

**NOTICE OF PUBLIC MEETING
COUNCIL CHAMBERS-VILLAGE HALL
102 South Huron Avenue
Phone: 231-436-5351**

7:00 PM

June 02, 2016

**AGENDA-REGULAR MEETING
MACKINAW CITY VILLAGE COUNCIL**

- I. Roll Call**
- II. Pledge of Allegiance**
- III. Agenda Approval**
- IV. Public Comments**
- V. Consent Agenda:**
 - A. Correction and Approval of Minutes: Regular Meeting May 19, 2016 and Closed Session May 05, 2016**
 - B. Special Event Applications 2016-SE-056 and 2016-SE-057**
- VI. Managers Report**
- VII. President's Report**
- VIII. Committee Reports:**
 - Finance and Human Resource Subcommittee Report-Trustee Newman, Chair**
 - Facilities and Streets Subcommittee Report-Trustee Mollen, Chair**
- XI. Old Business:**
 - A. Ferry Ordinance**
 - B. Resolution 2016-06 to Authorize Execution of MDOT Contract West Central Ave Project**
- X. New Business:**
 - A. Administrative Policy**
 - B. Policy for Village Automated Clearing House (ACH) Arrangements and Electronic Transactions of Funds**
 - C. Resolution for Village ACH and Electronic Transactions**
 - D. Services Agreements -Village and the Little Traverse Bay Band of Odawa Indians**
 - 1. Interlocal Agreement for Mutual Law Enforcement Assistance**
 - 2. Fire Protection Services Agreement**
- XII. Scheduling of Committee Meetings**
- XIII. Accounts Payable**
- X. Adjourn**

**FINANCE AND HUMAN RESOURCE SUBCOMMITTEE:
REVIEW BILLS @ 6:45 PM**

UNAPPROVED
MINUTES REGULAR COUNCIL MEETING
MACKINAW CITY

7:00 PM

May 19, 2016

I. Roll Call:

President Robert R. Heilman called the meeting to order and with the following Trustees present—Belinda Mollen, Scott Newman, Mario Rodriguez, Robert Glenn, Tom Chastain and Paul Michalak. Also present- David White-Village Manager and Lana Jaggi- Clerk.

DEPARTMENT HEADS PRESENT

Patrick Wyman-Chief of Police

Fred Thompson-Fire Chief/Zoning Administrator

Mike Karll-Superintendent, DPW (excused when lift main alarm went off)

Pat Rivera- Superintendent, Water Sewer (excused when lift main alarm went off)

Visitors List Attached

II Pledge of Allegiance

III. Agenda Approval

Motion Mollen seconded Chastain to approve amending the agenda as presented. Voice vote, motion carried unanimously.

IV. Public Comment: None

V. Consent Agenda

Motion Mollen seconded Glenn to approve consent agenda minus the minutes of the May 05, 2016 Closed Session as presented. Voice vote, motion carried unanimously.

A. Correction and Approval of Minutes: Regular Meeting & Closed Session May 05, 2016

B. Special Event Applications 2016-SE-054

C. Communications

1. Email-Sandra Shook-Beautiful Village

D. Department Head- Monthly Reports

VI. Managers Report as presented and submitted for file.

VII. President's Report/Department Head Reports submitted, placed on file

Pres. Heilman presented Proclamation to Village resident Abigail Ostman-copy placed on file.

VIII. Committee Reports were presented and submitted for file.

Ordinance and Policy Subcommittee Report-Trustee Michalak, Chair presented and placed of file.

Ferry Ordinance will go onto next agenda for council to either approve or let end.

IX. Old Business:

A. Well Permit Letter

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MINUTES REGULAR COUNCIL MEETING
MACKINAW CITY

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Motion Michalak seconded Newman to approve the well permit letter as presented but to include October 31, 2016 as the cutoff date to receive an application fee waiver. Roll Call: Yeas- Mollen, Newman, Rodriguez, Heilman, Glenn, Chastain, Michalak. Motion carried.

X. New Business:

A. Special Event Application 2016-SE-055

Motion Chastain seconded Newman to approve special event application 2016-SE-055 as presented with stipulation fee is paid within two days and Zoning Administrator Fred Thompson signs off on application. Voice vote, motion carried unanimously

B. Special Event Application 2016-SE-053

Motion Mollen seconded Newman to approve special event application 2016-SE-053 as presented. Voice vote, motion carried unanimously

C. Approval of DDA Recommendation to Change Bylaws

Motion Newman seconded Glenn to approve the DDA by law change in language to meet *once a month* instead of *every other month*. Roll Call: Yeas- Newman, Rodriguez, Heilman, Glenn, Chastain, Michalak, Mollen. Motion carried.

D. Review/Approval of DDA Beautification Committee Recommendations 2016

Motion Chastain seconded Mollen to approve the 4/28/2016 DDA Beautification Recommendations as presented. Roll Call: Yeas- Rodriguez, Heilman, Glenn, Chastain, Michalak, Mollen, Newman . Motion carried.

E. Resolution-Tobacco Free Designation Recreation Complex

Motion Glenn seconded Newman to waive the reading of the resolution for Tobacco Free Designation for the Recreation Complex. Voice vote, motion carried unanimously.

Motion Glenn seconded Newman to approve the resolution in support of Tobacco Free Parks. Roll Call: Yeas- Heilman, Glenn, Chastain, Michalak, Mollen, Newman, Rodriguez. Motion carried.

F. Reappointment of Village Attorney

Motion Neman seconded Mollen to appoint Kenneth P. Lane, Clark Hill, as Village Attorney. Voice vote, motion carried unanimously.

G. Site Plan Review-2016-SP-001 Star Line

Motion Michalak seconded Newman to approve site plan 2016-SP-001, Star Line, to include compliance with C2AE Review and Recommendations. Voice vote, motion carried unanimously.

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H. Site Plan Review-2016-SP-002 Shepler's

**Motion Michalak seconded Newman to approve site plan 2016-SP-002, Shepler's as presented
Voice vote, motion carried unanimously.**

XI. Scheduling of Subcommittee meetings:

Finance and Human Resource

Thursday, May 26, 2016 8:30 AM

- 1. Streets**
- 2. Excess Village Property**

Facilities and Streets

Thursday, May 26, 2016 3:30 PM

- 1. West Central Ave.**
- 2. Budget 2016-2017 Quarterly Review**

XII. Accounts Payable

**Motion Newman seconded Glenn to pay accounts payable for May 19, 2016
in the amount of \$44,614.36 Roll call: Yeas- Glenn, Chastain, Michalak, Mollen,
Newman, Rodgriguez, Heilman. Motion carried.**

XIII. Adjournment: 8:37 PM

Respectfully submitted,

Robert R. Heilman; President

Lana Jaggi; Clerk

Special Events for Council June 2, 2016

- *1. 2016-SE-056-St Anthony's Parish CCW-This application is for signage only, both events will be held on Church property. On July 28, 2016 the annual garage sale will be held from 8 am to 3 pm. On November 11, 2016 the Holiday Expo will be held from 8 am to 3 pm. All department heads have signed off and the application fee of \$25 has been paid.

- *2. 2016-SE-057-American Legion-This application is for signage only. All events take place at the American Legion on the following dates: June 24, July 4 and 9, August 13 and 27 and September 3, 2016. All department heads have signed off and the application fee of \$50 has been paid. (application was not received with in the 45 day time span)

Respectfully,

A handwritten signature in cursive script, appearing to read "Janille".

2016-SE-057

SIGNS ONLY

SPECIAL EVENT APPLICATION
VILLAGE OF MACKINAW CITY
102 S. HURON AVENUE, MACKINAW CITY, MI
(231) 436-5351

To Admin. Staff: 5-24-16
To Council: 6-2-16
Decision: Approved Denied
Minutes to Applicant: _____

Must be filled out in its entirety and returned to the Village Clerk's Office 45 days prior to scheduled event

SPONSORING ORGANIZATION INFORMATION

LEGAL BUSINESS NAME: CLAYTON MURRAY POST 159 TELEPHONE: 231-436-7421
MAILING ADDRESS: P.O. BOX 940 MACKINAW CITY, MI 49701
CONTACT NAME: LINDA MAASS TELEPHONE: 231-436-7421
E-MAIL ADDRESS: _____ CELL PHONE: 231-203-1557

CONTACT PERSON ON DAY OF EVENT

CONTACT NAME: LINDA MAASS TELEPHONE: 231-436-7421
E-MAIL ADDRESS: _____ CELL PHONE: 231-203-1557

EVENT INFORMATION

NAME OF EVENT: OPEN LIQUOR LICENSE
PURPOSE OF EVENT: EARN MONEY FOR SCHOLARSHIPS AND BUILDING FUND

- Non-Profit For-Profit Village Operated/Sponsored Co-Sponsored
- Marathon/Race Festival/Fair Arts & Crafts Show Other _____

DATE(S): 6-24-16 FROM 12:00 A.M. P.M. TO 12:00 A.M. P.M.
7-4-16 FROM 12:00 A.M. P.M. TO 12:00 A.M. P.M.
7-9-16 FROM 12:00 A.M. P.M. TO 12:00 A.M. P.M.
8-13-16 FROM 12:00 A.M. P.M. TO 12:00 A.M. P.M.
MORE
~~DATE(S)~~ DATE(S): 8-27-16 FROM 12:00 A.M. P.M. TO 12:00 A.M. P.M.
9-3-16 FROM 9:00 A.M. P.M. TO 12:00 A.M. P.M.

EVENT LOCATION: 106 S HURON STREET

ESTIMATED NUMBER OF ATTENDEES: _____

WILL YOU UTILIZE SHOWERS: Yes No

ESTIMATED NUMBER OF VOLUNTEERS: _____

ESTIMATE DATE/TIME FOR SET-UP: _____ A.M. P.M.

ESTIMATE DATE/TIME FOR CLEAN-UP: _____ A.M. P.M.

Fee - \$50⁰⁰ Rec # 13502 CK # 12824
Not within 45 day limit

RECEIVED
5-20-16

EVENT SIGNAGE: Village Council approval is required for any temporary signing in the public right-of-way, across a street or on Village property. Which of the following signs are requested for this event:

"YARD" SIGNS - Number requested: ___ (Maximum size is 2' x2'. Cannot be displayed more than 15 days prior to first day of event and must be removed 24 hours after end of event.)

SIGNAGE AT EVENT SITE - Location(s): 2 SIGNS "OPEN TO THE PUBLIC"
1) FRONT OF BUILDING 2) NORTH SIDE OF BUILDING

Description of signs: _____
(Signs at event site cannot be displayed prior to day of the event and must at the end of the event.)

VENDOR PARKING: Have you made arrangement for vendor parking? Yes No
If yes, where do you propose your vendors park? _____

EVENT LONG TERM PARKING: Will there be long term parking? Yes No
If yes, from date _____ to ending date: _____

Long term parking identified on the site map? Yes No

OVERNIGHT CAMPING: Will there be camping over night? Yes No
Name of Facility where camping: _____

If yes, from date: _____ to ending date: _____

Camp sites identified on the site map? Yes No

TENTS/CANOPIES/MISC: The Village of Mackinaw City does have tables and/or chairs available for rental. You will need to provide a diagram of the area for set up. Will the following be constructed or located in the event area?:

BOOTHS – QUANTITY _____ TENTS – QUANTITY _____
Size _____ CHAIRS – QUANTITY _____
 AWNINGS – QUANTITY _____ TABLES – QUANTITY _____

Seating diagram for booths, awnings, tables and chairs provided with application: Yes No

PORTABLE RESTROOMS/TOILETS

Have you made arrangements to provide portable restroom facilities at your event? Yes No
If yes, total number of portable toilets: _____ Number of ADA accessible portable toilets: _____

If no, explain: _____

Restroom Company Name: _____

Address Street: _____

City: _____ State: _____ Zip: _____

Telephone Day: _____ Evening: _____ Fax: _____ Cell: _____

Equipment set up: Date: _____ Time: _____

Equipment pick up: Date: _____ Time: _____

Portable restrooms identified on the site map? Yes No

including death, sustained by any person whomsoever and which damage, injury or death arises out of or is incident to or in any way connected with the performance of this contract, and regardless of which claim, demand, damage, loss cost of expense is caused in whole or in part by the negligence of the Village of Mackinaw City or by third parties, or by the agents, servants, employees or factors of any of them.

As the duly authorized agent of the sponsoring organization, I hereby apply for approval of this Special Event and affirm the above understandings. The information provided on this application is true and complete to the best of my knowledge.

The Village of Mackinaw City expressly reserves the right in its sole discretion to cancel a private event for Village purposes and the Site user agrees, as a term of its use of a site, to release and waive all claims of any kind (including a claim for consequential damages), against the Village, its officers or employees arising out of cancellation of the user's event.

Is this an annual event? Yes No
Is this event expected to occur next year? Yes No
How many years has this event occurred? 207

Paul Allers
Applicant Signature
Print name of applicant: PAUL ALLERS

5-20-16
Date

VILLAGE USE ONLY – Department representative please initial if approved

[MA] DPW [GV] FACILITY SERVICES
[AW] POLICE [WJ] FIRE [] AMBULANCE
[CA] RECREATION

VILLAGE COUNCIL COUNCIL APPROVAL DATE: _____

CONDITIONS, IF ANY: _____

AUTHORIZED BY: _____ DATE: _____
VILLAGE MANAGER

2016-SF-056

To Admin. Staff: 5-24-16

To Council: 6-2-16

Decision: Approved Denied

Minutes to Applicant: _____

**SPECIAL EVENT APPLICATION
VILLAGE OF MACKINAW CITY
102 S. HURON AVENUE, MACKINAW CITY, MI 49701
(231) 436-5351**

Must be filled out in its entirety and returned to the Village Clerk's Office 45 days prior to scheduled event

SPONSORING ORGANIZATION INFORMATION

LEGAL BUSINESS NAME: St. Anthony's Parish CCW TELEPHONE: _____

MAILING ADDRESS: PO Box 460 Mackinaw City, MI 49701

CONTACT NAME: Laurie Siebigteroth TELEPHONE: 906-298-2223

E-MAIL ADDRESS: psiebig@yahoo.com CELL PHONE: 906-298-2223

CONTACT PERSON ON DAY OF EVENT

CONTACT NAME: Laurie Siebigteroth TELEPHONE: 906-298-2223

E-MAIL ADDRESS: psiebig@yahoo.com CELL PHONE: 906-298-2223

EVENT INFORMATION

NAME OF EVENT: St. Anthony's Garage Sale; Holiday Expo

PURPOSE OF EVENT: Fundraising

Non-Profit For-Profit Village Operated/Sponsored Co-Sponsored

Marathon/Race Festival/Fair Arts & Crafts Show Other _____

DATE(S): 7-28-16 FROM 8 A.M. P.M. TO 3 A.M. P.M.

11-12-16 FROM 8 A.M. P.M. TO 3 A.M. P.M.

_____ FROM _____ A.M. P.M. TO _____ A.M. P.M.

_____ FROM _____ A.M. P.M. TO _____ A.M. P.M.

RAIN DATE(S): _____ FROM _____ A.M. P.M. TO _____ A.M. P.M.

_____ FROM _____ A.M. P.M. TO _____ A.M. P.M.

EVENT LOCATION: St. Anthony's Parish 600 W Central

ESTIMATED NUMBER OF ATTENDEES: 100

WILL YOU UTILIZE SHOWERS: Yes No

ESTIMATED NUMBER OF VOLUNTEERS: 20

ESTIMATE DATE/TIME FOR SET-UP: _____ A.M. P.M.

ESTIMATE DATE/TIME FOR CLEAN-UP: _____ A.M. P.M.

*Signage only
Fee - \$25 Rec# 13472*



EVENT SIGNAGE: Village Council approval is required for any temporary signing in the public right-of-way, across a street or on Village property. Which of the following signs are requested for this event:

"YARD" SIGNS - Number requested: 12 (Maximum size is 2' x2'. Cannot be displayed more than 15 days prior to first day of event and must be removed 24 hours after end of event.)

SIGNAGE AT EVENT SITE - Location(s): 600 W. Central Ave

Description of signs: "Yard" sign
(Signs at event site cannot be displayed prior to day of the event and must at the end of the event.)

VENDOR PARKING: Have you made arrangement for vendor parking? Yes No
If yes, where do you propose your vendors park? _____

EVENT LONG TERM PARKING: Will there be long term parking? Yes No
If yes, from date _____ to ending date: _____
Long term parking identified on the site map? Yes No

OVERNIGHT CAMPING: Will there be camping over night? Yes No
Name of Facility where camping: _____
If yes, from date: _____ to ending date: _____
Camp sites identified on the site map? Yes No

TENTS/CANOPIES/MISC: The Village of Mackinaw City does have tables and/or chairs available for rental. You will need to provide a diagram of the area for set up. Will the following be constructed or located in the event area?:

BOOTHS – QUANTITY _____ **TENTS – QUANTITY** _____
Size _____ **CHAIRS – QUANTITY** _____
 AWNINGS – QUANTITY _____ **TABLES – QUANTITY** _____

Seating diagram for booths, awnings, tables and chairs provided with application: Yes No

PORTABLE RESTROOMS/TOILETS

Have you made arrangements to provide portable restroom facilities at your event? Yes No
If yes, total number of portable toilets: _____ Number of ADA accessible portable toilets: _____

If no, explain: _____

Restroom Company Name: _____

Address Street: _____

City: _____ State: _____ Zip: _____

Telephone Day: _____ Evening: _____ Fax: _____ Cell: _____

Equipment set up: Date: _____ Time: _____

Equipment pick up: Date: _____ Time: _____

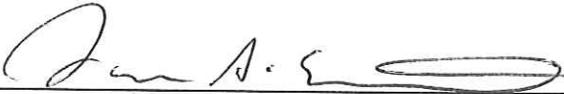
Portable restrooms identified on the site map? Yes No

including death, sustained by any person whomsoever and which damage, injury or death arises out of or is incident to or in any way connected with the performance of this contract, and regardless of which claim, demand, damage, loss cost of expense is caused in whole or in part by the negligence of the Village of Mackinaw City or by third parties, or by the agents, servants, employees or factors of any of them.

As the duly authorized agent of the sponsoring organization, I hereby apply for approval of this Special Event and affirm the above understandings. The information provided on this application is true and complete to the best of my knowledge.

The Village of Mackinaw City expressly reserves the right in its sole discretion to cancel a private event for Village purposes and the Site user agrees, as a term of its use of a site, to release and waive all claims of any kind (including a claim for consequential damages), against the Village, its officers or employees arising out of cancellation of the user's event.

Is this an annual event? Yes No
Is this event expected to occur next year? Yes No
How many years has this event occurred? 10 +


Applicant Signature
Print name of applicant: Laurie A Siebigteroth

5-17-16
Date

VILLAGE USE ONLY – Department representative please initial if approved

DPW FACILITY SERVICES
 POLICE FIRE [] AMBULANCE
 RECREATION

VILLAGE COUNCIL COUNCIL APPROVAL DATE: _____

CONDITIONS, IF ANY: _____

AUTHORIZED BY: _____ DATE: _____
VILLAGE MANAGER

To: Mackinaw City Council
From: David M. White, Village Manager
Date: May 26, 2016
Re: Manager Report for June 2, 2016, Council Meeting

XI. Old Business:

- A. Ferry Ordinance-** For your review and consideration is a proposed Ordinance to Provide for and require a License to operate a Ferry and to provide a Fee for that License. The proposed ordinance also provides penalties for violations. A Ferry ordinance has been discussed for many years in the Village and many drafts of a proposed ordinance have been written. At the last Council meeting the Village Attorney outlined what the proposed ordinance can and cannot cover. After review I would be happy to answer any questions the Council may have.
- B. Resolution 2016-06 to Authorize Execution of MDOT Contract West Central Avenue Project-** On tonight's Agenda is a Resolution to approve and authorize the execution of contract No. 16-5247 with the Michigan department of transportation to facilitate the West Central Avenue project. This resolution is the final step by the Village to authorize the reconstruction of West Central Avenue. The bids for the project are slated to be opened the first full week of June. After the contractor has been selected a Second Open House will be scheduled for the Public to meet the Contractor and have them answer any questions residents may have. I would be happy to answer any questions Trustee's may have.

X. New Business:

- A. Administrative Policy-** The Auditor has requested that a written policy be adopted regarding the payout of accumulated Sick and Vacation time for all nonunion non department head employees. The policy before you mirrors the wording from the DPW contract that was put in place last year. This

policy affects 2 full time employees at the present time. I would be happy to address any question from the Council.

B. and C. Policy and Resolution 2016-08 for Village Automated Clearing House (ACH) Arrangements and Electronic Transactions of Funds.-

Attached for Council review and approval is a policy and resolution which would allow the Treasurer to use ACH for those financial transactions that are allowed in the proposed policy. This policy has been requested by the Auditors to address past audit findings. Should any Council member have any questions I would be happy to address them.

D. Service Agreements- Village of Mackinaw City and Little Traverse Bay Band of Odawa Indians.

- 1. Interlocal Agreement for Mutual Law Enforcement Assistance-** For your review and approval is an agreement between the Village and the Little Traverse Bay Band of Odawa Indians regarding Law Enforcement Assistance. This agreement is the same as the Tribe has with other agencies in Emmet County. Chief Wyman has reviewed the agreement and has no issues with it. After review I would be happy to address any questions the Council may have.

- 2. Fire Protection Services Agreement-** The Second agreement for your review and approval is a Fire Service agreement between the Village of Mackinaw City and the Tribe regarding Fire protection at their new facility. As with the Law Enforcement agreement this contract is much the same as the agreement the Tribe has with Resort- Bear Creek Fire Department. In this agreement the Tribe will pay a set annual fee which will be for two Fire calls to the facility after two calls there is a set per run fee. Chief Thompson has reviewed the agreement and has no issues with it. I would be happy to address any questions you may have.

Items not on the Agenda: I would like to publicly give a Thank you and job well done to our Village Crews who worked close to 36 hours to repair a major main break and valve failure on May 2th and 25th. I would like to thank Darrow Brothers for dropping everything and coming to help when their larger equipment was needed. The size of the break and valve failure also required additional help and the City of St. Ignace sent their Water crew to help us and for that I cannot say thank you enough. That type of response just goes to show the working together which is a hallmark of living in Northern Michigan. Finally I would like to thank the residents and businesses that were effected for their understanding at the start of a very busy weekend.

COMMITTEE REPORT
VILLAGE OF MACKINAW CITY
102 S. Huron Avenue, Mackinaw City, MI 49701

COMMITTEE: FINANCE DATE 5/26/16

AGENDA ITEMS: ① WEST CENTRAL PROJECT BUDGET REVIEW

② BUDGET REVIEW

PRESENT: BOB GLENN, PAUL MICHALAK, SCOTT NEWMAN, DAVE WHITE

ABSENT: _____

REPORT: ① REVIEWED W. CENTRAL AVE. PROPOSED BUDGET
WAITING FOR BID PACKAGES.

② BUDGET SHOWS NO ABNORMAL TENDENCIES

COMMITTEE DATA BASE SUMMARY INFORMATION

ITEM

STATUS/RECOMMENDATION

ITEM	STATUS/RECOMMENDATION

VILLAGE COUNCIL
VILLAGE OF MACKINAW CITY
Cheboygan and Emmet Counties, Michigan

Trustee _____ supported by Trustee _____, moved the adoption of the following Ordinance:

ORDINANCE NO. _____

AN ORDINANCE TO PROVIDE FOR AND REQUIRE A LICENSE TO OPERATE A FERRY SERVICE IN THE VILLAGE, TO PROVIDE A FEE FOR THAT LICENSE, TO REGULATE FERRY SERVICES, AND TO PROVIDE PENALTIES FOR VIOLATIONS

The Village of Mackinaw City ordains:

Sec. 1. Amendment of Compiled Code. Part 51, Sections 51.001 through 51.010, are added to the Compiled Code of the Village of Mackinaw City to read as follows:

Part 51 Ferry Boat Operations

Sec. 51.001. Purpose.

(a) This ordinance is adopted pursuant to Article VII, Section 40 the General Law Village Act, 1895 PA 3, as amended, MCL 67.40, which authorizes the Village of Mackinaw City to “regulate and license ferries from the village, or a place in the village; require the payment of a reasonable sum for a ferry license; impose reasonable terms and restrictions; provide for the revocation of a ferry license and for the imposition of sanctions for a violation of an ordinance prohibiting unlicensed ferries or regulating ferries established and licensed.”

(b) The Village of Mackinaw City acts as a gateway to Michigan’s “Upper Peninsula” and to Mackinac Island. Ferry service between the Village and Mackinac Island is key to the economic vitality of the Village and other nearby local governments. Additionally, ferry service is important to residents (of the Village and Mackinac Island), property owners, business owners, tourists and other visitors. However, ferry service results in significant costs to the Village. For example, Village streets, sidewalks, parking areas, signage and utilities need to be built in quantities, sizes, configurations, and standards to accommodate the periodic influxes of ferry passengers; law enforcement, public works and other personnel are needed to address the traffic, congestion and other results of the ferry service passengers; and, there are increased local business opportunities as a result of the ferry traffic that also increase the demands on Village government.

(c) Due to the overall importance of the ferry service to the community as a whole, the Village Council believes it is in the public interest to license ferry operations and to recover some of the costs incurred by the Village as a result of ferry service. Through this ordinance the Village wishes to:

- (1) Ensure that a portion of the Village’s costs in accommodating ferry service is supplemented;
- (2) Ensure ferry service is fair, efficient, and appropriately accountable to the public;
- (3) Ensure ferry service works harmoniously with other area business and economic development efforts;

- (4) Ensure ferry service adequately serves the needs, not only of visitors, but of residents and businesses in the greater Mackinaw area community;
- (5) Avoid undue conflicts between ferry boats and ferry docks and other interests in and users of the waterways and shoreline areas.

Sec. 51.002. Definitions. The following words, terms and phrases, when used in this ordinance, shall have the meanings provided in this section.

- (a) *Ferry* means the transport of passengers or property to or from the Village and within the Straits of Mackinac, the waters of Lake Huron, or inlets, bays, harbors or other connecting waters of Lake Huron.
- (b) *Ferryboat* means a boat that is used as a ferry or as part of a ferry service that is capable of carrying 20 or more passengers or is for carrying property.
- (c) *Ferry dock* means any dock, wharf, pier or landing place used for embarking or disembarking passengers or loading or unloading property from a ferryboat.
- (d) *Ferry Service* means a person engaged in ferrying of individuals or property by ferryboat for compensation and includes any person engaged in such service without compensation if that person is ever compensated for such services. For purposes of this ordinance, ferry service shall include passenger service in a boat capable of carrying 20 or more passengers with service to Mackinac Island from the Village.
- (e) *Person* means an individual, partnership, corporation, limited liability company, association, trust, or other entity.
- (f) *Village* means the Village of Mackinaw City located in Emmet and Cheboygan Counties, Michigan.
- (g) *Village Manager* means the individual holding the office of Village Manager in the Village or that individual's designee or successor.

Sec. 51.003. License Required. A license issued by the Village shall be required to operate a ferry, ferry dock, ferryboat or ferry service in the Village. No person shall operate a ferry, ferry dock, ferryboat or ferry service in the Village without first having obtained from the Village a license therefore in accordance with the provisions of this ordinance.

Sec. 51.004. License Application. Any person desiring a license to operate a ferry, ferry dock, ferryboat or ferry service in the Village shall file a written application with the Village Clerk that shall contain, or include as an attachment, at least the following information:

- (a) The applicant's name, principal business address, principal telephone number(s), and e-mail address.
- (b) The address(es) from which the applicant intends to do business in the Village.
- (c) If the applicant is not an individual, then the application must be accompanied by:
 - (1) A certified copy of the applicant's articles of incorporation, articles of association, partnership agreement or other appropriate organizational documents;
 - (2) Any assumed name filings;
 - (3) A list of all officers, all general partners, all members with an interest of 10% or more of the entity, all stockholders with an interest of 10% or more of the

entity, and, if any of the aforementioned persons are not individuals, similar information about each of those organizations or entities; and

(4) The name(s), addresses, telephone numbers and e-mail addresses of the principal contact individuals for the applicant.

(d) If the applicant is an individual, then the application shall be accompanied by copies of any assumed name filings.

(e) A list of the addresses and permanent parcel numbers of any ferry dock(s) and parking area(s) in the Village to be used.

(f) A list of all ferryboats to be used in the applicant's business in the Village.

(g) A description of the services to be provided by the applicant including, without limitation, the following:

(1) The proposed ferry schedule;

~~(2) The times of the year during which the applicant will offer services;~~

~~(23) Any unique characteristics, services or abilities the applicant may have that differentiates the applicant from others providing such services in the Village; and~~

~~(34) Any other information the applicant believes is needed to fully and completely describe the services the applicant intends to provide and/or the benefits the applicant will provide to the Village and the greater community.~~

(h) Drawings showing the site layouts of any premises (*e.g.*, ferry docks, offices, parking areas) within the Village to be used by the applicant, including any changes proposed for the site(s). The drawings shall contain such detail about each premises and nearby premises as is required for site plan review under the Village's zoning ordinance.

(i) A copy of current ferryboat inspection data from the United States Coast Guard.

(j) A copy of current insurance policies for the ferry service.

(k) A copy of current pilot licenses for operators of any ferryboat used in the applicant's business in the Village.

Sec. 51.005. Application Fee. A nonrefundable application fee shall be paid upon filing the application. The application fee shall be in an amount established from time-to-time by resolution of the Village Council and shall be intended to pay the costs incurred by the Village to process the application.

Sec. 51.006. Application Review. The Village shall review an application for a license to operate a ferry, ferry dock, ferryboat or ferry service in the Village as follows. Generally, review and action on an application for a license to operate a ferry, ferry dock, ferryboat or ferry service in the Village shall be completed within 90 days of the date on which the application is filed, but it may be delayed by an incomplete application, the need to get additional information, or to address issues the Village Council raises after publicly discussing or holding a public hearing on the application.

(a) The Village Clerk shall, within 14 days, notify the Village Manager in writing or by e-mail that the application has been filed.

(b) The Village Manager shall:

(1) Review the application to ensure the materials appear facially complete and in compliance with this ordinance.

(2) Engage other members of Village staff or outside consultants in a more thorough review of the application as the Village Manager deems necessary or appropriate to:

(A) Determine the application is complete;

(B) Determine what, if any, additional information may be needed to address any concerns and questions the reviewers, Village Council members, or members of the public may have;

(C) Determine whether the applicant and the resulting license to operate a ferry, ferry dock, ferryboat or ferry service in the Village would meet the requirements and goals of this ordinance and the requirements of the United States Coast Guard and any other federal or state agencies with jurisdiction over such operations; and

(D) Ascertain whether or not granting the proposed license is in the best interests of the public health, safety and general welfare.

(3) Request and, with any assistance the Village Manager wishes to engage, review any additional information provided by the applicant.

(c) When the Village Manager has completed the review provided in subsection (b), the Village Manager shall make a written recommendation to the Village Council to grant the license in accordance with the application, deny the license, or grant the license with specified conditions. The Village Manager's recommendation shall include a written basis and explanation for the recommendation.

(d) Before taking any action to grant a license in accordance with an application, deny the license, or grant the license with specified conditions, the Village Council shall hold a public hearing. Notice of the date of the public hearing shall be provided to the applicant and shall be published in accordance with state law. At the public hearing any interested person may make verbal or submit written comments on the application in accordance with Village Council procedures for public comments.

(e) After holding the public hearing, the Village Council shall take action on the application and may grant the license in accordance with the application, deny the license, or grant the license with specified conditions. The resolution taking such action shall explain the reasons for it though the Council may simply adopt by reference the recommendation and reasons provided it by the Village Manager.

(f) The Village Council may impose conditions on a license that are reasonably related to ensuring the licensed activities will comply with the purpose, intent and provisions of this ordinance.

(g) A resolution of the Village Council to grant the license in accordance with the application, deny the license, or grant the license with specified conditions shall be final. There is no appeal to any other Village official or body. Any applicant whose application for a license has been denied may not re-apply for an application for at least 180 days.

Sec. 51.007. License. If a license is approved, the Village Clerk shall issue the license in writing which shall also include any conditions to the license. The licensee shall display the license in all

offices of the licensee within the Village. The term of a license shall be 3-years. Any application to renew a license shall be made using the procedure for an original license as specified herein.

Sec. 51.008. License Fee.

(a) During the 3 year term of a license issued under this ordinance, an annual license fee shall be paid to the Village by a licensee in an amount set from time to time by resolution of the Village Council. Such annual license fee shall be paid on or before March 1 each calendar year.

(b) Fees not paid when due shall result in the immediate, automatic (*i.e.*, without any action by the Village) suspension of any license issued pursuant to this ordinance that shall take effect upon written notification delivered to any office of the licensee located in the Village. Any license so suspended may be reinstated only upon full payment of the required license fee to the Village.

Sec. 51.009. License Denial, Suspension or Revocation.

(a) The following shall constitute grounds for the Village Council to deny issuance of a license or to suspend or revoke a license issued pursuant to this ordinance.

- (1) Any false statement in an application, any materials filed with an application or related to a license, any materials provided in conjunction with an application or license, or any statement related to an application or license made to any Village officials or agents;
- (2) A violation of any provision of this ordinance;
- (3) A violation of any condition of a license issued pursuant to this ordinance;
- (4) The repeated failure during the term of any license to timely pay fees due under this ordinance, even if such failures have been cured (for purposes of this section "repeated" shall mean twice or more during the term of a license);
- (5) A violation by the applicant or licensee (including an officer or owner of ten percent or more of the applicant or licensee's entity) or an agent of a licensee of any federal or state law, rule or regulation applicable to the operation of the ferry, ferry dock, ferryboat or ferry service in the Village including, without limitation, those addressing environmental, consumer protection issues and any criminal laws;
- (6) Violations of Village ordinances (i) by the applicant or licensee (including an officer or owner of ten percent or more of the applicant or licensee's entity) or an agent of a licensee, or (ii) on or within any ferryboat, ferry dock or other premises owned or operated by or on behalf of the licensee;
- (7) The failure to timely pay (*i.e.*, on or before the date they can no longer be paid without added interest, penalties, or late payment fees or when notified of a delinquency) any real or personal property taxes, special assessment or any utility fee or charge owed to the Village;
- (8) Any failure to provide any information required under this ordinance;
- (9) Any condition on any premises within the Village or any ferryboat or ferry dock owned or operated by or on behalf of the applicant or licensee that constitutes a public nuisance.

(b) Except for an automatic suspension provided in section 51.008(b) of this ordinance, the Village Manager shall, with such consultation and other assistance as may reasonably be needed,

investigate any circumstance that may lead to the suspension or revocation of any license issued pursuant to this ordinance and shall make a written recommendation to the Village Council. The Village Manager may, in addition to the written recommendation, submit to the Village Council such other communications and information as the Village Manager deems pertinent to the issues involved.

(c) A copy of the Village Manager’s recommendation, together with at least 14 days prior notice of the meeting at which the Village Council will consider a suspension or revocation, shall be provided to the licensee at its principal address and at an address in the Village at which the licensee has an office. At the meeting, the licensee shall be given an opportunity to be heard as provided in accordance with the Village Council’s policy for public comments.

(d) The actions of the Village Council shall be by resolution and shall be final. Any licensee whose license is revoked shall be ineligible to apply for a new license for at least one year after the revocation.

Sec. 51.010. Violations.

(a) The operation of a ferry, ferry dock, ferryboat or ferry service in the Village with a suspended or revoked license shall constitute a violation of this ordinance.

(b) Any violation of this ordinance shall be a municipal civil infraction punishable by a fine in an amount set from time to time by resolution of the Village Council. Each violation shall be separate for purposes of penalties, and in the case of a continuing violation, each day shall be deemed a separate violation.

(c) In addition to the penalty provided herein, the district court may issue and enforce any judgment, writ, or order necessary to enforce this ordinance.

Sec. 2. Effective Date. This ordinance shall take effect 20 days after its adoption or upon its publication, whichever occurs later.

YEAS: Council member(s) _____

NAYS: Council member(s) _____

ABSTAIN: Council member(s) _____

ABSENT: Council member(s) _____

CERTIFICATION

As the Clerk of the Village of Mackinaw City, Emmet and Cheboygan Counties, Michigan, I certify this is a true and complete copy of an ordinance adopted by the Mackinaw City Village Council at a regular meeting held on _____, 2016.

Date: _____, 2016

Lana Jaggi, Clerk

**VILLAGE COUNCIL
VILLAGE OF MACKINAW CITY
Cheboygan and Emmet Counties, Michigan**

Trustee B. Mollen, supported by Trustee R. Glenn, moved the adoption of the following resolution:

RESOLUTION NO. 2016-06

**A RESOLUTION TO APPROVE AND AUTHORIZE THE
EXECUTION OF CONTRACT NO 16-5247 WITH THE
MICHIGAN DEPARTMENT OF TRANSPORTATION TO
FACILITATE THE WEST CENTRAL AVENUE PROJECT**

WHEREAS, the Village of Mackinaw City (the "Village") has determined to undertake hot mix asphalt base crushing, shaping, and resurfacing along West Central Avenue from Wilderness Park Drive easterly to DeJauncy Street; including trenching, road widening, concrete curb and gutter at intersections, and pavement marking work; and all together with necessary related work (the "Project"); and

WHEREAS, to facilitate the Project, the Village has requested administrative, supervision and financing assistance from the Michigan Department of Transportation ("MDOT") through the Transportation Economic Development Fund; and

WHEREAS, MDOT has approved the Project for such funding and assistance and the Village and MDOT must formalize this arrangement by contract.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Contract No. 16-5247, between the Michigan Department of Transportation and the Village of Mackinaw City, is approved in the form attached as Exhibit A.
2. The Village President Robert R. Heilman and Village Manager David M. White are authorized and directed to execute Contract No. 16-5247 on behalf of the Village.
3. All resolutions and parts of resolutions insofar as they conflict with the provisions of this Resolution are rescinded.

YEAS: Trustee(s)

NAYS: Trustee(s)

ABSTAIN: Trustee(s)

ABSENT: Trustee(s)

CERTIFICATION

I certify that this is a true and complete copy of a resolution adopted at a regular meeting of the Village Council of the Village of Mackinaw City held on June 02, 2016.

Date:

Lana Jaggi, Village Clerk

EXHIBIT A
CONTRACT 16-5247

TED (D)
FED

CAB

Control Section STL 24555
Job Number 112843A
Project STP 1624(007)
Federal Item No. GG 0116
CFDA No. 20.205 (Highway Research
Planning & Construction)
Contract No. 16-5247

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of _____, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the VILLAGE OF MACKINAW CITY, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the Village of Mackinaw City, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated April 8, 2016, attached hereto and made a part hereof:

Hot mix asphalt base crushing, shaping, and resurfacing along West Central Avenue from Wilderness Park Drive easterly to DeJauncy Street; including trenching, road widening, concrete curb and gutter at intersections, and pavement marking work; and all together with necessary related work.

WITNESSETH:

WHEREAS, the PROJECT has been approved for financing in part with funds appropriated to the Transportation Economic Development Fund, hereinafter referred to as "TED FUNDS", pursuant to PA 234 of the Public Acts of 1987, MCL 247.660; and

WHEREAS, it was determined that the PROJECT as described by this contract qualifies for funding pursuant to PA 233, Section 2(2); Public Act of 1987 and categorized as:

D FUNDED PROJECT

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT, or portions of the PROJECT, at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal Program(s) or funding:

SURFACE TRANSPORTATION PROGRAM

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT, including any other costs incurred by the DEPARTMENT as a result of this contract, except construction engineering and inspection.

No charges will be made by the DEPARTMENT to the PROJECT for any inspection work or construction engineering.

The costs incurred by the REQUESTING PARTY for preliminary engineering, construction engineering, construction materials testing, inspection, and right-of-way are excluded from the PROJECT COST as defined by this contract.

3. The DEPARTMENT is authorized by the REQUESTING PARTY to administer on behalf of the REQUESTING PARTY all phases of the PROJECT including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT. Such administration shall be done in accordance with PART II, Section II of this contract.

Any items of PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

4. The REQUESTING PARTY, at no cost to the PROJECT or to the DEPARTMENT, shall:

A. Design or cause to be designed the plans for the PROJECT.

B. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.

- C. Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PROJECT.

The REQUESTING PARTY will furnish the DEPARTMENT proposed timing sequences for trunkline signals that, if any, are being made part of the improvement. No timing adjustments shall be made by the REQUESTING PARTY at any trunkline intersection without prior issuances by the DEPARTMENT of Standard Traffic Signal Timing Permits.

5. The PROJECT COST shall be met by contributions by the Federal Government and/or TED FUNDS. Federal Surface Transportation Funds shall be applied to the eligible items of the PROJECT COST at a participation ratio equal to 37 percent. State TED FUNDS Category D shall be applied to the eligible items of the PROJECT COST at a participation ratio equal to 8 percent. The remaining balance of the PROJECT COST, after deduction of Federal Funds and/or TED FUNDS, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share, if any, of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 30 days of receipt of billings from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less Federal Funds and/or TED FUNDS earned as the PROJECT progresses.

Any items of PROJECT COST not reimbursed by Federal Funds and/or TED FUNDS will be the sole responsibility of the REQUESTING PARTY.

6. A working capital deposit by the REQUESTING PARTY will not be required for this PROJECT.

7. Upon completion of construction of the PROJECT, the REQUESTING PARTY will promptly cause to be enacted and enforced such ordinances or regulations as may be necessary to prohibit parking in the roadway right-of-way throughout the limits of the PROJECT.

8. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

Buy America Requirements (23 CFR 635.410) shall apply to the PROJECT and will be adhered to, as applicable, by the parties hereto.

9. The REQUESTING PARTY certifies that a) it is a person under the Natural Resources and Environmental Protection Act, MCL 324.20101 et seq., as amended, (NREPA) and is not aware of and has no reason to believe that the property is a facility as defined in the NREPA; b) the REQUESTING PARTY further certifies that it has completed the tasks required by MCL 324.20126 (3)(h); c) it conducted a visual inspection of property within the existing right of way on which construction is to be performed to determine if any hazardous substances were present; and at sites on which historically were located businesses that involved hazardous substances, it performed a reasonable investigation to determine whether hazardous substances exist. This reasonable investigation should include, at a minimum, contact with local, state and federal environmental agencies to determine if the site has been identified as, or potentially as, a site containing hazardous substances; d) it did not cause or contribute to the release or threat of release of any hazardous substance found within the PROJECT limits.

The REQUESTING PARTY also certifies that, in addition to reporting the presence of any hazardous substances to the Department of Environmental Quality, it has advised the DEPARTMENT of the presence of any and all hazardous substances which the REQUESTING PARTY found within the PROJECT limits, as a result of performing the investigation and visual inspection required herein. The REQUESTING PARTY also certifies that it has been unable to identify any entity who may be liable for the cost of remediation. As a result, the REQUESTING PARTY has included all estimated costs of remediation of such hazardous substances in its estimated cost of construction of the PROJECT.

10. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, if applicable, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that, if applicable, remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

11. If federal and/or state funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Department of Environmental Quality and the DEPARTMENT, shall make a diligent effort to recover such costs from all other possible entities. If recovery is made, the

DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the amount paid by the FHWA and/or the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

12. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the state and/or the FHWA.

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT does not relieve the REQUESTING PARTY and the local agencies, as applicable, of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402 et seq., as amended.

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT is performing a governmental function, as that term is defined in MCL 691.1401 et seq., as amended, which is incidental to the completion of the PROJECT.

13. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402 et seq., as amended. Exclusive jurisdiction of such highway for the purposes of MCL 691.1402 et seq., as amended, rests with the REQUESTING PARTY and other local agencies having respective jurisdiction.

14. The REQUESTING PARTY shall approve all of the plans and specifications to be used on the PROJECT and shall be deemed to have approved all changes to the plans and specifications when put into effect. It is agreed that ultimate responsibility and control over the PROJECT rests with the REQUESTING PARTY and local agencies, as applicable.

15. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

16. Each party to this contract will remain responsive for any and all claims arising out of its own acts and/or omissions during the performance of the contract, as provided by this contract or by law. In addition, this is not intended to increase or decrease either party's liability

for or immunity from tort claims. This contract is also not intended to nor will it be interpreted as giving either party a right of indemnification, either by contract or by law, for claims arising out of the performance of this contract.

The DEPARTMENT shall not be subject to any obligations or liabilities by contractors of the REQUESTING PARTY or their subcontractors or any other person not a party to this contract without its specific consent and notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof.

It is expressly understood and agreed that the REQUESTING PARTY shall take no action or conduct which arises either directly or indirectly out of its obligations, responsibilities, and duties under this contract, which results in claims being asserted against or judgments being imposed against the State of Michigan, the DEPARTMENT, and/or the Michigan State Transportation Commission.

In the event that the same occurs, for the purpose of this contract it will be considered as a breach of this contract thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan State Transportation Commission a right to seek and obtain any necessary relief or remedy, including but not by way of limitation, a judgment for money damages.

17. The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the construction contract for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

18. The REQUESTING PARTY and other local agencies, as applicable parties, understand and agree that the highway(s) or street(s) being improved under the terms of this agreement and funded with Transportation Economic Development Funds, shall not be subject to any restriction by local authorities in using certain commercial vehicles on such highway(s) or street(s). Such restrictions are in conflict with the basic concept of the Transportation Economic Development Program and Funding. The REQUESTING PARTY, by signing this agreement, agrees to obtain concurrence from other local governmental agencies within whose jurisdiction or control the highway(s) or street(s) are being improved.

19. The DEPARTMENT shall require the contractor who is awarded the contract for the construction of the PROJECT to provide insurance in the amounts specified and in accordance with the DEPARTMENT'S current Standard Specifications for Construction, and to:

- A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.

- B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT, and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission, or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owner's protective liability insurance policy.

- C. Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current standard specifications for construction and to provide, upon request, copies of notices and reports prepared to those insured.

20. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto and upon the adoption of the necessary resolution approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract; and with approval by the State Administrative Board.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

VILLAGE OF MACKINAW CITY

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By _____
Title:

By _____
Department Director MDOT

By _____
Title:

RDB
4/26/16



April 8, 2016

EXHIBIT I

CONTROL SECTION	STL 24555
JOB NUMBER	112843A
PROJECT	STP 1624(007)

ESTIMATED COST

CONTRACTED WORK

Estimated Cost	\$1,322,400
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COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	\$1,322,400
Less Federal Surface Transportation Funds	\$ 489,300
Less State TED FUNDS	\$ 105,800
BALANCE (REQUESTING PARTY'S SHARE)	\$ 727,300

NO DEPOSIT

DOT

BUREAU OF HIGHWAYS
NON CONSTRUCTION
03-15-93

PART II
MODIFIED

STANDARD AGREEMENT PROVISIONS

SECTION I COMPLIANCE WITH REGULATIONS AND DIRECTIVES

SECTION II PROJECT ADMINISTRATION AND SUPERVISION

SECTION III ACCOUNTING AND BILLING

SECTION IV SPECIAL PROGRAM AND PROJECT CONDITIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

- A. All work shall be performed in accordance with the requirements and procedures of the DEPARTMENT.
- B. All work on projects for which reimbursement with Federal funds is requested shall be performed in accordance with the requirements and guidelines set forth in the Directives of the Federal-Aid Policy Guide (FAPG) of the FHWA, as applicable, and as referenced in pertinent sections of Title 23 and Title 49 of the Code of Federal Regulations (CFR), and all supplements and amendments thereto.
- C. In conformance with FAPG (23 CFR 630C): Project Agreements, the parties to this contract, on those Federally funded projects which exceed a total cost of \$100,000.00 stipulate the following with respect to their specific jurisdictions:
 - 1. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.
 - 2. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.
 - 3. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.
- D. Ensure that the PROJECT is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless modified or deleted by approval of the FHWA.
- E. All the requirements, guidelines, conditions and restrictions noted in all other pertinent Directives and Instructional Memoranda of the FHWA will apply to this contract and will be adhered to, as applicable, by the parties hereto.

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

- A. The DEPARTMENT shall provide such administrative guidance as it determines is required by the PROJECT in order to facilitate the obtaining of available federal and/or state funds.
- B. On those projects funded with Federal monies, the DEPARTMENT shall, as may be required, secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.
- C. Should it be necessary or desirable that portions of the work covered by this contract be accomplished by a consulting firm, a railway company, or governmental agency, firm, person, or corporation, under a subcontract with the REQUESTING PARTY at PROJECT expense, such subcontracted arrangements will be covered by formal written agreement between the REQUESTING PARTY and that party.

This formal written agreement shall: include a reference to the specific prime contract to which it pertains; include provisions which clearly set forth the maximum reimbursable and the basis of payment; provide for the maintenance of accounting records in accordance with generally accepted accounting principles, which clearly document the actual cost of the services provided; provide that costs eligible for reimbursement shall be in accordance with clearly defined cost criteria such as 49 CFR Part 18, 48 CFR Part 31, 23 CFR Part 140, OMB Circular A-87, etc. as applicable; provide for access to the department or its representatives to inspect and audit all data and records related to the agreement for a minimum of three years after the department's final payment to the local unit.

All such agreements will be submitted for approval by the DEPARTMENT and, if applicable, by the FHWA prior to execution thereof, except for agreements for amounts less than \$100,000 for preliminary engineering and testing services executed under and in accordance with the provisions of the "Small Purchase Procedures" FAPG (23 CFR 172), which do not require prior approval of the DEPARTMENT or the FHWA.

Any such approval by the DEPARTMENT shall in no way be construed as a warranty of the subcontractor's qualifications, financial integrity, or ability to perform the work being subcontracted.

- D. No PROJECT work for which reimbursement will be requested by the REQUESTING PARTY is to be subcontracted or performed until the DEPARTMENT gives written notification that such work may commence.
- E. The REQUESTING PARTY shall be responsible for the payment of all costs and expenses incurred in the performance of the work it agrees to undertake and perform.

- F. The REQUESTING PARTY shall pay directly to the party performing the work all billings for the services performed on the PROJECT which are authorized by or through the REQUESTING PARTY.
- G. The REQUESTING PARTY shall submit to the DEPARTMENT all paid billings for which reimbursement is desired in accordance with DEPARTMENT procedures.
- H. All work by a consulting firm will be performed in compliance with the applicable provisions of 1980 PA 299, Subsection 201, MCL 339.2001; MSA 18.425(2001), as well as in accordance with the provisions of all previously cited Directives of the FHWA.
- I. The project engineer shall be subject to such administrative guidance as may be deemed necessary to ensure compliance with program requirement and, in those instances where a consultant firm is retained to provide engineering and inspection services, the personnel performing those services shall be subject to the same conditions.
- J. The DEPARTMENT, in administering the PROJECT in accordance with applicable Federal and State requirements and regulations, neither assumes nor becomes liable for any obligations undertaken or arising between the REQUESTING PARTY and any other party with respect to the PROJECT.
- K. In the event it is determined by the DEPARTMENT that there will be either insufficient Federal funds or insufficient time to properly administer such funds for the entire PROJECT or portions thereof, the DEPARTMENT, prior to advertising or issuing authorization for work performance, may cancel the PROJECT, or any portion thereof, and upon written notice to the parties this contract shall be void and of no effect with respect to that canceled portion of the PROJECT. Any PROJECT deposits previously made by the parties on the canceled portions of the PROJECT will be promptly refunded.
- L. Those projects funded with Federal monies will be subject to inspection at all times by the DEPARTMENT and the FHWA.

SECTION III

ACCOUNTING AND BILLING

A. Procedures for billing for work undertaken by the REQUESTING PARTY:

1. The REQUESTING PARTY shall establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this contract, said records to be hereinafter referred to as the "RECORDS". Separate accounts shall be established and maintained for all costs incurred under this contract.

The REQUESTING PARTY shall maintain the RECORDS for at least three (3) years from the date of final payment of Federal Aid made by the DEPARTMENT under this contract. In the event of a dispute with regard to the allowable expenses or any other issue under this contract, the REQUESTING PARTY shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

The DEPARTMENT, or its representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.

If any part of the work is subcontracted, the REQUESTING PARTY shall assure compliance with the above for all subcontracted work.

In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported under this contract, or questions the allowability of an item of expense, the DEPARTMENT shall promptly submit to the REQUESTING PARTY, a Notice of Audit Results and a copy of the audit report which may supplement or modify any tentative findings verbally communicated to the REQUESTING PARTY at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense and, (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the

language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT shall make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the REQUESTING PARTY, the REQUESTING PARTY shall repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the REQUESTING PARTY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the REQUESTING PARTY agrees that the DEPARTMENT shall deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the REQUESTING PARTY under this contract or any other agreement, or payable to the REQUESTING PARTY under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The REQUESTING PARTY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT'S decision only as to any item of expense the disallowance of which was disputed by the REQUESTING PARTY in a timely filed RESPONSE.

The REQUESTING PARTY shall comply with the Single Audit Act of 1984, as amended, including, but not limited to, the Single Audit Amendments of 1996 (31 USC 7501-7507).

The REQUESTING PARTY shall adhere to the following requirements associated with audits of accounts and records:

- a. Agencies expending a total of \$500,000 or more in federal funds, from one or more funding sources in its fiscal year, shall comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

The agency shall submit two copies of:

The Reporting Package
The Data Collection Form
The management letter to the agency, if one issued by the audit firm

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

b. Agencies expending less than \$500,000 in federal funds must submit a letter to the Department advising that a circular audit was not required. The letter shall indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the Department federal programs, and the CFDA grant number(s). This information must also be submitted to the address below.

c. Address: Michigan Department of Education
Accounting Service Center
Hannah Building
608 Allegan Street
Lansing, MI 48909

d. Agencies must also comply with applicable State laws and regulations relative to audit requirements.

e. Agencies shall not charge audit costs to Department's federal programs which are not in accordance with the OMB Circular A-133 requirements.

f. All agencies are subject to the federally required monitoring activities, which may include limited scope reviews and other on-site monitoring.

2. Agreed Unit Prices Work - All billings for work undertaken by the REQUESTING PARTY on an agreed unit price basis will be submitted in accordance with the Michigan Department of Transportation Standard Specifications for Construction and pertinent FAPG Directives and Guidelines of the FHWA.
3. Force Account Work and Subcontracted Work - All billings submitted to the DEPARTMENT for Federal reimbursement for items of work performed on a force account basis or by any subcontract with a consulting firm, railway company, governmental agency or other party, under the terms of this contract, shall be prepared in accordance with the provisions of the pertinent FAPG Directives and the procedures of the DEPARTMENT. Progress billings may be submitted monthly during the time work is being performed provided, however, that no bill of a lesser amount than \$1,000.00 shall be submitted unless it is a final or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number _____", or "Final Billing".

4. Final billing under this contract shall be submitted in a timely manner but not later than six months after completion of the work. Billings for work submitted later than six months after completion of the work will not be paid.
5. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with Federal monies, the DEPARTMENT will act as billing agent for the REQUESTING PARTY, consolidating said billings with those for its own force account work and presenting these consolidated billings to the FHWA for payment. Upon receipt of reimbursement from the FHWA, the DEPARTMENT will promptly forward to the REQUESTING PARTY its share of said reimbursement.
6. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with non-Federal monies, the DEPARTMENT will promptly forward to the REQUESTING PARTY reimbursement of eligible costs.

B. General Conditions:

1. Pursuant to the authority granted by law, the REQUESTING PARTY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its obligations as specified in PART I and PART II. If the REQUESTING PARTY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the REQUESTING PARTY and the State Treasurer of the State of Michigan or such other state officer or agency having charge and control over disbursement of the Michigan Transportation Fund, pursuant to law, of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, said State Treasurer or other state officer or agency is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the REQUESTING PARTY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the REQUESTING PARTY with payment thereof, and to notify the REQUESTING PARTY in writing of such fact.
2. Upon completion of all work under this contract and final audit by the DEPARTMENT or the FHWA, the REQUESTING PARTY promises to promptly repay the DEPARTMENT for any disallowed items of costs previously disbursed by the DEPARTMENT. The REQUESTING PARTY pledges its future receipts from the Michigan Transportation Fund for repayment of all disallowed items and, upon failure to make repayment for any disallowed items within ninety (90) days of demand made by the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold an equal amount from the REQUESTING PARTY'S share of any future distribution of Michigan Transportation Funds in settlement of said claim.

SECTION IV

SPECIAL PROGRAM AND PROJECT CONDITIONS

- A. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the performance of preliminary engineering must be under construction by the close of the tenth (10th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that preliminary engineering.
- B. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the acquisition of right-of-way must be under construction by the close of the twentieth (20th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that right-of-way acquisition.
- C. In connection with the performance of PROJECT work under this contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.
- D. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

APPENDIX A
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 Public Act 453 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 subcontracts 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 such 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 itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Michigan 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 Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State 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 Michigan 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 Michigan 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 Michigan 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 subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised June 2011

**APPENDIX B
TITLE VI ASSURANCE**

During the performance of this contract, the contractor, for itself, its assignees, and its 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 nondiscrimination 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. **Nondiscrimination:** The contractor, with regard to the work performed under the contract, shall not discriminate on the grounds of race, color, sex, or national 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 contractor covers a program set forth in Appendix B of the Regulations.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment:** All solicitations made by the contractor, either by competitive bidding or by negotiation for subcontract work, including procurement of materials or leases of equipment, must include a notification to each potential subcontractor or supplier of the contractor's obligations under the contract and the Regulations relative to nondiscrimination 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 nondiscrimination 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. Canceling, terminating, or suspending the contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor shall include the provisions of Sections (1) through (6) in every subcontract, including procurement of material and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract 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 subcontractor 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. 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

APPENDIX C

**TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE
AGREEMENTS WITH LOCAL AGENCIES**

**Assurance that Recipients and Contractors Must Make
(Excerpts from US DOT Regulation 49 CFR 26.13)**

- A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:**

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

- B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:**

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

**ADMINISTRATIVE POLICY
VILLAGE OF MACKINAW CITY**

Employees covered: Non-Union, Non-Department Head

The Village of Mackinaw City adopts the following policy regarding the payout of accumulated Sick and Vacation time upon the termination of employment.

1. There will be no payment of Sick time upon termination of employment. Upon death of the employee 100% of accrued Sick time will be paid to a designated beneficiary.
2. Vacation time is allowed to be accrued to a maximum of 273 hours. No vacation time will accrue after the 273 maximum has been reached. Vacation time will accrue once vacation hours are used. Upon voluntary termination of employment vacation time will be paid to the employee up to a max of 273 hours.

This Policy adopted by the Mackinaw Village Council _____, 2016.

**Resolution to Authorize ACH and Electronic Transactions
Under Public Act 738 of 2002**

Resolution 2016-08

At a regular meeting of the Village of Mackinaw City Council held on June 02, 2016 the following was offered by _____ and seconded by _____

WHEREAS, Electronic payments of public funds are required for some federally mandated transactions of public funds, and electronic payments have become a commonly accepted practice by banks and other financial institutions, and

WHEREAS, Public Act 738 of 2002, December 30, 2002, authorizes municipalities to make electronic transactions involving public funds by electronic payment, debit, or credit transfer processed through an automated clearing house, and

WHEREAS, the Village of Mackinaw City deems that it is in the best interest of the Village to make certain s financial transactions by electronic payments as described in PA 738.

NOW, THEREFORE BE IT HEREBY RESOLVED, that the Village of Mackinaw City Council authorizes the Village Treasurer to utilize electronic transactions in compliance with the written procedures and internal controls adopted by the Village Council as the Village of Mackinaw City's ACH and Electronic policy and presented on June 02, 2016

Upon roll call vote the following voted:

Ayes:

Nays:

Abstain:

Absent:

Lana Jaggi, Clerk

**Policy for Automated Clearing House (ACH)
Arrangements and Electronic Transactions of Funds**

The following policy shall govern the use of Automated Clearing House (ACH) arrangements and electronic transactions of funds for the Village of Mackinaw City:

1. Definitions

Automated Clearing House or "ACH" means a national and governmental organization that has authority to process electronic payments, including, but not limited to, the National Automated Clearing House Association and the Federal Reserve System.

An "ACH Arrangement" means the agreement between the originator of the ACH transaction and the receiver of an ACH transaction.

An "ACH Transaction" means an electronic payment, debit, or credit transfer processed through an automated clearinghouse.

2. Authority to Enter into ACH Arrangements and Electronic Transfer of Public Funds

The Village Treasurer may enter into an ACH arrangement as provided by Act No. 738, Public Acts of Michigan, 2002 ("Act 738").

The Village of Mackinaw City shall not be a party to an ACH arrangement unless the Village Council has adopted a resolution to authorize electronic transactions and the Village staff has presented a written ACH and Electronic Transfer policy to the Village Council.

An ACH arrangement under Act 738 is not subject to the Revised Municipal Finance Act, Act No. 34, Public Acts of Michigan, 2001, as amended, or to provisions of law concerning the issuance of debt by the Village.

3. Responsibility for ACH Agreements

The Village Treasurer is hereby designated by the Village Council as the person responsible for the Village ACH agreements, including payment approval, accounting, reporting, and generally for overseeing compliance with the ACH policy and shall retain documentation detailing the goods or services purchased, the cost of the goods or services, the date of the payment, and the department levels serviced by the payment.

4. Internal Accounting Controls to Monitor Use of ACH Transactions Made by the Village

The following system of internal accounting controls shall be used to monitor the use of ACH transactions made by the School District:

- a) The payment of each ACH invoice must be approved by Village Manager or Department Head with Village Council giving final approval.
- b) The Village Treasurer shall initiate each ACH transaction and make the electronic transfer of funds. For each transaction the Village Clerk will post and journalize into the general ledger system.
- c) The Village Clerk and Treasurer shall retain all ACH invoices and all ACH transaction documents for audit purposes.

Certification on June 02, 2016

Lana Jaggi, Clerk

INTERLOCAL AGREEMENT FOR
MUTUAL LAW ENFORCEMENT ASSISTANCE
BETWEEN
THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
AND
THE VILLAGE OF MACKINAW CITY

PREAMBLE

1. This Agreement is entered into by the Village of Mackinaw City (Village) and the Little Traverse Bay Bands of Odawa Indians (LTBB or Tribe) pursuant to the Urban Cooperation Act, MCL 124.501 et seq.
2. LTBB is a federally recognized Indian Tribe pursuant to the terms of Public Law 103-324, 25 USC § 1300k, and is authorized to enter into agreements with federal, state and local governments under Article VII(D)(23) of the Tribal Constitution.
3. The Village is a general law village and therefore a “local government” authorized to enter this Contract under the Municipal Partnership Act, 2011 PA 258, as amended, MCL 124.111 et seq.
4. The additional signatories (the Village Police Chief, Emmet County Prosecutor, LTBB Police Chief and LTBB Prosecuting Attorney) are in agreement with the provisions of this Interlocal Agreement as it effects their respective powers and duties.
5. The Village is authorized under MCLA 28.609 to appoint tribal law enforcement officers to enforce state law.

PURPOSE

6. LTBB and Village desire to maximize effective law enforcement for all those present in Village by providing for the appointment of LTBB Tribal Police officers to act as Village police officers on LTBB's Trust lands, or as requested by the Village Police Chief to provide assistance off of Trust lands.
7. The parties do not intend by this Agreement to establish a separate legal or administrative entity under Section 7(1) of the Urban Cooperation Act (MCL 124.507(1)) and have not therefore provided for or otherwise established such an entity by the terms of this Agreement.

DEFINITIONS

8. As used in this Agreement:
- A. “Village” or “Village” means the Village of Mackinaw City.
 - B. “LTBB” or “Tribe” means the Little Traverse Bay Bands of Odawa Indians.
 - C. “Trust lands” means lands held by the United States in trust for the Little Traverse Bay Bands of Odawa Indians that are located within Village boundaries. The list of properties that currently fall under this definition is attached as Exhibit A. Any future additional Trust lands shall be identified in addenda to this Agreement.

AGREEMENT

9. The term of this Agreement is from the date that all signatories have signed this Agreement until _____.
10. Trust land access by non-Tribal law enforcement officers and mutual assistance:
- A. Non-Emergency Situations: In the investigation of a criminal offense, a Village law enforcement officer may only enter onto LTBB's Trust land after first contacting and receiving permission from LTBB's Police Department to do so. LTBB's Police Department may condition approval of such request on an LTBB officer accompanying the non-Tribal officer onto the Trust land.
 - B. Life Threatening Emergencies: In life threatening emergency situations on LTBB's Trust land, the nearest law enforcement car of any governmental unit may respond, and the LTBB Police Department shall be notified as soon as possible.
 - C. Hot pursuit is allowed in accordance with paragraphs 12-14 below.
 - D. In the event that a situation is in progress on Trust lands that requires immediate law enforcement presence to hold down the peace, and an LTBB officer is not readily available, the LTBB Police Department may request response by a Village officer to hold down the peace until an LTBB law enforcement officer arrives.
11. Village law enforcement activity by Tribal law enforcement officers and mutual assistance:
- A. Non-Emergency Situations: In the investigation of a criminal offense, a Tribal law enforcement officer may only carry out law enforcement activity on land under the Village’s jurisdiction after first contacting and receiving permission from the Village’s Police Department to do so. The Village’s Police Department may

condition approval of such request on a Village officer accompanying the Tribal officer onto the Village land.

- B.** Life Threatening Emergencies: In life threatening emergency situations on land under the Village's jurisdiction, the nearest law enforcement car of any governmental unit may respond, and the Village's Police Department shall be notified as soon as possible.
- C.** Hot pursuit is allowed in accordance with paragraphs 13-15 below.
- D.** In the event that a situation is in progress off Trust lands that requires immediate law enforcement presence to hold down the peace, and a Village officer is not readily available, the Village Police Department may request response by the LTBB Police Department to hold down the peace until a Village law enforcement officer arrives.
- E.** On any lands where jurisdiction may overlap with the Michigan State Police or a county sheriff, nothing in this Agreement is intended to limit the provisions of any mutual aid/deputization agreement in place now or in the future between LTBB and such entity.

12. Deputization of Village Officers

- A.** LTBB may deputize any or all of the officers of the Village Police Department, consistent with tribal law and the provisions in this Interlocal Agreement. Except as otherwise provided herein, each such deputized officer of the Village Police Department shall only be deputized while working within the boundaries of Trust land.
- B.** Officers of the Village Police Department shall not be authorized to engage in primary tribal law enforcement activities pursuant to such deputization unless requested to engage in such activities by the LTBB Police Department. Deputized officers of the Village Police Department shall, pursuant to and within the scope of such deputization, be authorized to effectuate the arrest of all persons and to issue civil infraction notices or citations to all persons pursuant to Tribal Law, Michigan Law, or Michigan Court Rule.
- C.** This Agreement confers no rights of employment with LTBB on officers of the Village Police Department. They are not entitled to any of the rights, privileges and benefits of employment with LTBB except as may be stated in this Agreement.
- D.** Officers of the Village Police Department serve as LTBB deputies pursuant to this Agreement at the pleasure of LTBB. LTBB may revoke the deputy status of an

officer of the Village Police Department at any time, with or without cause.

13. Deputization of Tribal Law Enforcement officers

- A.** LTBB police officers, upon presentation of written evidence of certification satisfactory to the State of Michigan, may be appointed by Village, to act as Village police officers within the boundaries of the Village for all civil and criminal infractions which come under the jurisdiction of the State of Michigan and/or Village.
- B.** LTBB and its police officers will comply with the requirements of MCL 28.609 and abide by all Village policies regarding law enforcement. A copy of those policies will be provided by Village to the LTBB police chief for distribution to tribal police officers. Village will promptly provide copies of any later changes or amendments to those policies. LTBB will obtain signed acknowledgments from tribal officers who have been appointed, evidencing the receipt of the original policies and/or any later changes or amendments of those policies.
- C.** This Agreement confers no rights of employment with Village on LTBB police officers. The LTBB police officers are not entitled to any of the rights, privileges and benefits of employment with Village except as may be stated in this Agreement.
- D.** LTBB police officers serve Village police officers pursuant to this Agreement at the pleasure of Village. Village may revoke the Village police officer status of a LTBB police officer at any time, with or without cause.
- C.** The LTBB police chief and the Village police chief shall each appoint an officer of their respective departments to serve as a liaison between the two departments.

14. Representations

- A.** LTBB police officers shall not represent themselves as Village police officers or as employees of the Village Police Department while off duty. They are specifically forbidden to use their identification to obtain gratuities, gifts, or personal gain.
- B.** Village officers shall not represent themselves as deputies or as employees of the LTBB Police Department while off duty. They are specifically forbidden to use their identification to obtain gratuities, gifts, or personal gain.

15. Hot Pursuit

- A.** Any Village law enforcement officer, duly authorized as a peace officer, who observes the commission of a felony offense, a misdemeanor offense, and/or traffic offenses including civil infraction offenses off Trust lands, or who has reasonable cause to believe a felony or misdemeanor punishable in excess of 92 days has been committed off Trust lands, and pursues the offender without unreasonable delay, is authorized to continue that pursuit onto Trust lands until the offender is apprehended. The officer may issue citations or effect an arrest of the offender as if the officer had not entered onto Trust lands. The officer will notify LTBB Police as soon as it is reasonable after entry into Trust lands. The officer may request the assistance of LTBB Police as needed.
 - B.** Any LTBB law enforcement officer who observes the commission of a felony offense or a misdemeanor offense on Trust lands, or who has reasonable cause to believe a felony has been committed on Trust lands, and pursues the offender without unreasonable delay is authorized to continue that pursuit off of Trust lands until the offender is apprehended. The officer may issue citations or effect an arrest of the offender as if the officer had not left Trust lands. The officer will notify the Village Police Department as soon as it is reasonable after leaving Trust lands. The officer may request the assistance of Village officers as needed.
 - C.** The hot pursuit conducted under the provisions of this Agreement shall conform with the policy and procedure of the Village Police Department regarding high speed pursuit, whether on or off Trust lands.
 - D.** In the event of hot pursuit by LTBB officers off of Trust lands, the Village Police Department should be notified of any pursuit. A command officer with the Village Police Department has the authority to call off a pursuit by LTBB police officers on non-Trust lands pursuant to the Village pursuit policy.
 - E.** In the event of hot pursuit by Village officers on Trust lands, LTBB police should be notified of any pursuit. A command officer with the LTBB has the authority to call off a pursuit by Village officers on Trust lands pursuant to the LTBB pursuit policy.
- 16. Arrests.** LTBB agrees to make arrests for Village on Trust lands pursuant to a valid State Court warrant and to deliver the arrestee to Village police officers. Village agrees to make arrests for LTBB outside of Trust lands pursuant to a valid Tribal Court warrant and to deliver the arrestee to the LTBB Police Department.
- 17. Court Rules.** The provisions of Michigan Court Rule 2.615, enforcement of Tribal

judgments and orders, and the LTBB Court Rules regarding enforcement and recognition of foreign judgments and orders, shall apply to this Agreement.

18. Search Warrants

- A.** Village law enforcement officers must present search warrants authorizing the search for evidence located on Trust lands to the State Court and Tribal Court for enforcement, and for execution by Tribal law enforcement authorities. The LTBB Prosecuting Attorney agrees to review and prepare search warrants for Trust lands.
- B.** When executing a state search warrant, enforced through the Tribal Court, the LTBB Police Department will observe all requirements of State and Federal law regarding the conduct of searches. Village officers shall accompany Tribal officers when a state warrant is executed.
- C.** Tribal law enforcement officers must present search warrants authorizing the search for evidence located outside Trust lands, unless jurisdiction exists under Treaty or other Federal law, to the State Court and Tribal Court for enforcement, and for execution by state law enforcement authorities. The Emmet County Prosecuting Attorney agrees to review and prepare search warrants for such searches.
- D.** The Village Police Department agrees to cooperate in the execution of Tribal search warrants outside Trust lands and to observe the requirements of Tribal, State and Federal law in doing so. LTBB will provide the Village Police Department copies of any pertinent Tribal laws in this regard.

19. Extradition. Both parties waive any requirement for formal extradition processes of anyone arrested in their respective jurisdictions to be turned over to the other jurisdiction.

20. Immunities. The provisions of 25 USC § 450f, the Federal Tort Claims Act, and all immunities from liability and exemptions from laws, ordinances and regulations which apply to Tribal law enforcement officers continue to apply while officers are performing duties under this Agreement involving state jurisdiction, as well as any rights and immunities accorded Village police officers under the laws of the State of Michigan.

21. Hold Harmless.

- A.** Village, its boards, commissions, officers, employees and agents, and LTBB, its boards, commissions, officers, employees and agents waive any and all claims against each other which may arise out of their activities performed under this Agreement unless such claims are proximately caused by the gross negligence or willful misconduct of the other party or its law enforcement officers.

B. Village and LTBB shall be responsible for all liability of whatever nature arising from the acts of their own law enforcement officers and employees to the extent provided by law. Under no circumstances shall either the Village or Tribe be held liable for the acts of employees of the other party performed under this Agreement.

22. Costs. Village and LTBB shall each assume responsibility for all costs incurred by their own officers acting under this Agreement.

23. Termination.

A. Subject to Paragraph 9 above, this Agreement shall remain in full force and effect until and unless terminated by either party as provided in this Agreement, or amended by mutual written Agreement of the parties.

B. Either party may terminate this Agreement at any time upon ten (10) days written notice. Village may immediately revoke the Village police officer status of an individual LTBB officer without terminating this Agreement. LTBB may immediately revoke the LTBB deputy status of a Village officer without terminating this Agreement.

24. Non-discrimination. Except to the extent that Federal law allows LTBB to follow Indian preference, neither party shall discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, physical handicap, age, height, weight or marital status, except insofar as it relates to a bona fide occupational qualification reasonably necessary to the normal operation of the business. Such action shall include, but not be limited to the following: hiring; employment; upgrading; demotion or transfer; recruitment or recruitment advertisement; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. In addition, each party agrees that its services and activities related to this Agreement will be delivered without discrimination based on disability consistent with the Americans with Disabilities Act of 1990.

25. Dispute Resolution

In the event of a dispute regarding the interpretation of the terms of this Agreement and the enforcement thereof, the parties agree to seek mediation through Northern Community Mediation.

26. Savings Clauses

A. This Agreement, or any commission issued pursuant to it, shall not confer any authority on a state or tribal court, or other state, tribal, county or village authority which that court or authority would not otherwise have. Nothing in this Agreement shall be construed to cede any jurisdiction of either of the parties, to

waive any immunities, to modify the legal requirements for arrest or search or seizure or to otherwise modify the legal rights of any person, to accomplish any act in violation of state, federal, or tribal law or to subject the parties to any liability to which they would not otherwise be subject to by law.

- B. The provisions of this Agreement are severable and should any provision be held invalid or unenforceable, the remainder of this Agreement remains in effect unless terminated as provided in this Agreement.

The undersigned execute this Agreement as duly authorized representatives of the respective parties:

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

By:

Date: _____

, Tribal Chairman

Date: _____

, LTBB Chief of Police

Date: _____

, LTBB Tribal Prosecuting Attorney

VILLAGE OF MACKINAW CITY

By:

Date: _____

, Village President

Date: _____

, Village Chief of Police

Date: _____

, Prosecuting Attorney

**FIRE PROTECTION SERVICES AGREEMENT
BETWEEN**

**THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
AND
VILLAGE OF MACKINAW CITY**

Parties

1. The Little Traverse Bay Bands of Odawa Indians (“LTBB” or “Tribe”) is a Federally recognized Indian tribe that is the beneficial owner of the following described parcel of land held in trust for the Tribe by the United States of America: 1080 S. Nicolet Street, Mackinaw City, MI 49701, Tax Parcel Id Nos. 42-03-24-200-008, 42-03-24-200-007; 42-03-13-400-008; 42-03-13-400-013; 42-03-13-400-015 as described in the deed recorded at Liber 1158 Page 016. LTBB will operate a gaming facility on this parcel. The parcel is exempt from property taxes as a matter of Federal law. The parcel is referred to hereafter as the “LTBB Property.”
2. The Village of Mackinaw City (“Village”) is a political subdivision of the State of Michigan. The Property is located within the external boundaries of the Village (including areas under its jurisdiction per 425 Agreement), in which the Village provides fire protection to the residents, businesses and property.

Purpose

3. The parties enter into this Agreement to provide payment from LTBB to the Village for provision by the Village of fire protection services for the real estate, structures and persons within the LTBB Property.

Agreement

4. LTBB shall pay Village a flat annual fire protection readiness fee of \$2000.00. In addition, after the first two runs per year, LTBB shall pay Village a fee of \$750.00 per run.
5. In consideration of the payment made under paragraph 4, Village shall provide fire protection services on the LTBB Property to the full extent, with the same emergency call response, as such services are provided through-out the Village.
6. When fighting a fire on the LTBB Housing Property, the Village fire department shall have the same authority to issue orders necessary to protect life and property as when fighting fires elsewhere in the Village.
7. By Tribal Statute LTBB has adopted the ICC Fire Prevention Code as the Fire Prevention Code of the Little Traverse Bay Bands of Odawa Indians. The Village fire department may provide courtesy inspections at LTBB’s request of the structures on the LTBB Property and advise LTBB of any violations of the ICC National Prevention Code and any other suggestions

the Village Fire Department may have to improve fire safety of the structures.

8. Mutual Indemnification.

A. To the fullest extent permitted by law the Tribe shall indemnify and hold harmless the Village, its agents and employees from and against claims, damages, losses and expenses arising out of performance of this Agreement to the extent claims are caused by the negligent acts or omissions of the Tribe, its agents and employees.

B. To the fullest extent permitted by law the Village shall indemnify and hold harmless the Tribe, its agents and employees from and against claims, damages, losses and expenses arising out of performance of this Agreement to the extent claims are caused by the negligent acts or omissions of the Village, its agents and employees.

9. Term. The initial term of this agreement shall be for a period of five years, commencing on _____, 2016 and ending on _____ 2021 and may be renewed for successive terms by mutual agreement of the Parties. This Agreement will automatically renew least 60 days before the expiration date. Village may terminate this Agreement on 60 days' notice for non-payment by the Tribe or refusal to cooperate with the authority of the fire department per paragraph 6. The Tribe may terminate this Agreement on 60 days' notice to the Village in the event the Tribe develops its own fire protection capacity in which event the parties may develop a mutual aid agreement.

The undersigned execute this Agreement as duly authorized representatives of the respective Parties.

Date: _____ LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

By: _____, Its

Date: _____ VILLAGE OF MACKINAW CITY

By: _____, Its