

## DOWAGIAC CITY COUNCIL MEETING

Monday, April 27, 2015

A regular meeting of the Dowagiac City Council was called to order by Mayor 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, Lori A. Hunt, Danielle E. Lucas and Bob B. Schuur.

**ABSENT:** None.

**STAFF:** Kevin P. Anderson, City Manager; Rozanne H. Scherr, Assistant City Manager.

Councilmember Hunt moved and Councilmember Dodd seconded that the minutes of the April 13, 2015 regular meeting be approved.

Approved unanimously.

### RESOLUTIONS

1. Resolution to tentatively award a construction contract for wastewater system improvements.

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

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**A RESOLUTION TO TENTATIVELY AWARD  
A CONSTRUCTION CONTRACT  
FOR WASTEWATER SYSTEM IMPROVEMENTS**

**WHEREAS**, the City of Dowagiac (*applicant*) wishes to construct improvements to its existing wastewater treatment and collection system; and

**WHEREAS**, the wastewater system improvements project formally adopted on November 28, 2013 will be funded through Michigan's SRF Program; and

**WHEREAS**, the City of Dowagiac (*applicant*) has sought and received construction bids for the proposed improvements and has received a low bid in the amount of \$ 1,946,550.00 from L. D. Docsa Associates, Inc. (*contractor*); and

**WHEREAS**, the project engineer, Fleis & Vandenbrink Engineering, Inc., has recommended awarding the contract to the low bidder.

**NOW THEREFORE BE IT RESOLVED**, that the City of Dowagiac (*applicant*) tentatively awards the contract for construction of the proposed wastewater system improvements project to L. D. Docsa Associates, Inc. (*contractor*), contingent upon successful financial arrangements with the SRF Program.

Yeas:

Nays:

Abstain:

Absent:

I certify that the above Resolution was adopted by Dowagiac City Council (*the governing body of the applicant*) on April 27, 2015.

BY: \_\_\_\_\_  
Name and Title (*please print or type*)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

APPROVED unanimously.

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2. Resolution to authorize an agreement for construction engineering services with Fleis & Vandenbrink for services related to the construction contract for wastewater system improvements.

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

**WHEREAS**, the City of Dowagiac has received a proposal from Fleis & Vandenbrink for Construction Administration Services during the anticipated 2015 WWTP Improvements; and

**WHEREAS**, Fleis & Vandenbrink has provided design services for the anticipated 2015 WWTP Improvements and can provide required oversight needed to assure the construction adheres to the design; and

**WHEREAS**, the City Administration recommends approval of the contract as written.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Dowagiac, by the affirmative vote of its City Council, does hereby accept Fleis & Vandenbrink's proposal dated April 22, 2015 for Construction Administration Services; and

**BE IT FURTHER RESOLVED** that the City Manager be authorized and directed to act as signator for the execution of same.

ADOPTED unanimously.

3. Resolution to authorize a MERS 457 Supplemental Retirement Program that allows for voluntary employee retirement contributions.

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

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## MERS Uniform 457 Supplemental Retirement Program Resolution



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[www.mersofmich.com](http://www.mersofmich.com)

This Resolution, together with the MERS 457 Supplemental Retirement Program and Trust Master Plan Document and the MERS 457 Supplemental Retirement Program Participation Agreement and any Addendum thereto, constitute the entire MERS 457 Deferred Compensation Plan Document.

**WHEREAS**, the Municipal Employees Retirement Act of 1984, Section 36(2)(a), MCL 38.1536(2)(a) (MERS Plan Document (Section 36(2)(a)) authorizes the Municipal Employees' Retirement Board (the "Board") to "establish additional programs including but not limited to defined benefit, defined contribution, ancillary benefits, health and welfare benefits, and other postemployment benefit programs," and on November 8, 2011, the Municipal Employees' Retirement Board adopted the MERS 457 Deferred Compensation Plan.

**WHEREAS**, this Uniform Resolution has been approved by the Board under the authority of Section 36(2)(a), and the Board has authorized the MERS 457 Deferred Compensation Plan, which shall not be implemented unless in strict compliance with the terms and conditions of this Resolution.

**WHEREAS**, the Participating Employer, a participating "municipality" (as defined in Section 2b(2) in the Municipal Employees Retirement Act of 1984; MCL 38.1502b(2); Plan Document Section 2b(4)) or participating "court" (circuit, district or probate court as defined in Section 2a(4) – (6) of the Act, MCL 38.1502a(4) – (6); Plan Document Section 2a(4) – (6)) within the State of Michigan has determined that in the interest of attracting and retaining qualified employees, it wishes to offer a deferred compensation plan;

**WHEREAS**, the Participating Employer has also determined that it wishes to encourage employees' saving for retirement by offering salary reduction contributions;

**WHEREAS**, the Participating Employer has reviewed the MERS 457 Supplemental Retirement Program ("Plan");

**WHEREAS**, the Participating Employer wishes to participate in the Plan to provide certain benefits to its employees, reduce overall administrative costs, and afford attractive investment opportunities;

**WHEREAS**, the Participating Employer is an Employer as defined in the Plan;

**WHEREAS**, concurrent with this Resolution, and as a continuing obligation, this Governing Body has completed and approved, and submitted to MERS and the Board documents necessary for adoption and implementation of the Plan; and

**WHEREAS**, the Governing Body for and on behalf of the Participating Employer is authorized by law to adopt this Resolution approving the Participation Agreement on behalf of the Participating Employer. In the event any alteration of the terms or conditions stated in this Resolution is made or occurs, it is expressly recognized that MERS and the Retirement Board, as sole trustee and fiduciary of the Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty to continue to administer (or to have administered) the MERS 457 Supplemental Retirement Program for the Participating Employer.

**NOW, THEREFORE, BE IT RESOLVED** that the Governing Body adopts the MERS 457 Supplemental Retirement Program as provided below.

**MERS Uniform 457 Supplemental Retirement Program Resolution**

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- I. The Participating Employer adopts the Plan for its Employees.
- II. The Participating Employer hereby adopts the terms of the Participation Agreement, which is attached hereto and made a part of this Resolution. The Participation Agreement sets forth the Employees to be covered by the Plan, the benefits to be provided by the Participating Employer under the Plan, and any conditions imposed by the Participating Employer with respect to, but not inconsistent with, the Plan. The Participating Employer reserves the right to amend its elections under the Participation Agreement, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Board.
- III. The Participating Employer shall abide by the terms of the Plan, including amendments to the Plan made by the Board, all investment, administrative, and other service agreements of the Plan and the Trust, and all applicable provisions of the Internal Revenue Code and other applicable law.
- IV. The Participating Employer acknowledges that the Board is only responsible for the Plan and any other plans of the Employer administered by MERS and that the Board has no responsibility for other employee benefit plans maintained by the Employer that are not part of MERS.
- V. The Participating Employer accepts the administrative services to be provided by MERS and any services provided by a Service Manager as delegated by the Board. The Participating Employer acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Participants' accounts.
- VII. The Participating Employer acknowledges that the Plan contains provisions for involuntary Plan termination.
- VIII. The Participating Employer acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred to the Board to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be transferred by the Participating Employer to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.
- IX. This Resolution and the Participation Agreement shall be submitted to the Board for its approval. The Board shall determine whether the Resolution complies with the Plan, and, if it does, shall provide appropriate forms to the Participating Employer to implement participation in the Plan. The Board may refuse to approve a Participation Agreement by an Employer that does not possess State statutory authority to participate in the Plan. The Governing Body hereby acknowledges that it is responsible to assure that this Resolution and the Participation Agreement are adopted and executed in accordance with the requirements of applicable law.

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**MERS Uniform 457 Supplemental Retirement Program Resolution**

**BE IT FINALLY RESOLVED:** This Resolution shall have no legal effect under the Plan until a certified copy of this adopting Resolution is filed with MERS, and MERS determines that all necessary requirements under the 457 Supplemental Retirement Program Plan and Trust, the Participation Agreement, and this Resolution have been met. All dates for implementation of the Plan shall be determined by MERS from the date of filing with MERS of this Resolution in proper form and content. Upon MERS determination that all necessary documents have been submitted to MERS, MERS shall record its formal approval upon this Resolution, and return a copy to the Employer.

In the event an amendatory Resolution or other action by the municipality is required, such Resolution or action shall be deemed effective as of the date of the initial Resolution or action where concurred by this Governing Body and MERS (and a third-party administrator, if applicable and necessary). The terms and conditions of this Resolution supersede and stand in place of any prior resolution, and its terms are controlling.

I hereby certify that the above is a true copy of a Resolution adopted at the official meeting held on

\_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
(Signature of authorized official)

Municipality name: City of Dowagiac

**Received and Approved by the Municipal Employees' Retirement System of Michigan**

Dated: \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
(Authorized MERS signatory)

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ADOPTED unanimously.

4. Resolution to authorize quarterly budget amendments.

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

**WHEREAS**, the City administration has reviewed the attached budgets for the 2014-15 fiscal year and the actual revenues and expenditures through the second quarter of 2014-15 fiscal year; 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 unanimously.

5. 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 #15 for the period ending 04/12/15:

|          |                     |
|----------|---------------------|
| Invoices | \$647,682.03        |
| Payroll  | <u>\$117,321.68</u> |
| Total    | \$765,003.71        |

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

| <u>BILLS</u> | <u>PAYROLL</u> | <u>TOTAL</u> |
|--------------|----------------|--------------|
| \$647,682.03 | \$117,321.68   | \$765,003.71 |

ADOPTED on a roll call vote.

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

Nays: None (0)

Absent: None (0)

Abstain: None (0)

COMMENTS FROM CITY OFFICIALS

RESOLUTIONS (CONT)

6. Resolution to go into closed session pursuant to the Michigan Open Meetings Law, Public Act 267 of the Public Acts of 1976 as amended, to discuss the purchase of real property and matters of litigation.

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

**WHEREAS**, the Michigan Open Meetings Law, Public Act 267 of the Public Acts of 1976 as amended, provides that public bodies may meet in closed session to discuss the purchase of real property and matters of litigation; and

**WHEREAS**, the Mayor and City Council desire to meet with the City Manager to discuss the purchase of real property and matters of litigation.

**NOW, THEREFORE, BE IT RESOLVED** the City Council will hereby adjourn to closed session to discuss the purchase of real property and matters of litigation.

ADOPTED on a roll call vote.

Moved by: Laylin

Seconded by: Burling

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

Nays: None (0)

Absent: None (0)

Abstain: None (0)

CLOSED SESSION

TIME: 7:20 PM

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LATER: 8:19 PM

ADJOURNMENT

Upon motion by Councilmember Burling and seconded by Councilmember Dodd, the Dowagiac City Council adjourned at 8:21 PM.

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Donald D. Lyons, Mayor

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Jane Phillipson-Wilson, City Clerk