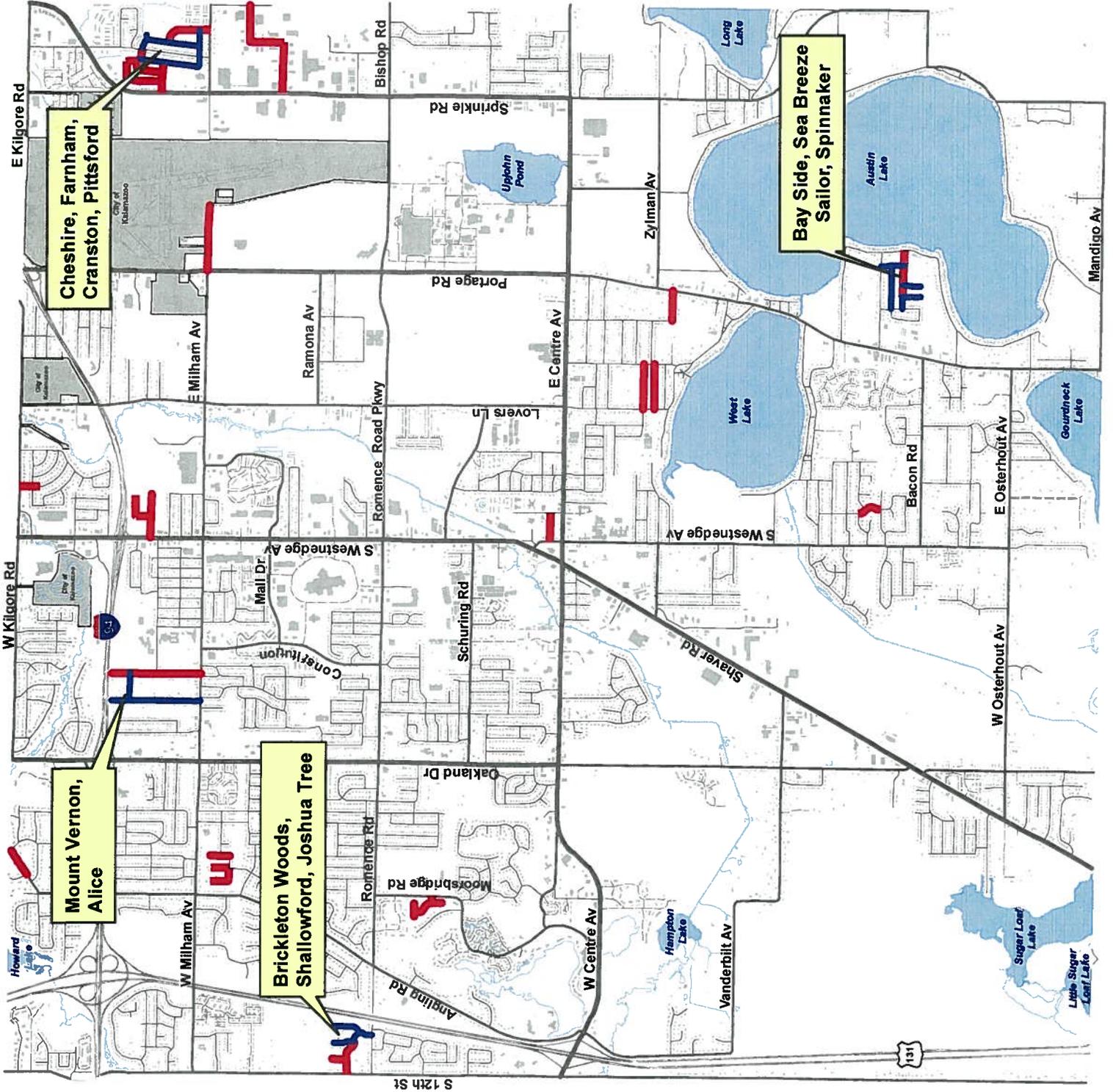
Attachments: 2012 Local Street Reconstruction Program map



2012 LOCAL STREET RECONSTRUCTION PROGRAM



- Legend**
- Local Street Paving
 - Local Street Paving (additional locations)



TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: 6301 Newport Road Easement Request - Consumers Energy

SUPPORTING PERSONNEL: W. Christopher Barnes, Director of Transportation & Utilities

ACTION RECOMMENDED: That City Council adopt a Resolution to grant an access easement to Consumers Energy over a portion of city-owned property addressed as 6301 Newport Road, place the Resolution on file with the City Clerk for 28 days, take final action on May 28, 2013 and authorize the City Manager to execute the access easement on behalf of the city.

EXECUTIVE SUMMARY:

Consumers Energy is requesting an easement over city-owned land at 6301 Newport Road in order to access transmission poles. An easement agreement to address this request has been prepared for Council's review and approval.

BACKGROUND INFORMATION:

Consumers Energy owns and operates an electrical transmission line adjacent to the west side of the Grand Elk (formerly Penn Central) railroad line. To access the transmission poles at a location between East Milham Avenue and Romence Road Parkway, Consumers Energy has requested an easement across City of Portage property. The property is currently used as a storm water retention basin. Consumers Energy has indicated that they do not have adequate room to access the existing electrical line from East Milham Avenue, due to conflicts with the railroad crossing systems, curbing and sidewalk. It is also safer to allow Consumers Energy vehicles to access the electrical line from Newport Road instead of East Milham Avenue. The easement area request is approximately a 135 feet by 16 feet rectangular piece of land, as shown on the enclosed map. The proposed access easement will not impact city operations or functions.

The City Attorney has prepared the accompanying Resolution with the legal description of the proposed access easement area. Approval of the Resolution and authorization of the City Manager to execute the access easement on behalf of the city is recommended subsequent to final action by City Council on May 28, 2013. If approved, the Resolution will be placed on file in the Office of the City Clerk for 28 days as required by the City Charter.

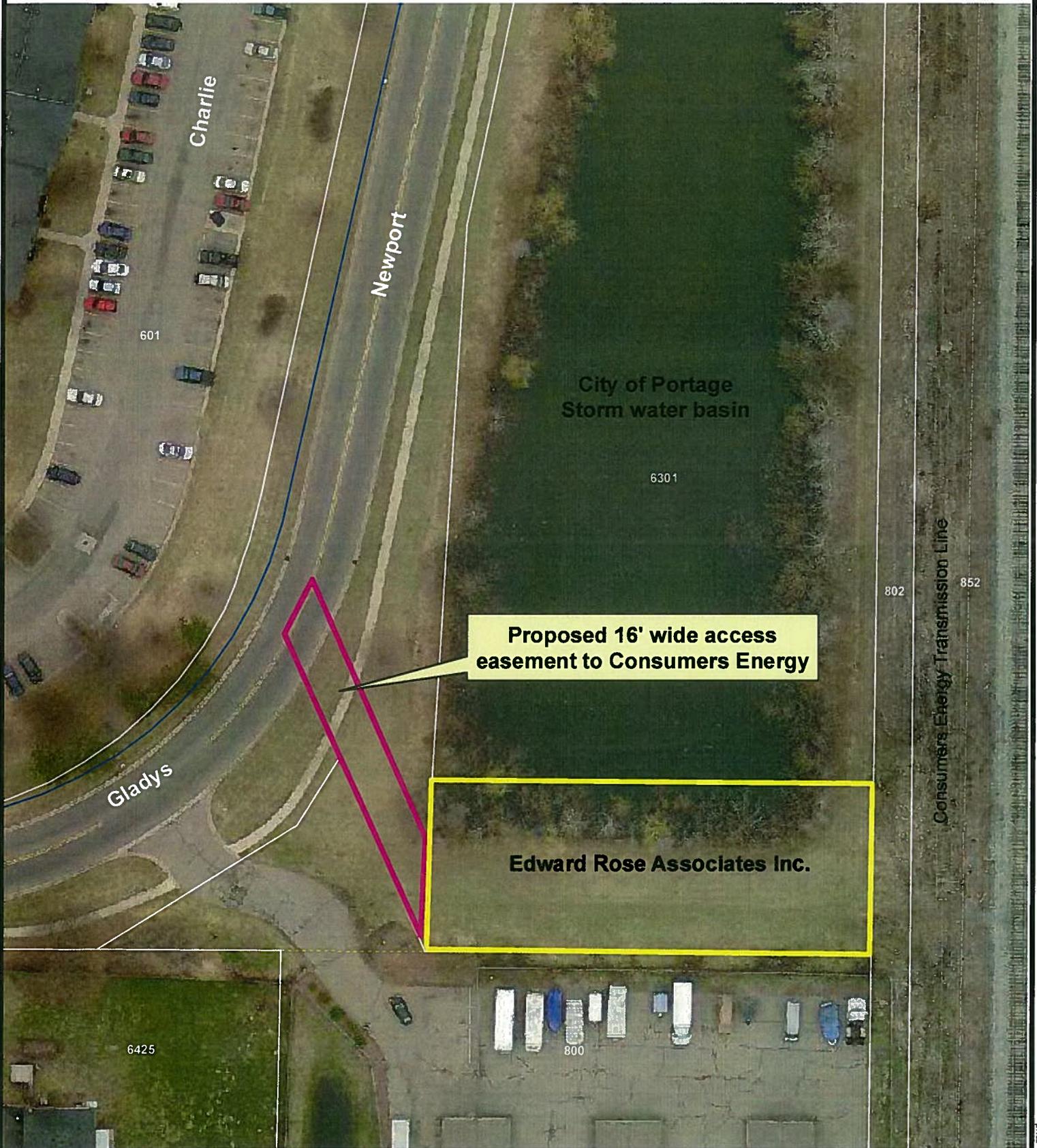
FUNDING: N/A

Attachment: Aerial Location Map
Resolution

Vicinity Map

6301 Newport Road

Access Easement



Proposed 16' wide access easement to Consumers Energy

Edward Rose Associates Inc.



**RESOLUTION NO. 1
CITY OF PORTAGE, MICHIGAN**

**RESOLUTION OF INTENT TO GRANT ACCESS EASEMENT TO
CONSUMERS ENERGY COMPANY**

At a regular meeting of the Council of the City of Portage, Kalamazoo County, Michigan, held at the City Hall in said City on the _____ day of _____, 2013 at 7:30 p.m., local time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following resolution was offered by Councilmember _____ and seconded by Councilmember _____.

WHEREAS, Consumers Energy Company, a Michigan corporation, of One Energy Plaza, Jackson, Michigan 49201 ("Grantee") owns an electric transmission line adjacent to the Grand Elk (formerly New York Central) Railroad and provides electrical service per a city franchise;

WHEREAS, Grantee is requesting an easement on city property to provide access to distribution and transmission of electrical services lines at 6301 Newport Road, City of Portage;

NOW, THEREFORE, BE IT RESOLVED, that the City Council for the City of Portage intends to grant an access easement to Grantee being 16 feet in width over land in the City of Portage, County of Kalamazoo, State of Michigan, described as follows:

A parcel of land situated in the Northwest quarter of Section 10, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan and more particularly described as follows:

Commencing at the North 1/4 corner of Section 10 and running thence S 01° 02' 17" W 2330.72 feet to a point 14 feet, more or less, South of an existing power pole (#1149) owned by Grantee; thence N 89° 40' 26" W 240.37 feet, along a line that is 44 feet South of and parallel with the South line of a parcel of land described in a Quit-Claim Deed recorded as Instrument No. 2008-00411, Kalamazoo County Records, to a point 8 feet Northeasterly of (measured perpendicular to) the Easterly line of a parcel of land described in a Warranty

Deed recorded as Instrument No. 2009-031221, Kalamazoo County Records, as monumented, and the point of beginning of this centerline description; thence N 23° 00' 03" W. parallel with and 8 feet Northeasterly of said Easterly line, 140.70 feet to the centerline of Newport Road, being a point S 08° 43'42" W 225.21 feet from the North 1/4 corner of Section 10, and the point of ending of this centerline description.

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

All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

ADOPTED: _____

AYES: Councilmember _____

NAYS: Councilmember _____

ABSENT: Councilmember _____

James R. Hudson, City Clerk

CERTIFICATION

STATE OF MICHIGAN)
)
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified City Clerk of the City of Portage, Kalamazoo County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said City, held on the ____ day of _____, 2013, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this ____ day of _____, 2013.

JAMES R. HUDSON, City Clerk

Approved as to Form

Date: 3/20/13

[Signature]

City Attorney

EXHIBIT A

**CITY OF PORTAGE, MICHIGAN
NOTICE OF INTENTION TO GRANT ACCESS EASEMENT TO CONSUMERS ENERGY
COMPANY IN THE CITY OF PORTAGE, MICHIGAN**

PLEASE TAKE NOTICE, that on the ____day of _____, 2013, the City Council for the City of Portage adopted a resolution providing notice of intent to grant an access easement being 16 feet in width over the property described below to Consumers Energy Company of One Energy Plaza, Jackson, Michigan 49201:

A parcel of land situated in the Northwest quarter of Section 10, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan and more particularly described as follows:

Commencing at the North 1/4 corner of Section 10 and running thence S 01° 02' 17" W 2330.72 feet to a point 14 feet, more or less, South of an existing power pole (#1149) owned by Grantee; thence N 89° 40' 26" W 240.37 feet, along a line that is 44 feet South of and parallel with the South line of a parcel of land described in a Quit-Claim Deed recorded as Instrument No. 2008-00411, Kalamazoo County Records, to a point 8 feet Northeasterly of (measured perpendicular to) the Easterly line of a parcel of land described in a Warranty Deed recorded as Instrument No. 2009-031221, Kalamazoo County Records, as monumented, and the point of beginning of this centerline description; thence N 23° 00' 03" W. parallel with and 8 feet Northeasterly of said Easterly line, 140.70 feet to the centerline of Newport Road, being a point S 08° 43'42" W 225.21 feet from the North 1/4 corner of Section 10, and the point of ending of this centerline description.

PLEASE TAKE FURTHER NOTICE that the resolution authorizing this action is on file with the City Clerk and open for public inspection. Said document will be so held by the City Clerk for twenty-eight (28) days after publication of this notice and may be inspected at the Clerk's Office at City Hall on any business day except public and legal holidays from and after publication of this Notice from 8:00 a.m. to 5:00 p.m. local time. Any person(s) objecting to this grant of easement should make their objection known to the City Council within twenty-eight (28) days of the publication of this notice. After said twenty-eight (28) day period, the City Council may take final action and convey the easement.

Dated: _____, 2013

James R. Hudson, City Clerk

Z:\Jody\PORTAGE\RES\Resolution #1 to Grant Easement Consumers Energy.032013.doc

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager 

SUBJECT: New Hotel B Liquor License – 400 Trade Centre Way

SUPPORTING PERSONNEL: James Hudson, City Clerk

ACTION RECOMMENDED: That City Council adopt the resolution granting the request for a new Hotel B Liquor License to C.Y. of Portage for 400 Trade Centre Way, Portage, MI 49002.

EXECUTIVE SUMMARY:

A new 90-room Courtyard by Marriott hotel is being constructed at 400 Trade Centre Way. Marriott is requesting approval of a new Hotel B Liquor License and per the State of Michigan Liquor Control Code of 1998, City Council approves the application by adopting the appropriate MMLC resolution. The particular “Hotel B” license is delineated by MCL 436.1107.

BACKGROUND INFORMATION:

The Michigan Liquor Control Commission requires City Council consideration of the attached Resolution for a new Class B-Hotel License for C.Y. of Portage for an establishment to be located at the new Courtyard by Marriott currently under construction on Trade Centre Way. This type of license will allow the hotel to sell beer, wine, spirits and mixed drinks for consumption on the premises and in the rooms of guests. The Community Development, Fire and Finance departments recently completed approvals for this request, subject to final inspection once construction is completed. Therefore, it is recommended that City Council adopt the Local Government Approval Resolution for the Class B Hotel Liquor License for C.Y. of Portage.

FUNDING: N/A

Attachments: Local Government Approval Resolution



Michigan Department of Licensing and Regulatory Affairs
 Liquor Control Commission (MLCC)
 7150 Harris Drive, P.O. Box 30005 - Lansing, Michigan 48909-7505
 Toll Free (866) 813-0011 • www.michigan.gov/lcc

Business ID: _____

Request ID: _____

(For MLCC use only)

Local Government Approval

(Authorized by MCL 436.1501)

Instructions for Applicants:

- Provide a copy of your Application for New Licenses, Permits, or Transfer of Ownership or Interest in License (form LCC-3011 for Retail or form LCC-3015 for Manufacturers and Wholesalers) to the local unit of government.

Instructions for Local Legislative Body:

- Complete this resolution, or provide a resolution, a letter of certification from the clerk, or minutes from the meeting at which this request was considered.

At a _____ meeting of the _____ council/board
(regular or special) (township, city, village)
 called to order by _____ on _____ at _____
(date) (time)
 the following resolution was offered:

Moved by _____ and supported by _____
 that the application from _____
(name of applicant)

for the following license(s): _____
(e.g. Class C, Tavern, B-Hotel, Micro Brewer)

and the following permits, if applied for: Dance Permit Entertainment Permit Topless Activity Permit

Extended Hours Dance Permit Hours Required: _____

Extended Hours Entertainment Permit Hours Required: _____

to be located at _____

be considered for _____
(approval or disapproval)

Approval

Disapproval

Yeas: _____

Yeas: _____

Nays: _____

Nays: _____

Absent: _____

Absent: _____

It is the consensus of this body that it _____ this application be considered for
(recommends/does not recommend)

approval by the Michigan Liquor Control Commission.

I hereby certify that the foregoing is true and is a complete copy of th resolution offered and adopted by the _____
 council/board at a _____ meeting held on _____
(regular or special) (date) (township, city, village)

Name and title of authorized officer (please print): _____

Signature and date of authorized clerk: _____

Phone number and e-mail of authorized officer: _____

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: Class C Liquor License Transfer Ownership – 6600 Ring Road

SUPPORTING PERSONNEL: James Hudson, City Clerk

ACTION RECOMMENDED: That City Council approve:

- a) the request for a transfer of ownership and location of an Escrowed 2012 Resort Class C Liquor License issued under MCL 436.1531(2), Minimum Seating: 100, to Celebration Banquets, L.L.C., 6600 Ring Road, Portage, MI 49024, Kalamazoo County; and
- b) resolve to continue/discontinue future consideration of liquor license transfer requests.

EXECUTIVE SUMMARY:

A liquor license ownership transfer to Celebration Cinemas has been reviewed and approved by the City Administration. However, as of April 2012 the Michigan Liquor Control Commission no longer *requires* local legislative body approval to complete a license transfer, but city policy maintains that City Council review the requests. Council approval of the current transfer request for Celebration is recommended, while Council resolution regarding the preferred consideration of future liquor license transfer requests is also needed.

BACKGROUND INFORMATION:

The Michigan Liquor Control Commission no longer asks for City Council consideration of a request for a transfer of a Class C Liquor License. However, under administrative rule R 436.1105, the Liquor Control Commission shall consider the opinions of the local residents, local legislative body, or local law enforcement agency with regard to the proposed business when determining whether an applicant may be issued a license or permit. As such, City Council can decide whether to continue or discontinue future consideration of liquor license transfer requests.

Approvals for this liquor license transfer request were recently completed by the Community Development, Finance and Public Safety departments. Therefore, it is recommended that City Council approve the request for a transfer of ownership and location of an Escrowed 2012 Resort Class C Liquor License issued under MCL 436.1531(2), Minimum Seating: 100, to Celebration Banquets, L.L.C., 6600 Ring Road, Portage, MI 49024, Kalamazoo County.

FUNDING: N/A

Attachments: Letter from the Michigan Liquor Control Commission, Retail Licensing Division



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN LIQUOR CONTROL COMMISSION
ANDREW J. DELONEY
CHAIRMAN

STEVE ARWOOD
DIRECTOR

March 22, 2013

Portage City Council
Attn: Clerk
7900 S. Westnedge Avenue
Portage, MI 49002-5160



The purpose of this letter is to notify this local legislative body that the Michigan Liquor Control Commission has received an application for a license, as follows:

Request ID#: 698453

Transfer ownership and location of Escrowed 2012 Resort Class C License issued under MCL 436.1531(2), Minimum Seating: 100

Name of applicant(s): Celebration Banquets, L.L.C.

Business address and phone: 6600 Ring, Portage, MI 49024, Kalamazoo County

Home address and phone number of partner(s)/subordinates:
Contact: Kenyon Shane, B (616) 447-4244 / C (616) 260-0552

Under administrative rule R 436.1105, the Commission shall consider the opinions of the local residents, local legislative body, or local law enforcement agency with regard to the proposed business when determining whether an applicant may be issued a license or permit. Since this request is a transfer under MCL 436.1529(1), approval of the local unit of government is not required.

Under administrative rule R 436.1003, the licensee shall comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules, and ordinances as determined by the state and local law enforcements officials who have jurisdiction over the licensee. The licensee must obtain all other required state and local licenses, permits, and approvals before using this license for the sale of alcoholic liquor.

Approval of this license by the Michigan Liquor Control Commission does not waive any of these requirements.

MICHIGAN LIQUOR CONTROL COMMISSION
Retail Licensing Division
(866) 813-0011

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: 50th Anniversary Event - Recognition of Advisory Board and Commission Members

ACTION RECOMMENDED: That City Council affirm the plan to recognize Advisory Board and Commission members as part of the City of Portage 50th Anniversary, approve the expenditure of up to \$2,500 for the event and commit to assisting with event activities.

EXECUTIVE SUMMARY:

In October 2012, City Council affirmed several events and activities to commemorate the 50th Anniversary of the City of Portage, many of which resulted from the City Council Meeting of the Whole held on October 9, 2013. One such event involves recognizing Advisory Board and Commission members. The Administration has developed an Advisory Board and Commission recognition event to coincide with the Summer Entertainment Series *Taste of Portage*, which will provide for food tickets, a VIP badge, a small gift commemorating the city's 50th anniversary, VIP seating for the musical acts, among other things. Council is being asked to affirm the plan for the event, approve the expenditure of not more than \$2,500 and commit to assist with event activities.

BACKGROUND INFORMATION:

In accordance with Council action on October 23, 2012, (see attached City Council Communication dated October 19, 2012), the City Administration has developed a 50th Anniversary Event to recognize Advisory Board and Commission members.

The 2013 Summer Entertainment Series (SES) *Taste of Portage*, set for Saturday, June 22 from 4:30 to 9 p.m., will have the added element of being a celebration of the 50th anniversary. (See attached page from the draft SES brochure.) Recognition of Advisory Board and Commission members as part of this celebration is being planned in the following manner:

- ◆ Invitation from the City Council to approximately 145 Board and Commission members and one guest each to attend the *Taste of Portage*. (Note the gate fee for this event is free; however, food and drink tickets will be sold for \$1 each.)
- ◆ Request of on-line registration (with phone registration as an option) and check-in on the day of the event at a separate VIP check-in booth.
- ◆ Upon check-in, the Advisory Board and Commission members will receive a packet to include:
 1. Five (5) food / drink tickets for each registrant (maximum of ten) for use at the food booths.
 2. A badge identifying Advisory Board and Commission members as VIPs
 3. A small gift commemorating the City of Portage 50th anniversary.
- ◆ A VIP tent will be available with free non-alcoholic beverages (water and soda) and will also provide some shade for a VIP seating area for the two musical events.
- ◆ A "birthday cake" will be cut and served to the Advisory Board and Commission members.
- ◆ The Council will have the opportunity to publicly recognize the Advisory Board and Commission members at the event.

The City Council may recall that previous Advisory Board and Commission recognition events hosted by the City Council, including sit-down dinners, ice cream socials, among others, have involved the Council staffing the various events. In an effort to direct available city staff to other significant tasks associated with presenting the *Taste of Portage*, it is recommended that the Advisory Board and Commission recognition element of the event be addressed by Councilmembers. Council responsibilities during the event would be directed to manning the VIP check-in booth and distributing packets to Advisory Board and Commission members, manning the VIP tent, ensuring entrance by Advisory Board and Commission members only and cutting and serving the cake.

FUNDING: It is estimated that these activities will cost not more than \$2,500. Sufficient funding is available in the Summer Entertainment Series account.

Attachments:

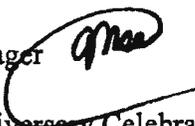
1. October 19, 2012 Communication from the City Manager regarding City of Portage 50th Anniversary Celebration Ideas.
2. Page from the draft Summer Entertainment Series brochure.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 19, 2012

FROM: Maurice S. Evans, City Manager 

SUBJECT: City of Portage 50th Anniversary Celebration Ideas

ACTION RECOMMENDED: That City Council affirm additional events and activities to commemorate the 50th Anniversary of the City of Portage as presented herein.

The City Council 50th Anniversary Committee (Committee of the Whole) met on Tuesday, October 9, 2012 to consider additional suggested activities and events provided by Advisory Boards and Commissions and Portage residents. In accordance with Council action on September 11, 2012 to accept as presented the activities, events and actions to commemorate the 50th Anniversary outlined by the City Administration in the attached City Manager communication dated September 4, 2012, the following series of events and activities are in process:

1. A commemorative edition of the *Portager* is being developed for distribution in February 2013 highlighting major community milestones over the past 50 years. *Portager* editions throughout 2013 will be utilized to publicize 50th Anniversary activities and events.
2. Proclamations will be requested from state representatives and the Governor to recognize City of Portage incorporation during a February 2013 City Council meeting.
3. A display of historical photographs, documents and memorabilia is being compiled for display within City Hall for the duration of the 2013 calendar year.
4. An historical video "collage" is under development and will be aired as the City Council meeting introduction for the 2013 calendar year and at other times on cable access channels.
5. Major community events to celebrate the 50th anniversary during 2013 which have been initiated include:
 - In cooperation with the Kalamazoo Area Runners Club, a winter half marathon will be held on February 17, 2013.
 - Plans for development of the Eliason Nature Reserve are underway, with a "50th Anniversary Groundbreaking" event planned for Phase I in July 2013.
 - A fundraising effort will be launched to support an expanded 2013 Summer Entertainment Series, including a "50th Anniversary Concert."
6. As a "placemaking" activity and to capitalize on community attributes established over the past 50 years, attention is being focused on Portage as a community supportive of active lifestyles and strong neighborhoods. The new community logo and tagline (*A Natural Place to Move*) has been produced for introduction in January 13, 2012, as well as other activity-based supportive actions.

Subsequently, the City Council 50th Anniversary Committee has recommended that the following events and activities be planned with the assistance of community volunteers, various Advisory Boards and Commissions and the City Administration:

COMMUNITY VOLUNTEER ACTIVITIES

Coffee Table Book: Development of a commemorative 50th Anniversary coffee table book concerning the history of the City of Portage as recommended by former Mayor Pro Tem Ted Vliek, Sr., was agreed to by the City Council. A communication will be developed from the Mayor to Mr. Vliek to request he coordinate community volunteers to develop the book, with the consideration that no city dollars or staff time will be allocated to this activity.

BOARD AND COMMISSION ACTIVITIES

Youth Advisory Committee Activities: As proposed, the **Youth Advisory Committee** is encouraged to incorporate the 50th Anniversary theme in its three existing events: 1) Snow Party, 2) Green-a-thon and 3) Teen Movie Night.

Tour of Historic Homes and Train Barn Open House: The **Historic District Commission** is requested to explore the potential of a tour of Portage historic homes, potentially including a one-day open house at the Train Barn. A report and recommendation by the Historic District Commission to the City Council as to the feasibility of this activity no later than December 18, 2012 will be requested.

Community Art Competition: The Planning Commission suggested the idea of a community art competition, to which the City Council agreed. However, the City Administration considers the **Park Board** to be better suited to conduct this activity. It is recommended that the Park Board be requested to explore the possibility of a community art competition, taking into account that no city dollars will be allocated for this activity and that a sponsor will be necessary. A report and recommendation by the Park Board to the City Council as to the feasibility of this activity no later than December 18, 2012 will be requested.

Recognition of Portage Businesses: The **Planning Commission** is asked to consider ways in which the Portage business community can be recognized as part of the 50th Anniversary Celebration. A report and recommendation by the Planning Commission to the City Council as to suggestions for this activity no later than December 18, 2012 will be requested.

Additionally, any Advisory Board and Commission wishing to promote a “no-cost” 50th Anniversary event or activity will be encouraged to do so.

CITY ADMINISTRATION ACTIVITIES

In addition to the activities and events (noted on page 1) previously accepted by the Council, the City Administration is charged with development of plans for the following activities.

Electronic Billboards: The City Administration will investigate the use of the existing Adams Outdoor Advertising electronic billboard on South Westnedge Avenue to display the 50th Anniversary Logo, along with advertisements for 50th Anniversary events and activities. In addition, should the Portage Public Schools proposed electronic billboards be installed and operational, the City Administration will request their use for this purpose.

Recognition of Advisory Board and Commission Members: The City Administration will distribute vouchers to all active Advisory Board and Commission members for admittance of two individuals to the planned "50th Anniversary Concert." Additionally, consideration will be given to adding a "VIP" element for these volunteers.

Documentary – History of the City of Portage: The City Administration will inquire with Public Media Network (PMN) as to the potential for production of a documentary about the history of the City of Portage. The documentary would consist of interviews with long-time Portage residents and former elected officials conducted by PMN staff. The production would air on PMN on a schedule to be determined. A report and recommendation by the City Administration to the City Council as to the feasibility of this activity no later than November 20, 2012 is anticipated.

Anniversary Flower Displays: The City Administration will investigate a collaboration with Kalamazoo In Bloom for the planting of flowers on city grounds for the spring / summer of 2013 to reflect a 50th Anniversary theme. A report and recommendation by the City Administration to the City Council concerning a planting plan and associated costs no later than November 20, 2012 is anticipated.

Flags Along South Westnedge Avenue: The City Administration will determine the cost (labor and materials) of displaying City of Portage flags along South Westnedge Avenue for the duration of the 2013 calendar year. A report and recommendation by the Administration to the City Council concerning the costs associated with this activity no later than November 20, 2012 is anticipated.

CITY COUNCIL ACTIVITIES

50th Anniversary Parade: The City Council will coordinate an increased presence in the annual VFW Memorial Day Parade. Advisory Board and Commission members will be recruited to participate and a 60's theme will be promoted, with classic cars and vintage attire. It is recommended that the City Council appoint a sub-committee to facilitate this activity.

Rotary International Peace City: The City Council, with Councilmember Campbell managing the project, will investigate the designation of the City of Portage as a Rotary International Peace City. This designation would involve proclamations and the installation of a 20-foot tall "Peace Pole" on city grounds, which would be funded and maintained by the Portage Rotary Club. It is recommended that the Portage Rotary Club present a plan in this regard to the City Administration no later than December 18, 2012.

50th Anniversary Banner Competition: It is recommended that Mayor Strazdas (with assistance from the City Administration) send a letter of inquiry to the Superintendent of Portage Public Schools to determine the interest in organizing a competition among the three high schools (Portage Central, Portage Community and Portage Northern High Schools) to design a banner recognizing the City of Portage 50th Anniversary. The winning banner would be chosen by the Portage City Council and the PPS Board of Education. The winning banner would be displayed at the PPS championship sign locations for the duration of the 2013 calendar year. The banner could also be displayed in the City Hall lobby, along with the planned display of historical photographs, documents and memorabilia.

Time Capsule: The City Council 50th Anniversary Committee discussed a "Time Capsule" without finalizing details. It is requested that the City Council advise the City Administration as to its desires concerning this activity.

A number of the above described activities will carry an associated cost. As the Council has established a limited budget of \$5,000 to conduct 50th Anniversary activities, cost estimates for each activity will be provided to Council as an element of the reports to be provided as outlined. It is recommended that Council affirm the additional events and activities to commemorate the 50th Anniversary of the City of Portage as presented above.

KIDS SUMMER KICK-OFF/MOVIE NIGHT

FREE EVENT!

June 7, 7:00 p.m. - Celery Flats Historical Area

Movie: *Willy Wonka & the Chocolate Factory* (original version)

Movie begins approximately 9:40 p.m.

Rain site: Hayloft Theatre



It's the City of Portage and the Portage District Library's 50th Anniversary and you're invited to the party! We can't wait to share all the fun things we have planned as we celebrate this manumits milestone. Enjoy the Josh and Roy Vaudeville Show in the Amphitheatre. They perform magic, juggling, and so much more! Also be sure to stop by the various interactive booths and displays. A dance party will take place until dusk, when movie time will begin. Be sure to bring bug spray and blankets to sit on for your movie-viewing enjoyment.

Concessions are available for purchase.

A joint venture with the Portage District Library

Primary Benefactor: The Irving S. Gilmore Foundation

Program Sponsor: Bronson Healthcare Group, Comerica Bank

OUTDOOR MOVIE NIGHT

FREE EVENT!

June 14, gates open at 8:30 p.m. - Celery Flats Historical Area

Movie: *Forrest Gump* (PG13) - Movie begins approximately 9:30 p.m.

Rain site: Hayloft Theatre



In honor of the 1963 founding of the City of Portage, join the Youth Advisory Committee for a summer movie in the park. Set primarily in the 1960's, follow the adventures of Forrest Gump as he unwittingly finds himself in the middle of major milestones in American history. This one-of-a-kind film combines humor, heart-stopping emotion, and clever effects. Best Picture – 1994. Film rated PG-13 – parents strongly cautioned as some material may be inappropriate for children under 13.

Concessions are available for purchase.

Program Sponsor: Farm Bureau Insurance – The Buckham Agency

TASTE OF PORTAGE - A 50th City Celebration

June 22, 4:30 – 9:00 p.m. • Overlander Bandshell

Celebrate the City of Portage 50th Anniversary with great food and entertainment at the 8th annual Taste of Portage.

Whether you love food, entertainment, or a day surrounded by friends and family, we have it all at the Taste of Portage!

There is a wide variety of favorite Portage restaurants with

enough food choices to satisfy the pickiest of eaters. What's a party without great music? With the help of WRKR you can dance off those calories with the great music of Al's Basement Band at 5:00 p.m. and popular dance band Funktion at 7:30 p.m. We have a great Kidz Zone that includes hands on activities and a playground that your kids will truly enjoy! Be sure to be a part of the celebration and enjoy an evening of great food, fun and entertainment! **Alcohol sales are available.**

Gate Fee: Free in honor of the City of Portage 50th Anniversary!

Food & Beverage Tickets: \$1.00 each (Adult beverages are available for anyone 21 and older.)

Presenting Sponsor: Hinman Company

Partner Sponsors: Chemical Bank, Pfizer, Sanford Financial Services, Meyer C. Weiner Company

Kidz Zone Sponsor: The Irving S. Gilmore Foundation



TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: March 2013 Environmental Activity Report

SUPPORTING PERSONNEL: W. Christopher Barnes, Director of Transportation & Utilities

EXECUTIVE SUMMARY:

City Council has a quality of environment goal to “*enhance environmental quality and protect natural resources.*” As a result, a monthly informational report with updates is provided to the Council that addresses numerous environmental projects and/or activities.

BACKGROUND INFORMATION:

Attached please find the March 2013 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.

The summary report is intended for informational purposes to comply with the goals and objectives adopted by City Council emphasizing the need to enhance environmental quality and protect natural resources. This report also serves to keep the Council, Planning Commission and Environmental Board apprised of current environmental issues.

FUNDING: N/A

Attachments: March 2013 Environmental Activity Report

SUMMARY ENVIRONMENTAL ACTIVITY REPORT
March 2013 (updates in italics)

<u>Project/Activity</u>	<u>Description</u>	<u>Status</u>
Portage City Landfill	Ongoing groundwater monitoring of former municipal landfill.	<p>-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. General groundwater quality continues to improve, but site will require monitoring for the foreseeable future. 2011 sampling completed in March. Investigation into methane gas presence in the groundwater continues. 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 submitted to MDEQ. Review meeting held September 21, 2012 with MDEQ with follow-up in October. AHC currently compiling MDEQ sampling requirement costs necessary for closure at the former landfill site. <i>Weekly methane sampling is continuing on-site to collect base line data.</i></p>
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.	<p>-Coordination with property owners and City or State agencies ongoing. <i>-Review of 3 site/building plans and/or plats completed in March 2013.</i></p>
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	<p><i>-Sanitary sewer hookup permits issued in March 2013: 1 residential; 3 commercial.</i></p>
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions. Special emphasis on weed control and non-point source pollution reduction.	<p>-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. Lake Association has completed 2012 plan and lake treatment completed in May 2012. Permitting complete for the 2013 season. <i>Treatment to be performed by Aquatic Services, Inc. The Association has selected to use Restorative Lake Services for consulting services for 2013.</i></p>
Retention Basin Sampling Program (Groundwater Elevation)	Investigation regarding potential impact of retention basins on groundwater levels.	<p>-Historical monitoring continues to show minor impacts at most basins. From 1993 through 2009 the monitoring program showed stable groundwater impacts due to storm water 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. This program will focus primarily on</p>

groundwater level information. The 2012 report received and groundwater levels, especially on the east side of Portage, have decreased as a result of seasonal rainfall deficiencies. Typical groundwater table elevation is stable with 2012 levels.

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. Sampling completed in June 2012 with minimal groundwater impacts. Next sampling in June 2013.

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 Storm Water Pollution Prevention Initiative (SWIPPI) as required by NPDES permit. 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) completed December 11, 2009. SWIPPI was submitted for MDEQ approval on June 25, 2010. Received a notice from MDEQ rescinding the 2008 permit due to a recent court case ruling. MDEQ reinstated the 2003 permit for implementation. Information on new permit requirement was received in February 2011. MDEQ expected to issue new permit in 2014. The 2010-11 annual report was submitted on January 20, 2012. Storm water informational talk was given to Pfizer, Inc., employees on April 28, 2012. MDEQ scheduled an audit of the program on July 12, 2012. Audit completed with satisfactory results. Several follow-up items with MDEQ were addressed by staff in December 2012. City website updated in February to provide education of Illicit Storm Water Discharge. 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 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. 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 Watershed 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 for watershed update awarded to Calhoun County Conversation District. First kick-off meeting held December 13, 2012 to introduce working partners and information gathering. A meeting was held on March 12, 2013 to discuss the designated uses of the Portage River/Little Portage Creek watershed, the total maximum daily load of E-coli from samples taken and a review of community ordinances and policies that help protect the Watershed.

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 MDEQ on

June 25, 2010, and part of the SWIPPI. Two potential illicit discharges were investigated with MDEQ in February 2012. *Completed an area-wide brochure to educate the public on Illicit Storm Water Discharges.* The 2013 program starts in June. 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 which discharge to surface water. This work is required as part of the NPDES permit. The 2011 annual report received with minor surface water impacts from the Woodland Avenue discharge. The 2012 report received with continuing minor impacts from the Woodland Avenue outfall. Testing results are reported to MDEQ as part of the NPDES annual report.

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.

Facility is in operation with ribbon cutting held August 2, 2010. The facility is producing approximately one million gallons of water per day. 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. Regrading and installation of native landscaping seeding completed on November 16, 2012. Germination results in spring 2013 will determine if additional seeding is required.

Environmental Incident/Spill Clean Up Notification

Environmental Protection Program to assist Portage Police/Fire Departments with spill containment and spill cleanup.

-The number of environmental incident/spill investigations performed in March 2013 – 0. Number of environmental cleanups in March – 0. Emergency spill response contract for 2013-14 with Terra Contracting has been renewed.

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 MDEQ staff to determine feasible method to lower water levels. Association currently working with MDEQ 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 MDEQ 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.

Seasonal low water levels have reduced the urgency to control water levels.

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.



CITY OF PORTAGE

PARK BOARD

7900 SOUTH WESTNEDGE AVENUE, PORTAGE, MI 49002

April 4, 2013

RE: Status of Park Board Goals

Honorable Mayor & City Council:

Following is an update on the Park Board Goals:

1. *Continue to work on development of the "Friends of the Park" volunteer and support program:* The Board has established a website and is enlisting volunteer support for various events and activities. Work will continue through the winter and spring.
2. *Continue implementation of the expanded "Get Active Portage" day at Ramona Park, to include a youth Triathlon, health fair and Paddle Fest kayak races:* The Board is working on plans for the 2013 event to be held August 10.
3. *Promote environmental awareness in the community by hosting an annual Earth Day event in conjunction with the Youth Advisory Committee and Environmental Board:* The Park Board will have a display and assist as necessary during the April 27, 2013 Green-A-Thon at Celery Flats.
4. *Implement a new "Landmark Sculpture" activity for the community to promote recycling:* Event is scheduled for May 4-11, 2013 at Celery Flats. Park Board has raised over \$10,000 in support of this exciting new event.
5. *Plan for the development and implementation of a new Park Board sponsored community event for the 2013-14 Fiscal Year:* The Park Board has decided to implement a "Yoga in the Park" event for the next fiscal year.
6. *Work together with the City Administration to facilitate the development of a Master Plan for the Eliason property on Shaver Road:* Plan reviewed by Board during October 10, 2012 meeting and public review held October 24, 2012.
7. *Advise the City Council in areas/subjects under the purview of the Parks Board:* Written communication will be provided to City Council as the Board works on goals and assignments.
8. *Forward update to goals for FY 2012-13 (November 2012 and April 2013) and recommend goals for FY 2013-14 (April 2013):* Completed and transmitted according to schedule.
9. *Present an annual verbal report to the City Council:* Scheduled for April, 2013.

Sincerely,

Susan Williams, Chair
Portage Park Board

**TRANSMITTAL FROM
HUMAN SERVICES BOARD**

DATE: April 5, 2013

TO: Honorable Mayor and City Council

FROM: Sandra Sheppard, Chair, Human Services Board

SSW

SUBJECT: FY 2012-2013 Goal update and Proposed FY 2013-14 Goals

On behalf of the Human Services Board, I am writing regarding the Board's FY 2012-2013 goals. The following summarizes progress of the Human Services Board in achieving the FY 2012-2013 goals during the current fiscal:

1. **Fulfill advisory role requirements for CDBG program and human/public service funding requests:**

- a. To make recommendations regarding the Community Development Block Grant (CDBG) Program.
- b. To make recommendations regarding human/public service funding from the CDBG Program and General Fund to the City Council.
 1. Convene public hearings for the CDBG Program Consolidated Plan, Annual Action Plan and Consolidated Annual Performance Evaluation Report.
 2. Hear appeals from the CDBG Housing Program Guidelines.
 3. Review fair housing activities.
 4. Review applications and presentations from agencies for human/public services and recommend funding levels to City Council.

Progress: The Board held the required public hearings for the CDBG Program, and reviewed the following documents: FY 2011-12 Consolidated Annual Performance Evaluation Report in September 2012, and draft FY 2013-14 Annual Action Plan over two meetings held in January and April 2013. The Board also reviewed human/public service funding applications and recommended funding levels for FY 2013-14 to City Council. In addition, the Board reviewed and updated the evaluation criteria and application form for Human/Public service funding and the revised documents will be used in the FY 2014-15 funding round.

2. **To serve as a resource and provide information to City Council regarding public transportation in the City of Portage:**

- a. Advise City Council on matters pertaining to public transportation in the City of Portage and make recommendations as appropriate.
 1. Review public transportation needs within the City of Portage.
 2. Review countywide demand/response of transportation services.

Progress: The Board received an overview from the Kalamazoo Transit Authority and the Kalamazoo County Transit Authority (KCTA) on bus services and proposed route changes in Portage. In addition, Board member Meulman had continued to report to the Board regarding the Kalamazoo Transit Authority Local Advisory Committee (LAC) activities, and other transit issues on a monthly basis. Finally, the Board recommended and City Council approved Human Services Board member Pat Maye to serve as the Portage representative on the Kalamazoo Transit Authority LAC starting January 22, 2013.

3. **To serve as a resource to City Council for special projects:**

- a. Take appropriate action on projects assigned by City Council.
- b. Identify and educate City Council on emerging human service issues in Portage:
 1. Continue to serve on Kalamazoo Transit Authority LAC
 2. Assist City Council with Red Ribbon Week activities
 3. Review mechanisms for identifying human service needs in the community, such as the community survey.

Progress: As noted above, Board member Maye is a new appointee on the Kalamazoo Transit Authority and will continue to report monthly. Red Ribbon Week activities were also accomplished in October 2012.

4. **Forward update to goals for FY 2012-2013 (April 2013) and recommended goals for FY 2013-14 (April 2013):** This goal has been accomplished. Proposed 2013-14 Goals are attached.

5. **Present an annual verbal report to City Council:** The Chair of the Human Services Board will make a presentation to City Council on April 23, 2013.

Feel free to contact me if there are additional questions or comments regarding this matter.

Ec: City Clerk Hudson

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager 

SUBJECT: Water Main Easement Relinquishment and Sanitary Sewer Encroachment, Mueller Refrigeration, 6700 Sprinkle Road

SUPPORTING PERSONNEL: Victoria Georgeau, Director of Community Development

ACTION RECOMMENDED: That City Council take final action to adopt a resolution to relinquish 89.15 feet of an existing water main easement located on the west side of the existing Mueller Refrigeration building, replaced with a new water main easement for the portion of the vacated water main.

BACKGROUND INFORMATION:

During the March 26, 2013 regular City Council meeting, Council reviewed the Water Main Easement Relinquishment and Sanitary Sewer Encroachment for Mueller Refrigeration, located at 6700 Sprinkle Road. Following Council's initial review, the proposed resolution was accordingly placed on with the Office of the City Clerk for the required 28-day period. The proposed resolution was also published for public notification on March 27, 2013.

As the city did not receive any feedback on the matter from the public during this time, final action in adopting the resolution by City Council to relinquish 89.15 feet of an existing water main easement located on the west side of the existing Mueller Refrigeration building, replaced with a new water main easement for the portion of the vacated water main is recommended.

FUNDING: N/A

Attachments: March 26, 2013 Communication from the City Manager

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager



SUBJECT: Water Main Easement Relinquishment and Sanitary Sewer Encroachment, Mueller Refrigeration, 6700 Sprinkle Road

SUPPORTING PERSONNEL: Victoria Georgeau, Director of Community Development

ACTION RECOMMENDED: That City Council:

- a) adopt a resolution to relinquish 89.15 feet of an existing water main easement located on the west side of the existing Mueller Refrigeration building, replaced with a new water main easement for the portion of the vacated water main, place the resolution on file with the City Clerk for 28 days and take final action on April 23, 2013; and
- b) authorize the City Manager to sign the License Agreement to Locate Signs in City Utility Easement.

EXECUTIVE SUMMARY:

Because of recent site improvements by Mueller Refrigeration at 6700 Sprinkle Road, it is being recommended that an existing water main easement be relinquished and a License Agreement to Locate Signs in a City Utility Easement be approved. The relinquishment is the result of three new silos constructed over an abandoned water main. The License Agreement is needed as Mueller located three signs on an existing sewer easement without first obtaining a permit. The potential related impacts with the signs are minimal with the approval of the recommended Agreement.

BACKGROUND INFORMATION:

As part of the recent Mueller Refrigeration site improvements, three new silos were constructed on the west side of the building. Before installation of the silos, an approximate 89-foot section of public water main had to be relocated. This section of water main has been relocated and the silos have been installed.

When the original water main was installed in 1993, an easement was provided to the City of Portage. Since the water main in the vicinity of the silos has been abandoned, that portion of the easement can be relinquished because it is no longer needed for the intended purpose. Attached is resolution and associated documents that show the location of the easement relinquishment area and a new easement area. The City Administration and City Attorney have reviewed this matter and recommend the 89.15 foot section of water main easement be relinquished, and a new water main easement be established for the portion of the relocated water main.

In addition to the water main easement relinquishment, Mueller Refrigeration is requesting approval to allow the two directional signs and one monument sign to remain within an existing sewer easement area. The sign contractor hired by Mueller (Sign Art) installed two directional signs and one monument sign that meet the Zoning Code sign provisions, but encroach into an existing sanitary sewer easement located adjacent to Sprinkle Road. The signs were installed without first obtaining a permit, so city staff was unable to advise the contractor of the easement location. Attached is a copy of the sanitary sewer easement, a vicinity map showing the location of the easement area and the recently installed signs, as well as elevation drawings for each sign. The two, four square foot directional signs at the north and south access drives serve a way finding function to the location of the office/visitor parking area, and the location of shipping and receiving areas on the property. Mueller has indicated the signs would be less visible and not serve their purpose if relocated 25 feet to the west outside of the sewer easement area. With regard to the 39 square foot Mueller identification sign east of the office area of the building, Mueller also desires to retain the current location, compared to an additional 25 foot setback from Sprinkle Road, outside of the sewer easement area.

The City Administration has evaluated the potential impacts associated with the signs on the operation of the sewer main and necessary maintenance activities. Based on the size, type and location of the signs, the City Administration concluded the impacts would be minimal and the signs could remain in the easement subject to execution and recording of a license agreement. The attached license agreement has been prepared by the City Attorney and signed by Mueller Refrigeration. It is recommended City Council approve the license agreement and authorize the City Manager to sign the agreement.

FUNDING: Not applicable.

Attachments: Letter dated March 25, 2013 from Mr. Brendan Caffrey, Mueller Industries
Resolution to Relinquish Portion of Water Main Easement
License Agreement to Locate Signs in City Utility Easement



Mueller Plastics Corporation, Inc
6700 S. Sprinkle Road
Portage, MI 49002
P 269.323.8858

RECEIVED
MAR 15 2013
COMMUNITY DEVELOPMENT

March 15th, 2013

Mr. Christopher Forth
7900 South Westnedge Avenue
Portage, MI 49002

Re: Signage located in City of Portage Sewer Easement

Dear Christopher:

Mueller Plastics is requesting that the City of Portage agree to allow two directional and one monument sign to be located within the existing Sewer Easement.

Both directional signs are small in size (face dimension of 1' tall x 4' wide) and are set back 10ft and 11 ½' from Sprinkle Rd. The signs would be difficult for arriving traffic to read if they were set back further, potentially impeding traffic flow or creating a danger to other motorists.

The monument sign is set back 17 ½' from Sprinkle Rd, and is not directly over the existing sewer pipe line. Were it to be set further back, visibility of the sign would be impeded by trees to locate to the north and south.

Mueller also agrees to abide by the terms of the attached License Agreement to locate the above mentioned signs within the easement.

Respectfully,


Brendan Caffrey
Plant Manager

**CITY OF PORTAGE
RESOLUTION TO RELINQUISH PORTION OF WATER MAIN EASEMENT**

At a regular meeting of the Council of the City of Portage, Kalamazoo County, Michigan, held at the City Hall in said City on the 26th day of March, 2013, at 7:30 p.m. local time.

PRESENT: Pearson, Randall, Reid, Sackley, Strazdas

ABSENT: Campbell, Urban

Resolution offered by Councilmember Sackley and seconded by Councilmember Reid.

WHEREAS, the City of Portage owns a 20 foot wide water main easement described as follows:

See attached Exhibit "A".

WHEREAS, a portion of the above-described water main easement is no longer needed and will not be used for any public purpose since the water main has been relocated;

WHEREAS, a new water main easement will be obtained by the City of Portage to replace the water main easement being relinquished below;

NOW THEREFORE, BE IT RESOLVED that the City of Portage relinquish 89.15 feet of the water main easement and such portion of the easement being relinquished is described as follows:

See attached Exhibit "B".

BE IT FURTHER RESOLVED that the portion of the easement being relinquished shall be replaced with a "Water Main Easement and Right-of-Way Grant" to be recorded and described as follows:

See attached Exhibit "C".

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

All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

YEAS: Pearson, Randall, Reid, Sackley, Strazdas

NAYS: None.

ABSENT: None.


James R. Hudson, City Clerk

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified and acting City Clerk of the City of Portage, Kalamazoo County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said City, held on the 26th day of March, 2013, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereto affixed my official signature this 27th day of March, 2013.


James R. Hudson, City Clerk

Approved As To Form
Date: 3/8/13

City Attorney

Exhibit A

STATE OF MICHIGAN
COUNTY OF KALAMAZOO
RECEIVED FOR RECORD
'93 SEP 8 PM 3 41

LIBER 1666 PG 1177

8734

CITY OF PORTAGE

WATER MAIN EASEMENT AND RIGHT-OF-WAY GRANT

James D. Young
CLERK-REGISTER

33549

KNOW ALL MEN BY THESE PRESENTS, that _____

SUMMIT POLYMERS, INC., a Michigan Corporation

6700 Sprinkle Road, Portage, Michigan 49002

(party) (parties) of the first part, for and in consideration of the sum of one dollar (\$1.00) and other good and valuable considerations paid to (him) (her) (them) by the City of Portage, Michigan, a Municipal Corporation, party of the second part, whose address is 7900 South Westnedge Avenue, Portage, Michigan 49002, do hereby convey, grant and release to the said party of the second part a permanent easement and right-of-way in which to construct, operate, maintain, repair and/or replace water main facilities over, across, under and through the following parcels of land situated in the City of Portage, in the County of Kalamazoo, State of Michigan, and described as:

DESCRIPTION FOR WATER MAIN EASEMENT - SUMMIT POLYMERS, INC.

A 20.0 foot wide strip of land situated in the Southeast quarter of Section 12, T. 3S., R. 11 W., City of Portage, Kalamazoo County, Michigan and lying 10.0 feet on each side of the following described center line;

Commencing at the South quarter corner of Section 12, T. 3 S., R. 11 W.; thence N. 00° 00' 04" W., 1778.00 feet along North and South quarter line of said Section to the place of beginning of center line; thence N. 89° 21' 53" E., 275.00 feet parallel with the East and West quarter line of said section to the place of ending. Parcel being subject to easements and conditions of record.

and to enter upon said easement and right-of-way for the purpose of the construction, operation, maintenance, repair and/or replacement thereof. It is understood and agreed that no buildings or construction of any kind or nature will be placed upon the above described right-of-way without the prior written consent of said second party, its assigns or successors. This conveyance includes a release of any and all claims to damage arising from or incidental to the exercise of any of the foregoing powers.

It is agreed and understood that said premises shall be restored to as near original condition as possible by the party of the second part, trees and shrubs excepted, and that party of the second part may use land adjacent to said easement temporarily for construction purposes during construction of said facilities.

This instrument shall be binding upon and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns.

IN WITNESS WHEREOF, the undersigned (has) (have) hereunto affixed (his) (her) (their) signature(s) this 16th day of August, A.D., 1993.

In Presence of:

James R. Askelson
James R. Askelson

Arthur Ehlers
Arthur Ehlers

SUMMIT POLYMERS, INC.

By: James H. Haas
James H. Haas

Its President

By: _____

Its _____

(Corporate Acknowledgement)

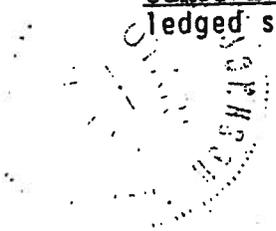
STATE OF MICHIGAN)
)ss.
COUNTY OF KALAMAZOO)

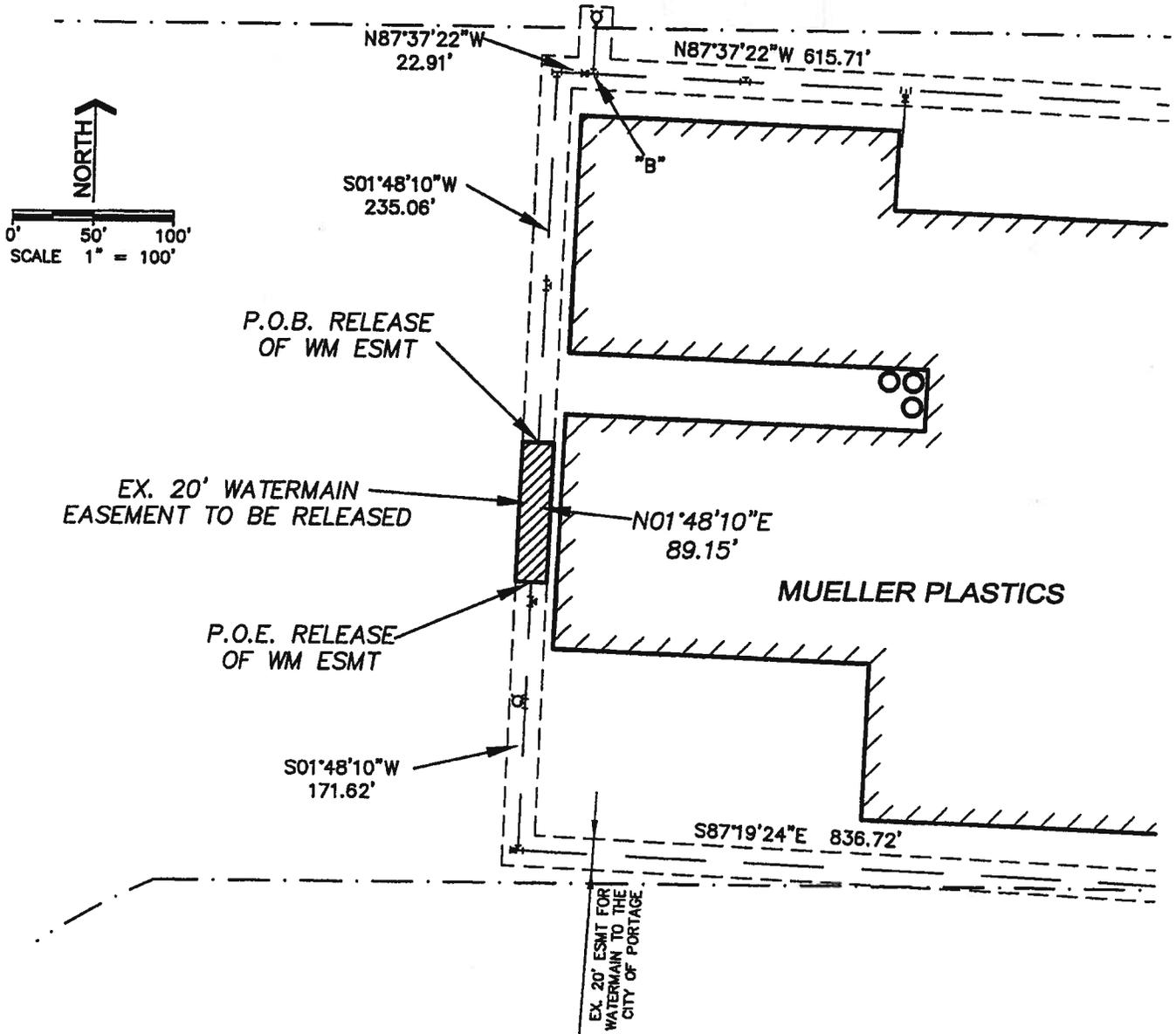
On this 16th day of August, 1993, before me the undersigned, a Notary Public in and for said County, personally appeared James H. Haas ~~and~~

to me personally known, who being by me duly sworn, did (each for himself) say that (they are respectively) the President ~~and~~ of the corporation named in and which executed the within instrument, and the (said corporation has no corporate seal) (the seal affixed to said instrument is the corporate seal of said authority of its Board of Directors) and said James H. Haas ~~and~~

~~separately~~ acknowledged said instrument to be the free act and deed of said corporation.

Mary A. Johnson
Mary A. Johnson Notary Public
 Kalamazoo County, Michigan
My commission expires: Nov. 4, 1996





DESCRIPTION OF PORTION OF WATERMAIN EASEMENT TO BE RELEASED

A 20.0 foot wide strip of land situated in the Southwest quarter of Section 12, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan lying 10.0 feet on each side of the following described center lines. Commencing at the South quarter corner of said Section 12, Town 3 South, Range 11 West, thence North 00 degrees 05 minutes 10 seconds East 1557.50 feet along the North and South quarter line of said Section 12; thence North 88 degrees 05 minutes 12 seconds West 121.68 feet, thence North 01 degrees 54 minutes 48 seconds East 111.02 feet; thence North 41 degrees 50 minutes 52 seconds West 97.09 feet; thence North 87 degrees 37 minutes 22 seconds West 638.62 feet, thence South 01 degrees 48 minutes 10 seconds West 235.06 feet to the Place of Beginning of this description: thence continuing South 01 degrees 48 minutes 10 seconds West 89.15 feet to the Place of Ending of this description.



795 Clyde Court S.W. Suite "C" Byron Center, MI 49315
 Phone 1-616-878-3885 Fax 1-616-878-4559

SKETCH AND DESCRIPTION OF WATERMAIN EASEMENT RELEASE

PREPARED FOR:
 CITY OF PORTAGE
 PORTAGE, MICHIGAN

REV: 10-30-12
 DATE
 10-5-12
 PROJECT NO.
 12038
 SHEET NO.
 2 of 2

EXHIBIT C

WATER MAIN EASEMENT AND RIGHT-OF-WAY GRANT

For and in consideration of the amount of less than One Hundred Dollars (\$100.00), receipt hereof is hereby acknowledged, the undersigned MUELLER REFRIGERATION, LLC, FORMERLY KNOWN AS MUELLER REFRIGERATION CO. INC. (Grantor), of 8285 TOURNAMENT DRIVE, MEMPHIS TN 38125, hereby granting and conveying to the City of Portage, a Municipal Corporation organized under the laws of the State of Michigan, with offices at City Hall, 7900 S. Westnedge Avenue, Portage, Michigan 49002 (Grantee), a permanent easement and right-of-way in which to construct, operate, maintain, repair, and/or replace water main facilities over, across, under and through the following parcel of land situated in the City of Portage, County of Kalamazoo, State of Michigan, and described as:

SEE EXHIBIT "A"

Including the right to enter upon said easement and right-of-way through the parent parcel, if necessary, for the purpose of construction, operation, maintenance, repair, and/or replacement thereof and the right to remove trees, bushes, undergrowth and other obstructions interfering with the location, construction, or maintenance of said water main facilities, and that Grantee may use property adjacent to Grantees easement temporarily in connection with the construction, operation, maintenance, repair, or replacement of said facilities. Grantee shall restore the easement area to as near original condition as possible, trees and shrubs excepted.

The Grantor does hereby covenant with Grantee that it is lawfully seized and possessed of the real estate above described, and that it has a good and lawful right to convey it or any part of it, that it is free from all encumbrances, and that it will forever warrant and defend the title thereto, and the easement granted hereby against the lawful claims of all persons whatsoever.

Grantor agrees that no building or construction of any kind or nature will be placed upon the above-described easement and right-of-way without the prior written consent of the Grantee, its successors or assigns.

Grantor further agrees to save and hold the Grantee harmless from any and all claims, debts, causes of action, or judgments for any damage to property and/or injury to any person which may arise out of any construction or the use of the easement area or right-of-way by the Grantor, its agents, employees, representatives or contractors.

This conveyance includes a release of any and all claims to damage from whatsoever cause arising from or incidental to Grantees use of the easement or right-of-way, or exercise of any of the rights and powers of the Grantee herein.

This instrument shall be binding and inure to the benefit of the party hereto their heirs, successors and assigns.

This easement is exempt from transfer tax pursuant to MCL 207.505(5)(a) and MCL 207.526(6)(a).

GRANTOR:

By: [Signature]

^{apth} Its: Vice President

STATE OF TENNESSEE)
)SS.
COUNTY OF SHELBY)

On this 20th day of March, 2013, before me personally came the above named Gary C. Wilkerson, to me personally known, who being duly sworn did and each for himself say that he/she is the Vice President for said corporation named in and who and that said instrument was signed on behalf of said corporation by authority of its Board of Directors and said Gary C. Wilkerson acknowledges said instrument to be the free act and deed of said Corporation.

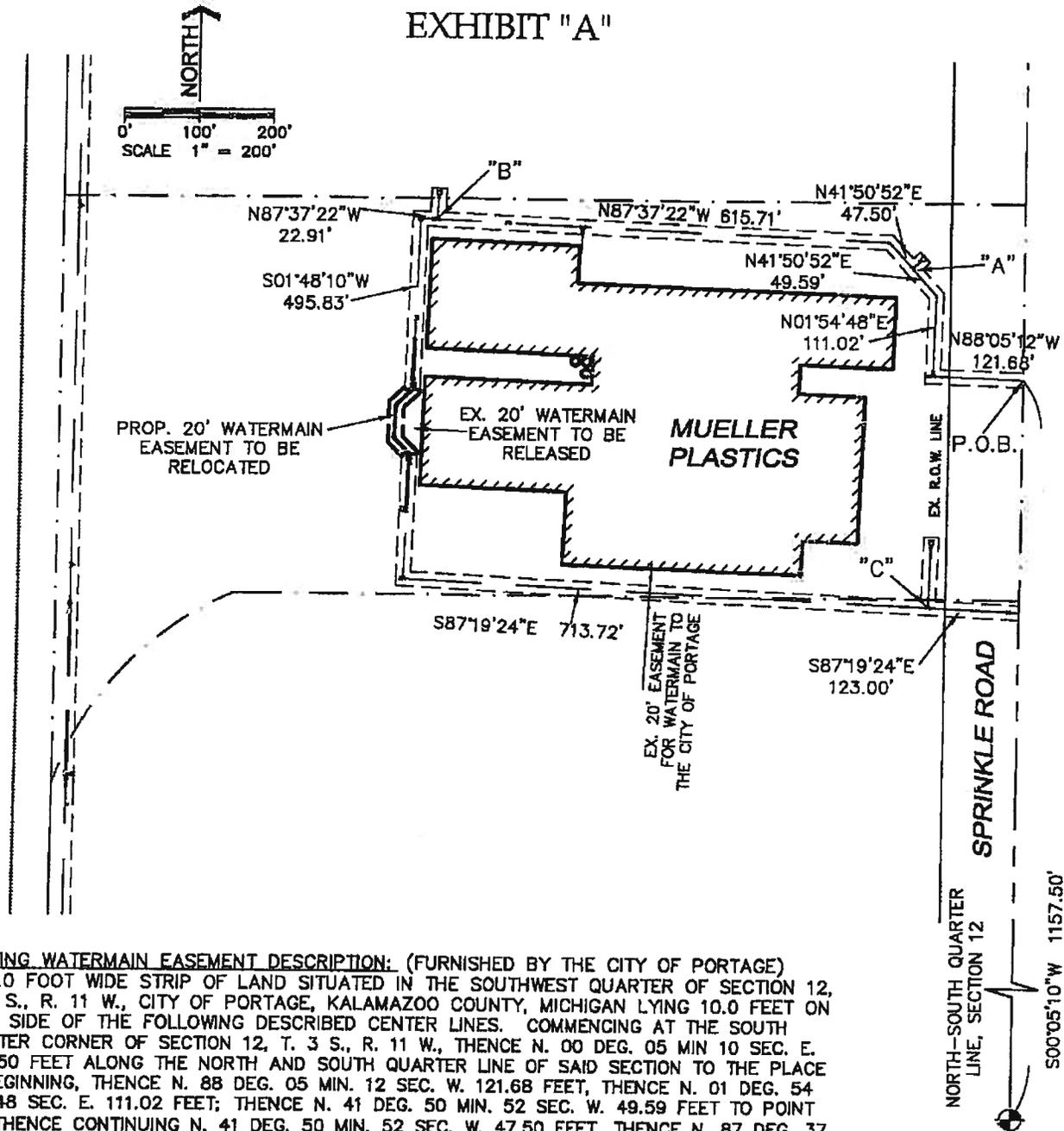


Gina Campbell, Notary Public
Shelby County, Tennessee

My Commission Expires: November 16, 2013

When Recorded Return to
City of Portage Department of Community Development
7900 S. Westnedge Avenue
Portage, MI 49002

EXHIBIT "A"



EXISTING WATERMAIN EASEMENT DESCRIPTION: (FURNISHED BY THE CITY OF PORTAGE)
 A 20.0 FOOT WIDE STRIP OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 12, T. 3. S., R. 11 W., CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN LYING 10.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINES. COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 12, T. 3 S., R. 11 W., THENCE N. 00 DEG. 05 MIN 10 SEC. E. 1557.50 FEET ALONG THE NORTH AND SOUTH QUARTER LINE OF SAID SECTION TO THE PLACE OF BEGINNING, THENCE N. 88 DEG. 05 MIN. 12 SEC. W. 121.68 FEET, THENCE N. 01 DEG. 54 MIN. 48 SEC. E. 111.02 FEET; THENCE N. 41 DEG. 50 MIN. 52 SEC. W. 47.50 FEET, THENCE N. 87 DEG. 37 MIN. 22 SEC. W. 615.71 FEET TO POINT "B", THENCE CONTINUING N. 87 DEG. 37 MIN. 22 SEC. W. 22.91 FEET, THENCE S. 01 DEG. 48 MIN. 10 SEC. W. 495.83 FEET; THENCE S. 87 DEG. 19 MIN. 24 SEC. E. 713.72 FEET TO POINT "C"; THENCE CONTINUING S. 87 DEG. 19 MIN. 24 SEC. E. 123.00 FEET TO SAID EAST AND WEST QUARTER LINE AND THE PLACE OF ENDING. ALSO, BEGINNING AT THE AFOREMENTIONED POINT "A", THENCE N. 48 DEG. 09 MIN. 08 SEC. E. 23.00 FEET TO THE PLACE OF ENDING. ALSO, BEGINNING AT THE AFOREMENTIONED POINT "B", THENCE N. 02 DEG. 29 MIN. 28 SEC. E. 42.39 FEET TO PLACE OF ENDING. ALSO, BEGINNING AT THE AFOREMENTIONED POINT "C", THENCE N. 02 DEG. 01 MIN. 46 SEC. E. 96.55 FEET TO PLACE OF ENDING.

SOUTH QUARTER CORNER SEC. 12 T3S, R11W

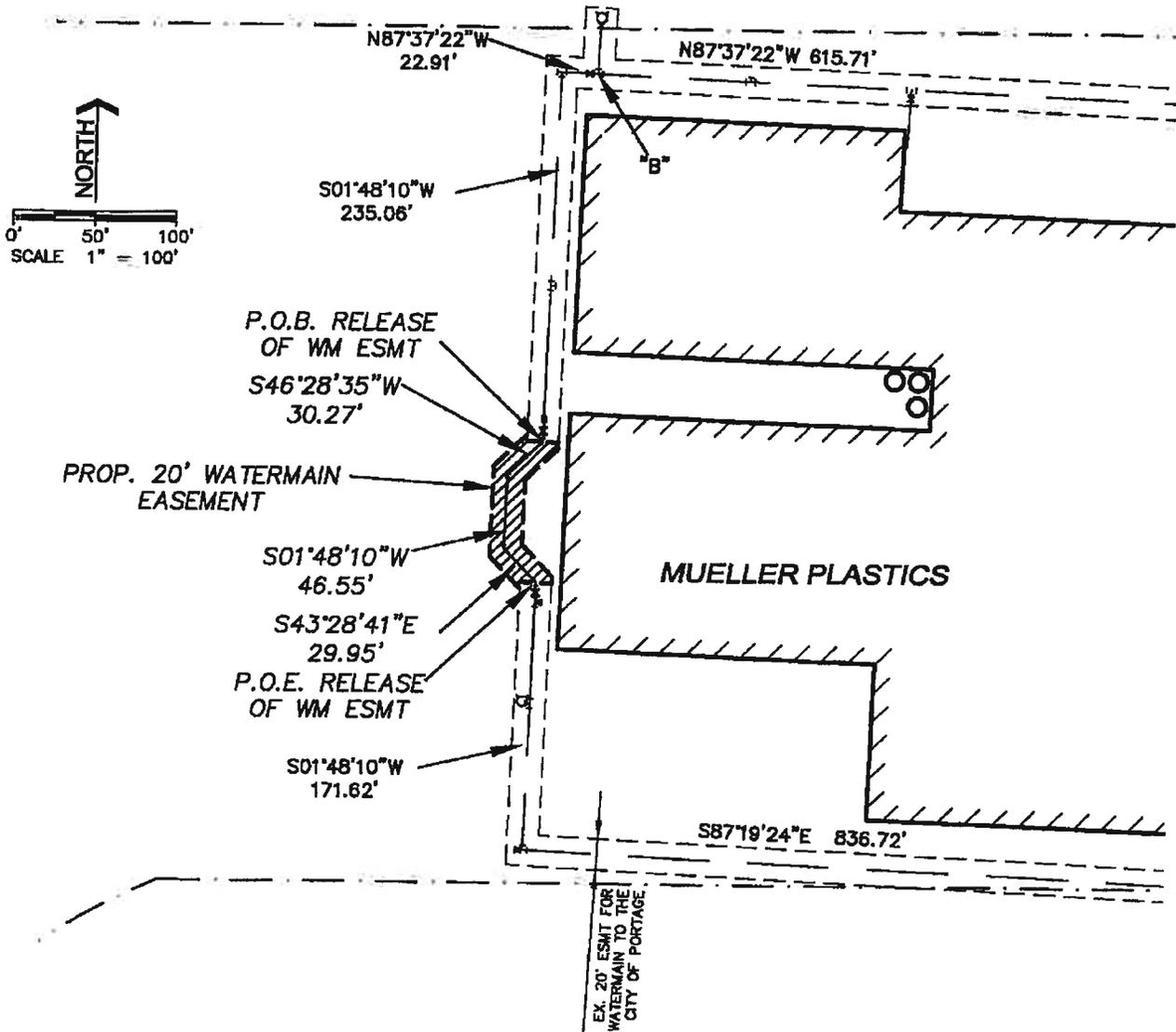
Pathfinder
 Engineering, Inc.

795 Clyde Court S.W. Suite "C" Byron Center, MI 49315
 Phone 1-616-678-3885 Fax 1-616-878-4559

SKETCH AND DESCRIPTION OF RELOCATED WATERMAIN EASEMENT

PREPARED FOR:
 CITY OF PORTAGE
 PORTAGE, MICHIGAN

REV: 10-30-12
 DATE
 10-5-12
 PROJECT NO.
 12038
 SHEET NO.
 1 OF 2



DESCRIPTION OF RELOCATED WATERMAIN EASEMENT

A 20.0 foot wide strip of land situated in the Southwest quarter of Section 12, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan lying 10.0 feet on each side of the following described center lines. Commencing at the South quarter corner of said Section 12, Town 3 South, Range 11 West, thence North 00 degrees 05 minutes 10 seconds East 1557.50 feet along the North and South quarter line of said Section 12; thence North 88 degrees 05 minutes 12 seconds West 121.68 feet, thence North 01 degrees 54 minutes 48 seconds East 111.02 feet; thence North 41 degrees 50 minutes 52 seconds West 97.09 feet; thence North 87 degrees 37 minutes 22 seconds West 638.62 feet, thence South 01 degrees 48 minutes 10 seconds West 235.06 feet to the Place of Beginning of this description: thence South 46 degrees 28 minutes 35 seconds West 30.27 feet; thence South 01 degrees 48 minutes 10 seconds West 46.55 feet; thence South 43 degrees 28 minutes 41 seconds East 29.95 feet to the Place of Ending of this description. The sidelines of said easement to be lengthened or shortened to prevent gaps or overlaps.

REV: 10-30-12



795 Clyde Court S.W. Suite "C" Byron Center, MI 49315
 Phone 1-616-878-3885 Fax 1-616-878-4559

SKETCH AND DESCRIPTION OF RELOCATED WATERMAIN EASEMENT

PREPARED FOR:
 CITY OF PORTAGE
 PORTAGE, MICHIGAN

DATE
 10-5-12
 PROJECT NO.
 12038
 SHEET NO.
 2 of 2

EXHIBIT "D"

**CITY OF PORTAGE
NOTICE OF INTENTION TO RELINQUISH PORTION OF WATER MAIN EASEMENT**

PLEASE TAKE NOTICE that on the ____ day of _____, 2013, the City Council of the City of Portage voted to relinquish 89.15 feet of a water main easement such portion of the easement being relinquished is described as follows:

See attached Exhibit "1".

PLEASE TAKE FURTHER NOTICE that the resolution authorizing this action is on file with the City Clerk and open for public inspection. Said documents will be so held by the City Clerk for twenty-eight (28) days after publication of this notice and may be inspected at the Clerk's Office during regular working hours. After said twenty-eight (28) day period, the Council may take final action and relinquish its interests if all other conditions of the transaction are satisfied.

Dated: _____, 2013

James R. Hudson, City Clerk

LICENSE AGREEMENT TO LOCATE SIGNS IN CITY UTILITY EASEMENT

This License Agreement is made and entered into this 14th day of March, 2013, by and between the City of Portage, a Michigan municipal corporation, organized under the laws of the State of Michigan, with offices at 7900 South Westnedge Avenue, Portage, Michigan 49002 ("Licensor") and Mueller Refrigeration, LLC, formerly known as Mueller Refrigeration Co., Inc., a Delaware corporation, with offices at 8285 Tournament Drive, Memphis, Tennessee 38125 ("Licensee"):

WHEREAS, Licensee is sole owner of property ("property") in the City of Portage, County of Kalamazoo and located at 6700 South Sprinkle Road, Portage, Michigan;

WHEREAS, Licensor is the owner of a 25 foot permanent sanitary sewer easement ("easement") described in Exhibit "A" attached hereto and incorporated herein;

WHEREAS, Licensee installed two directional signs and one monument sign (collectively "signs") in the easement without Licensor's knowledge or permission;

WHEREAS, the Licensor, after review and investigation, has determined that based on size, type and location, the signs will not present a public health, safety or welfare concern;

NOW, THEREFORE, in consideration of this License and other good and valuable consideration and the mutual promises herein, the parties agree as follows:

1. Licensor grants to Licensee a personal, revocable, non-exclusive License to maintain two directional signs and one monument sign as illustrated in Exhibit B and at their present locations shown in Exhibit "C" attached hereto and incorporated herein.
2. This License is personal to the Licensee and shall not be transferred or assigned without the Licensor's written consent.
3. This Agreement shall not be deemed or construed as transferring to Licensee any interest in the easement of Licensor irrespective of any expenditure by Licensee for the maintenance of the signs or surrounding area.
4. Licensee shall not modify or expand upon the signs so that they are larger than existing at the time of entering into this License without Licensor's written consent.
5. Licensee agrees to adequately maintain the signs so that they do not prevent or inconvenience Licensor from utilizing and accessing its easement.
6. Licensee shall cause all work performed in connection with the maintenance and repair of the signs and area around the signs be accomplished with care and in a manner and time that will cause the least interference with the easement area and shall be performed as expeditiously as possible so as to minimize interference with surrounding property and traffic. Licensee may have access to the easement to inspect, maintain or repair the signs located thereon.

7. Licensee shall comply with all laws, rules and regulations of any governing body which may now or hereafter have jurisdiction over the subject matter of this License while in effect.

8. Licensee agrees to pay for all of Licensee's additional expenses associated with repair and maintenance of any public utility within the easement which results as a consequence of the encroachment, maintenance or use of any sign. Further Licensee shall pay for all costs associated with the necessary relocation of any sign if Licensor provides notice to Licensee that it will install or maintain infrastructure in the easement.

9. Licensee, at its own expense, shall keep the signs, equipment and any other personal property installed upon the easement in connection with the operation of the signs in good working order, condition and repair. Licensee shall also keep the area around the signs free of debris and anything of an offensive nature which would create a hazard or interference to the public. Licensor may request Licensee to conduct maintenance and/or repair of the signs and if such work is not completed within thirty days of the notice, Licensor may perform the required work and charge Licensee for all time and materials expended.

10. This License shall terminate: a) at any time that the property owned by Licensee or any portion thereof is sold, transferred or assigned unless Licensor agrees to permit the new owner to maintain the signs pursuant to a new License; b) upon the removal or destruction of more than 50% of the value, as determined by the Licensor, of any sign located on the easement; or c) if Licensee abandons, discontinues, sells or transfers the business located at the property.

11. Licensor shall not be liable to Licensee or its agents, contractors, subcontractors, employees, invitees for any personal injury, property damage, or loss of life or property caused by or arising out of or in connection with the use of the easement. Licensee, its heirs, successors and assigns and transferees waive any claim they may have now or in the future against Licensor for damage due to the signs and other improvements located on Licensor's property which may occur during installation or maintenance of Licensor's utilities in the easement or during maintenance or construction of other Licensor improvements.

12. Licensee agrees to defend, indemnify and save Licensor, its officers, agents and employees (hereinafter "Indemnitees") harmless from and against all actions claims, demands, judgments, loss damage, expense, including actual attorney fees which the Indemnitees may suffer, incur or sustain or for which the Indemnitees may become liable, arising or growing out of any injury or damage to persons or to real or personal property arising by reason of the existence, use, operation, installation, maintenance, repair, removal, replacement or inspection of the signs and other improvements on the easement or caused by the action, inaction and/or negligence of Licensee or its contractors, subcontractors, agents or representatives or any of them in the performance of work performed at the easement or in connection therewith.

13. During the term of this License, Licensee, its agents or contractors, performing work on the signs shall maintain, or cause to be maintain, in full force and effect, at its sole cost and expense, insurance policies protecting Licensor from liability of such nature and limits which, in the sole discretion of Licensor, will be adequate. Licensee shall provide Licensor with certificates of insurance for each insurance policy required to be maintained by Licensee annually during the term of this License. In the event any such insurance shall not be maintained, Licensor shall have the right to terminate this License.

14. Upon any termination permitted by this License, Licensee shall remove all signs from the easement and, upon failure to do so within thirty days of termination of this License, Licensor may proceed to remove all signs without notice to Licensee and Licensee shall be liable for all costs of said removal.

15. This License shall be revocable at will by Licensor by giving thirty days written notice to Licensee of said termination.

16. Nothing contained herein constitutes, nor should the same be construed as a waiver of any governmental immunity provided to the Licensor, its agents, employees, officers or representatives as provided for under common law or statute.

17. This License represents the entire agreement between the parties. It may not be amended, altered or modified unless done so in writing by the party against whom enforcement of any waiver, change or modification or discharge is sought.

18. This License shall be governed by and construed in accordance with the laws of the State of Michigan that are applicable to licenses made and to be performed in that State.

19. In the event any of the provisions of this License are deemed to be invalid or unenforceable, those provisions shall be deemed severable from the remainder of this License and shall not cause the invalidity or unenforceability of the remainder of this License.

20. The failure of any party to insist in any one or more instances upon the strict performance of any of the terms or provisions of this License by another party shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect.

21. No provision in this License is to be interpreted for or against any party because that party or that party's legal representative drafted the provision.

22. All representations and indemnities made by the parties shall survive the termination of this License.

23. Each party to this License warrants and presents that it is properly authorized to enter into this License.

IN WITNESS WHEREOF, the undersigned have hereunto affixed their signatures this _____ day of _____, 2013.

LICENSOR:
CITY OF PORTAGE, a Michigan
Municipal Corporation

By: _____
Maurice S. Evans
Its: City Manager

STATE OF MICHIGAN)
) ss
COUNTY OF KALAMAZOO)

On this _____ day of _____, 2013 before me personally came the above named Maurice S. Evans to me personally known, who being duly sworn, did for himself say that he is the City Manager of the municipal corporation named in and who executed the within instrument and that said instrument was signed on behalf of said corporation by authority of its City Council; and said Maurice S. Evans acknowledges said instrument to be the free act and deed of said municipal corporation.

_____, Notary Public
Kalamazoo County, Michigan
My Commission Expires: _____
Acting in Kalamazoo County, Michigan

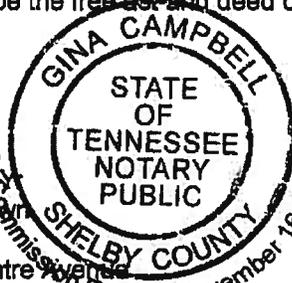
LICENSEE:

MUELLER REFRIGERATION, LLC, formerly known
as MUELLER REFRIGERATION CO. INC.
a Delaware corporation

By: [Signature]
Its: Vice President

STATE OF Tennessee)
) ss
COUNTY OF Shelby)

On this 14th day of March, 2013 before me personally came the above named Gary C. Wilkerson to me personally known, who being duly sworn, did for himself/herself say that is the Vice President of Mueller Refrigeration, LLC, formerly known as Mueller Refrigeration Co., Inc., named in and who executed the within instrument and that said instrument was signed on behalf of said corporation and said Gary C. Wilkerson acknowledges said instrument to be the free act and deed of said corporation.



Gina Campbell
_____, Notary Public
Shelby County, Tennessee
My Commission Expires: 11/16/13
Acting in Shelby County, Tennessee

PREPARED BY
Randall L. Brown
City Attorney
1662 East Centre Road
Portage, MI 49024
Phone: (269) 323-8812

Approved As To Form
Date: 3/13/13

City Attorney

z:\ody\portage\agreements\license to locate sign on city utility easement - mueller.022213.docx

2/19/83

CITY OF PORTAGE

Exhibit A

SANITARY SEWER EASEMENT AND RIGHT-OF-WAY GRANT

KNOW ALL MEN BY THESE PRESENTS, James H. Haas, Trustee of the James H. Haas Revocable Trust dated May 11, 1981 and Comerica Bank of Kalamazoo, 151 South Rose Street, Kalamazoo, Michigan 49007

(parties) of the first, part, for and in consideration of the sum of one dollar (\$1.00) and other good and valuable considerations paid to (them) by the City of Portage, Michigan, a Municipal Corporation, party of the second part, whose address is 7800 Shaver Road, Portage, Michigan, do hereby convey, grant and release to the said party of the second part a permanent easement and right-of-way in which to construct, operate, maintain, repair and/or replace sanitary sewer facilities over, across, under and through the following parcels of land situated in the City of Portage, in the County of Kalamazoo, State of Michigan, and described as:

A 25 foot Permanent Easement for Sanitary Sewer lying 12.50 feet each side of the following described centerline, located in the Southwest 1/4 of Section 12, Town 3 South, Range 11 West, being more particularly described as follows:

Commencing at the Center 1/4 Corner of Section 12, Town 3 South, Range 11 West, thence West 50 feet along the West 1/4 Line of said section to the West right-of-way line of Sprinkle Road; thence south along said West right-of-way line 849.61 feet, thence West parallel to the West 1/4 Line 12.50 feet to the Place of Beginning; thence South parallel to the West right-of-way line of Sprinkle Road 544.59 feet to the Place of Ending.

Said 25 foot easement lying westerly of and abutting the westerly right-of-way line of Sprinkle Road as recorded in Liber 711, on page 327 Kalamazoo County Register of Deeds.

and to enter upon said easement and right-of-way for the purpose of the construction, operation, maintenance, repair and/or replacement thereof. It is understood and agreed that no buildings or construction of any kind or nature will be placed upon the above described right-of-way without the prior written consent of said second party, its assigns or successors. This conveyance includes a release of any and all claims to damage arising from or incidental to the exercise of any of the foregoing powers.

It is agreed and understood that said premises shall be restored to as near original condition as possible by the party of the second part, trees and shrubs excepted, and that party of the second part may use land adjacent to said easement temporarily for construction purposes during construction of said facilities.

JUN 1983

This instrument shall be binding upon and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns.

IN WITNESS WHEREOF, THE UNDERSIGNED (has) (have) hereunto affixed (his) (her) (their) signature(s) this _____ day of _____, A.D., 19__.

In Presence of:

Handwritten signatures and names: Randy J. Howe, Nancy Juday, Chris Tompkins, James H. Haas (L.S.), and another signature (L.S.).

(Individual Acknowledgement)

STATE OF MICHIGAN)
) ss.
COUNTY OF KALAMAZOO)

On this 23 day of May, 1988, before me the undersigned, a Notary Public in and for said County, personally appeared James Haas and to me known to be the persons who executed the foregoing easement and severally acknowledged the same to be (his) (her) their) free act and deed.

JANE L. GROSCOST
Notary Public, Kalamazoo County, MI
My Commission Expires Sept. 10, 1988

Notary Public seal for Jane L. Groscost, Kalamazoo County, Michigan, commission expires Sept. 10, 1988.

IN WITNESS WHEREOF, the undersigned (has) (have) hereunto affixed (his) (her) (their) signature(s) this _____ day of _____, A.D., 19__.

In Presence of:

Comerica Bank-Kalamazoo
By: Howard W. Lynch
Vice President/Corporate Banking

(Corporate Acknowledgement)

STATE OF Michigan)
) ss.
COUNTY OF Kalamazoo)

On this 26th day of May, 1988, before me the undersigned, a Notary Public in and for said County, personally appeared Howard W. Lynch of Comerica Bank Kalamazoo to me personally known, who being by me duly sworn, did (each for himself) say that (they are respectively) the Vice President and N/A of the corporation named in and which executed the within instrument, and the (said corporation has no corporate seal) (the seal affixed to said instrument is the corporate seal of said authority of its Board of Directors) and said Howard W. Lynch and N/A severally acknowledged said instrument to be the free act and deed of said corporation.

MARCIA A. PIEPER
Notary Public, Kalamazoo County, Michigan
Acting in Kalamazoo County, Michigan
My Commission Expires November 5, 1991

Notary Public signature: Marcia A. Pieper, commission expires Nov 5, 1991.

Prepared by:
City of Portage Engineering Dept.
7800 Shaver Rd., Portage, MI 49081
When recorded return to:
City of Portage Engineering
7800 Shaver Rd., Portage, MI 49081

FORM APPROVED
DATE: MAY 16, 1988
PORTAGE CITY ATTORNEY

PENN CENTRAL

R.R.

809.26' S 0°17'54"W

366.83'

1020

369.8'

544.59'

134.82'

100A

1250'

(1299.58')

(1299.58')

100B

(929.78')

1010

(929.78')

L 1368 P 673



SECTION #12

25' SANITARY EASEMENT L 1368 P 673

544.39'

• (1253.43')

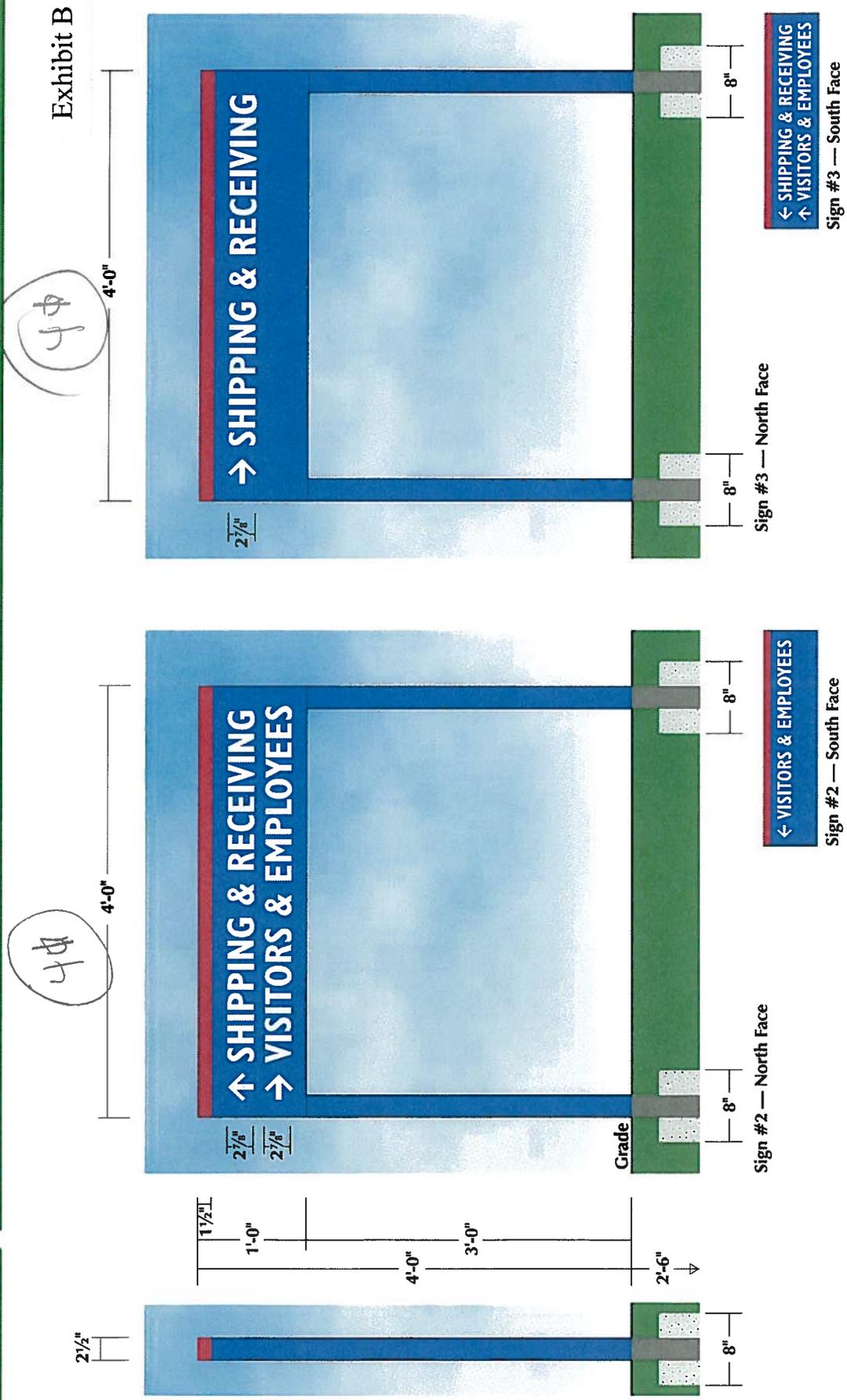
ROAD

N 0°05'10"W

N K L E

2640'

ENTER 1/4 POST



Signs #2 & #3 — Double Faced Non-Illuminated Directional Signs Scale: 3/4" = 1'-0"

.080 Aluminum faces painted GripCard Plus semi-gloss to match 3M #3630-127 Intense Blue vinyl and white with applied Calon #2283 red, 3M #3630-127 Intense Blue and Scotchlite reflective white pressure sensitive vinyl. Directional signs to have 2 1/2" x 2 1/2" x .125 aluminum support tubes painted GripCard Plus semi-gloss to match 3M #3630-127 Intense Blue set in 8" x 2'-6" deep Sakrete footings with top 3" backfilled with sod/soil. Support poles to be painted with bituminous coating below grade.

Mueller Plastics — 6700 Sprinkle Road, Portage, MI

Lead #SV-2023310

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JL 9-11-12 9-13-12H

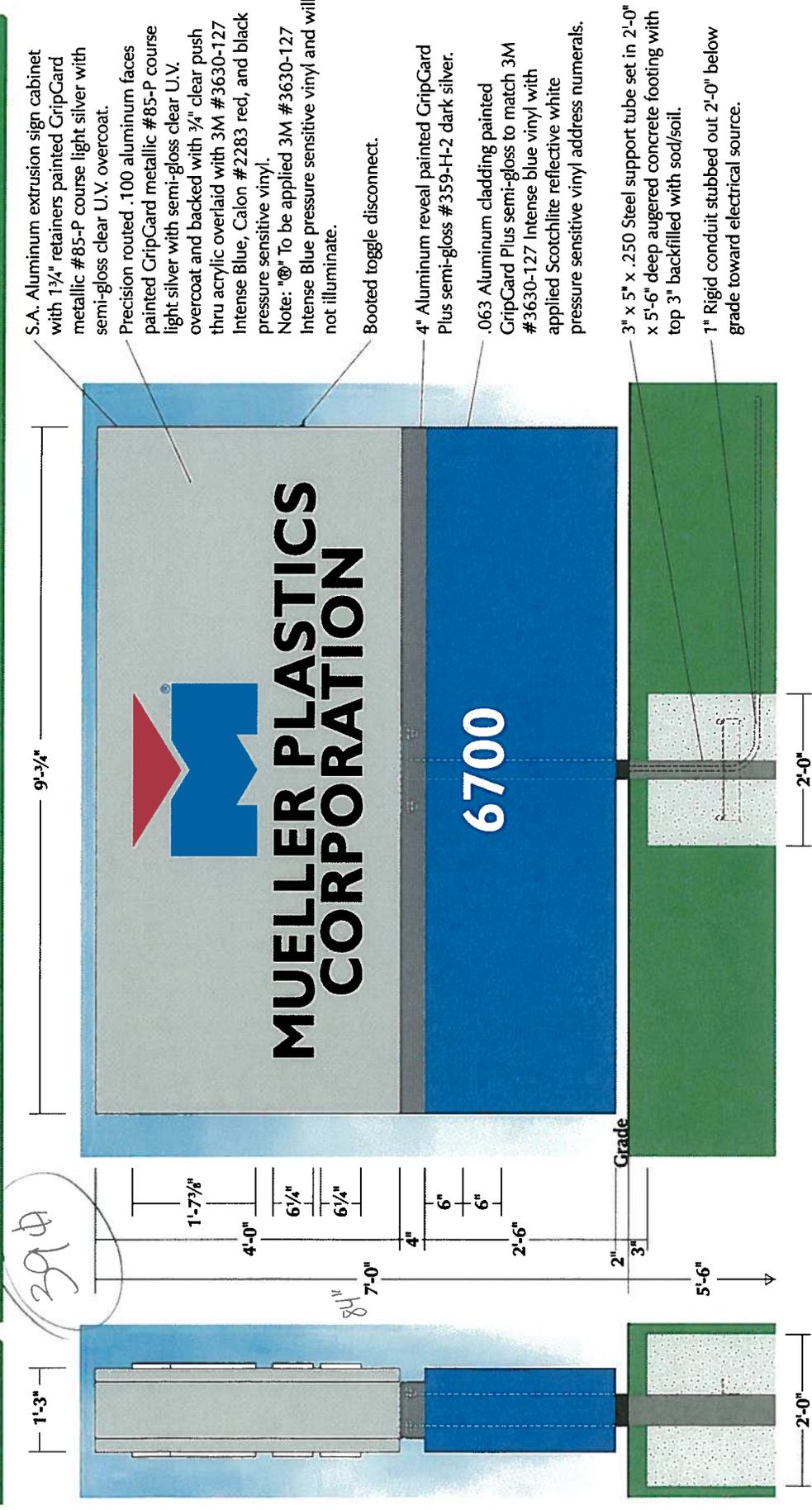
Approved for:

By:

Date:

©2012

MuellerPlastics



- S.A. Aluminum extrusion sign cabinet with 1 3/4" retainers painted GripCard metallic #85-P course light silver with semi-gloss clear U.V. overcoat.
- Precision routed .100 aluminum faces painted GripCard metallic #85-P course light silver with semi-gloss clear U.V. overcoat and backed with 3/4" clear push thru acrylic overlaid with 3M #3630-127 Intense Blue, Calon #2283 red, and black pressure sensitive vinyl.
- Note: "®" To be applied 3M #3630-127 Intense Blue pressure sensitive vinyl and will not illuminate.
- Booted toggle disconnect.
- 4" Aluminum reveal painted GripCard Plus semi-gloss #359-H-2 dark silver.
- .063 Aluminum cladding painted GripCard Plus semi-gloss to match 3M #3630-127 Intense blue vinyl with applied Scotchlite reflective white pressure sensitive vinyl address numerals.
- 3" x 5" x .250 Steel support tube set in 2'-0" x 5'-6" deep augered concrete footing with top 3" backfilled with sod/soil.
- 1" Rigid conduit stubbed out 2'-0" below grade toward electrical source.

Sign #1 — Double Faced Illuminated Monument Sign

Scale: 1/2" = 1'-0"

4'-0" x 9'-3/4" = 36.25 Sq.Ft.

Sign to bear these marks.



This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the sign.



Exhibit B

Mueller Plastics — 6700 Sprinkle Road, Portage, MI

Lead #SV-2023310

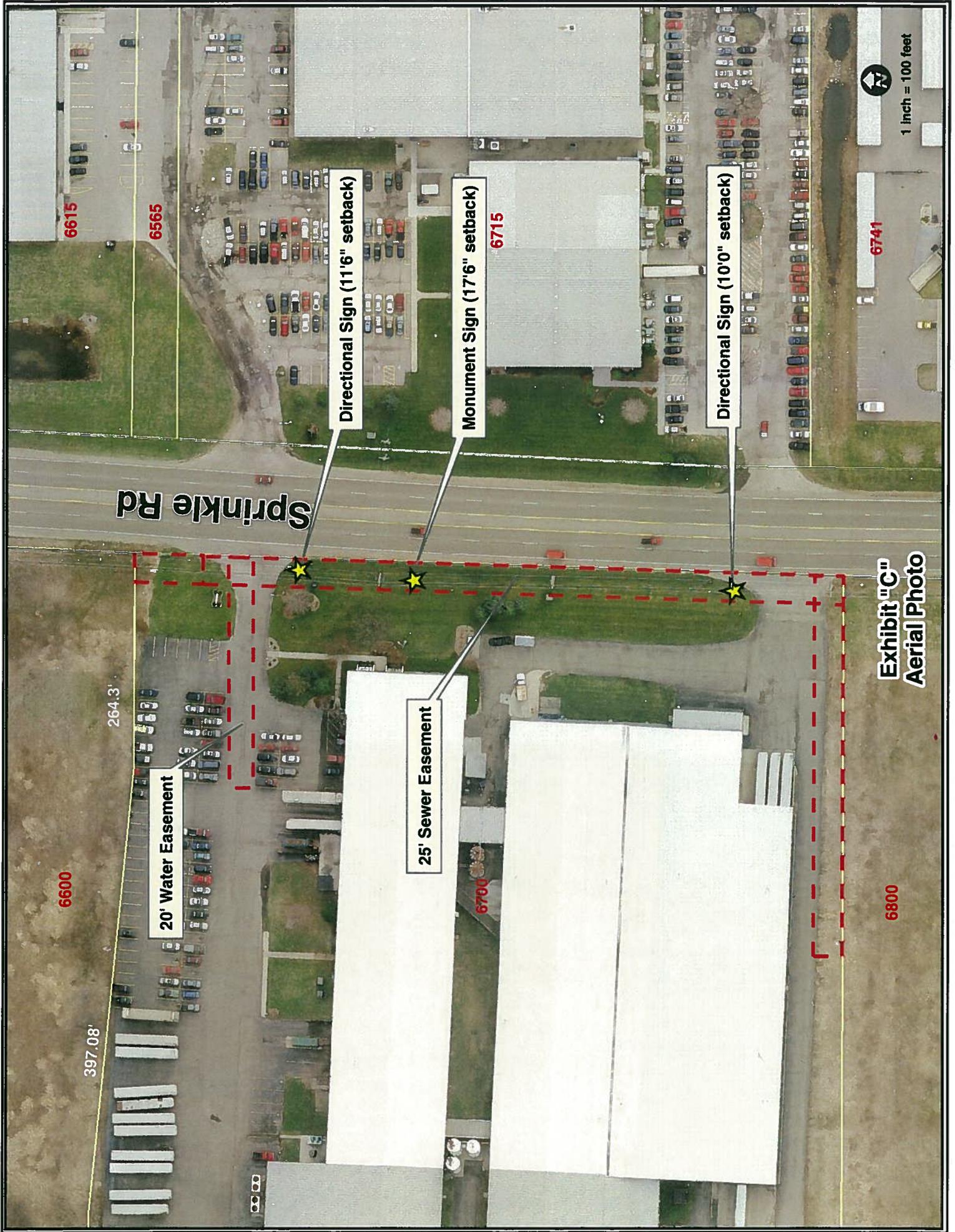
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JL 9-11-12 9-13-12H

Approved for:

By:

Date:



Sprinkle Rd

6615

6565

6715

6741

6600

264.3'

20' Water Easement

397.08'

25' Sewer Easement

6700

Directional Sign (11'6" setback)

Monument Sign (17'6" setback)

Directional Sign (10'0" setback)

Exhibit "C"
Aerial Photo

6800



1 inch = 100 feet

TO: Honorable Mayor and City Council

FROM: Mayor Peter J. Strazdas
Ted Vliek, Sr., Former Councilmember

SUBJECT: Commemorative 50th Anniversary Coffee Table Book

ACTION RECOMMENDED: That City Council approve the expenditure of up to \$2,000 for printing of the City of Portage history book update.

BACKGROUND INFORMATION:

In January 2013, the City Council approved the production of a 12-16 page booklet to serve as an update to the 2006 book, "This Place Called Portage: Its Past and Present" as part of the city's 50th anniversary celebration. Since then, donations have been solicited for the writing and printing of the booklet, which would be inserted into the original 2006 book and sold at a discounted price of \$10 each. A total of \$2,500 has been committed to this project, which is sufficient to cover the cost of writing the update.

An estimate of \$2,000 has been established to print the booklet, for which funds have yet to be donated. While the committee will continue to solicit donations to sufficiently cover the printing costs, it is recommended that the Council approve the expenditure of up to \$2,000 in the event that sufficient donations are not received. This will allow the committee to move forward with the development of the booklet in a timely manner.

FUNDING: A commitment of \$2,500 has been received to date with additional donations anticipated. A balance of approximately \$4,000 remains in the fiscal year 2012-2013 City Council Training, Education and Meetings account.

TO: Honorable Mayor and City Council

FROM: Maurice S. Evans, City Manager 

SUBJECT: Bid Recommendation - HVAC Maintenance

SUPPORTING PERSONNEL: William Deming, Director of
Parks, Recreation and Public Services

ACTION RECOMMENDED: That City Council approve the low bid for a two-year contract with Hurst Mechanical in the amount of \$76,166.27 for Heat, Ventilation and Air Conditioning (HVAC) maintenance of city owned facilities, with an option for two one-year contract extensions and authorize the City Manager to execute all documents related to this action on behalf of the city.

EXECUTIVE SUMMARY:

The contract for HVAC maintenance of the seven main city buildings (City Hall, Public Services, Senior Center, Police and three Fire Stations) is due for redistribution. Hurst Mechanical provided the low bid response and is recommended for approval.

BACKGROUND INFORMATION:

On March 21, 2013, bids were opened for HVAC maintenance for all City of Portage facilities with HVAC systems. Scheduled maintenance and repairs of HVAC systems have been provided through contractual services since 1999. Outsourcing the HVAC planned maintenance ensures that the systems are maintained properly and remain efficient for required use.

The bid was structured for interested vendors to provide a set yearly price for a two-year period with the option for two one-year extensions following completion of the initial two years. Seven bids were received, with Hurst Mechanical submitting the low two-year bid total of \$76,166.27 (first year \$37,108.00; second year \$39,058.27). Three references for Hurst Mechanical were checked and the feedback indicated that Hurst Mechanical is a reliable and capable HVAC contractor.

It is recommended that City Council approve a two-year contract for HVAC maintenance with Hurst Mechanical of Belmont, Michigan in the amount of \$76,166.27 (first year \$37,108.00; second year \$39,058.27) with an option for two, one-year renewals and authorize the City Manager to execute all documents related to the action.

FUNDING: Funds have been budgeted to cover the cost of the contractual services in the FY 2012-2013 and 2013-2014 Building Maintenance funds.

Attachments: Bid Tabulation

BID TABULATION
HVAC COMPREHENSIVE FIXED COST
EQUIPMENT REPLACEMENT MECHANICAL MAINTENANCE

<u>Bidder</u>	<u>Two-Year Bid</u>
Hurst Mechanical Inc. 5800 Safety Drive Belmont, MI 49306	\$76,166.27
Allied Mechanical Services, Inc. 3380 Highland Dr. Hudsonville, MI 49426	\$80,908.00
Pleune Service Co. 750 Himes SE Grand Rapids, MI 49548	\$84,348.00
W. Soule & Company 7125 S. Sprinkle Rd. Portage, MI 49002	\$86,778.00
ATI Group 3419 Pierson Place Flushing, MI 48433	\$97,200.00
Quality Air Heating & Cooling, Inc. 2306 Winters Drive Portage, MI 49002	\$93,328.00
Allied Building Service Company of Detroit, Inc. 1801 Howard St. Detroit, MI 48216	\$104,893.00



MATERIALS TRANSMITTED

Tuesday, April 9, 2013

1. **Supplemental Information for Items J.1 and J.2 of the April 9, 2013 City Council Agenda:** Communication from Councilmember Ed Sackley regarding the recent activity of the Lake Center Business Committee and the Sign Ordinance Committee.

A handwritten signature in black ink that reads "Maurice S. Evans". The signature is written in a cursive style and is positioned above a horizontal line.

Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager