

## REGULAR MEETING OF THE DOWAGIAC CITY COUNCIL

Municipal Building, 241 S. Front Street, Dowagiac, Michigan

Monday, September 9, 2013, 7:00 p.m.

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### AGENDA

- CALL TO ORDER -Mayor Donald D. Lyons
- PLEDGE OF ALLEGIANCE TO THE FLAG -Mayor Donald D. Lyons
- ROLL CALL -Mayor Donald D. Lyons  
-Mayor Pro-Tem Leon Laylin  
-Councilmember Charles Burling  
-Councilmember James Dodd  
-Councilmember Randall Gross, Sr.  
-Councilmember Lori Hunt  
-Councilmember Bob Schuur
- APPROVAL OF MINUTES OF PREVIOUS MEETING – August 26, 2013
- QUESTIONS FROM CITY COUNCIL –
- COMMENTS FROM THE AUDIENCE (NON-AGENDA) –
- COMMENTS FROM THE AUDIENCE (AGENDA) –
- COMMUNICATION –
1. Under the Harvest Moon Festival, October 12, 2013
- PUBLIC HEARING –
1. Public hearing to receive public comment regarding funds for a downtown rental rehabilitation grant.
- CITY MANAGER REPORT –
1. Authorize a purchase order with Synagro Central LLC for cleaning the retention pond at the wastewater treatment plant.
- RESOLUTIONS –
1. Resolution to authorize the City Manager to apply for a downtown rental rehabilitation application through the MSHDA Housing Resource Fund.

2. Resolution to authorize the City Manager to apply for a DIG Grant with the MEDC for downtown infrastructure improvements.
3. Resolution to authorize a Transit Dispatching Agreement between the City of Dowagiac and the Cass County Transportation Authority.
4. Resolution to authorize budget amendments for FY 2012-13 through the period August 31, 2013.
5. Resolution to amend and extend a six-month contract with Gary Carlile to continue his contractual employment services as Airport Manager and Park Consultant for the City.
6. Resolution to authorize and direct the City Treasurer to pay the following bills and payrolls due: (Roll Call)

**BILLS**  
\$213,136.27

**PAYROLL (25)**  
\$113,915.72

**TOTAL**  
\$327,051.99

ORDINANCES –

1. Second reading of an ordinance to amend Chapter 38, “Environment”, Nuisances, Division 7, Noise control, Section 38-112(a), be amended by its repeal and the adoption of a new Section 38-112(a).

CITY MANAGER REPORT ON QUESTIONS FROM COUNCIL FROM PREVIOUS MEETINGS –

COMMENTS FROM CITY OFFICIALS –

ADJOURNMENT –

Kevin P. Anderson  
City Manager

Attachments

## DOWAGIAC CITY COUNCIL MEETING

Monday August 26, 2013

A regular meeting of the Dowagiac City Council was called to order by Mayor Donald D. Lyons at 7:00 p.m.

Mayor Lyons led the Pledge of Allegiance to the flag.

PRESENT: Mayor Donald D. Lyons, Mayor Pro-Tem Leon D. Laylin; Councilmembers Charles K. Burling, James B. Dodd, Randall G. Gross, Sr., Lori A. Hunt and Bob B. Schuur.

STAFF: City Manager Kevin P. Anderson and City Clerk James E. Snow.

Councilmember Laylin moved and Councilmember Dodd seconded that the minutes of the August 12, 2013 meeting be approved.

Approved unanimously.

### COMMENTS FROM THE AUDIENCE (NON-AGENDA) –

Corinne Callender, 106 Miller Street

### COMMUNICATIONS –

1. Halloween Parade, October 26, 2013

Councilmember Schuur moved and Councilmember Gross seconded to grant the request.

Approved unanimously.

### PUBLIC HEARING –

1. Public hearing for the purpose of receiving public comment on a 425 Agreement in Pokagon Township.

City Manager Anderson gave a brief overview of the process.

Mayor Lyons opened the public hearing at 7:05 p.m.

There being no public comment, Mayor Lyons closed the public hearing at 7:05 p.m.

### APPOINTMENT –

1. Dowagiac District Library Board – Recommended by Mayor and offered by Mayor Pro-Tem: Re-appoint Teri Frantz for a term expiring September 2017.

## DOWAGIAC CITY COUNCIL MEETING

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Councilmember Hunt moved and Councilmember Dodd seconded to approve the Mayor's appointment.

Approved unanimously.

### CITY MANAGER REPORT –

#### 1. Bid Award – Skid Loader

From the City Manager:

#### BID AWARD - SKID LOADER

The Department of Public Services has tested and competitively priced skid loaders. This is a very valuable piece of equipment for a wide variety of construction projects, brush removal and snow removal throughout the city. It is anticipated that significant labor and fuel savings can be achieved by adding this type of equipment to our fleet. A report from the Department of Public Services Director, James Bradford is attached for your review that recommends the purchase of a Case skid loader from Ausra Equipment & Supply for a total cost of \$50,750.

Funding for the project is proposed as follows:

- 1) The purchase will be made using fund balance from the Motor Pool Fund.
- 2) The Motor Pool Fund will be replenished as follows:
  - a) \$28,000 will be transferred from various 2012-13 DPS line items that are expected to come in under budget.
  - b) \$13,000 will be transferred from three DPS line items from FY 2013-14.
  - c) A used trailer will be purchased, which will reduce the total cost.

#### RECOMMENDATION

I recommend that City Council approve the purchase of the Case skid loader from Ausra Equipment & Supply, Inc. with the funding plan as outlined above.

Councilmember Laylin moved and Councilmember Burling seconded that the recommendation of the City Manager be adopted.

ADOPTED unanimously.

### RESOLUTIONS –

1. Resolution to approve a contract agreement with Domestic And Sexual Abuse Services (DASAS).

DOWAGIAC CITY COUNCIL MEETING

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Councilmember Schuur offered and moved the adoption of the following resolution; seconded by Councilmember Laylin.

**WHEREAS**, the Domestic And Sexual Abuse Services (DASAS) provides emergency services, outreach, and advocacy for victims of domestic violence and sexual assault in Cass County and St. Joseph County; and,

**WHEREAS**, the DASAS relies upon community funding to support its operations and efforts; and,

**WHEREAS**, the City Council of Dowagiac endorses and supports the mission and objectives of the DASAS.

**NOW, THEREFORE, BE IT RESOLVED** that the Dowagiac City Council, by the affirmative vote of its City Council, does hereby approve the attached contract with the Domestic And Sexual Abuse Services to provide funding equal to \$0.25 per resident, based on a population of 5,786 representing a total allocation of \$1,446.50.

**BE IT FURTHER RESOLVED**, the Dowagiac City Council directs the Mayor and the City Clerk to be the authorized signatory for execution of the same.

ADOPTED unanimously.

2. Resolution to authorize and direct the City Treasurer to pay the following bills and payroll due:

Councilmember Schuur offered and moved the adoption of the following resolution; seconded by Councilmember Burling.

**WHEREAS**, the following information has been reviewed by the City Manager and City Treasurer and is being presented to City Council with a recommendation to approve invoices and payroll #24 for the period ending 8/22/13:

Invoices: 731,160.03  
Payroll: 185,326.01  
Total: \$916,486.04

**BE IT RESOLVED** that the City Manager and City Treasurer are hereby authorized and directed to pay the following bills and payroll due:

Invoices	Payroll	Total
\$731,160.03	\$185,326.01	\$916,486.04

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Adopted on a roll call vote.

Ayes: Six (6) Burling, Dodd, Gross, Hunt, Laylin and Schuur

Nays: None (0)

Absent: None (0)

Abstain: None (0)

ORDINANCES –

1. First reading of an ordinance to amend Chapter 38, “Environment”, Nuisances, Division 7, Noise control, Section 38-112(a), be amended by its repeal and the adoption of a new Section 38-112(a).

AN ORDINANCE TO AMEND CHAPTER 38, “ENVIRONMENT”, ARTICLE II, NUISANCES, DIVISION 7, NOISE CONTROL, SECTION 39 112(a) OF THE DOWAGIAC CITY CODE.

THE CITY OF DOWAGIAC ORDAINS:

Section 1: That Chapter 38, “Environment”, Nuisances, Division 7, Noise Control, Section 38-112(a), be amended by its repeal and the adoption of a new Section 38-112(a) to read as follows:

Section 38-112(a): Any person convicted of a violation of any provision of section 38-111 shall be punished by a fine of not more than \$175.00 and costs of prosecution, or by imprisonment of not more than 90 days, or both. Each act or violation shall constitute a separate offense.

Section 2: This ordinance shall take full force and effect immediately upon its publication in a newspaper of general circulation within the City of Dowagiac.

Moved by: Dodd

Seconded by: Schuur

This being the first reading, the Ordinance will be brought before the Council for a second reading and vote at the regular meeting September 9,2013.

2. Second reading of an ordinance to approve an agreement between the City and First Housing Corporation for a payment in lieu of taxes (PILOT) for acquiring and renovating the property

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known as Vineyard Place through the Michigan State Housing Development Authority (MSHDA).

AN ORDINANCE TO AMEND A TAX EXEMPTION ORDINANCE FOR A SERVICE CHARGE IN LIEU OF TAXES PURSUANT TO THE PROVISIONS OF ACT NO 364 OF THE PUBLIC ACTS OF MICHIGAN ON 1966 (MCL 125.1401, et. seq., MSA 116.114(1), et. seq., AS AMENDED). TITLE I COMMUNITY DEVELOPMENT, ARTICLE V MULTIPLE FAMILY DWELLING HOUSING TAX EXEMPTION.

THE CITY OF DOWAGIAC ORDAINS:

Subdivision III. Vineyard Place

Section 1: That Chapter 30, Community Development, Article III, "Housing Tax Exemption", Section 30-100.109 Duration, Section 30-100.111 Acknowledgement and Section 30-100.112 Effective date of the Dowagiac City Code be and is hereby amended by its repeal and the adoption of new Sections 30-100.109 Duration, Section 30-100.111 Effective date (Section 30-100.112 eliminated) to read as follows:

Section. 30-100.109. Duration.

This subdivision shall remain in effect and shall not terminate so long as the housing development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended; any Authority loan remains outstanding or unpaid or the Authority has any interest in the property, and provided that rehabilitation of the housing development commences within 15 months from the effective date of this subdivision.

SECTION. 30-100.111 Effective date.

This Ordinance shall take full force and effect immediately upon its publication in a newspaper of general circulation within the City of Dowagiac.

Section 2: That the Dowagiac City Clerk be and is hereby directed to forthwith cause publication as set forth in Section 30-100.111.

Moved by Councilmember Schuur and seconded by Councilmember Dodd for adoption at the August 12, 2013 meeting is now presented to the Council for a second reading and vote.

ADOPTED on a roll call vote.

Ayes: Six (6) Burling, Dodd, Gross, Hunt, Laylin and Schuur

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Nays: None (0)

Absent: None (0)

Abstain: None (0)

CITY MANAGER REPORT ON QUESTIONS FROM COUNCIL FROM PREVIOUS MEETINGS –

Concerning funds for downtown rental rehabilitation, City Manager Anderson requested a public hearing at the next Council meeting for citizen input and to direct the City Clerk to publish the same. There were no objections.

Upon motion by Councilmember Schuur and seconded by Councilmember Laylin, the Dowagiac City Council adjourned at 7:18 p.m.

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Donald D. Lyons, Mayor

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James E. Snow, City Clerk



# Chamber of Commerce & DDA

Tour The Grand Old City at [www.dowagiacechamber.com](http://www.dowagiacechamber.com)

*"Visit Dowagiac often. There are so many memorable ways to fill a day, a week or a lifetime."*

September 4, 2013

Mayor Don Lyons & City Council  
Dowagiac City Hall  
241 South Front Street  
Dowagiac MI 49047

Dear Mayor Lyons and City Council:

Chamber staff and volunteers are finalizing plans for our third-annual Under the Harvest Moon Festival on Saturday, October 12. The one-day event is built around a display of antique farm tractors and vendors selling antiques, fall produce, baked goods and higher-end handmade merchandise. New this year, The Wounded Minnow Saloon will sponsor The Taste of Michigan, Wine & Craft Brew. For your convenience, a draft (working) copy of the festival brochure is attached herewith.

In anticipation of the festival, we have invited Chamber-members and all downtown businesses to join the fun, by decorating their storefronts, entrances or window displays with an autumn theme as they enter the festival's Scarecrow Contest. New this year, a public division will also be held. For those businesses that are located outside the downtown and for public entries, we would like permission from the City to assign a lamppost to them to decorate with their scarecrow entry. We will request that participants of the contest provide their own clean-up by a specified date, following the festival.

In addition to sponsoring Taste of Michigan, The Minnow will also host a Corn Hole Tournament. The objective of both events is to attract demographics that were successfully achieved at our July event, though not previously seen at this festival.

**On behalf of the Chamber and our planning committee, we would like to request:**

- The closure of Front Street, from Division to Main, for community and commercial booths that have registered with the Chamber and have paid their exhibition fee; and for merchant-related activities such as The Taste of Michigan and the Corn Hole Tournament, which would be situated on Front Street, from D&R Sports to Kirsch Insurance. Attached herewith is a site plan for same. All business owners shown on the drawing have approved the use and double-fencing of this area.
- The use of part of Beeson, at the Front Street intersection, for our primary food vendor.
- The use of part of Commercial Street, on both sides of the Front Street intersection, for placement of entertainment and a second food vendor.
- Barricades to close the necessary streets.
- The closure and use of the unpaved parking lot at Front and Penn Avenue, at the rear of Huntington Bank, for the owners of antique tractors to park their trucks and rigs, which they will use to bring their tractors into town.
- Ten of the city's picnic tables and the assistance of DPS in transporting them to & from the downtown.
- The use of electrical outlets on Front Street and within the park, and the train depot's restrooms for the public.
- And, the assistance of police to put street and parking lot barricades in place after restaurants close Friday night. Within this area, volunteers will then install the double-fencing for the tournament and The Taste of Michigan.

Hours of operation for The Taste of Michigan and Corn Hole Tournament will be from 10 a.m. to the close of the tournament, which is expected to be 6 p.m. **As it relates to both events, The Minnow will:**

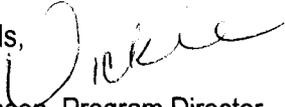
- Make application to Licensing & Regulatory Affairs for the liquor license & receive a physical extension of its current license.
- Hold the liability insurance policy, naming the City and Chamber as an additional insured.
- Surround the staging site, from D&R Sports to Kirsch Insurance, and to the center line of the street, with double fencing. The lane on Twistee's side of the street will be closed to through-traffic, though used as a staging area for the horse-drawn wagon. A site plan is attached herewith.

- Maintain one entrance/exit to the fenced-in area, which will be manned at all times. The public may also use this entrance to gain entry to Curves, D&R Sports, The Wounded Minnow and the Corn Hole Tournament. If accompanied by a guardian or parent, families with minors will be allowed to enter.
- Provide trained security, which will be stationed at the entrance and throughout the fenced-in area.
- Have TAM-certified employees of The Minnow supervise the two Taste of Michigan booths.
- Enforce a required dress code.

As always, thank you for your consideration and for support services provided to us by DPS, police, fire and grounds personnel.

We look forward to seeing you at Under the Harvest Moon, as we celebrate one of Michigan's finest seasons.

Best Regards,



Vickie Phillipson, Program Director  
Greater Dowagiac Chamber of Commerce  
and Downtown Development Authority

(Draft copy of "working" brochure)

# Under the Harvest

## MOON

Saturday,  
October 12  
10 to 4 pm



## Dowagiac, MI

Opens at 10. . View Vintage Farm Tractors, shop our Autumn Marketplace of antiques, handmade goods, produce & baked goods, and enjoy The Taste of Michigan, wine & craft brew.

9-2. . . Smoke Vision trunk show & giveaways

10 . . . Working artisans of pottery & wood carving (Details Pending)

10-2. . Live demonstrations at Dowagiac Area History Museum

10-3. . Kids' craft, where it's "owl-ways" fun at WHOOO KNEW!

10-4 . . Enjoy the music of the Van Dyke Revue and Mike Struwin.

10-4. . Children's Pumpkin Decorating Workshop hosted by MKSOD.  
Open to first 150 children up to 6th grade. Supplies provided.

10-4 . . Caramel Apple & Cider Bar hosted by Caruso's. Also featuring  
cinnamon ice cream topped w/ warm apples, pecans & caramel.

10-4 . . Tour the city by horse-drawn wagon & meet Bayside Farms' adorable miniature horses & donkeys!

10-4 . . Children's Games, hosted by Dowagiac Fine Arts Boosters

10-4 . . Extreme face painting by Robyn Ake

10-4. . . 4-Kids 4-H Club bake sale & goat exhibit

10-6. . . Taste of Michigan Wine & Craft Brew hosted by  
Wounded Minnow Saloon

10-6. . . Corn Hole Tournament, hosted by Wounded Minnow Saloon.  
Advance registration at The Minnow. 269.782.9690

11. . . Pumpkin Bake-Off hosted by Beeson Street Bar & Grill.  
\$75 in prizes for best appetizer, main course & dessert.  
Pre-register by Oct. 5. Entries due Oct. 12 at 11 a.m.  
Judging at 2 p.m. 269.782.3554

11-2. . Zelda the Witch presents Halloween tales & shares her charms  
with children, as they make Halloween bracelets.

11-4. . Savor our *Smokin' Good* pulled-pork sandwiches, grilled chicken  
& ribs, brats and hot dogs.

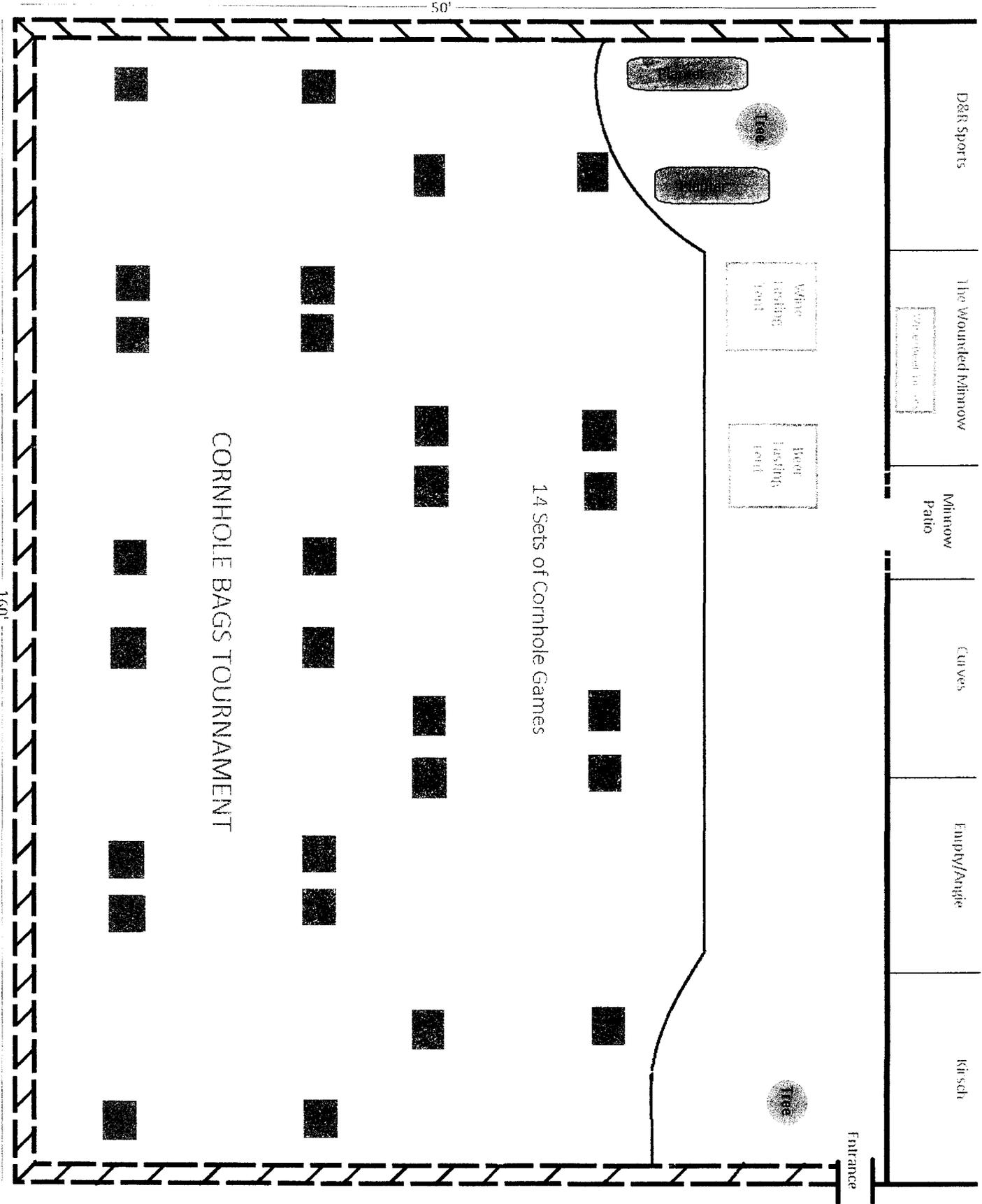
11:30. . Judging of the Scarecrow Decorating Contest. Prizes for  
business & public division. To display your entry, register by  
Oct. 1. Co-hosted by Leader Publications. For registration  
information, call the Chamber at 269.782.8212.

Noon. . . Performance by MKSOD

12:30 . . Parade of Costumed Scarecrows & Halloween Hounds hosted  
by (pending). Participants parade from City Hall to the  
Gazebo for prizes. Line-up at 12:30. Judging to follow at  
Gazebo.

1:30-2:30. . . Pokagon Band Dance & Drum Troop

2 pm . . Twistee's Ice Cream Eating Contest open to first 8 to sign up



D&R Sports

The Wounded Minnow

Minnow  
Patio

Curves

Empty/Angle

Kitchen

D&R Sports

White  
Tasting  
Tent

Beer  
Tasting  
Tent

Tree

Entrance

14 Sets of Cornhole Games

CORNHOLE BAGS TOURNAMENT

50'

160'

**CITY OF DOWAGIAC**  
**EVENT APPROVAL FORM**

Name of Event: Under the Harvest Moon Festival  
Date(s) of Event: October 12, 2013  
Sponsoring Organization: Greater Dowagiac Chamber of Commerce & DDA  
Contact Person(s): Vickie Phillipson, Program Director  
Contact Person's Telephone: 782-8212

**CITY MANAGER:**

Final Approval  Denial

Comments: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Department Heads:

Please review the attached event/activity request; indicate conditional approval, approval or denial; and provide comments regarding possible concerns. All comments will be taken under consideration and final approval remains with the City Manager.

**DEPARTMENT OF PUBLIC SAFETY:**

Approval  Approval with conditions  Denial

Comments: \_\_\_\_\_

Signature Steve K. Smith Date 9/4/13

**DEPARTMENT OF PUBLIC SERVICES:**

Approval  Approval with conditions  Denial

Comments: \_\_\_\_\_

Signature James D. Bradford Date 9-4-13

**DOWNTOWN DEVELOPMENT AUTHORITY:**

Approval  Approval with conditions  Denial

Comments: \_\_\_\_\_

Signature Vickie Phillipson Date 9-4-13

Frm City Mgr #1  
September 9, 2013

From the City Manager:

CLEANING STORM WATER RETENTION POND-WASTEWATER TREATMENT PLANT

The City's wastewater treatment plant has large retention areas to deal with peak flows. Periodically, these areas need to be cleaned to assure that maximum storage is available should large storm water events occur. It has been nearly a decade since the ponds were last cleaned and part of the City's operating permit requires that this work be done.

It is expected that this work will be completed in the fiscal year 2013-14.

RECOMMENDATION

I recommend that City Council authorize a purchase order with Synagro Central LLC in the amount of \$37,125 to perform the above-noted work per the attached agreement.

Councilmember \_\_\_\_\_ moved and Councilmember \_\_\_\_\_ seconded that the recommendation of the City Manager be ADOPTED/REJECTED.

THE CITY OF

**PURCHASE ORDER**

NO. 1263

**DOWAGIAC**

CREATING TOMORROW

P.O. BOX 430 • 241 S. FRONT ST.  
DOWAGIAC, MICHIGAN 49047  
cityofdowagiac.com

PHONE (616) 782-2195  
FAX (616) 782-1838

TO Synagro Central LLC  
435 Williams Court, Suite 100  
Baltimore, MD 21220

SHIP TO Dept. of Public Services  
29250 M-62 West  
Dowagiac, MI 49047

PLEASE ENTER OUR ORDER FOR THE FOLLOWING:

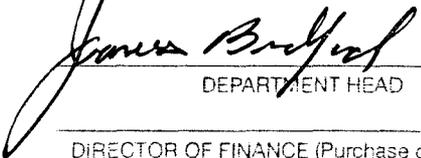
DATE REQUIRED	SHIP VIA	FEDERAL T I N 38-6004607	DEPT WWTP	ORDER DATE 09/05/2013	
ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL	ACCOUNT NO.
	Labor and equipment to clean and dispose of material in storm water retention pond at Dowagiac WWTP				
	Mobilization / Demobilization (total)	1	\$1,500.00	\$1,500.00	590-443-801.00
	Residuals - per gallon processed (est)	475000	\$0.075	\$35,625.00	590-443-801.00

Per quote dated 7/24/13 & agreement dated 8/30/13.

ORDER TOTAL: \$37,125.00

PLEASE ACKNOWLEDGE IMMEDIATELY AND STATE WHEN YOU WILL SHIP OUR ORDER. PURCHASE ORDER NUMBER MUST APPEAR ON ALL RELATED PACKAGES AND FORMS.

Purchase order must be signed before purchase is made for all purchases over \$1,000 unless covered by exception per Section 2-240 of city code.

  
DEPARTMENT HEAD  
DIRECTOR OF FINANCE (Purchase over \$1,000)

CITY MANAGER (Purchase over \$5,000)

# SYNAGRO

## Materials Management Agreement

This Agreement made and entered into as of this 30<sup>th</sup> day of August, 2013 by and between Contractor and Customer.

C U S T O M E R	Customer Legal Name Dowagiac, MI Wastewater Treatment Plant			
	Street Address 29250 M-62 West			
	City / Town Dowagiac	County Cass	State MI	Zip Code 49047
C O N T R A C T O R	Synagro Legal Name Synagro Central LLC			
	Street Address 435 Williams Court Suite 100			
	City / Town Baltimore	State MD	Zip Code 21220	
T E R M	Commencement Date August 30th, 2013		Expiration Date December 31 <sup>st</sup> , 2013 (or as completed)	
	<p>The "Term" of this Agreement shall be from the Commencement Date up to and including the Expiration Date. This Agreement shall automatically renew on an annual basis following expiration of the Term, until Contractor or Customer delivers notice to the other party of its intent to terminate the Agreement. Nothing set forth shall prohibit the parties from extending the Agreement for a longer period and other condition as parties' may agree in writing. If Contractor provides Contractor Services to Customer outside of the Term without another written agreement, then such services shall be deemed provided pursuant to the terms of this Agreement (other than the Term) and Customer's request for or acceptance of Contractor Services shall be deemed consent to the terms of this Agreement. No such provision of services by Contractor shall be deemed an agreement to provide any further services or extend the term of this contract for additional periods.</p>			
B I L L I N G	Customer Contact Name Dowagiac Department of Public Services		Telephone # 269-782-8200	
	Street Number / P.O. Box		Fax #	
	Address P.O. Box 430		Contact Person Sue Watson	
			E-mail Address SWatson@dowagiac.com	
	City / State Dowagiac, MI		Zip Code 49047	
S I G N A T U R E S	FOR CUSTOMER:		Date <b>9-4-13</b>	
	Signature <i>James D Bradford</i>			
	Name and Title <b>D.P.S. Director</b>			
	FOR CONTRACTOR:		Date	
	Signature			
	Name and Title			

## SCOPE OF SERVICES AND PRICING APPENDIX

**Scope of Service.**

See attached proposal for scope of services.

Synagro will pump the solids from the storm water retention basin, transport the solids to local farm land, and beneficially re-use the material as a soil amendment. Synagro will be responsible for permitting land for use.

We expect to remove approximately 475,000 gallons over the course of 4-5 operating days on site. Synagro will provide the equipment and personnel responsible for completing this project.

**Customer Materials.**

Residuals from the site's storm water retention pond

**Method of Delivery of Customer Materials.** The Customer Material shall be delivered to Contractor in the following manner:

The residuals are accumulated in place in the storm water pond.

**"Customer Facility(ies) "** shall mean the following locations where Customer Material(s) are generated or stored:

Dowagiac, MI WWTP

**Contractor right to refuse loads.** If trucks or containers are loaded by Customer or its agents, Contractor has the right to refuse loads that are not within legal weight restrictions, are defective, or are not filled to mutually agreed-upon minimums or maximums.

**PRICE**

The Agreement Price(s) shall be as follows:

RATE	UNIT	SERVICE
\$1,500.00	Lump Sum	Mobilization and Demobilization
\$.0750	Gallon	Per gallon processed

**Note: fuel surcharge and Consumer Price inflation adjustments do not apply to this agreement.**

**CPI ADJUSTMENTS DO NOT APPLY TO THIS PROJECT**

**CPI. All Agreement Prices shall be adjusted as follows:**

All Agreement Prices shall be adjusted annually beginning on January 1st, 2015 based on the Non-Seasonally Adjusted Consumer Price Index established by the United States Department of Commerce, Bureau of Labor Statistics, for Cleveland-Akron, OH Metro Area with the CPI immediately preceding the Commencement Date being the base index. Said adjustment shall apply to all fees contained herein, and shall be based on the following formula:

$$\text{New Price} = (\text{Price Adjustment}) \times \text{First Year Agreement Price}$$

$$\text{Price Adjustment} = 1 + \left( \frac{\text{Current CPI} - \text{Base CPI}}{\text{Base CPI}} \right)$$

Once the CPI is available, the price adjustment shall take effect retroactively, where applicable, as of the dates specified above for price adjustments. No New Price shall ever be lower than any existing current Agreement Price in effect immediately before the annual adjustment.

Unit price set through end of 2014 calendar year.

**FUEL SURCHARGE DOES NOT APPLY TO THIS PROJECT**

**Fuel Surcharge Adjustment**

All Agreement Prices shall be adjusted monthly for a fuel surcharge ("Fuel Surcharge Adjustment") to reflect any increased change in diesel fuel prices, in accordance with the table below, if the cost of retail on-highway diesel fuel (Department of Energy, Energy Information Administration – Midwest) is at, or exceeds, **\$3.50 per gallon (Base Price)**.

The Fuel Surcharge Adjustment will be based on the following chart and the Retail On-Highway Diesel Price – Midwest as published by the U.S. Department of Energy's Energy Information Administration for Low Sulfur Diesel and will be applied to the then current fixed or unit fee, as applicable. The Fuel Surcharge Adjustment will be no more than once a calendar month beginning with the second calendar month following the Commencement of Services and shall be adjusted as of the first day of each month. Fuel Surcharge Adjustment will then be applied as follows:

Diesel Price \$/Gallon - Note <sup>1</sup>	Fuel Surcharge Adjustment %
< \$(Base Price)	None
Base Price to Base Price plus \$.049	0.5 %
Base Price plus \$0.05 to Base Price plus \$0.099	1.0 %
Base Price plus \$0.1 to Base Price plus \$0.149	1.5 %

For each \$0.05/gallon increase thereafter add 0.5%

EXAMPLE:

**Base Price = \$3.50 / Gallon**

Diesel Price \$/Gallon - Note <sup>1</sup>	Fuel Surcharge Adjustment %
≤ \$3.748 (Base Price)	None
\$3.749 - \$3.799	0.5 %
\$3.80 - \$3.849	1. %

## GENERAL TERMS AND CONDITIONS

### 1. Definitions. As used in this Agreement:

A. "Affiliate" shall mean any Person which, directly or indirectly, owns or controls, or is under common ownership or control with, or is owned or controlled by, such Person.

B. "Agreement" shall mean this agreement, and each and every exhibit, appendix and schedule attached hereto, and by reference made part of this Agreement.

C. "Agreement Price(s)" shall mean any one or, collectively, all the prices to be paid by the Customer to Contractor for Contractor Services.

D. "Authorizations" means all authorizations, permits, applications, notices of intent, registrations, variances, and exemptions required for the removal, transportation and land application of Customer Materials in compliance with all Laws.

E. Agreement shall consist of the following documents which Customer acknowledges receiving copies of:

1. The Agreement
2. Scope of Service and Price Appendix
3. General Terms and Conditions

F. "Contractor Facility" shall mean a facility operated or controlled by Contractor or an Affiliate of Contractor.

G. "Contractor Services" shall be those services described in Scope of Service and Price Appendix.

H. "Customer" shall mean the entity identified as Customer in the first paragraph of this Agreement and its permitted successors and assigns.

I. "Customer Material(s)" shall mean the materials generated by or stored at the Customer's Facility which are described in Scope of Service and Price Appendix, Section A. 2. and meet(s) the requirements set forth in Appendix 2.

J. "Governmental Authority" means any governmental authority including the United States of America and any State, local authority, political subdivision, agency, department, commission, board, bureau, court, tribunal having jurisdiction over this Agreement, Customer Material(s), or Contractor, Customer, or Customer Facility.

K. "Hazardous Materials" means any "petroleum," "oil," "hazardous waste," "hazardous substance," "toxic substance," and "extremely hazardous substance" as such terms are defined, listed, or regulated under Laws.

L. "Intended Use" shall mean any use, placement or disposal of Customer Materials pursuant to this Agreement including by example, land application, composting, deposit in landfill, or incineration.

M. "Laws" means any Authorization and any applicable federal, state, or local law, rule, regulation, ordinance, order, decision, principle of common law, consent decree or order, of any Governmental Authority, now or hereafter in effect.

N. "Non-Conforming Material(s)" shall mean material(s) which (i) fail(s) to meet the description or characteristics described in Appendices 1 and/or 2, or (ii) are Hazardous Materials, or (iii) contain a concentration of polychlorinated biphenyls equal to or greater than 50 milligrams per kilogram of total solids (on a dry weight basis).

O. "Party" shall mean either Customer or Contractor; "Parties" shall mean Customer and Contractor.

P. "Person" shall mean any partnership, corporation, Governmental Authority, trust or legal entity, as well as a natural person.

Q. "Term" shall mean the term of this Agreement including any extensions, as provided for in the Agreement.

3. Services. Contractor shall provide Contractor Services to Customer.

### 4. Price and Adjustments.

A. The Agreement Price(s) for Contractor Services is set forth in Scope of Services and Price.

B. Contractor will have no duty to handle Non-Conforming Materials unless Customer and Contractor mutually agree to terms including cost for the handling of such Non-Conforming Materials on a case-by-case basis. If Contractor discovers material is Non-Conforming after it takes possession, then Customer shall reimburse all costs and expenses of Contractor in handling such Non-Conforming

Material until Customer arranges for removal and transportation of such Non-Conforming Material for appropriate processing and disposal, plus 10% of such costs and expenses.

5. Ownership of Materials. Customer shall retain all title to and ownership of the Customer Material and Non-Conforming Materials.

### 6. Rejection or Revocation of Acceptance of Materials.

A. Contractor shall have the right to reject any Non-Conforming Material prior to taking possession or revoking its acceptance after taking possession of any Non-Conforming Material, provided that Contractor notifies Customer by telephone or in writing of such rejection of Non-Conforming Materials promptly upon Contractor's discovery thereof. Any such notice of rejection not given initially in writing shall be promptly confirmed in writing to Customer. Contractor shall provide Customer with the documentation used to identify Customer Materials as Non-Conforming, and Customer shall have the right to re-test the Customer Materials.

B. Within twenty-four (24) hours after receipt of notice of rejection of Non-Conforming Material (or such longer period provided that Customer is acting with due diligence). Customer shall in accordance with Laws, arrange for and pay all costs associated with the testing, removal and transport of such Non-Conforming Material for appropriate processing and disposal. If Customer fails to remove Non-Conforming Material(s) within 10 business days of the date Customer is notified by Contractor, then Contractor shall have the right, but not the obligation, to remove, store, handle, transport, store, process and dispose of Non-Conforming Materials and Customer shall reimburse Contractor for all costs and expenses associated therewith, plus 10% of such costs and expenses.

C. Nothing in this section shall be construed to limit Customer's obligation to indemnify Contractor.

### 7. Change in Conditions Affecting Quality of Materials.

Customer shall immediately notify Contractor of changes or irregularities related to the creation, processing or conditions that would reasonably be expected to affect the quality, character or composition of Customer Materials. Customer shall promptly furnish to Contractor any information regarding known or suspected changes in the composition or characteristics of the Customer Materials.

8. Record Keeping. Contractor shall maintain records of the Contractor Services to the extent Contractor is required by Law, and further, shall maintain records to the extent specifically set forth in Scope of Services and Price. Customer shall maintain records to the extent Customer is required by Law. Customer shall keep and maintain records showing all data necessary for computation of the invoiced amounts during the term of the Agreement and for eighteen (18) months after the termination of the Agreement. Customer shall, upon reasonable notice from Contractor, allow Contractor to inspect and copy all records reasonably necessary for Contractor to compute the amounts to be invoiced.

9. Terms of Payment. Customer shall pay Contractor the full amount due under any invoice within thirty (30) days of the date of the invoice. Any invoice amount not paid in full within thirty (30) days of the date of the invoice shall bear interest at the lesser of: (i) one and one-half percent (1.5%) per month; or (ii) the maximum legally permissible interest rate on any unpaid balance thereof. Interest shall be computed from the date of the invoice.

### 10. Default Termination.

A. In the event a Party seeks to terminate this Agreement because the other Party has failed to perform one or more of its material obligations hereunder, then the non-defaulting Party shall give a default notice to the defaulting party. Such default notice shall list with reasonable detail the nature of the default. Unless otherwise stated in Subsection B below, a defaulting Party shall have a right to cure a default within 10 days. If the defaulting Party fails to cure the default within 10 days after the receipt of the default notice, then this Agreement may be terminated by the non-defaulting party by delivery of notice of termination, effective on the termination date stated in such termination notice.

B. Notwithstanding any provision herein to the contrary, Contractor may immediately terminate this Agreement upon notice to Customer if:

- (i) Customer fails to make full payment within 30 days of any invoice date;

- (ii) there is a change in or to the interpretation of any Laws which increases Contractor's risk or cost, or which would serve to delay Contractor's performance of Contractor Services;
- (iii) Contractor reasonably determines that performing Contractor Services will cause personal injury, or damage to a Party's facilities, equipment or operation, or will cause Contractor to be in violation of Laws, or will produce or cause to be produced a process byproduct that is classified as Hazardous Material(s); or
- (iv) Customer fails to provide the NANI or NANI Equivalent as provided for in Section 29.A.4.b. of this Agreement.

## 11. Indemnification.

A. Contractor shall defend, indemnify and hold harmless Customer, its directors, officers and agents from and against any and all claims, suits, actions, proceedings, liabilities, losses, damages, fines, penalties and expenses of every character whatsoever (including, but not limited to, liability for pollution, environmental or natural resource damage or restoration, nuisance, bodily injury, sickness and/or disease, including death, and loss of or damage to property), to the extent proximately caused by Contractor's negligence or breach of this Agreement. If any such suits, actions or proceedings are threatened or commenced, Customer shall promptly notify Contractor.

B. Customer shall defend, indemnify and hold harmless Contractor, its partners, directors, officers, employees and agents from and against any and all claims, suits, actions, proceedings, liabilities, losses, damages, fines, penalties and expense of every character whatsoever (including, but not limited to, liability for pollution, environmental or natural resource damage or restoration, nuisance, bodily injury, sickness and/or disease, including death, and loss of or damage to property), to the extent they arise out of: (i) Customer's failure to comply with any of its obligations under this Agreement; (ii) Customer's delivery of Non-Conforming Material to Contractor; (iii) Contractor's acceptance, handling, use or application of Non-Conforming Material; and (iv) any other negligent act or omission or willful misconduct by Customer. If any such suits, actions or proceedings are threatened or commenced, Contractor shall promptly notify Customer.

12. Access. Customer shall provide Contractor access to Customer Facility(ies) as and when requested by Contractor in order to provide Contractor Services. Customer shall bear all costs or fees associated with providing access to Contractor.

13. Compliance with Laws. Unless otherwise specifically provided in this Agreement, Contractor shall comply with Laws directly regulating Contractor Services and Customer shall comply with all Laws imposed upon.

## 14. Physical Damage Responsibility; Insurance.

A. Contractor shall provide workers compensation insurance for all its employees providing services under this Agreement in accordance with applicable law.

B. Contractor shall provide commercial general liability insurance to cover the liabilities of Contractor arising out of the Contractor Services with limits of one million dollars (\$1,000,000) for each claim, one million dollars (\$1,000,000) products aggregate and two million dollars (\$2,000,000) general aggregate. Such insurance shall provide that coverage shall not be canceled without thirty (30) days prior notice to Contractor and Customer, or ten (10) days' notice in the event that such coverage is cancelled for non-payment. Contractor shall provide evidence of said insurance, in the form of an insurance certificate, within thirty (30) days from the date hereof. Said certificate shall name Customer as an additional insured.

C. Contractor shall provide general liability and property damage insurance to cover the liabilities of Contractor arising out of the use of vehicles in the performance of Contractor Services with a combined single limit of one million dollars (\$1,000,000), with an umbrella policy of five million dollars (\$5,000,000).

15. Force Majeure. Neither Party shall be liable to the other Party for breach or delay in the performance of its obligations hereunder caused by any act or occurrence beyond its reasonable control, including, but not limited to, fires, strikes (except any strikes involving a Party's

personnel), orders or judgments of any Federal, State or local court, administrative agency or governmental body, accidents and Acts of God. It is specifically understood that, without limitation, none of the following acts, events or circumstances shall constitute an act or occurrence beyond a Party's reasonable control: (i) reasonably anticipated weather conditions normal for the region in which the work is performed or (ii) any failure to pay any sums in accordance with the terms of this Agreement. Whenever the provisions of this Section are believed to apply, the Party relying thereon shall give prompt notice to the other Party of the circumstances, the basis for applicability of this Section and the time required to cure such breach or delay and Contractor and Customer shall use reasonable best efforts to agree on appropriate mitigating actions under the circumstances.

16. Representation of Authority. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver and perform this Agreement. Each Party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

17. Survival of Obligations. Notwithstanding the expiration or sooner termination of this Agreement, any duty or obligation which has been incurred and which has not been fully observed, performed and/or discharged, and any right, conditional or unconditional, which has been created and has not been fully enjoyed, enforced and/or satisfied, shall survive such expiration or termination until such duty or obligation has been fully observed, performed and/or discharged and such right has been fully enjoyed, enforced and/or satisfied.

18. Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, both written and verbal, between the Parties with respect to the subject matter hereof.

19. Amendments. This Agreement may be amended from time to time only by an instrument in writing signed by the Parties to this Agreement.

20. Counterparts. This Agreement may be executed in counterparts, which together shall constitute one and the same contract. The Parties may execute more than one copy of this Agreement, each of which shall constitute an original.

21. Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties thereto and their successors and permitted assigns. The Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that Contractor may assign performance and/or collection to an Affiliate of Contractor without the consent of Customer.

22. Modification. This Agreement may not be amended, altered or modified except in writing signed by the Parties hereto. No waiver by either Party of any breach by the other Party of any provisions of this Agreement shall be construed as a waiver of any subsequent breach, whether of the same or of any different provision of this Agreement. No course of conduct or series of dealings shall constitute a waiver hereunder.

23. Governing Law, Venue Selection. This Agreement shall be governed by and construed under the laws of the State or Commonwealth of Michigan.

24. No Third Party Liability. Neither this Agreement nor any Subcontract is intended to give rise to or recognize any third party beneficiary to this Agreement.

25. Partial Invalidity. If any provision of this Agreement is determined to be invalid, illegal or unenforceable for any reason, that provision shall be deleted from this Agreement and such deletion shall in no way affect, impair, or invalidate any other provision of this Agreement, unless it was material to the consideration for the performance required. If a provision is deleted which is not material to such consideration, the remaining provisions shall be given the force and effect originally intended.

26. Consent to Breach Not Waiver. No term or provision hereof shall be deemed waived and no breach excused, unless such waiver or consent is in writing and signed by the Party claimed to have waived



# Materials Management Agreement

or consented. No consent by any Party to, or waiver of, a breach by the other Party shall constitute consent to, waiver of, or excuse of any other different or subsequent breach.

**27. Notice.** Except as otherwise specifically provided in this Agreement, all notices must be given in writing sent by recognized overnight courier or registered or certified US mail, postage prepaid, return receipt requested, addressed listed on the first page and with an additional copy of any notice to Contractor sent to:

Synagro Central, LLC  
1800 Bering Drive, Suite 1000  
Houston, TX 77057  
Attn: Legal Manager

Notice shall be sent to the referenced persons and addresses unless the Parties are otherwise notified in writing of a change in the name or address of the person to be notified.

**28. Consequential Damages.** In no event shall Contractor, its affiliated corporations and Affiliates or its and their directors, officers, employees or any of its subcontractors be liable for any incidental, indirect, special, punitive, economic or consequential damages, suffered or incurred by Customer or any of its agents or contractors as a result of Contractor's performance or non-performance of services pursuant to this Agreement. In no event shall Contractor's liability hereunder exceed the value of the payments to Contractor under this Agreement, regardless of legal theory.

**29. Drafting Responsibility.** Neither Contractor nor Customer shall be considered the drafter of this Agreement, and any ambiguities herein shall not be construed against either Contractor or Customer, both having participated in the drafting of this Agreement.

**30. Customer Materials.** Customer represents and warrants the following with respect to the quality of Customer Materials:

**A. Biosolids.**

1. Hazardous Materials. Customer will not provide Hazardous Materials to Contractor.

2. Polychlorinated Biphenyls. Customer Materials shall not contain a concentration of polychlorinated biphenyls (PCB's) equal to or greater than 50 milligrams per kilogram (dry weight basis), nor shall Customer Materials violate more stringent state or local standards, where applicable.

3. Suitability of Materials for Intended Use. All Customer Materials are suitable for their Intended Use and the qualities and characteristics of Customer Materials meet or exceed the minimum requirements under Laws for Intended Use.

4. Land Application of Biosolids. If land application is an Intended Use of Customer Materials, the following shall apply:

a. Customer agrees to provide Contractor with Customer Materials that meet federal, state and local land application criteria at the time they are released to Contractor. Where Contractor Services include pathogen reduction requirements and/or vector attraction reduction, Customer is not obligated to meet pathogen and/or vector attraction reduction requirements.

b. Customer shall provide Contractor documentation that Customer's biosolids meet 40 CFR PART 503, state and local land application quality criteria with respect to the three biosolids quality criteria (i.e. metals content, pathogen reduction requirements, and vector attraction reduction requirements) unless Contractor has specifically agreed otherwise as part of the Contractor Services described below. This information is to be supplied to Contractor using a Notice and Necessary Information ("NANI") form or NANI Equivalent within 45 days after the end of the Customer's monitoring period based on the biosolids testing frequency in 40 CFR 503.16. "NANI Equivalent" shall mean lab results which clearly show the three biosolids quality criteria are met (e.g. metal test results, fecal coliform test results, SOUR test results). If Customer has more than one Customer Facility, a NANI Form or NANI Equivalent is required for each Customer Facility at which Contractor Services are being provided. If Customer uses more than one treatment process within Customer Facility, (for example, customer produces anaerobically

digested and lime stabilized biosolids) a NANI form or NANI Equivalent is required for each treatment process used by the Customer. If Customer has stored biosolids in more than one location/structure within Customer Facility produced over different time periods or tested separately due to its unique characteristics or Customer's desired sampling program, a NANI form or NANI Equivalent are required for each Customer Facility storage location/structure. Contractor shall have the right to rely upon any information or certification provided by Customer and shall not have any independent duty to investigate or inquire regarding the subject matter of Customer's certification or of the information which Customer provides to Contractor. Where Contractor Services include pathogen reduction requirements, the NANI Form or NANI Equivalent provided Customer is not required to document compliance with pathogen reduction requirements by Law. Where Contractor Services include vector attraction reduction, the NANI Form or NANI Equivalent provided by Customer is not required to document compliance with vector attraction reduction requirements.

c. If Customer fails to provide the NANI Form or NANI Equivalent when required by Law, Contractor shall have the immediate right, but not the obligation, to suspend or terminate Contractor Services or this Agreement. Customer shall be liable for all additional costs and expenses arising out of such suspension or termination.

d. Contractor will land apply Customer Materials based on the most current NANI Form or NANI equivalent test results provided to the Contractor.

5. Disposal of Biosolids into Landfill. Where Customer Materials are to be disposed of in landfill(s), Customer Materials must meet the requirements in 40 CFR Part 258 (e.g., pass paint filter test and be non-hazardous per 40 CFR Part 261) and any applicable state requirements

**B. Industrial Residuals:**

1. Hazardous Materials. Customer will not provide Hazardous Materials to Contractor.

2. Polychlorinated Biphenyls. Customer Materials shall not contain a concentration of polychlorinated biphenyls (PCB's) equal to or greater than 50 milligrams per kilogram (dry weight basis), nor shall Customer Materials violate more stringent state or local standards, where applicable.

3. Suitability of Materials for Intended Use. All Customer Materials are suitable for their Intended Use and the qualities and characteristics of Customer Materials meet or exceed the minimum requirements under Laws for Intended Use.

4. Cadmium. Customer will provide Contractor with the total cadmium (Cd) concentration of the residuals in milligrams per kilograms (mg/kg) dry weight with the frequency required by Laws.

5. Disease Vectors. Customer Materials shall not attract disease vectors that endanger public health.

6. Disposal of Industrial Residuals into Landfill. Where Customer Materials are to be disposed of in landfill(s), Customer Materials must meet the requirements in 40 CFR Part 258 (e.g., pass paint filter test and be non-hazardous per 40 CFR Part 261) and any applicable state requirements.

**C. Additional Customer Materials (if any):**



July 24<sup>th</sup>, 2013

Mr. Kevin Cox  
Dowagiac WWTP  
P.O. Box 430  
Dowagiac, MI 49047

**Storm Water Retention Pond Cleaning Proposal**

Mr. Cox,

Thank you for the opportunity to provide cleaning services for Dowagiac's storm water retention pond. We have successfully completed this project in the past, and we look forward to being of service to you this year.

Synagro plans to pump the residuals from the storm water pond, transport the slurry to approved local fields, and then apply the material for beneficial re-use. We will provide all of the necessary permits, equipment and manpower to promptly complete this project during one work week.

**Plant to provide**

Daily access to work area during Synagro work hours

**Synagro to provide**

Supervision  
Labor and all required permits and safety equipment  
Equipment including pumps, tractors, hoses and spreaders  
Transport  
Liquid tankers  
Consumables  
Porta potty, if required

**Work Schedule**

Based on our estimates of the material in place, Synagro will spend 4 or 5 days total on site setting up, pumping the material, and cleaning up at job's end. We expect to work Monday through Friday from 7:00AM through 6:00PM.

It will take ½ day to pump the clean water layer on top of the sludge to the adjacent pond. Following the clean water decanting, we will load and ship tanker trucks for 2-3 days.

We will work with 2 operators at the storm water pond site, and 2 operators working in the fields, spreading the material. There will be one Supervisor on this project. We propose to clean the pond in fall 2013.

## Disposal / Land Application

All of the material removed from site will be beneficially re-used in approved local fields. Synagro will secure the necessary permits, soil samples and analytical, and retain application records to demonstrate compliance with Michigan regulation.

## Pricing as Scoped

We measure 475,000 gallons in place prior to dilution. Our pricing is based on gallons in place at start of the project.

\$ 1,500.00	Mobilization / Demobilization (total)
\$0.075	per gallon processed (based on 475,000 original gallons in place)
\$37,125.00	projected total

If you are in agreement with our scope, logistics and pricing, we will provide our standard Service Agreement for your review. We will require a Purchase Order along with the completed Agreement.

We look forward to working with you on this project. Please contact us at 443-489-9012 with any questions or to schedule this project.

Sincerely,



Vince Bankoski  
Area Account Representative

Please note that this proposal is based on Synagro's standard terms and conditions and shall be strictly non-binding upon Synagro until the parties negotiate and execute a binding contract. This proposal shall not obligate Synagro to negotiate an agreement and any of the terms of the contract shall be subject to Synagro's approval, at its discretion.

435 Williams Court, Suite 100

• Phone (443) 489-9000 • Fax: (443) 407-0148 • (800) 825-5698

***CITY OF DOWAGIAC***

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**MEMO TO: Mayor Lyons and City Council Members**

**FROM: Kevin P. Anderson, City Manager**

**DATE: September 6, 2013**

**SUBJECT: MSHDA Downtown Housing Grant**

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For a number of years, the City has successfully worked with property owners and the MSHDA downtown housing grant program to rehabilitate the second and third floors in many of the downtown buildings. There has been significant new investment and occupancy is nearly 100%.

The City has continued to work with a number of property owners and potential property owners, and it is reasonable to believe that more downtown apartments could be constructed if MSHDA funds are made available.

On Monday's agenda, City Council is requested to call for a public hearing regarding new projects and to authorize Marilyn Smith to move forward with a grant application on the City's behalf. We have worked with Marilyn numerous times and she has proven successful in virtually all grant applications on behalf of the City.

**RECOMMENDATION**

Approve a resolution calling for a public hearing and authorize the grant application to be prepared.

Support Documents:  
Cover Memo-City Mgr.  
Resolution

Councilmember \_\_\_\_\_ offered and moved the adoption of the following resolution;  
seconded by Councilmember \_\_\_\_\_.

**DRR (Downtown Rental Rehabilitation)  
HOUSING RESOURCE FUND**

**WHEREAS**, the City of Dowagiac is interested in continuing its efforts to provide affordable rental housing opportunities for its low-to-moderate income residents; and

**WHEREAS**, the City of Dowagiac Council Members recommend that the City of Dowagiac support applications for DRR funds for rehabilitation of downtown commercial and rental buildings to promote the viability of the downtown district; and

**WHEREAS**, the City of Dowagiac Council Members are requesting the application not to exceed \$500,000.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Dowagiac Council Members authorize preparation of the application for funding through the Michigan State Housing Development Authority's Housing Resource Fund.

ADOPTED/REJECTED

## **PUBLIC HEARING NOTICE**

The Dowagiac City Council will hold a public hearing at 7:00PM on Monday, September 9, 2013 in the council room of City Hall at 241 South Front Street, Dowagiac, MI 49047. The purpose of this hearing is to gain citizen input prior to submission of a Housing Resource Fund grant application to MSHDA (Michigan State Housing Development Authority) for DRR funds (downtown rental rehabilitation) to be used within the immediate downtown and DDA district. The application will be for funds not to exceed \$500,000, and will be utilized for rehabilitation of apartments within the downtown district that will benefit low to moderate income residents. All regulations concerning the grant will be governed by terms of local program guidelines adopted by the City Council and approved by MSHDA.

## *CITY OF DOWAGIAC*

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**MEMO TO:** Mayor Lyons and City Council Members

**FROM:** Kevin P. Anderson, City Manager

**DATE:** September 6, 2013

**SUBJECT:** Downtown Infrastructure Grant (DIG)

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The Michigan Strategic Fund has announced that they are accepting grant requests for infrastructure improvements within DDA districts using Community Development Block Grant funds. The focus on the infrastructure improvements is projects that “impact the overall sense of place”. Examples they cite include complete streets that are walkable and ADA accessible; green space; public art, and streetscape. The focus is on new infrastructure and not the repair and maintenance of existing infrastructure.

The City is preparing the application to include two projects:

1. Streetscape improvements at the intersection of Front and Main. These improvements will include the burying of electric lines, improvement of the street light system and extend the green space in the public right-of-way.
2. Pave the parking lot at the intersection of Pennsylvania and Main and improve streetscape.

The expected costs are being finalized and will be ready for Monday’s meeting. It is anticipated that the City will need a local match of 25% of the project costs, which would come from the Electric Utility Fund and the Capital Improvements Fund.

### RECOMMENDATION

Approve the resolution that authorizes the City Manager to submit a DIG grant pre-application as outlined above.

Support Documents:

- Cover Memo-City Mgr.
- Resolution
- Map

Councilmember \_\_\_\_\_ offered and moved the adoption of the following resolution;  
seconded by Councilmember \_\_\_\_\_.

**CITY OF DOWAGIAC  
PART 1 APPLICATION FOR A  
COMMUNITY DEVELOPMENT BLOCK GRANT FOR  
DOWNTOWN INFRASTRUCTURE GRANT PROGRAM**

**WHEREAS**, the City of Dowagiac desires to improve its employment, tax base and the overall quality of life of its residents; and

**WHEREAS**, the Michigan Economic Development Corporation (MEDC) announced Community Development Block Grants (CDBG) through the Downtown Infrastructure Grant (DIG) Program; and

**WHEREAS**, the City of Dowagiac qualifies for the CDBG funding based on the City's 56.0% low and moderate income status and other factors; and

**WHEREAS**, the City of Dowagiac will be submitting a pre-application (Part 1 Application) for burying utilities, improvements to parking areas, pedestrian accessibility and public art as detailed in the application with an expected costs of \$181,698.00; and

**WHEREAS**, the proposed infrastructure improvements meet the goals and the grant program and are consistent with the City's Master Economic Development Plan; and

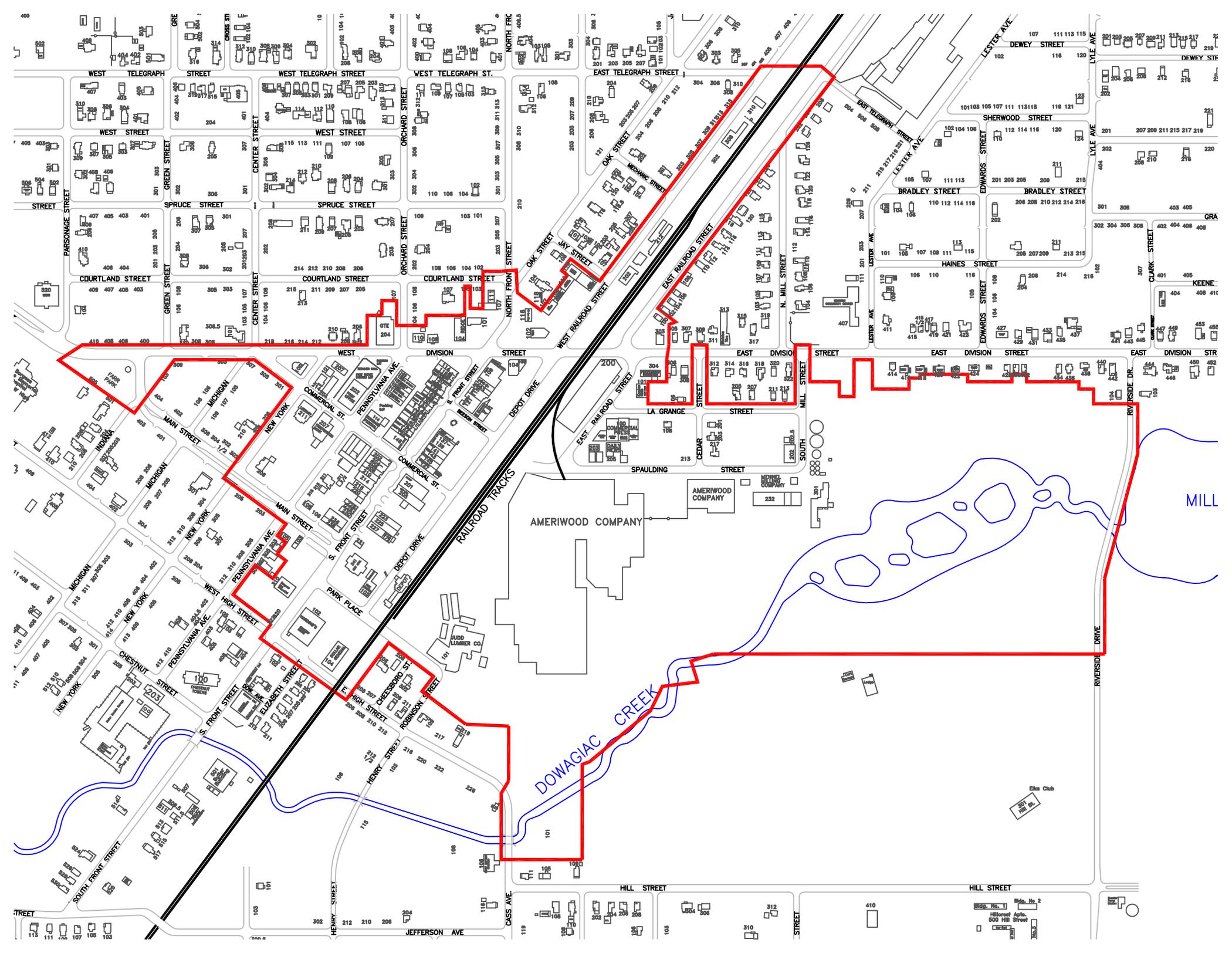
**WHEREAS**, the City of Dowagiac intends to request funding assistance from the CDBG Program and must designate a Certifying Officer and responsible Official; and

**WHEREAS**, the City of Dowagiac must commit local funds as a match for the proposed project funding by the CDBG-DIG program.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Dowagiac by the affirmative vote of its City Council, hereby designates, Kevin P. Anderson, City Manager, as the Certifying Officer for the Environmental Review and the Authorized Government Official to execute the documents for the City of Dowagiac.

**BE IT FURTHER RESOLVED** that the City will commit local funds up to \$45,425.00 from the Electric Utility Fund and Capital Improvement Funds as a local match if awarded CDBG grants funds, for which the amounts and availability will be available and encumbered immediately upon receipt of the grant award.

ADOPTED/REJECTED



Scale No. 2  
Hatched Area  
500 Hill Street

***CITY OF DOWAGIAC***

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***MEMO TO:*** Mayor Lyons and City Council Members

***FROM:*** Kevin P. Anderson, City Manager

***DATE:*** September 6, 2013

***SUBJECT:*** Transit Dispatching Agreement

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Attached you will find a memo from Transit Coordinator Rozanne Scherr outlining a Transit Dispatching Agreement between the City of Dowagiac and the Cass County Transportation Authority. This agreement is necessary because of personnel changes that have occurred and this agreement will allow us to continue uninterrupted operations for the next year at reduced costs.

Due to the length of the agreement, please visit the City's website to view the full document or contact Carrie to obtain a printed copy.

**RECOMMENDATION**

Approve the Transit Dispatching Agreement between the City of Dowagiac and the Cass County Transportation Authority.

Support Documents:

- Cover Memo-City Mgr.
- Resolution
- Cover Memo-Dept. Head Agreement

Councilmember \_\_\_\_\_ offered and moved the adoption of the following resolution;  
seconded by Councilmember \_\_\_\_\_.

**WHEREAS,** the City of Dowagiac currently dispatches Dial-A-Ride Transit buses in-house with a full-time employee; and

**WHEREAS,** Dial-A-Ride Transit dispatching does not require an on-site presence in order to operate effectively and efficiently; and

**WHEREAS,** the City and the Cass County Transportation Authority (CCTA) have negotiated a “Transit Dispatching Agreement between the City of Dowagiac and the Cass County Transportation Authority”; and

**WHEREAS,** the Agreement calls for dispatching services to be provided through CCTA’s qualified third party operator, Transportation Management, Inc., from September 16, 2013 through September 30, 2014.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council hereby authorizes execution of a Transit Dispatching Agreement between the City of Dowagiac and the Cass County Transportation Authority.

ADOPTED/REJECTED

## *CITY OF DOWAGIAC*

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**MEMO TO:** Kevin Anderson, City Manager

**FROM:** Rozanne Scherr, Transit Coordinator

**DATE:** September 5, 2013

**SUBJECT:** Transit Dispatching Agreement

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Attached for your review is a "Transit Dispatching Agreement between the City of Dowagiac and the Cass County Transportation Authority." This agreement is being proposed to cover the vacancy that will occur when our current Dispatcher leaves for a dispatching position at Cass County Public Transit. By contracting for this service we are expected to save several thousand dollars annually. General terms of the agreement are as follows:

1. **Service Plan:** Receive calls, dispatch and coordinate service responses of drivers. Provide record keeping and reports. There will be little change for DART customers as the same phone number will be used and riders will still talk to our current dispatcher.
2. **Compensation:** Cass County Transportation Authority (CCTA) will bill the City monthly on a ridership basis in the amount of \$1.77 per passenger trip not to exceed a total of \$35,000 annually. The per passenger rate is based on MDOT Performance Indicator Reports and allows for flexibility as annual ridership varies each year (high/low). It caps City costs to allow for savings and provides a fair amount for the purchase of dispatch services.
3. **Equipment:** Property of the City remains with the City. Property of CCTA remains with CCTA.
4. **Staffing:** DART drivers remain employees of the City. Dispatch will be the employee of Cass County Transit.
5. **Duration:** Agreement shall commence on September 16, 2013 and shall terminate on September 30, 2014.
6. **Termination of Agreement:** The agreement may be terminated by either party with ninety (90) days written notification to other party.

The DART Local Advisory Committee met on September 4, 2013 to review the agreement. It is their recommendation that the agreement be brought before City Council for their consideration and approval at the September 9, 2013 council meeting.

Should you have any questions or comments please do not hesitate to contact me.

# **TRANSIT DISPATCHING AGREEMENT BETWEEN THE CITY OF DOWAGIAC AND THE CASS COUNTY TRANSPORTATION AUTHORITY**

WHEREAS, Statutory authority exists through Public Act 8 of Extra Session 1967 which provides for intergovernmental transfers of functions and responsibilities between political subdivisions; and,

WHEREAS, the City of Dowagiac (hereinafter referred to as the “City”) operates a transit system for its citizens; and

WHEREAS, the agreement between the City and the Michigan Department of Transportation authorizes the City to subcontract portions of their transit system; and

WHEREAS, the Cass County Transportation Authority (hereinafter referred to as the “Authority”) is qualified to offer dispatching services for the City’s transit system (hereinafter referred to as the “Project”), using its third party operator, Transportation Management, Inc. (hereinafter referred to as the “Contractor”), and desires to do the same for the period of September 16, 2013 through September 30, 2014.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter contained, IT IS HEREBY AGREED AS FOLLOWS:

## **I. Service Plan**

Utilizing the services of its Contractor, the Authority shall cooperate with the City and their Transportation Coordinator in developing a system for dispatching the City of Dowagiac’s dial-a-ride buses including such items as bus routes, schedules, total hours of operation (total hours of operation shall not exceed 45 per week, Monday-Friday), record keeping and reporting.

The Authority, utilizing the services of its Contractor, shall provide the following:

- Receive all calls from DART customers and dispatch the City’s buses.
- Coordinate service responses between DART drivers
- Track and provide, on a daily/weekly/monthly basis, total sales, number of passengers, miles driven, equipment maintenance and complaints.
- Schedule DART Vehicles for service and inspections in accordance with maintenance procedures and provide records of such maintenance.
- Provide training of drivers as appropriate.

## **II. Compensation**

The City and the Authority acknowledge that the financing of transportation services relies substantially upon State of Michigan and federal government funding. If the State of Michigan or the federal government makes a material change in the funds available for transportation services, the City and the Authority agree that they shall negotiate an equitable adjustment to the compensation rates and terms, level of services, and any other applicable conditions of this Agreement.

The number of passenger trips provided by City buses shall be reported to the CCTA by the City within three (3) days following the end of each month.

The Authority shall submit monthly billings to the City covering services rendered on the Project. Such billings shall be submitted on forms(s) supplied and/or approved by the City. In the event the City is not satisfied with the billing reports submitted, it shall return the same to the Authority setting forth the changes desired. The Authority shall resubmit the same with the appropriate changes no later than three (3) working days subsequent to such return. Payment to the Authority shall be on a per passenger reimbursement basis.

The CCTA shall bill the City monthly on a ridership basis in the amount of \$1.77 per passenger trip to a maximum of \$36,000 annually.

In the event the CCTA cannot provide services, the City shall not be assessed or be liable for any costs whatsoever for those days that services are not rendered.

### **III. Recordkeeping and Review**

The City's recordkeeping procedures and internal control shall conform to generally accepted accounting practices in order that the compensation paid under this Agreement can be readily ascertained and verified therefrom. The CCTA and the Department, or their representatives, shall be allowed access to and review of records pertaining to the City's compensation or expenses under this Agreement during the CCTA's and the Department's normal business hours. Refusal to allow the CCTA or its representatives access to said records shall constitute a material breach of this Agreement and grounds for immediate termination of the same. Such records are to be maintained for a period of not less than three (3) years after final payment under this Agreement.

### **IV. Equipment**

Any Project equipment acquired by the City pursuant to this Agreement and paid for by the City or by the Department for the City is the property of the City, and possession of the same shall remain with the City at the termination of this Agreement. Any equipment purchased by the CCTA with funds not supplied by the City through this Agreement shall remain with the City at the termination of this Agreement, except in those cases where the removal of said equipment would render the property of the Department to be returned inoperative.

The CCTA shall observe and carry out the following with respect to Project equipment.

The City shall arrange for installation of proper radio equipment. This includes three (3) radios in the City buses that will operate on the frequency of the CCTA's receivers.

The City shall maintain Project equipment in good working condition.

### **V. Staffing**

The City and Contractor clearly understand that persons operating at the direction of the Contractor are the Contractor's employees. This Agreement shall not be construed to establish any employer/employee, master/servant, or principal/agent relationship between employees of the Contractor and the CCTA or City. The Contractor shall be solely responsible for the satisfactory work performance of its personnel.

## **VI. Insurance**

The Contractor shall carry, at a minimum, the following insurance:

- **Workers' Compensation Insurance** - covering all persons engaged in work under this Contract to the full statutory limits stipulated in the Michigan Workers' Compensation Act.

## **VII. Miscellaneous Provisions**

If either the City, the CCTA, or Contractor desires a meeting pertaining to the Project, the party desiring such meeting shall notify the other parties in writing no later than five (5) working days prior to such meeting. Such notice shall state the time, place, and matters to be discussed at the meeting.

The City shall be responsible for submitting all Department required applications and reports necessary to retain State and Federal funding.

The City shall require the Contractor to adhere to all federal, State, and local discrimination laws and regulations with regard to persons seeking services provided under the terms of this Agreement.

In connection with the performance of work under this Contract, the CCTA agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in (Attachment B) attached hereto and made a part hereof. The CCTA further covenants that it will comply with the Civil Rights Act of 1964 (being P.L. 88-352, 78 Stat. 241 as amended, being Title 42 U.A.C., Section 1971; 1975a-1975d, and 2000-2000h-6) (Attachment A) and will require a similar covenant on the part of any contractor or subcontractor employed in the performance of this Agreement.

The CCTA further covenants that it will comply with all applicable Office of Passenger Transportation Contract Clauses which are attached to this Agreement as Attachment C. These terms and conditions are incorporated by reference into this Agreement and made a part hereof.

To the extent the CCTA is indemnified by the Contractor and City the CCTA agrees to indemnify and save harmless the Contractor, City and all officers, agents and employees thereof from any and all claims by persons, firms, or corporations for labor, services, materials, or supplies provided to the CCTA in connection with this contract, and from any and all claims for injuries to, or death of, any and all persons, and for loss of or damage to property, from environmental damage, degradation, response and cleanup costs, and from attorney fees and related costs arising out of , under, or by reason of this Agreement, except claims resulting from the sole negligence or willful acts or omissions of the CCTA, its agents or employees.

The CCTA shall not assign, subcontract, or otherwise transfer its duties and/or obligations under this Agreement without prior written consent from the City.

No failure or delay on the part of either of the parties to this Agreement in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any right, power, or privilege.

Modifications, amendments, or waivers of any provision of this Agreement may be made only by written mutual consent of the parties hereto.

This agreement shall be governed by the laws of the State as set forth in the prime contract. All terms and conditions included in the prime contract are incorporated into this Agreement, and in the event of a conflict, the prime agreement shall prevail.

The CCTA shall require the Contractor to acknowledge that he has fully reviewed the CCTA's Master Agreement with the Department (MDOT Master Agreement No. 2012-0046) and the City's Master Agreement with the Department (MDOT Master Agreement No. 2012-0052) and agrees to abide by all terms and conditions therein which would be applicable to this contractual agreement. The applicable terms and conditions are incorporated by reference into this Agreement and made a part hereof.

The performance of this Agreement shall commence on September 16, 2013, and shall terminate on September 30, 2014. The CCTA, with concurrence of the City, reserves the option to extend the performance of this Agreement for one (1) additional year beyond the date of termination set forth herein, by providing the City with written notice of its intention to exercise such option no less than thirty (30) days prior to the date of termination set forth herein.

**Either the City or the CCTA, in their sole discretion, may terminate this Agreement upon ninety (90) days written notification to the other party.**

If any provision of this Agreement is held to be invalid, the remainder of this Agreement shall not be affected thereby.

No member, officer, or employee of the CCTA, during their tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

The persons signing on behalf of the City and the CCTA respectively certify by such signatures that they are duly authorized to sign this Agreement on behalf of the City and the CCTA.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

**CITY OF DOWAGIAC**

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Date

**CASS COUNTY TRANSPORTATION AUTHORITY**

\_\_\_\_\_  
Donald Lyons, Chairman, CCTA

\_\_\_\_\_  
Date

**TITLE VI ASSURANCE**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest, (hereinafter referred to as the “contractor”) agrees as follows:

1. Compliance with Regulations: For all federally assisted programs, the contractor shall comply with the non-discrimination regulations set forth in 49 CFR Part 21, as may be amended from time to time (hereinafter referred to as the Regulations). Such Regulations are incorporated herein by reference and made a part of this contract.
2. Non-discrimination: The contractor, with regard to the work performed under the contract, shall not discriminate on the grounds of race, color, sex or natural origin in the selection, retention, and treatment of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: All solicitations made by the contractor, either by competitive bidding or by negotiation for sub-contract work, including procurement of materials or leases of equipment, must include a notification to each potential sub-contractor or supplier of the contractor’s obligations under the contract and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined to be pertinent by the Department or the United States Department of Transportation (USDOT) in order to ascertain compliance with such Regulations or directives. If required information concerning the contractor is in the exclusive possession of another who fails or refuses to furnish the required information, the contractor shall certify to the Department, or the USDOT, as appropriate, and shall set forth the efforts that it made to obtain the information.
5. Sanctions for Noncompliance: In the event of the contractor’s noncompliance with the non-discrimination provisions of this contract, the Department shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to, the following:
  - (a) Withholding payments to the contractor until the contractor complies, and/or
  - (b) Cancelling, terminating, or suspending the contract, in whole or in part.

Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any sub-contract or procurement as the Department or the USDOT may direct as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event a contractor becomes involved in or is threatened with litigation from a sub-contractor or supplier as a result of such direction, the contractor may request the Department to enter into such litigation to protect the interests of the state, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Revised June 2011

**PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS**

In connection with the performance of work under this contract; the Contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220, of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all sub-contracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the contractor's commitments under this Appendix.
6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.
7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as the contractor
8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing

contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.

9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every sub-contract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission; all sub-contracts and purchase orders will also state that said provisions will be binding upon each sub-contractor or supplier..

Revised June 2011

## **OFFICE OF PUBLIC TRANSPORTATION CONTRACT CLAUSES**

### **INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

The preceding provisions include, in part, certain Standard Terms and Conditions required by U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by U.S. DOT, as set forth in the Federal Transit Administration (FTA) Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The { \_\_\_\_\_ }, hereafter referenced as "CONTRACTOR" shall not perform any act, fail to perform any act, or refuse to comply with any { \_\_\_\_\_ }, hereafter referenced as "AGENCY," requests which would cause AGENCY to be in violation of the FTA terms and conditions.

### **NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

#### **No Obligation by the Federal Government.**

(1) The AGENCY and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the AGENCY, CONTRACTOR, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. (2) The CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **FALSE OR FRAUDULENT STATEMENTS OR CLAIMS**

The CONTRACTOR acknowledges and agrees that:

(1) Civil Fraud. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq.*, and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to the CONTRACTOR's activities in connection with the Project. By executing the Grant Agreement or Cooperative Agreement for the Project, the CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the CONTRACTOR also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the CONTRACTOR the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

(2) Criminal Fraud. If the CONTRACTOR makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the CONTRACTOR the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001, or other applicable Federal law to the extent the Federal Government deems appropriate.

### **ACCESS TO THIRD PARTY CONTRACT RECORDS**

The AGENCY agrees to require, and assures that its CONTRACTOR require, their third party contractors and third party subcontractors at each tier to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third party contract records as required by 49 U.S.C. §5325(g). The CONTRACTOR further agrees to require, and assures that its subcontractors require, their third party contractors and third party subcontractors, at each tier, to provide sufficient access to third party procurement records as needed for compliance with Federal laws and regulations or to assure proper Project management as determined by FTA.

### **CHANGES TO FEDERAL REQUIREMENTS**

The CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between AGENCY and FTA, as they may be amended or promulgated from time to time during the term of this contract. The CONTRACTOR's failure to so comply shall constitute a material breach of this contract in compliance with 49 CFR Part 18.

**TERMINATION (For projects over \$10,000)**

**a. Termination for Convenience (General Provision)** The AGENCY may terminate this contract, in whole or in part, at any time by written notice to the CONTRACTOR when it is in the Government's best interest in compliance with 49 U.S.C. Part 18/FTA Circular 4220.1F. The CONTRACTOR shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to AGENCY to be paid. If the CONTRACTOR has any property in its possession belonging to the AGENCY, the CONTRACTOR will account for the same, and dispose of it in the manner the AGENCY directs.

**b. Termination for Default [Breach or Cause] (General Provision)** If the CONTRACTOR does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the CONTRACTOR fails to perform in the manner called for in the contract, or if the CONTRACTOR fails to comply with any other provisions of the contract, the AGENCY may terminate this contract for default. Termination shall be effected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the AGENCY that the CONTRACTOR had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the CONTRACTOR, the AGENCY, after setting up a new delivery of performance schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

**c. Opportunity to Cure (General Provision)** The AGENCY in its sole discretion may, in the case of a termination for breach or default, allow the CONTRACTOR [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If CONTRACTOR fails to remedy to AGENCY's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by CONTRACTOR of written notice from AGENCY setting forth the nature of said breach or default, AGENCY shall have the right to terminate the Contract without any further obligation to CONTRACTOR. Any such termination for default shall not in any way operate to preclude AGENCY from also pursuing all available remedies against CONTRACTOR and its sureties for said breach or default.

**d. Waiver of Remedies for any Breach** In the event that AGENCY elects to waive its remedies for any breach by CONTRACTOR of any covenant, term or condition of this Contract, such waiver by AGENCY shall not limit AGENCY's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

**e. Termination for Convenience (Professional or Transit Service Contracts)** The AGENCY, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the AGENCY shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

**f. Termination for Default (Supplies and Service)** If the CONTRACTOR fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the CONTRACTOR fails to comply with any other provisions of this contract, the AGENCY may terminate this contract for default. The AGENCY shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of the default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the CONTRACTOR.

**g. Termination for Default (Transportation Services)** If the CONTRACTOR fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the CONTRACTOR fails to comply with any other provisions of this contract; the AGENCY may terminate this contract for default. The AGENCY shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of default. The CONTRACTOR will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract. If this contract is terminated while the CONTRACTOR has possession of AGENCY goods, the CONTRACTOR shall, upon direction of the AGENCY, protect and preserve the goods until surrendered to the AGENCY or its agent. The CONTRACTOR and AGENCY shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the AGENCY.

**h. Termination for Default (Construction)** If the CONTRACTOR refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the CONTRACTOR fails to comply with any other provisions of this contract, the AGENCY may terminate this contract for default. The AGENCY shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of the default. In this event, the AGENCY may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The CONTRACTOR and its

sureties shall be liable for any damage to the AGENCY resulting from the CONTRACTOR's refusal or failure to complete the work within specified time, whether or not the CONTRACTOR's right to proceed with the work is terminated. This liability includes any increased costs incurred by the AGENCY in completing the work. The CONTRACTOR's right to proceed shall not be terminated, nor the CONTRACTOR charged with damages under this clause if:

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR. Examples of such causes include: acts of God, acts of the AGENCY, acts of another CONTRACTOR in the performance of a contract with the CONTRACTOR, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. the CONTRACTOR, within [10] days from the beginning of any delay, notifies the AGENCY in writing of the causes of delay. If in the judgment of the AGENCY, the delay is excusable, the time for completing the work shall be extended. The judgment of the AGENCY shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

a. If, after termination of the CONTRACTOR's right to proceed, it is determined that the CONTRACTOR was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the CONTRACTOR.

**i. Termination for Convenience or Default (Architect and Engineering)** The AGENCY may terminate this contract in whole or in part, for the CONTRACTOR's convenience or because of the failure of the CONTRACTOR to fulfill the contract obligations. The AGENCY shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the CONTRACTOR shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If the termination is for the convenience of the CONTRACTOR, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the CONTRACTOR to fulfill the contract obligations, the AGENCY may complete the work by contract or otherwise and the CONTRACTOR shall be liable for any additional cost incurred by the AGENCY. If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the CONTRACTOR.

**j. Termination for Convenience or Default (Cost-Type Contracts)** The AGENCY may terminate this contract, or any portion of it, by serving a notice of termination on the CONTRACTOR. The notice shall state whether the termination is for convenience of the AGENCY or for the default of the CONTRACTOR. If the termination is for default, the notice shall state the manner in which the CONTRACTOR has failed to perform the requirements of the contract. The CONTRACTOR shall account for any property in its possession paid for from funds received from the AGENCY, or property supplied to the CONTRACTOR by the AGENCY. If the termination is for default, the AGENCY may fix the fee, if the contract provides for a fee, to be paid the CONTRACTOR in proportion to the value, if any, of work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to the AGENCY and the parties shall negotiate the termination settlement to be paid the CONTRACTOR. If the termination is for the convenience of the AGENCY, the CONTRACTOR shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the AGENCY determines that the CONTRACTOR has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the CONTRACTOR, the AGENCY, after setting up a new work schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

### **CIVIL RIGHTS (For projects over \$10,000)**

The CONTRACTOR agrees to comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal Government determines otherwise in writing. These include, but are not limited to, the following:

- a. **Nondiscrimination in Federal Public Transportation Programs.** The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.
- b. **Nondiscrimination – Title VI of the Civil Rights Act.** The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21. Except to the extent FTA determines otherwise in writing, the CONTRACTOR agrees to follow all applicable

provisions of the most recent edition of FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," and any other applicable Federal directives that may be issued.

c. **Equal Employment Opportunity.** The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et seq.*, and implementing Federal regulations and any later amendments thereto. Except to the extent FTA determines otherwise in writing, the CONTRACTOR also agrees to follow all applicable Federal EEO directives that may be issued. Accordingly:

(1) General. The CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(2) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as "construction," the CONTRACTOR agrees to comply and assures the compliance of each subcontractor, lessee, third party contractor, or other participant, at any tier of the Project, with all requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*; with implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and with other applicable EEO laws and regulations, and also agrees to follow applicable Federal directives, except as the Federal Government determines otherwise in writing.

d. **Nondiscrimination on the Basis of Sex.** The CONTRACTOR agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

e. **Nondiscrimination on the Basis of Age.** The CONTRACTOR agrees to comply with all applicable requirements of:

(1) The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal financial assistance.

(2) The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

f. **Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections.** To the extent applicable, the CONTRACTOR agrees to comply with the confidentiality and civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

g. **Access to Services for Persons with Limited English Proficiency.** The CONTRACTOR agrees to facilitate compliance with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and follow applicable provisions of U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 *Fed. Reg.* 74087, December 14, 2005, except to the extent that FTA determines otherwise in writing.

h. **Environmental Justice.** The CONTRACTOR agrees to facilitate compliance with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

i. **Other Nondiscrimination Laws.** The CONTRACTOR agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable Federal directives prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

### **DISADVANTAGED BUSINESS ENTERPRISE**

To the extent authorized by Federal law, the CONTRACTOR agrees to facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each subcontractor, lessee, third party contractor, or other participant at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable as follows:

(1) The CONTRACTOR agrees and assures that it shall comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

(2) The CONTRACTOR agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any subagreement, lease, third party contract, or other arrangement supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and shall comply with the requirements of 49 C.F.R. Part 26. The CONTRACTOR agrees to take all necessary and reasonable steps as set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all subagreements, leases, third party contracts, and other arrangements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26, the CONTRACTOR's DBE program approved by U.S. DOT, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative agreement for the Project. The CONTRACTOR agrees that it has a legal obligation to implement its approved DBE program, and that its failure to carry out that DBE program shall be treated as a violation of the Grant Agreement or Cooperative Agreement for the Project and this Master Agreement. Upon notification by U.S. DOT to the CONTRACTOR of the CONTRACTOR's failure to implement its approved DBE program, U.S. DOT may impose the sanctions as set forth in 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter to the appropriate Federal authorities for enforcement under 18 U.S.C. § 1001, or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 *et seq.*, or both.

#### **DEBARMENT AND SUSPENSION (For projects over \$25,000)**

The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," 2 C.F.R. Part 180. The CONTRACTOR agrees to, and assures that its subcontractors, lessees, third party contractors, and other participants at any tier of the Project will, review the "Excluded Parties Listing System" at <https://www.sam.gov/portal/public/SAM/> before entering into any subagreement, lease, third party contract, or other arrangement in connection with the Project.

#### **FLY AMERICA (FOR FOREIGN AIR TRANSPORT OR TRAVEL)**

The CONTRACTOR understands and agrees that the Federal Government will not participate in the costs of international air transportation of any individuals involved in or property acquired for the Project unless that air transportation is provided by U.S.-flag air carriers to the extent such service is available, in compliance with section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143.

#### **PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS (FOR TRANSIT OPERATIONS)**

If the Grant Agreement or Cooperative Agreement for the Project indicates that public transportation employee protective arrangements required by U.S. DOL apply to public transportation operations performed in connection with the Project, the CONTRACTOR agrees to comply with the applicable requirements for its Project as follows:

(1) Standard Public Transportation Employee Protective Arrangements. To the extent that the Project involves public transportation operations and to the extent required by Federal law, the CONTRACTOR agrees to implement the Project in accordance with the terms and conditions that the U.S. Secretary of Labor has determined to be fair and equitable to protect the interests of any employees affected by the Project and that comply with the requirements of 49 U.S.C. § 5333(b), in accordance with U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in U.S. DOL's certification of public transportation employee protective arrangements to FTA, the date of which appears in the Grant Agreement or Cooperative Agreement for the Project. The CONTRACTOR agrees to implement the Project in accordance with the conditions stated in that U.S. DOL certification. That certification and any documents cited therein are incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The requirements of this Subsection 24.d(1) of this Master Agreement do not apply to Projects for elderly individuals or individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2) or subsection 3012(b) of SAFETEA-LU, Projects for nonurbanized areas authorized by 49 U.S.C. § 5311; or Projects for the over-the-road bus accessibility program authorized by section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, 49 U.S.C. § 5310 note. Separate requirements for those Projects are set forth in Subsections 24.d(2), (3), and (4), respectively, of this Master Agreement.

(2) Public Transportation Employee Protective Arrangements for the Elderly Individuals and Individuals with Disabilities Formula Program and for the Elderly Individuals and Individuals with Disabilities Formula Program Pilot Program. To the extent that the U.S. Secretary of Transportation has determined or determines in the future that employee protective arrangements required by 49 U.S.C. § 5333(b) are necessary or appropriate for a governmental

authority subcontractor participating in a Project authorized by 49 U.S.C. § 5310(b)(2) or subsection 3012(b) of SAFETEA-LU, 49 U.S.C. § 5310 note, the CONTRACTOR agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor necessary to comply with the requirements of 49 U.S.C. § 5333(b), in accordance with U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions, if any, are identified in the U.S. DOL's certification of public transportation employee protective arrangements to FTA, the date of which appears in the Grant Agreement. The CONTRACTOR agrees to implement the Project in compliance with the conditions stated in that U.S. DOL certification, to the extent that certification is required. Any U.S. DOL certification that may be provided and any documents cited therein are incorporated by reference and made part of the Grant Agreement.

(3) Public Transportation Employee Protective Arrangements for Projects in Nonurbanized Areas Authorized by 49 U.S.C. § 5311. The CONTRACTOR agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program that is most current as of the date of execution of the Grant Agreement or Cooperative Agreement for the Project, and any alternative comparable arrangements specified by U.S. DOL for application to the CONTRACTOR's project, in accordance with U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, and any revisions thereto. Any U.S. DOL Special Warranty that may be provided and any documents cited therein are incorporated by reference and made part of the Grant Agreement.

(4) Employee Protective Arrangements for Projects Financed by the Over-the-Road Bus Accessibility Program. The CONTRACTOR agrees to comply with the terms and conditions of the Special Warranty for the Over-the-Road Bus Accessibility Program that is most current as of the date of execution of the Grant Agreement or Cooperative Agreement for the Project, and any alternative comparable arrangements specified by U.S. DOL for application to the CONTRACTOR's project, in accordance with U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, and any revisions thereto. Any U.S. DOL Special Warranty that may be provided and any documents cited therein are incorporated by reference and made part of the Grant Agreement.

#### **CHARTER SERVICE OPERATIONS**

The CONTRACTOR agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 U.S.C. chapter 53 or under 23 U.S.C. §§ 133 or 142, will engage in charter service operations, except as authorized by 49 U.S.C. § 5323(d) and FTA regulations, "Charter Service," 49 C.F.R. Part 604, and any Charter Service regulations or FTA directives that may be issued, except to the extent that FTA determines otherwise in writing. The Charter Service Agreement the CONTRACTOR has selected in its latest annual Certifications and Assurances is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. If the CONTRACTOR has failed to select the Charter Service Agreement in its latest annual Certifications and Assurances to FTA and does conduct charter service operations prohibited by FTA's Charter Service regulations, the CONTRACTOR understands and agrees that:

- (1) the requirements of FTA's Charter Service regulations and any amendments thereto will apply to any charter service it or its subcontractors, lessees, third party contractors, or other participants in the Project provide;
- (2) the definitions of FTA's Charter Service regulations will apply to the CONTRACTOR's charter operations, and
- (3) a pattern of violations of FTA's Charter Service regulations may require corrective measures and imposition of remedies, including barring the CONTRACTOR, subcontractor, lessee, third party contractor, or other participant in the Project operating public transportation under the Project from receiving Federal financial assistance from FTA, or withholding an amount of Federal assistance as set forth in Appendix D to FTA's Charter Service regulations.

#### **SCHOOL TRANSPORTATION OPERATIONS**

The CONTRACTOR agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 U.S.C. chapter 53 or under 23 U.S.C. §§ 133 or 142, will engage in school transportation operations for the transportation of students or school personnel exclusively in competition with private school transportation operators, except as authorized by 49 U.S.C. §§ 5323(f) or (g), as applicable, and FTA regulations, "School Bus Operations," 49 C.F.R. Part 605 to the extent consistent with 49 U.S.C. §§ 5323(f) or (g), in accordance with any School Transportation Operations regulations or FTA directives that may be issued at a later date, except to the extent that FTA determines otherwise in writing. The School Transportation Operations Agreement the CONTRACTOR has selected in its latest annual Certifications and Assurances is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. If the CONTRACTOR has failed to select the School Transportation Agreement in its latest annual Certifications and Assurances to FTA and does conduct school transportation operations prohibited by FTA's School Bus Operations regulations, 49 C.F.R. Part 605, to the extent those regulations are consistent with 49 U.S.C. §§ 5323(f) or (g), the CONTRACTOR understands and agrees that: (1) the requirements of FTA's School Bus Operations regulations, 49 C.F.R. Part 605, to the extent consistent with 49 U.S.C. §§ 5323(f) or (g), will apply to any school transportation service it or its subcontractors, lessees, third party contractor, or other participants in the project provide, (2) the definitions of FTA's School Bus Operations regulations will apply to the CONTRACTOR's school transportation operations, and (3) if there is a violation of FTA's School Bus Operations regulations, to the extent consistent with 49 U.S.C. §§ 5323(f) or (g), FTA

will bar the CONTRACTOR, subcontractor, lessee, third party contractor, or other Project participant operating public transportation that has violated FTA's School Bus Operations regulations, 49 C.F.R. Part 605, to the extent consistent with 49 U.S.C. §§ 5323(f) or (g), from receiving Federal transit assistance in an amount FTA considers appropriate.

#### **SUBSTANCE ABUSE (FOR TRANSIT OPERATIONS)**

To the extent applicable, the CONTRACTOR agrees to comply with the following Federal regulations and guidance:

a. **Drug-Free Workplace.** U.S. OMB Guidance, "Government wide Requirements for Drug-Free Workplace (Financial Assistance)," 2 C.F.R. Part 182, and U.S. DOT regulations, "Government wide Requirements for Drug-Free Workplace (Financial Assistance)," 49 C.F.R. Part 32, that implement the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701 *et seq.*, including any amendments to these U.S. DOT regulations when they are promulgated. [U.S. OMB published final Drug-Free Workplace guidance in 74 Fed. Reg. 28149 *et seq.* on June 15, 2009.]

b. **Alcohol Misuse and Prohibited Drug Use.** FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 C.F.R. Part 655, that implement 49 U.S.C. § 5331.

#### **ENERGY CONSERVATION**

The CONTRACTOR agrees to comply with applicable mandatory energy efficiency standards and policies of applicable State energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 *et seq.*, except to the extent that the Federal Government determines otherwise in writing. To the extent applicable, the CONTRACTOR agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

#### **PREFERENCE FOR RECYCLED PRODUCTS (CONTRACTS FOR ITEMS DESIGNATED BY EPA, WHEN PROCURING \$10,000 OR MORE PER YEAR)**

To the extent applicable, the CONTRACTOR agrees to comply with the U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the CONTRACTOR agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

#### **NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS (ITS) ARCHITECTURE AND STANDARDS (For all ITS projects)**

To the extent applicable, the CONTRACTOR agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and follow the provisions of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 *et seq.*, January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

#### **ACCESS FOR INDIVIDUALS WITH DISABILITIES**

The CONTRACTOR agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The CONTRACTOR also agrees to comply with all applicable provisions of section 04 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the CONTRACTOR agrees to comply with applicable implementing Federal regulations, and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent FTA approves otherwise in writing. Among those regulations and directives are:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;
- (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;
- (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and
- (11) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

#### **STATE, TERRITORIAL, AND LOCAL LAW**

Should a Federal law pre-empt a State, territorial, or local law, regulation, or ordinance, the CONTRACTOR must comply with the Federal law and implementing regulations. Nevertheless, no provision of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement requires the CONTRACTOR to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of State, territorial, or local law, regulation, or ordinance. Thus if compliance with any provision of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement violates or would require the CONTRACTOR to violate any State, territorial, or local law, regulation, or ordinance, the CONTRACTOR agrees to notify FTA immediately in writing. Should this occur, FTA and the CONTRACTOR agree that they will make appropriate arrangements to proceed with or, if necessary, terminate the Project expeditiously.

*CITY OF DOWAGIAC*

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**MEMO TO:** Mayor Lyons and City Council Members

**FROM:** Kevin P. Anderson, City Manager

**DATE:** September 6, 2013

**SUBJECT:** Budget Amendments

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Each year budgets are reviewed on a quarterly basis for the purpose of making recommendations to Council to amend the budget based on actual financial activity and revised expectations. A review of the recommendations through August 31, 2013 is attached for your review and consideration. One more amendment is expected at the last meeting in September.

Attached you will find a report that lists the detailed budget amendments. These items have been reviewed by City Accountant Becky Grabemeyer and staff.

**RECOMMENDATION**

Approve the resolution authorizing budget amendments as presented.

Support Documents:

- Cover Memo-City Mgr.
- Resolution
- Budget Amendments

Councilmember \_\_\_\_\_ offered and moved the adoption of the following resolution;  
seconded by Councilmember \_\_\_\_\_.

**WHEREAS**, the City administration has reviewed the attached budgets for the 2012-13 fiscal year and the actual revenues and expenditures through August 31, 2013; and

**WHEREAS**, the City administration recommends revision of the attached budgets in accordance with the latest projections available; and

**WHEREAS**, the attached report for these funds indicates the current budget and the recommended budget revisions.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Dowagiac, by the affirmative vote of its City Council, does hereby adopt the attached, recommended revised budgets.

ADOPTED/REJECTED

A motion to make the following adjustments to the original budget.

Account	Description	Amount	Reason for Change			
101	General Fund					
R 101-192-695.00	Miscellaneous Income	970	Deposit received from school for election			
R 101-214-633.26	City Hall Operational Overhead	10	Increase to expected			
R 101-214-633.50	City Hall Operational overhead	30	Increase to expected			
R 101-214-633.58	City Hall Operational Overhead	10	Increase to expected			
R 101-214-633.65	City Hall Operational Overhead	10	Increase to expected			
R 101-216-452.00	Liquor License	400	Increase to actual			
R 101-216-457.00	City License	20	Increase to expected			
R 101-265-651.00	Grounds & Recreation Fees	2,000	Increase to expected			
R 101-276-627.00	Grave Fees & Tent Rental	12,000	Increase to expected			
R 101-301-695.00	Miscellaneous Income	400	Increase to expected			
R 101-336-631.00	Township Fire Protection	7,000	Increase to expected			
R 101-371-479.00	Building Permits	4,000	Increase to expected			
R 101-371-479.10	Electrical Permits	2,250	Increase to expected			
R 101-371-626.31	Code Enforcement Fees	35,500	Increase to actual income			
R 101-804-678.01	Reimbursement from outside agency	1,500	Increase to expected			
R 101-804-686.50	Book Sales/Misc	700	Increase to expected			
R 101-804-696.01	Membership Fees	500	Increase to expected			
R 101-804-696.05	Museum Attendance	1,000	Increase to expected			
R 101-265-651.00	Grounds & Recreation Fees	2,000	Increase to expected			
R 101-301-678.10	CCDET Reimbursement	10,000	Increase to expected			
101-101-873.00	Travel & Training	1,000	Increase to expected			
101-172-801.00	Contractual/Professional Services	2,500	Increase to expected			
101-172-853.00	Telephone	500	Increase to expected			
101-192-801.00	Contractual/Professional Svcs	760	Record special election expenses/school paid.			
101-201-702.00	Salaries & Wages	3,800	Increase to expected			
101-201-715.00	FICA Taxes	290	Increase to expected			
101-201-717.00	Life Insurance	5	Increase to expected			
101-201-718.00	Retirement Contributions	820	Increase to expected			
101-201-803.00	Tax Services	1,300	Increase to expected			
101-209-715.00	FICA Taxes	50	Increase to expected			
101-209-801.00	Base Assessing Fee	(2,000)	Reclass within fund			
101-209-956.00	Miscellaneous Expense	200	Reclass within fund			
101-215-715.00	FICA Taxes	200	Increase to expected			
101-215-717.00	Life Insurance	10	Increase to expected			
101-215-720.00	Worker's Compensation	20	Increase to expected			
101-263-728.00	Office Supplies	200	Reclass within fund			
101-263-730.00	Postage	1,000	Reclass within fund			
101-263-931.00	Building Maintenance	(1,200)	Reclass within fund			
101-263-946.00	Equipment Rental	(5,000)	Decrease to actual			
101-263-970.00	Capital Items	7,000	Increase to actual			
101-265-751.00	Grounds Gas & Diesel	(2,000)	Decrease to purchase Skid Loader next year			
101-265-933.00	Grounds Equipment Maintenance	(10,000)	Decrease to purchase Skid Loader next year			
101-301-704.00	Liquor Control Wages	185	Increase exp based on money rec from State			
101-804-970.00	Capital Expenditures	238,500	Increase to actual expenses			
101-265-720.00	Worker's Compensation	150	Increase to actual			
101-265-801.00	Contractual/Professional Expenses	15,000	Increase to expected			
101-265-965.61	Overhead.Equipment Replacement	15	Increase to actual			
	<b>Revenue</b>	<b>80,300</b>	<b>Expense</b>	<b>253,305</b>	<b>Overall</b>	<b>(173,005) Increase / (Decrease) Fund Bal.</b>

R	202-476-530.00	Federal Grant		(39,120)	Won't be received C/Y, placed on N/Y Budget
R	202-476-692.00	State Trunk Line Maintenance		(6,025)	Reclass within fund
	202-463-702.00	Salaries & Wages		4,500	Increase to expected
	202-463-702.25	Regular Overtime		(2,500)	Decrease to expected
	202-463-715.00	FICA Taxes		500	Increase to expected
	202-463-717.00	Life Insurance		25	Increase to actual
	202-463-718.00	Retirement Contributions		1,700	Increase to expected
	202-463-720.00	Worker's Compensation		40	Increase to actual
	202-463-801.00	Contractual/Professional		5,000	Increase to expected
	202-463-946.00	Equipment Rental		8,600	Increase to expected
	202-469-784.00	Repair Maint/Supply		(1,000)	Reclass within fund
	202-483-716.00	Health/Dental Insurance		(5,500)	Reclass within fund
	202-483-718.00	Retirement Contributions		(5,000)	Reclass within fund
	202-483-956.10	City Hall Operational Overhead		10	Increase to actual
	202-486-783.51	Snow & Ice Control		(6,200)	Reclass within fund
	202-486-783.62	Snow & Ice Control		(6,200)	Reclass within fund

**Revenue (45,145) Expense (6,025) Overall (39,120) Increase / (Decrease) Fund Bal.**

203 Local Streets

\*Adjustments will be made on next round of amendments.

**Revenue Expense Overall - Increase / (Decrease) Fund Bal.**

208 Parks

R	208-718-695.00	Miscellaneous Income		8,500	Increase to actual
	208-718-934.00	Site Maintenance & Improvement		6,000	Establish budget for mowing expenses

**Revenue 8,500 Expense 6,000 Overall 2,500 Increase / (Decrease) Fund Bal.**

218 Sidewalk Replacement Program

NO ADJUSTMENTS SUGGESTED

**Revenue Expense Overall - Increase / (Decrease) Fund Bal.**

226 Solid Waste

\*Adjustments will be made on next round of amendments.

**Revenue Expense Overall - Increase / (Decrease) Fund Bal.**

240 Industrial/Economic Development

R	240-261-676.52	Transfer from Electric Utility		(4,475)	Decrease to expected
	240-261-801.00	Contractual/Professional Services		4,800	Establish mowing budget

**Revenue (4,475) Expense 4,800 Overall (9,275) Increase / (Decrease) Fund Bal.**

242 Brownfield Redevelopment Authority

NO ADJUSTMENTS SUGGESTED

**Revenue Expense Overall - Increase / (Decrease) Fund Bal.**

243 LDFA Project						
	243-729-956.10	City Hall Operational Overhead		10	Increase to expected	
	<b>Revenue</b>	<b>Expense</b>	<b>10</b>	<b>Overall</b>	<b>(10) Increase / (Decrease) Fund Bal.</b>	
245 DDA TIF Project						
R	245-850-608.00	Chamber Reimbursement		500	Increase to Expected	
	245-850-702.00	Salaries & Wages		2,400	Increase to Expected	
	245-850-715.00	FICA Taxes		190	Increase to Expected	
	245-850-718.00	Retirement Contributions		10	Increase to Expected	
	<b>Revenue</b>	<b>500</b>	<b>Expense</b>	<b>2,600</b>	<b>Overall</b>	<b>(2,100) Increase / (Decrease) Fund Bal.</b>
252 Rehab Loan Payments						
	252-8521-931.06	Design Review Incentive Program		3,000	Increase to expected	
	<b>Revenue</b>	<b>-</b>	<b>Expense</b>	<b>3,000</b>	<b>Overall</b>	<b>(3,000) Increase / (Decrease) Fund Bal.</b>
255 Rental Rehab						
NO ADJUSTMENTS SUGGESTED						
	<b>Revenue</b>	<b>-</b>	<b>Expense</b>	<b>-</b>	<b>Overall</b>	<b>- Increase / (Decrease) Fund Bal.</b>
265 Municipal Facilities/Improvement						
R	265-264-676.00	Transfer from other Funds		(1,250)	Decrease to expected	
	265-264-920.00	Utilities		1,100	Increase to expected	
	265-264-956.10	City Hall Operational Overhead		10	Increase to expected	
	<b>Revenue</b>	<b>(1,250)</b>	<b>Expense</b>	<b>1,100</b>	<b>Overall</b>	<b>(2,350) Increase / (Decrease) Fund Bal.</b>
266 City Drug Forfeiture						
NO ADJUSTMENTS SUGGESTED						
	<b>Revenue</b>	<b>-</b>	<b>Expense</b>	<b>-</b>	<b>Overall</b>	<b>- Increase / (Decrease) Fund Bal.</b>
268 Federal Drug Forfeiture						
NO ADJUSTMENTS SUGGESTED						
	<b>Revenue</b>	<b>-</b>	<b>Expense</b>	<b>-</b>	<b>Overall</b>	<b>- Increase / (Decrease) Fund Bal.</b>
299 Depot						
R	299-959-668.59	Utility/Maint DDA Reimbursement		(500)	Decrease to actual	
	299-959-801.00	Contractual/Professional		1,000	Reclass within fund	
	299-959-920.00	Utilities		(400)	Reclass within fund	
	299-959-956.00	Miscellaneous Expense		(600)	Reclass within fund	
	<b>Revenue</b>	<b>(500)</b>	<b>Expense</b>	<b>-</b>	<b>Overall</b>	<b>(500) Increase / (Decrease) Fund Bal.</b>

497 M-51 S Commercial Development

R	497-850-676.00	Transfer from other Funds	(4,000)	Decrease to actual
	497-850-801.00	Contractual/Professional Services	2,000	Establish budget - lawn care

**Revenue (4,000) Expense 2,000.00 Overall (6,000) Increase / (Decrease) Fund Bal.**

499 Capital Project Fund

R	499-446-668.02	Water Tower Rent-Wireless Ante	4,925	Increase to expected
	499-446-975.01	Construction - Local	60,000	Increase to expected

**Revenue 4,925 Expense 60,000.00 Overall (55,075) Increase / (Decrease) Fund Bal.**

582 Electric Utility

R	582-440-649.00	Energy Optimization Sales	30,000	Increase to expected
R	582-440-695.00	Miscellaneous Income	3,000	Increase to expected
R	582-440-695.08	Taxable Trashbag Sales	45	Increase to expected
	582-442-984.00	Line Maintenance	(5,000)	Decrease to purchase Skid Loader next year
	582-483-880.04	Tree Replacement Fund	(1,000)	Decrease to purchase Skid Loader next year

**Revenue 33,045 Expense (6,000.00) Overall 39,045 Increase / (Decrease) Fund Bal.**

588 Dial A Ride Transportation

	588-959-702.06	Bus Maintenance Wages	(3,000)	Decrease to expected
	588-959-702.07	Dispatcher Wages	1,000	Increase to expected
	588-959-702.10	Wages	10,000	Increase to expected
	588-959-702.61	MPE Maintenance Labor	250	Increase to expected
	588-959-716.00	Health/Dental Insurance	(1,992)	Decrease to expected
	588-959-720.00	Worker's Compensation	500	Increase to actual
	588-959-801.00	Contractual/Professional Services	2,500	Increase to expected
	588-959-939.00	Radio Equipment & Repair	700	Increase to expected

**Revenue Expense 9,958.00 Overall (9,958) Increase / (Decrease) Fund Bal.**

590 Sewer Utility

R	590-440-695.00	Miscellaneous Income	2,000	Increase to expected
R	590-440-625.12	Monitoring - Silver Creek	4,000	Increase to expected
R	590-440-625.13	Monitoring - SLAUA	6,000	Increase to expected
R	590-440-644.10	Utility Sales	75,000	Increase to expected
R	590-440-644.13	Contractual Utility Sales - SLAUA	(40,000)	Decrease to expected
R	590-440-659.00	Late Payment Penalty	1,500	Increase to expected
	590-442-716.25	Retiree Insurance Premium	900	Increase to expected
	590-442-717.00	Life Insurance	20	Increase to actual
	590-442-720.00	Worker's Compensation	180	Increase to actual
	590-442-783.00	Customer Installation	(5,000)	Reclass within fund
	590-442-920.00	Utilities	500	Increase to expected
	590-442-931.00	Building Maintenance	(400)	Reclass within fund
	590-442-931.00	Sewer Building Maintenance	(1,000)	Decrease to purchase Skid Loader next year
	590-442-935.00	Repair Maint Lift Stations	(8,000)	Reclass within fund
	590-442-936.00	Repair Maint/mains	5,000	Reclass within fund

590-442-946.00	Equipment Rental		4,500	Increase to expected
590-442-956.10	City Hall Operational Overhead		10	Increase to expected
590-442-970.00	Capital Items		400	Reclass within fund
590-443-702.00	Salaries & Wages		6,000	Reclass within fund
590-443-702.25	Regular Overtime		(6,000)	Reclass within fund
590-443-716.00	Health/Dental Insurance		(6,000)	Decrease to expected
590-443-718.00	Retirement Contributions		1,600	Increase to expected
590-443-740.00	Operating Supplies		3,250	Reclass within fund
590-443-754.00	Chemicals		(3,250)	Reclass within fund
590-443-920.00	Utilities		14,000	Increase to expected
590-443-931.00	Equipment Maintenance		1,000	Reclass within fund
590-443-946.00	Equipment Rental		510	Increase to actual
590-483-702.00	Salaries & Wages		(15,000)	Decrease to expected
590-483-715.00	FICA Taxes		(1,000)	Decrease to expected
590-483-730.00	Postage		3,000	Increase to expected
590-483-801.00	Contractual/Professional		2,000	Reclass within fund
590-483-946.00	Equipment Rental		10	Increase to actual
590-536.801.00	Contractual/Professional		1,000	Increase to expected
590-536-853.00	Telephone		1,500	Increase to expected
	<b>Revenue</b>	<b>48,500</b>	<b>Expense</b>	<b>(270.00)</b>
			<b>Overall</b>	<b>48,770 Increase / (Decrease) Fund Bal.</b>

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591 Water Utility

R	591-440-607.00	Service Fee Income	2,500	Increase to expected
R	591-440-659.00	Late Payment Penalty	1,000	Increase to expected
R	591-536-479.00	CCWS Permits	1,200	Increase to expected
R	591-536-644.10	Utility Sales	9,000	Increase to expected
R	591-536-644.17	Service Fees Due CCWS	15,000	Increase to expected
R	591-536-659.00	Late Payment Penalty	500	Increase to expected
R	591-536-695.00	Miscellaneous Income	1,000	Increase to expected
	591-442-716.25	Retiree Health Insurance Premium	1,000	Increase to expected
	591-442-717.00	Life Insurance	80	Increase to expected
	591-442-718.00	Retirement Contributions	(11,340)	Decrease to actual
	591-442-931.00	Water Building Maintenance	(2,000)	Decrease to purchase Skid Loader next year
	591-442-938.00	Water Booster Station Maintenance	(2,000)	Decrease to purchase Skid Loader next year
	591-442-946.00	Equipment Rental	2,250	Increase to expected
	591-442-983.00	Meters	480	Increase to expected
	591-444-920.00	Utilities	5,000	Reclass within fund
	591-444-931.00	Building Maintenance	(5,000)	Reclass within fund
	591-483-716.00	Health/Dental Insurance	(4,940)	Reclass within fund
	591-483-718.00	Retirement Contributions	(3,600)	Decrease to expected
	591-483-720.00	Worker's Compensation	(1,000)	Decrease to actual
	591-483-730.00	Postage	3,300	Increase to expected
	591-483-801.00	Contractual/Professional services	2,000	Increase to expected
	591-483-805.00	Dues/Membership Fees	250	Increase to expected
	591-483-853.00	Telephone	300	Increase to expected
	591-483-873.00	Travel & Training	(2,000)	Reclass within fund
	591-483-910.00	General Insurance Coverage	(1,500)	Decrease to actual
	591-483-956.10	City Hall Operational Overhead	75	Increase to actual
	591-536-702.20	Wages	(200)	Reclass within fund
	591-536-702.25	Overtime	200	Reclass within fund
	591-536-702.30	Wages	(2,000)	Reclass within fund
	591-536-718.00	Retirement Contributions	1,000	Reclass within fund
	591-536-890.00	Remittance to Outside Agency	2,500	Increase to expected
	591-536-920.00	Utilities	2,000	Increase to expected
	591-536-946.00	Equipment Rental	1,400	Increase to expected

	<b>Revenue</b>	<b>30,200</b>	<b>Expense</b>	<b>(13,745.00)</b>	<b>Overall</b>	<b>43,945</b>	<b>Increase / (Decrease) Fund Bal.</b>
<b>661 Motor Pool/Equipment</b>							
R	661-932-671.00	Equipment Rental			45,000		Increase to expected
R	661-932-695.00	Miscellaneous Income			5,000		Increase to expected
R	661-932-665.00	Interest Income			(7,000)		Decrease to expected
R	661-932-676.61	Overhead Transfer from GF			100		Increase to expected
	661-932-702.05	Administrative Salaries			3,400		Increase to expected
	661-932-702.25	Regular Overtime			(3,000)		Decrease to expected
	661-932-716.00	Health/Dental Insurance			(4,250)		Decrease to expected
	661-932-717.00	Life Insurance			60		Increase to expected
	661-932-720.00	Workers Compensation			290		Increase to expected
	661-932-742.00	Small tools			500		Reclass within fund
	661-932-751.00	Gas & Diesel			5,000		Reclass within fund
	661-932-801.00	Contractual / Professional Expense			4,000		Reclass within fund
	661-932-910.00	General Insurance Coverage			(1,300)		Decrease to expected
	661-932-932.11	Equipment Maint/Upgrade			(500)		Reclass within fund
	661-932-932.25	Vehicle Maintenance/Grounds			(4,000)		Reclass within fund
	661-932-932.37	Vehicle Maint / Building Department			(1,000)		Reclass within fund
	661-932-933.00	DPS Vehicle Maintenance			(10,000)		Decrease to purchase Skid Loader next year
	661-932-933.00	Vehicle Maintenance			(2,300)		Reclass within fund
	661-932-933.01	Ongoing Certifications			(3,200)		Reclass within fund
	661-932-946.00	Equipment Rental			500		Reclass within fund
	661-932-970.00	Capital Items			1,000		Reclass within fund
	<b>Revenue</b>	<b>43,100</b>	<b>Expense</b>	<b>(14,800.00)</b>	<b>Overall</b>	<b>57,900</b>	<b>Increase / (Decrease) Fund Bal.</b>

<b>662 Computer Replacement Fund</b>							
R	662-932-671.00	Equipment Rental			(5,000)		Decrease to expected
	662-932-702.00	Salaries & Wages			(20,275)		Decrease to expected
	662-932-715.00	FICA Taxes			(1,400)		Decrease to expected
	662-932-716.00	Health/Dental Insurance			(6,815)		Decrease to expected
	662-932-720.00	Worker's Compensation			(50)		Decrease to expected
	662-932-801.00	Contractual Professional			3,000		Reclass within fund
	662-932-853.00	Telephone			300		Reclass within fund
	662-932-910.00	General Insurance Coverage			50		Reclass within fund
	662-932-956.00	Miscellaneous Expense			200		Reclass within fund
	662-932-970.00	Capital Items			(3,550)		Reclass within fund
	<b>Revenue</b>	<b>(5,000)</b>	<b>Expense</b>	<b>(28,540.00)</b>	<b>Overall</b>	<b>23,540.00</b>	<b>Increase / (Decrease) Fund Bal.</b>

<b>677 Self Insurance</b>							
R	677-951-681.00	Self Insurance Health Premiums			(5,000)		Decrease to expected
	<b>Revenue</b>	<b>(5,000)</b>	<b>Expense</b>		<b>Overall</b>	<b>(5,000.00)</b>	<b>Increase / (Decrease) Fund Bal.</b>

<b>678 Self Insurance - MMRMA</b>							
R	678-954-672.01	Investment Earnings			500		Increase to estimated
R	678-954-672.02	Reinsurance Recoveries			5,000		Increase to estimated
	678-954-910.01	Insurance Claims Paid			19,000		Increase to estimated
	<b>Revenue</b>	<b>5,500</b>	<b>Expense</b>	<b>19,000.00</b>	<b>Overall</b>	<b>(13,500.00)</b>	<b>Increase / (Decrease) Fund Bal.</b>

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711 Cemetery Trust

R	711-276-665.00	Interest Income		(7,000)	Decrease to Expected
R	711-276-610.00	Perpetual Care Fees		2,000	Increase to Expected
	<b>Revenue</b>	<b>(5,000)</b>	<b>Expense</b>	<b>Overall</b>	<b>(5,000.00) Increase / (Decrease) Fund Bal.</b>

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733 Retiree Insurance

R	733-861-665.00	Interest Income		40,000	Increase to Expected (Mers)	
R	733-861-677.10	Employer Retiree Contributions		1,400	Increase to Expected	
	733-861-955.00	BCBS Payments		(5,000)	Decrease to Expected	
	<b>Revenue</b>	<b>41,400</b>	<b>Expense</b>	<b>(5,000.00)</b>	<b>Overall</b>	<b>46,400.00 Increase / (Decrease) Fund Bal.</b>

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753 Public Art

R	753-277-675.01	Donations		700	Increase to Expected
	<b>Revenue</b>	<b>700</b>	<b>Expense</b>	<b>Overall</b>	<b>700.00 Increase / (Decrease) Fund Bal.</b>
			<b>All Funds</b>	<b>(61,093)</b>	<b>Increase / (Decrease) Fund Bal.</b>

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Signature

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Date Approved

***CITY OF DOWAGIAC***

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***MEMO TO:*** Mayor Lyons and City Council Members

***FROM:*** Kevin P. Anderson, City Manager

***DATE:*** September 6, 2013

***SUBJECT:*** Airport Manager Contract

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A resolution is on Monday's agenda to amend and extend a contract with Gary Carlile to continue his contractual employment services as Airport Manager and park consultant for the City for six months (October 1, 2013-March 31, 2014).

As you are aware, Mr. Carlile has been providing these part-time services on a contractual basis for a number of years. The City continues to benefit from Mr. Carlile's background and experience in these areas and it is appropriate to continue this contractual relationship at this time. By continuing to employ Mr. Carlile in this fashion, we can avoid or minimize the use of outside consultants for these projects.

Except for the length of the contract, the terms of the Agreement will remain the same.

The contract requires 60-day notice by either party for contract termination.

**RECOMMENDATION**

Approve resolution to extend a 6-month contract with Gary Carlile.

Support Documents:  
Cover Memo-City Mgr.  
Resolution  
Contract

Councilmember \_\_\_\_\_ offered and moved the adoption of the following resolution; seconded by Councilmember \_\_\_\_\_.

**WHEREAS,** Gary Carlile is currently employed by the City of Dowagiac on a contract basis as Director of the Dowagiac Municipal Airport and planning and consulting services in the area of parks and open space planning; and,

**WHEREAS,** both the City and Mr. Carlile mutually agree that it would be beneficial for Mr. Carlile to continue those current responsibilities; and,

**WHEREAS,** the City and Mr. Carlile would like to extend and amend the current agreement to employ Mr. Carlile as Airport Director.

**NOW THEREFORE, BE IT RESOLVED** that the City Council hereby authorizes execution of an employment agreement (Exhibit A) between the City of Dowagiac and Gary Carlile for services as Airport Director of the Dowagiac Municipal Airport and for planning and consulting services in the area of parks and open space planning.

ADOPTED/REJECTED

**Exhibit "A"**

**AGREEMENT**

Agreement made and entered into this 9<sup>th</sup> day of September, 2013 by and between the City of Dowagiac, 241 South Front Street, Dowagiac, Michigan 49047 hereinafter referred to as "City" and Gary Carlile of 25891 Peavine Street, Cassopolis, Michigan 49031;

WITNESSETH:

WHEREAS, the City desires to continue to employ the services of Gary Carlile as Airport Manager of the City of Dowagiac as well as performing parks and open space planning and consulting services on the terms and conditions herein specified; and

WHEREAS, Gary Carlile desires to perform said services on the conditions herein set forth; and

WHEREAS, the parties wish, by this Agreement to set forth the specific terms and conditions as follows:

1. General

The City hereby agrees to pay Gary Carlile, and he agrees to continue to perform the functions and duties of Airport Manager of the City of Dowagiac as well as performing parks and open space planning and consulting services.

2. Compensation

The City agrees to pay Gary Carlile a base salary of \$7,250.00, not including business related expenses, commencing on October 1, 2013 through April 30, 2014, payable in installments at the same time other employees of the City are paid, as compensation for rendering the above-mentioned services.

If Gary Carlile desires to voluntarily resign his position, he agrees to give the City Council at least sixty (60) days advance written notice of such resignation. If the City desires to discontinue Mr. Carlile's services, they will provide Mr. Carlile with at least sixty (60) days advance written notice of termination of this agreement.

3. Indemnification

The City shall indemnify and hold harmless Gary Carlile personally from any and all claims, legal actions, damage suits, loss, judgments, costs and expenses, and attorney fees arising out of or related to any decision and/or conduct by him while serving as Airport Manager and parks and open space consultant for the City, except with respect to conduct which is determined to be intentionally tortuous and/or in willful and wanton disregard for the rights of others, including the City of Dowagiac.

**Exhibit "A"**

**AGREEMENT**

4. Other Working Conditions

In addition to the specific provisions covered in this agreement, Mr. Carlile shall be entitled to payment for one-half of the cost of individual health insurance benefits provided regular City employees. It is understood that, as a City retiree, Mr. Carlile is entitled to payment of the other one-half of the cost of individual health insurance benefits. In addition, Mr. Carlile is entitled to mileage reimbursement for any City related travel at rates established by City policy.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

CITY OF DOWAGIAC

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By: Donald D. Lyons, Its Mayor

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Gary Carlile

Councilmember \_\_\_\_\_ offered and moved the adoption of the following resolution;  
seconded by Councilmember \_\_\_\_\_.

**WHEREAS**, the following information has been reviewed by the City Manager and City  
Treasurer and is being presented to City Council with a recommendation to  
approve invoices and payroll #25 for the period ending 9/5/13:

Invoices: 213,136.27  
Payroll: 113,915.72  
Total: \$327,051.99

**BE IT RESOLVED** that the City Manager and City Treasurer are hereby authorized and  
directed to pay the following bills and payroll due:

Invoices	Payroll	Total
\$213,136.27	\$113,915.72	\$327,051.99

ADOPTED/REJECTED

Ayes:

Nays:

Absent:

Abstain:

James E. Snow, City Clerk

Vendor	Invoice #	Description	Amount
ABSOPURE WATER COMPANY	82895237	BOTTLED WATER/DEPOSIT	23.00
ABSOPURE WATER COMPANY	82897692	BOTTLED WATER-26461 NUBOUR	49.50
ACCOUNTING CONSULTANTS, PC	8/15/13	CONSULTING SVC THROUGH 8/15/13	517.50
AMERICAN ELECTRIC POWER	04005021003	VINEYARD LIFT STATION	32.79
AT&T MOBILITY	287019289817	WIRELESS CHARGES 7/24-8/23	795.28
AUTOMATED ENERGY, INC	18194	AMERIWOOD METER SUBSCRIPTION	105.00
BENDER ELECTRIC, INC	16063	CCWS-CK CONTROLS-PENN WELL #2	85.00
BEST WAY DISPOSAL	023979	WWTP SLUDGE DISPOSAL	4,105.00
BROSNAN, RICHARD	8/23/13	LANDSCAPING-MUSEUM/CITY HALL	1,440.62
BURLING CONSTRUCTION	230	PAINT/INSTALL CABINETS/TOP/SINK	1,748.00
CASS OUTDOOR POWER EQUIPMENT, INC	98455	CHAINSAW-FLUSH OUT FUEL SYSTEM	20.00
CASS OUTDOOR POWER EQUIPMENT, INC	98323	CARB KIT/FUEL FILTER	53.48
CHARLES CONCRETE	8/22/13	SIDEWALK REPAIR	1,200.00
CHET NICHOLS, INC	377853	#9 WIPER BLADES/SLAUA BLATTERY	77.04
CHET NICHOLS, INC	375532	DRILL BIT SET/DIESEL FUEL TREATMENT	223.59
CMP DISTRIBUTORS, INC	38010	TACTICAL VEST-PHILLIPS	637.00
COMCAST	8771402380021236	INTERNET SERVICE-CH	109.11
CONESTOGA-ROVERS & ASSOCIATES	413241	2013 INVESTIGATION WORK PLAN	1,239.15
CONESTOGA-ROVERS & ASSOCIATES	413242	2013 OMM ACTIVITIES	566.78
CREATIVE VINYL SIGNS	25247	SIGNS-PD	176.53
DORNBOS SIGN & SAFETY, INC	INV12697	NO THRU TRUCKS SIGNS	108.92
DOUBLEDAY OFFICE PRODUCTS, INC	143430I	OFFICE SUPPLIES	16.97
DOWAGIAC AUTO BODY	655	#101 REPAIR RIGHT FRONT DOOR	1,570.96
ENVIRONMENTAL SYSTEMS RESEARCH INST	25593201	GIS SOFTWARE ANNUAL MTCE	1,500.00
ETNA SUPPLY	S100825822.001	CCWS-SHUT OFF BOXES	372.00
ETNA SUPPLY	S100825822.002	10T TOPS	760.00
ETNA SUPPLY	S100802712.001	HYDRANT REPAIR PARTS	577.45
EVANS, GUY	8/21/13	REIMBURSEMENT-CLEANING SUPPLIES	21.19
FED EX	2-375-56773	SHIPPING CHARGES	87.16
FLAMETAMER FIRE PROTECTION	14966	SCBA HYDRO TEST	750.00
FLEETMatics USA, LLC	818276	DATABASE ACCESS-GPS SYSTEM	13,680.00
FLEETMatics USA, LLC	821835	VEHICLE TRACKING SERVICE	40.00
FLINT'S AUTO REPAIR	8/29/13	#07 A/C REPAIR	325.00
FRONTIER	23118907970401035	PHONE SERVICE 7/20-8/19	1,774.40
GEMPLER'S	1019702372	RAINSUIT/GLOVES	399.25
GLOBAL TELEMATIC SOLUTIONS, LLC	2013AUGUST30-1	VEHICLE GPS SUBSCRIPTION	397.35
GOLLNICK, JEFF	51898	REIMBURSEMENT-ARSON INVESTIGATION CLASS	75.00
GOLLNICK, JEFF	8/26/13	REIMBURSEMENT-CHILD SEAT TECH	50.00
GRAMES TIRE & BATTERY, INC	2311	#2 NEW TIRES	614.80
HALE'S HARDWARE, INC	C30817	SCREWS/SCREW BIT	29.37
HALE'S HARDWARE, INC	C32302	CLEANOUT/PLUG	4.84
HALE'S HARDWARE, INC	D25451	BIT/CLEANOUT/PLUG	8.03
HALE'S HARDWARE, INC	B34698	SHIPPING CHARGES-CCWS/KITCH BAG/KEY RING	22.63
HALE'S HARDWARE, INC	C31514	SPRINKLERS	15.98
HALE'S HARDWARE, INC	B34472	FLEX MAGNET TAPE	8.72
HALE'S HARDWARE, INC	A5702	ELBOWS/VALVE/BUSHINGS	40.18
HALE'S HARDWARE, INC	B34187	BOWL CLEANER/POLISH/CLR	52.25
HALE'S HARDWARE, INC	C30595	FISH TAPE/ELEC TAPE	63.03
HALE'S HARDWARE, INC	C31193	HINGE/BIT/FASTENERS	22.66
HALE'S HARDWARE, INC	C31662	BOTTLED WATER	13.56
HARDING'S MARKET, INC	337012	OPERATING SUPPLIES	23.77
HARDING'S MARKET, INC	337017	OPERATING SUPPLIES	18.85
HARDING'S MARKET, INC	337017	OPERATING SUPPLIES	54.93
HD SUPPLY POWER SOLUTIONS, LTD	2335489-00	3 PHASE METERING ASSEMBLY	5,407.91
HD SUPPLY POWER SOLUTIONS, LTD	2335504-00	3 PHASE METERING ASSEMBLY	5,407.91

Vendor	Invoice #	Description	Amount
HERITAGE CRYSTAL CLEAN, LLC	12611289	PARTS CLEANER	259.52
INTERNET BUSINESS SOLUTIONS	13363	MONTHLY WEBSITE MTCE	39.95
J & H OIL COMPANY	9894501	DIESEL FUEL-EMERGENCY GENERATOR	611.63
J DOHENY SUPPLIES INC	A66666	#11 SPLICER/BLADES/FITTINGS	72.35
J DOHENY SUPPLIES INC	A66536	#11 THRUST/POWER FEED BEARINGS	89.10
J R HOWELL	8/27/13	PASS THROUGH-AIRPORT LIGHTING REPAIR	1,244.82
JUDD LUMBER COMPANY, INC	2523191	LUMBER	90.19
JUDD LUMBER COMPANY, INC	2523265	STEEL DOOR/LOCKSET/LUMBER	234.90
JUDD LUMBER COMPANY, INC	2524776	PAINT/PIPE	18.56
JUDD LUMBER COMPANY, INC	2524803	REDI-MIX GRAVEL	29.94
JUDD LUMBER COMPANY, INC	2524404	LUMBER	6.30
JUDD LUMBER COMPANY, INC	2524453	REDI-MIX GRAVEL	19.96
JUDD LUMBER COMPANY, INC	2524473	REMESH MAT/RE-ROD	22.88
JUDD LUMBER COMPANY, INC	2524501	PAINT	23.96
JUDD LUMBER COMPANY, INC	2524290	REDI-MIX MORTAR	10.58
JUDD LUMBER COMPANY, INC	2524328	REDI-MIX SAND/KNEE PADS	28.97
JUDD LUMBER COMPANY, INC	2524401	REDI-MIX SAND	5.49
JUDD LUMBER COMPANY, INC	2524582	REDI-MIX MORTAR	21.16
KENT RECORD MANAGEMENT, INC	0040800	SHREDDING SVC 8/1-8/31-PD	30.00
KIESLER'S POLICE SUPPLY, INC	0708249A	AMMUNITION	385.83
KOONTZ-WAGNER CONST SERVICES LLC	126568-10	CREW SUPERVISION 7/17-8/21	568.00
LAKE MICHIGAN MAILERS, INC	285766	POSTAGE	5,000.00
LAWSON PRODUCTS, INC	9301878052	CLEANER/GLOVES/CREWS/CABLE TIES	330.85
LEADER PUBLICATIONS, INC	98805	MISC PUBLICATIONS	338.59
LOUNSBURY EXCAVATING, INC	8/23/13	RUSSOM PARK RENOVATIONS-PAY APP #2	109,276.87
MCDONALD UNDERGROUND	285	DIRECTIONAL BORE-ELEC SVC-COLBY	1,280.00
MEASUREMENT SPECIALTIES, INC	460494	SL-TRANSDUCERS	3,797.00
MI COMMUNITY ACTION AGENCY ASSOC	9/13	EU-MONTHLY PYMT ALLOCATION-9/13	11,408.41
MICHIGAN ELECTION RESOURCES	31564	QVF VOTER ID CARDS	369.02
MIDWEST ENERGY	3503301	CCWS-WATER TOWER	733.22
MISSION COMMUNICATIONS, LLC	40021760	CCWS-REPLACEMENT RADIO-WELL HOUSE	260.00
MONUMENTS BY DESIGN, LLC	574	INSCRIBED BRICKS	36.00
MONUMENTS BY DESIGN, LLC	578	INSCRIBED BRICK	18.00
NELSON, ROBERT	8/27/13	REIMBURSEMENT-CAR SEAT RECERTIFICATION	50.00
ON TARGET, INC	8/29/13	GLOCK MAGAZINES	325.00
PARAGON LABORATORIES, INC	42078-76717	IPP ANALYSIS-SECURIT	360.00
PETTY CASH	9/4/13	OPERATING SUPPLIES	60.17
PETTY CASH	9/4/13	POSTAGE	14.84
PETTY CASH	9/4/13	ICE	13.77
PETTY CASH	9/4/13	TRAVEL/TRAINING	6.84
PETTY CASH	9/4/13	TRAVEL/TRAINING	10.57
PETTY CASH	9/4/13	STAMPS	46.00
PETTY CASH	9/4/13	CDL REIMBURSEMENT	30.00
PETTY CASH	9/4/13	TRAVEL/TRAINING	27.23
PETTY CASH	9/4/13	ECON DEV	18.50
PETTY CASH	9/4/13	CDL REIMBURSEMENT-ENDORSEMENT	18.00
PETTY CASH	9/4/13	RECORD DEED	19.00
PETTY CASH	9/4/13	POSTAGE	9.12
PETTY CASH	9/4/13	CAR WASH	7.00
POWER LINE SUPPLY, INC	5758400	CONNECTORS/WIRE/CUTOUTS	2,981.65
POWER LINE SUPPLY, INC	5758458	LED ROADWAY FIXTURES	4,884.50
PRECISION DATA PRODUCTS	I0000388398	PRINTER TONER	94.95
PRECISION DATA PRODUCTS	I0000387908	PRINTER TONER CARTRIDGE	101.89
PROVIDENT LIFE & ACCIDENT INS CO	000005188858-01	LIFE INSURANCE-ANDERSON	1,015.67
REAL PRO SOLUTIONS, LLC	LM2070	CCWS-MOWING VANDALIA TOWER	70.00

Vendor	Invoice #	Description	Amount
REAL PRO SOLUTIONS, LLC	LM2071	CCWS-MOWING PENN PUMP HOUSES/ROW	175.00
REAL PRO SOLUTIONS, LLC	LM2074	CODE MOWING-105 GROVE	29.00
RELIABLE DISPOSAL, INC #646	0646-000779693	DUMPSTERS/TRASH CART 9/13	466.60
RIETH-RILEY CONSTRUCTION COMPANY	7168944	ASPHALT	96.37
ROAD EQUIPMENT PARTS CENTER	KS386239	#4 STROBE FLANGE MOUNT	55.16
ROHDY'S HEATING & COOLING, LLC	3020	SVC CALL-CHECK A/C	102.00
RUSSOM, TOM	9/3/13	MOWING RUSSOM PARK 2010-2013	1,250.00
RUTKOWSKIE, JASON	9/1/13	DETECTIVE CLOTHING ALLOWANCE	325.00
RUTKOWSKIE, JASON	2911323858	CELL PHONE REIMBURSEMENT 7/10-8/9	60.00
SEMCO ENERGY GAS COMPANY	0161871.500	GAS SERVICE 7/15/13-8/13/13	18.84
SIMPSON, KEN	130909	ELECTRICAL INSPECTIONS	602.60
SMITH, VICKIE	8/31/13	REFUND-LITTER DEPOSIT	52.00
STATE OF MICHIGAN-MDOT	LF355076	AIRPORT LICENSE FEE	50.00
TERMINIX	327508290	PEST CONTROL 9/1/13-9/1/14	1,338.60
THE RIDGE COMPANY	526292	BATTERY-EMERGENCY GENERATOR	205.98
THE RIDGE COMPANY	525544	#101 PINTLE HOOK MOUNT/PIN HOOK	145.98
TOURTELLOTTE WELDING	472424	#105 BODY MODIFICATIONS	370.00
TOURTELLOTTE WELDING	472425	#105 UNDERBODY SCRAPER CONTROLS	1,500.00
TOXOPEUS, DAVID	9/1/13	DETECTIVE CLOTHING ALLOWANCE	325.00
TURF SERVICES	32047	SOLENOID/DIAPHRAGM-IRRIGATION REPAIR-CH	38.50
VERIZON WIRELESS	9710264736	CELL PHONES 8/22-9/21	103.88
VERIZON WIRELESS	9710466129	AMERIWOOD MODEMS	22.80
VERIZON WIRELESS	9710457064	MIFI CARD-ELEC DIV	38.01
VERIZON WIRELESS	9710466105	DPS/CCDET TABLET 8/24-9/23	380.10
WAINWRIGHT, EDDIE	9/3/13	CCWS-PERMIT INSPECTIONS	1,898.00
WAINWRIGHT, EDDIE	8/30/13	PLUMB/MECH INSPECTIONS 6/4-8/30	1,205.40
WEST SIDE TRACTOR SALES	B02084	#150 REPLACE A/C COMPRESSOR	1,594.35
WIGGINS, DANIEL	188028025202	CELL PHONE REIMBURSEMENT 6/24-7/23	60.00
WIGGINS, DANIEL	9/1/13	DETECTIVE CLOTHING ALLOWANCE	325.00
WIGHTMAN & ASSOCIATES, INC	45244	ENG SVC-LOWER MILL POND DAM REPAIRS	461.63
WIGHTMAN & ASSOCIATES, INC	45340	CMAQ-MIDDLE CROSSING	3,807.64
WILLIAMS-A-1 EXPERT TREE SERVICE	5945	TREE REMOVAL-LANDFILL	850.00
WILSON, GREG	7/20/13	FLOORING INSTALL-FINAL-BUTLER BLDG	370.00
WILTSE FENCING & KENNELS, INC	8/21/13	REMOVE/REINSTALL FENCE-LANDFILL	402.00
ZBATTERY.COM, INC	I164820	BATTERIES	64.64
Total:			213,136.27

**CITY OF DOWAGIAC**

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**MEMO TO:** Mayor Lyons and City Council Members

**FROM:** Kevin P. Anderson, City Manager

**DATE:** September 6, 2013

**SUBJECT:** Amendment to Noise Ordinance – Second Reading

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On August 26<sup>th</sup>, City Council reviewed this ordinance and made a motion that would allow the ordinance to be considered for adoption on September 9<sup>th</sup>. The City Clerk has duly noticed this ordinance pursuant to City Charter. No comments have been made to date.

For your convenience, I have copied the staff report from the prior meeting below:

*It has come to our attention that the fine for violation of this section of the Noise Ordinance does not match the fine in the Michigan State Traffic Code. This ordinance simply aligns the City Ordinance with the State Traffic Code.*

**RECOMMENDATION**

Approve the second reading of the ordinance.

Support Documents:

Cover Memo-City Mgr.  
Ordinance

Ordinance #1  
August 26, 2013 – 1<sup>st</sup> Reading  
September 9, 2013 – 2<sup>nd</sup> Reading

**ORDINANCE NO. \_\_\_\_\_, 2013**

**ORDINANCE-----**

AN ORDINANCE TO AMEND CHAPTER 38, “ENVIRONMENT”, ARTICLE II, NUISANCES, DIVISION 7, NOISE CONTROL, SECTION 39 112(a) OF THE DOWAGIAC CITY CODE.

THE CITY OF DOWAGIAC ORDAINS:

Section 1: That Chapter 38, “Environment”, Nuisances, Division 7, Noise Control, Section 38-112(a), be amended by its repeal and the adoption of a new Section 38-112(a) to read as follows:

Section 38-112(a): Any person convicted of a violation of any provision of section 38-111 shall be punished by a fine of not more than \$175.00 and costs of prosecution, or by imprisonment of not more than 90 days, or both. Each act or violation shall constitute a separate offense.

Section 2: This ordinance shall take full force and effect immediately upon its publication in a newspaper of general circulation within the City of Dowagiac.

ADOPTED/REJECTED

Moved by:

Seconded by:

Ayes:

Nays:

Absent:

Abstain:

\_\_\_\_\_  
Donald D. Lyons, Mayor

\_\_\_\_\_  
James E. Snow, City Clerk