



County of Ottawa

Board of Commissioners

Philip D. Kuyers
Chairperson

James C. Holtrop
Vice-Chairperson

12220 Fillmore Street, Room 310, West Olive, Michigan 49460

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Website: www.miOttawa.org

September 8, 2011

To All Ottawa County Commissioners:

The Ottawa County Board of Commissioners will meet on **Tuesday, September 13, 2011 at 1:30 p.m.**, for the regular **September** meeting of the Board at the Ottawa County Fillmore Street Complex in West Olive, Michigan.

The Agenda is as follows:

1. Call to Order by the Chairperson
2. Invocation – Commissioner Visser
3. Pledge of Allegiance to the Flag
4. Roll Call
5. Presentation of Petitions and Communications
6. Public Comments and Communications from County Staff
7. Approval of Agenda
8. Actions and Reports

A. Consent Resolutions:

From the County Clerk

1. Board of Commissioners Meeting Minutes
Suggested Motion:
To approve the Minutes of the August 26, 2011 Board of Commissioners Meeting.
2. Payroll
Suggested Motion:
To authorize the payroll of September 13, 2011 in the amount of \$_____.
3. Correspondence Log 419
Suggested Motion:
To receive for information the Correspondence Log.

Stuart P. Visser Dennis W. Swartout Jane M. Ruiter Greg J. DeJong Roger G. Rycenga
Joseph S. Baumann Robert W. Karsten James H. Holtvluwer Donald G. Disselkoe

From the Finance and Administration Committee

4. Monthly Accounts Payable for August 15, 2011 through August 31, 2011

Suggested Motion:

To approve the general claims in the amount of \$7,791,902.23 as presented by the summary report for August 15, 2011 through August 31, 2011.

B. Action Items:

From the Planning and Policy Committee

5. Bid Tabulation – Connor Bayou Park Improvements

Suggested Motion:

To receive bids for the Connor Bayou Park Improvement Project and accept the low bid from Apex Contractors, Inc. at the negotiated price of \$535,631 with funding from the Parks and Recreation budget.

6. Pigeon River Fish Habitat Improvements Grant Agreement

Suggested Motion:

To approve and authorize the Board Chair and Clerk to sign the Partners for Fish and Wildlife Habitat Development Agreement with the United States Fish & Wildlife Service to fund fish habitat improvements on the Pigeon River with matching funds provided by the Drain Commission and private sources.

C. Appointments: None

D. Discussion Items:

7. Closed Session

Suggested Motion:

To go into closed session for the purpose of discussing property acquisition.
(2/3 roll call vote required)

9. Report of the County Administrator
10. General Information, Comments, and Meetings Attended
11. Public Comments
12. Adjournment

OTTAWA COUNTY BOARD OF COMMISSIONERS

ADDITION TO AGENDA

Tuesday, September 13, 2011

1:30 PM

B. Action Items:

From Planning and Policy Committee

8. Resolution/Agreement with MDOT to Provide Pass-Through Funding for Specialized Transportation Services (Georgetown Seniors and Pioneer Resources)

Suggested Motion:

To approve and authorize the Board Chair and Clerk to sign the resolution and Agreement with MDOT to provide pass-through funding for specialized transportation services (Georgetown Seniors and Pioneer Resources).

D. Discussion Items:

From Administration

9. Closed Session

Suggested Motion:

To go into closed session for the purpose of discussing labor negotiations.
(2/3 roll call vote required)

**PROPOSED
PROCEEDINGS OF THE OTTAWA COUNTY
BOARD OF COMMISSIONERS
AUGUST SESSION – SECOND DAY**

The Ottawa County Board of Commissioners met on Tuesday, August 23, 2011, at 1:30 p.m. and was called to order by the Chair.

Mr. Holtrop pronounced in the invocation.

The Clerk led in the Pledge of Allegiance to the Flag.

Present at roll call: Messrs. Visser, Kuyers, Swartout, Mrs. Ruiten, Messrs. DeJong, Rycenga, Baumann, Disselkoen, Karsten, Holtrop, Holtvluwer. (11)

Public Comments and Communication from County Staff

Kenneth David, Grand Haven Township, addressed the Board over concerns with four Action Items on today's agenda dealing with the Parks and Recreation bid tabulations and the Pumphouse Museum proposal. He questioned why bids were be taken and accepted when the County is \$800,000 in arrears. He also stated he is unable to find the 2009 and 2010 Fiscal Services Annual Report on the website.

The Administrator explained these are Park issues and the citizens voted for the Parks millage. This money cannot be used to balance other budgets. He also explained that the County is not \$800,000 in arrears and that Administration is working on next year's budget and will have a balanced budget to present to the Board soon.

B/C 11-181 Mr. Rycenga moved to approve the agenda of today as presented and amended removing Discussion Item #20 – Closed Session. The motion passed.

B/C 11-182 Mr. Holtrop moved to approve the following Consent Resolutions:

1. To approve the Minutes of the August 9, 2011 Board of Commissioners Meeting.
2. To authorize the payroll of August 23, 2011 in the amount of \$575.66.
3. To approve the general claims in the amount of \$3,657,785.13 as presented by the summary report for August 1, 2011 through August 12, 2011.

4. To approve the appropriation changes greater than \$50,000 and those approved by the Administrator and Fiscal Services Director for \$50,000 or less which changed the total appropriation from the amended budget for the month of July, 2011.

The motion passed as shown by the following votes: Yeas: Messrs. DeJong, Visser, Swartout, Holtvluwer, Mrs. Ruiter, Messrs. Disselkoen, Baumann, Holtrop, Karsten, Rycenga, Kuyers. (11)

B/C 11-183 Mr. Rycenga moved to approve the 2011 CHOSE (Communities Helping Ottawa Obtain a Safe Environment) Program Evaluation. The motion passed.

B/C 11-184 Mr. Rycenga moved to receive bids for the Macatawa Green Space Restoration Project and accept the low bid from Top Grade Construction Management LLC at the negotiated price of \$707,430.50 with funding from the Parks and Recreation budget in the amount of \$100,000 and a grant from the U.S. Environmental Protection Agency in the amount of \$646,800. The Motion passed as shown by the following votes: Yeas: Messrs. Visser, Holtvluwer, Disselkoen, Holtrop, Mrs. Ruiter, Messrs. Karsten, DeJong, Rycenga, Swartout, Baumann, Kuyers. (11)

B/C 11-185 Mr. Rycenga moved to receive bids for the Olive Shores Park Improvement Project and accept the low bid from Visser Brothers, Inc. in the amount of \$580,857.24 with funding split evenly from the Parks and Recreation budget and a grant from the Michigan Natural Resources Trust Fund. The motion passed as shown by the following votes: Yeas: Mrs. Ruiter, Messrs. Bauman, DeJong, Karsten, Swartout, Holtvluwer, Rycenga, Holtrop, Disselkoen, Visser, Kuyers. (11)

B/C 11-186 Mr. Rycenga moved to receive bids for the Pine Bend Parking Improvement Project and accept the low bid from Denny's Excavating in the amount of \$51,000 with funding from the Parks and Recreation budget. The motion passed as shown by the following votes: Yeas: Messrs. DeJong, Rycenga, Baumann, Disselkoen, Holtvluwer, Visser, Holtrop, Swartout, Karsten, Mrs. Ruiter, Mr. Kuyers. (11)

B/C 11-187 Mr. Rycenga moved to approve and authorize the Board Chair and Clerk to sign the Resolution supporting the proposal by the Historic Ottawa Society to create a museum at the pumphouse building located with the Historic Ottawa Beach Parks. County funding is contingent upon the Historic Ottawa Beach Society raising the balance of the funds for the project. The motion passed as shown by the following votes: Yeas:

Messrs. Swartout, Holtvluwer, Visser, Holtrop, Karsten, Disselkoen, Baumann, Rycenga, DeJong, Mrs. Ruiter, Mr. Kuyers. (11)

- B/C 11-188 Mr. Swartout moved to approve and authorize the Board Chair and Clerk to sign the Agreement for Property Assessment Administration Services with the City of Grand Haven. The motion passed as shown by the following votes: Yeas: Mr. Holtvluwer, Mrs. Ruiter, Messrs. Holtrop, Rycenga, Disselkoen, Baumann, Visser, Karsten, DeJong, Swartout, Kuyers. (11)
- B/C 11-189 Mr. Swartout moved to approve the request from Equalization to create one (1) FTE Appraiser III (Group T, Paygrade 13, C Step) at a cost of \$60,991. Funding to come from the City of Grand Haven pursuant to the Agreement for Property Assessment Administration Services. This position will sunset two (2) years from the effective date of the Agreement. It may be renewed thereafter for up to five (5) successive one (1) year terms by mutual written agreement of the parties. The motion passed as shown by the following votes: Yeas: Messrs. Rycenga, DeJong, Karsten, Mrs. Ruiter, Messrs. Baumann, Visser, Swartout, Holtvluwer, Disselkoen, Holtrop, Kuyers. (11)
- B/C 11-190 Mr. Swartout moved to approve the request to reclassify the position of 1.0 FTE Staff Psychiatrist (Unclassified, Paygrade 19) to 1.0 FTE Community Mental Health Medical Director (Unclassified, Paygrade 25) at a cost of \$36,968.00. Funding for this position to come from Medicaid funds. The motion passed as shown by the following votes: Yeas: Messrs. Holtrop, Holtvluwer, Swartout, Baumann, Visser, Disselkoen, Karsten, Mrs. Ruiter, Messrs. Rycenga, DeJong, Kuyers. (11)
- B/C 11-191 Mr. Swartout moved to approve the request from the Public Health Department to increase a .8 FTE Environmental Health Specialist (Group T, Paygrade 14) at a 1.0 FTE Environmental Health Specialist (Group T, Paygrade 14), at a cost of \$12,900. Funding to come from a grant through the Michigan Department of Environmental Quality. Position to sunset September 2012. The motion passed as shown by the following votes: Yeas: Messrs. Karsten, Disselkoen, Holtrop, Visser, Holtvluwer, DeJong, Mrs. Ruiter, Messrs. Swartout, Rycenga, Baumann, Kuyers. (11)
- B/C 11-192 Mr. Swartout moved to receive for comment the Fund Balance Policy. (First Reading) The motion passed.
- B/C 11-193 Mr. Swartout moved to approve the nomination of Marcie VerBeek as Officer Delegate, Marie Waalkes as alternate Officer Delegate, Erin Rotman as Employee Delegate, and Tami Harvey as alternate Employee Delegate to the MERS 65th Annual Meeting to be held September 27 – 29, 2011 in Traverse City, Michigan. The motion passed as shown by the

following votes: Yeas: Messrs. Disselkoen, Karsten, DeJong, Holtrop, Visser, Swartout, Mrs. Ruiter, Messrs. Rycenga, Holtvluwer, Baumann, Kuyers. (11)

B/C 11-194 Mr. Swartout moved to approve the purchase of three (3) years of MERS generic service credit for \$56,079 (total cost to be paid by employee, Anthony Boersema).

Total Cost:	\$56,079.00
Employer Cost:	\$ 0.00
Employee Cost:	\$56,079.00

The motion passed as shown by the following votes: Yeas: Messrs. DeJong, Visser, Swartout, Holtvluwer, Mrs. Ruiter, Messrs. Disselkoen, Baumann, Holtrop, Rycenga, Kuyers. (10)

Nays: Mr. Karsten. (1)

B/C 11-195 Mr. Swartout moved to approve the purchase of five (5) years of MERS generic service credit for \$77,420.00 (total cost to be paid by employee, Sarah A. Flick).

Total Cost:	\$77,420.00
Employer Cost:	\$ 0.00
Employee Cost:	\$77,420.00

The motion passed as shown by the following votes: Yeas: Messrs. Visser, Holtvluwer, Disselkoen, Holtrop, Mrs. Ruiter, Messrs. DeJong, Rycenga, Swartout, Baumann, Kuyers. (10)

Nays: Mr. Karsten. (1)

B/C 11-196 Mr. Swartout moved to approve the Infrastructure Revolving Loan Fund Application from the Ottawa County Road Commission (OCRC) & Wright Township in the amount of \$485,000 for the purpose of rebuilding the 8th Avenue Bridge in Wright Township, contingent upon: (a) receipt of approval of adequate bridge funding from the MDOT; (b) agreement between Ottawa County and Wright Township on the terms and conditions of a loan agreement and a promissory note. The motion passed as shown by the following votes: Yeas: Messrs. Swartout, Holtvluwer, Visser, Holtrop, Karsten, Disselkoen, Baumann, Rycenga, DeJong, Mrs. Ruiter, Mr. Kuyers. (11)

B/C 11-197 Mr. Swartout moved to approve the proposed changes to the Food Inspection Program fees, new fees: Temporary Food Service Establishment Revisit/Extended Visit: \$50.00, Enforcement Fee:

\$255.00, Administrative Consultation Fee: \$300.00, and fee reduction: Compliance Conference Fee \$200.00 (current fee is \$300.00). The motion passed as shown by the following votes: Yeas: Mrs. Ruiters, Messrs. Baumann, DeJong, Karsten, Swartout, Holtvluwer, Rycenga, Holtrop, Disselkoe, Visser, Kuyers. (11)

The County Administrator's report was presented.

Several Commissioners commented on meetings attended and future meetings to be held.

Public Comments

Dr. Michael Brashears, CMH Director, addressed the Board on the recent articles that were published in the newspapers regarding the drafted state mental health plan providing services for those who use Medicare and Medicaid. 40% of the Ottawa County clients would no longer be managed by CMH but rather an HMO such as BCBS. Dr. Brashers has hosted Community forums to explain what the possible outcomes could be.

Kenneth David, Grand Haven Township, questioned funding for the Wright Township bridge project. The Administrator explained there are 57 different funds in the County which Fiscal Services oversees. There are specific laws dealing on how special millage funds can be used. He stated anyone with funding questions can come in and the process will be explained.

Paul Geelings, Drain Commissioner, reported the Business 96 loop in Zeeland City will be closing the weekend after Labor Day.

B/C 11-198 Mr. Disselkoe moved to adjourn at 2:14 p.m. subject to the call of the Chair. The motion passed.

DANIEL C. KRUEGER, Clerk
Of the Board of Commissioners

PHILIP KUYERS, Chairman
Of the Board of Commissioners

Action Request



Committee: Board of Commissioners
Meeting Date: 9/13/2011
Requesting Department: County Clerk
Submitted By: Bob Spaman
Agenda Item: Payroll

SUGGESTED MOTION:

To authorize the payroll of September 13, 2011 in the amount of \$_____.

SUMMARY OF REQUEST:

To pay the current payroll of the members of the Ottawa County Board of Commissioners. Pursuant to MCL 46.11, the Board of Commissioners is authorized to provide for and manage the ongoing business affairs of the County.

FINANCIAL INFORMATION:

Total Cost: _____ General Fund Cost: _____ Included in Budget: Yes No
If not included in budget, recommended funding source: _____

ACTION IS RELATED TO AN ACTIVITY WHICH IS:

Mandated Non-Mandated New Activity

ACTION IS RELATED TO STRATEGIC PLAN:

Goal:

- 1: To Maintain and Improve the Strong Financial Position of the County.
- 2: To Maintain and Enhance Communication with Citizens, Employees, and Other Stakeholders.
- 3: To Contribute to a Healthy Physical, Economic, & Community Environment.
- 4: To Continually Improve the County's Organization and Services.

Objective: _____

ADMINISTRATION RECOMMENDATION: Recommended Not Recommended Without Recommendation

County Administrator: **Alan G. Vanderberg**

Digitally signed by Alan G. Vanderberg
DN: cn=Alan G. Vanderberg, o=OS, ou=County of Ottawa, ou=Administrator's Office, email=avanderberg@countyofo.org
Reason: I am approving this document
Date: 2011.03.02 09:03:46 -0500

Committee/Governing/Advisory Board Approval Date: _____

Action Request



Committee: Board of Commissioners

Meeting Date: 9/13/2011

Requesting Department: County Clerk

Submitted By: Keith Van Beek

Agenda Item: Correspondence Log 419

SUGGESTED MOTION:

To receive for information the Correspondence Log.

SUMMARY OF REQUEST:

FINANCIAL INFORMATION:

Total Cost: \$0.00 General Fund Cost: \$0.00 Included in Budget: Yes No

If not included in budget, recommended funding source:

ACTION IS RELATED TO AN ACTIVITY WHICH IS:

Mandated Non-Mandated New Activity

ACTION IS RELATED TO STRATEGIC PLAN:

Goal:

Objective:

ADMINISTRATION RECOMMENDATION: Recommended Not Recommended Without Recommendation

County Administrator: **Alan G. Vanderberg**

Digitally signed by Alan G. Vanderberg
DN: cn=Alan G. Vanderberg, o=US, ou=County of Ottawa, ou=Administrator's Office, email=avanderberg@miottawa.org
Reason: I am approving this document
Date: 2011.08.03 14:42:41 -0400

Committee/Governing/Advisory Board Approval Date:

CORRESPONDENCE LOG 419

Date	Correspondent	Content	Referred To
8/5/2011	LINDA NIOTIS, GH CITY CLERK	NOTICE OF HEARING	ADMINISTRATOR, RUITER, SWARTOUT

From: 8/1/2011 To: 8/31/2011

Action Request



Committee: Board of Commissioners

Meeting Date: 9/13/2011

Requesting Department: Fiscal Services

Submitted By: Bob Spaman

Agenda Item: Monthly Accounts Payable for August 15, 2011 through August 31, 2011

SUGGESTED MOTION:

To approve the general claims in the amount of \$7,791,902.23 as presented by the summary report for August 15, 2011 through August 31, 2011.

SUMMARY OF REQUEST:

Approve vendor payments in accordance with the Ottawa County Purchasing Policy.

FINANCIAL INFORMATION:

Total Cost: \$7,791,902.23 | General Fund Cost: \$7,791,902.23 | Included in Budget: Yes | No

If not included in budget, recommended funding source:

ACTION IS RELATED TO AN ACTIVITY WHICH IS:

Mandated | Non-Mandated | New Activity

ACTION IS RELATED TO STRATEGIC PLAN:

Goal: 1: To Maintain and Improve the Strong Financial Position of the County.

Objective:

- 1: Advocate on legislative issues to maintain and improve the financial position of the County.
- 2: Implement processes and strategies to deal with operational budget deficits.
- 3: Reduce the negative impact of rising employee benefit costs on the budget.
- 4: Maintain or improve bond ratings.

ADMINISTRATION RECOMMENDATION: Recommended | Not Recommended | Without Recommendation

County Administrator: **Alan G. Vanderberg**

Digitally signed by Alan G. Vanderberg
DN: cn=Alan G. Vanderberg, o=US, ou=County of Ottawa, ou=Administrator's Office, email=avanderberg@miottawa.org
Reason: I am approving this document
Date: 2011.09.07 14:37:24 -0400

Committee/Governing/Advisory Board Approval Date:



County of Ottawa

Fiscal Services Department

Robert Spaman
Fiscal Services Director

Marvin Hinga
Fiscal Services Assistant Director

12220 Fillmore Street • Room 331 • West Olive, Michigan 49460

West Olive (616) 738-4847
Fax (616) 738-4098
e-mail: rspaman@miottawa.org
mhinga@miottawa.org

To: Board of Commissioners

From: Robert Spaman, Fiscal Services Director

Subject: Accounts Payable Listing – August 15, 2011 to August 31, 2011

Date: September 2, 2011


I have reviewed the Accounts Payable Listing for August 15 through August 31, 2011. The expenditures are general payments that are routine to Ottawa County.

If you have any additional questions, please feel free to contact me.

Total Checks/Automated Clearing House (ACH) 08/15/2011 through 08/31/2011

I hereby certify that to the best of my knowledge the List of Audit Claims, a summary of which is attached, constitutes all claims received and audited for payment. The List of Claims shows the name of claimant, amount of claim, check number, ACH number, check date and ACH date. The net amount of checks/ACH written during the period was \$7,784,827.99. The amount of claims to be approved totals \$7,791,902.23.

*Adjustments are voided checks or ACH.



Robert Spaman, Fiscal Services, Director

Date 9/2/11

We hereby certify that the Board of Commissioners has approved the claims on this 13th day of September, 2011.

Philip Kuyers, Chairperson
Board of Commissioners

Daniel Krueger, Clerk

ACCOUNTS PAYABLE CHECKS/ACH 08/15/2011 THROUGH 08/31/2011

<u>FUND NUMBER</u>	<u>FUND NAME</u>	<u>CLAIMS TO BE APPROVED</u>	<u>ADJUSTMENTS*</u>	<u>NET CHECK/ACH TOTALS</u>
1010	GENERAL FUND	510,771.39	(633.01)	510,138.38
1500	CEMETERY TRUST	0.00	0.00	0.00
2081	PARKS & RECREATION	78,162.86	(1,584.09)	76,578.77
2082	PARK 12	0.00	0.00	0.00
2160	FRIEND OF COURT	5,180.61	(667.44)	4,513.17
2170	9/30 JUDICIAL GRANTS	2,245.81	0.00	2,245.81
2210	HEALTH	30,225.06	(954.94)	29,270.12
2220	MENTAL HEALTH	1,402,425.41	(146.35)	1,402,279.06
2271	SOLID WASTE CLEAN-UP	0.00	0.00	0.00
2272	LANDFILL TIPPING FEES	3,741.09	(1,478.75)	2,262.34
2320	TRANSPORTATION SYSTEM	8,526.00	0.00	8,526.00
2420	PLANNING COMMISSION	0.00	0.00	0.00
2430	BROWNFIELD REDEVELOPMENT	0.00	0.00	0.00
2444	INFRASTRUCTURE FUND	0.00	0.00	0.00
2450	PUBLIC IMPROVEMENT	0.00	0.00	0.00
2550	HOMESTEAD PROPERTY TAX	400.00	0.00	400.00
2560	REGISTER OF DEEDS AUTOMATION FUND	4,699.31	0.00	4,699.31
2590	LIPPERT GRANT	0.00	0.00	0.00
2601	PROSECUTING ATTORNEY GRANTS	0.00	0.00	0.00
2602	WEMET	2,115.75	0.00	2,115.75
2603	WEED AND SEED	0.00	0.00	0.00
2605	COPS-AHEAD-GEORGETOWN	0.00	0.00	0.00
2606	COPS-FAST-GEORGETOWN	0.00	0.00	0.00
2608	COPS-FAST-ALLENDALE	0.00	0.00	0.00
2609	SHERIFF GRANT PROGRAMS	2,493.18	0.00	2,493.18

ACCOUNTS PAYABLE CHECKS/ACH 08/15/2011 THROUGH 08/31/2011

<u>FUND NUMBER</u>	<u>FUND NAME</u>	<u>CLAIMS TO BE APPROVED</u>	<u>ADJUSTMENTS*</u>	<u>NET CHECK/ACH TOTALS</u>
2610	COPS-UNIVERSAL	17,264.23	0.00	17,264.23
2640	EMT HOLLAND-PARK	0.00	0.00	0.00
2650	EMT GEORGETOWN TOWNSHIP	0.00	0.00	0.00
2661	SHERIFF ROAD PATROL	1,661.14	0.00	1,661.14
2690	LAW LIBRARY	0.00	0.00	0.00
2740	WIA-ADMIN. COST POOL	1,784.00	0.00	1,784.00
2741	WIA-YOUTH	50,454.34	(10.40)	50,443.94
2742	WIA-ADULT	19,784.56	(3.31)	19,781.25
2743	WIA-6/30 GRANT PROGRAMS	72,924.72	(558.92)	72,365.80
2744	WIA-12/31 GRANT PROGRAMS	50.00	0.00	50.00
2747	WIA-WORK FIRST YOUTH	0.00	0.00	0.00
2748	WIA-9/30 GRANT PROGRAMS	207,281.77	(8.03)	207,273.74
2749	WIA-3/31 GRANT PROGRAMS	0.00	0.00	0.00
2750	GRANT PROGRAMS-PASS THRU	44,785.89	0.00	44,785.89
2800	EMERGENCY FEEDING	302.09	0.00	302.09
2810	FEMA	0.00	0.00	0.00
2850	COMMUNITY CORRECTIONS PROG. GRANT	4,049.49	0.00	4,049.49
2870	COMMUNITY ACTION AGENCY (CAA)	2,807.36	0.00	2,807.36
2890	WEATHERIZATION	54,450.76	0.00	54,450.76
2900	DEPT OF HUMAN SERVICES	0.00	0.00	0.00
2901	DEPT OF HUMAN SERVICES	2,405.12	0.00	2,405.12
2920	CHILD CARE - PROBATE	80,758.15	(129.00)	80,629.15
2921	CHILD CARE - SOCIAL SERVICES	0.00	0.00	0.00
2930	SOLDIER & SAILORS RELIEF	0.00	0.00	0.00

ACCOUNTS PAYABLE CHECKS/ACH 08/15/2011 THROUGH 08/31/2011

<u>FUND NUMBER</u>	<u>FUND NAME</u>	<u>CLAIMS TO BE APPROVED</u>	<u>ADJUSTMENTS*</u>	<u>NET CHECK/ACH TOTALS</u>
2940	VETERANS TRUST	0.00	0.00	0.00
2941	VETERANS TRUST	5,133.48	0.00	5,133.48
2970	DB/DC CONVERSION	0.00	0.00	0.00
5160	DELINQUENT TAXES	4,242.03	0.00	4,242.03
6360	INFORMATION TECHNOLOGY	22,556.59	0.00	22,556.59
6410	WATER & SEWER REVOLVING	0.00	0.00	0.00
6450	DUPLICATING	302.02	0.00	302.02
6550	TELECOMMUNICATIONS	15,669.44	0.00	15,669.44
6641	EQUIPMENT POOL	0.00	0.00	0.00
6770	PROTECTED SELF-FUNDED INSURANCE	0.00	0.00	0.00
6771	PROTECTED SELF-FUNDED HEALTH INS.	1,156.40	0.00	1,156.40
6772	PROTECTED SELF-FUNDED UNEMPL INS.	0.00	0.00	0.00
6775	LONG-TERM DISABILITY INSURANCE	8,599.08	0.00	8,599.08
6776	PROTECTED SELF-FUNDED DENTAL INS.	0.00	0.00	0.00
6777	PROTECTED SELF-FUNDED VISION	0.00	0.00	0.00
6782	PROTECTED SELF-FUNDED INS PROG M.H.	0.00	0.00	0.00
7010	AGENCY	4,895,937.64	(900.00)	4,895,037.64
7040	IMPREST PAYROLL	226,555.46	0.00	226,555.46
7210	LIBRARY PENAL FINE	0.00	0.00	0.00
7300	EMPLOYEE SICK PAY BANK	0.00	0.00	0.00
7360	OPEB TRUST	0.00	0.00	0.00
		<u>\$7,791,902.23</u>	<u>(\$7,074.24)</u>	<u>\$7,784,827.99</u>

Action Request



Committee: Board of Commissioners

Meeting Date: 9/13/2011

Requesting Department: Parks and Recreation

Submitted By: Keith Van Beek

Agenda Item: Bid Tabulation – Connor Bayou Park Improvements

SUGGESTED MOTION:

To receive bids for the Connor Bayou Park Improvement Project and accept the low bid from Apex Contractors, Inc. at the negotiated price of \$535,631 with funding from the Parks and Recreation budget.

SUMMARY OF REQUEST:

The Ottawa County Parks and Recreation Commission is in the process of soliciting bids for the Connor Bayou Park Improvement Project to develop first phase park improvements at this currently undeveloped county park. The bids are due on September 1 and a contractor recommendation will be presented to the Parks Commission on September 7 and the Planning and Policy Committee meeting on September 8.

FINANCIAL INFORMATION:

Total Cost: \$535,631.00 General Fund Cost: \$0.00 Included in Budget: Yes No

If not included in budget, recommended funding source: Parks and Recreation Budget

ACTION IS RELATED TO AN ACTIVITY WHICH IS:

Mandated Non-Mandated New Activity

ACTION IS RELATED TO STRATEGIC PLAN:

Goal: 3: To Contribute to a Healthy Physical, Economic, & Community Environment.

Objective: 4: Continue initiatives to positively impact the community.

ADMINISTRATION RECOMMENDATION: Recommended Not Recommended Without Recommendation

County Administrator: **Alan G. Vanderberg**

Digitally signed by Alan G. Vanderberg
DN: cn=Alan G. Vanderberg, o=US, ou=County of Ottawa, ou=Administrator's Office, email=avanderberg@ottawa.org
Reason: I am approving this document
Date: 2011.09.01 11:17:53 -0400

Committee/Governing/Advisory Board Approval Date: Planning and Policy Committee 9/8/2011



MEMORANDUM

Date: September 8, 2011
To: Ottawa County Board of Commissioners
From: John Scholtz, Parks and Recreation Director
RE: Bid Tabulation – Connor Bayou Park Improvements

The Ottawa County Parks and Recreation Commission is in the process of soliciting bids for the Connor Bayou Park Improvement Project to develop first phase park improvements at this currently undeveloped county park. The bids are due on September 1 and a contractor recommendation will be presented to the Parks Commission on September 7 and the Planning and Policy Committee meeting on September 8.

Proposed motion:

To receive and forward to the Board of Commissioners bids for the Connor Bayou Park Improvement Project and accept the low bid from Apex Contractors, Inc. at the negotiated price of \$535,631 with funding from the Parks and Recreation budget.

This request relates to a non-mandated activity and supports Goal 3 of the Board of Commissioner's Strategic Plan: To contribute to a healthy physical, economic, and community environment.



**Ottawa County Parks &
Recreation Commission**

Bid Tabulation
Conner Bayou County Park
September 6, 2011 11:00 am

	COMPANY (BIDDER)	BASE BID
1	Apex Contractors Inc.	\$568,000.00
2	Katerberg Verhage	\$676,894.98
3	Wolverine Building Group	\$822,612.00
4	Bay Shore Contractors	\$930,646.85

<u>ACTUAL BID COSTS</u>	
Base Bid - Apex Contractors	\$568,000.00
<u>Adjustments based on unit prices</u>	
Add Alternate - Remove wood shelter	\$3,000.00
Add Alternate - Pave Rental Facility Parking	\$21,000.00
Add Alternate - Pave Day Use Parking	\$29,000.00
Add Alternate - New Roof on existing cabin	\$16,500.00
Deduct Special boardwalk footings	(\$18,000.00)
Reduce Chips and Fines Path Surfacing	(\$12,285.00)
Reduce Special Grass Paver turnaround	(\$14,000.00)
Delete Kayak launch dock	(\$40,234.00)
Deduct Pit toilet	(\$7,000.00)
Delete 5 Benches	(\$5,350.00)
Reduce Landscaping	(\$5,000.00)
Potential Adjustments Total	-\$32,369.00
<i>Proposed Contract Amount</i>	\$535,631.00

Action Request



Committee: Board of Commissioners

Meeting Date: 9/13/2011

Requesting Department: Parks and Recreation

Submitted By: Keith Van Beek

Agenda Item: Pigeon River Fish Habitat Improvements Grant Agreement

SUGGESTED MOTION:

To approve and authorize the Board Chair and Clerk to sign the Partners for Fish and Wildlife Habitat Development Agreement with the United States Fish & Wildlife Service to fund fish habitat improvements on the Pigeon River with matching funds provided by the Drain Commission and private sources.

SUMMARY OF REQUEST:

The Ottawa County Parks and Recreation Commission recommends approval of the Partners for Fish and Wildlife Habitat Development Agreement through the United States Fish & Wildlife Service to fund fish habitat improvements on the Pigeon River at Pigeon Creek Park and an adjoining private property. Ottawa County Parks will be serving as a pass through entity for the grant funds which will benefit Pigeon Creek Park by improving fish habitat and stabilizing eroding river banks which are causing sedimentation in the river. The Ottawa County Drain Commission will provide \$7,500 toward the project which includes funds for removal of tree obstructions which are also causing sedimentation problems.

FINANCIAL INFORMATION:

Total Cost: \$7,500.00 General Fund Cost: \$0.00 Included in Budget: Yes No

If not included in budget, recommended funding source: Soil and Sedimentation Fund

ACTION IS RELATED TO AN ACTIVITY WHICH IS:

Mandated Non-Mandated New Activity

ACTION IS RELATED TO STRATEGIC PLAN:

Goal: 3: To Contribute to a Healthy Physical, Economic, & Community Environment.

Objective: 4: Continue initiatives to positively impact the community.

ADMINISTRATION RECOMMENDATION: Recommended Not Recommended Without Recommendation

County Administrator: **Alan G. Vanderberg**

Digitally signed by Alan G. Vanderberg
DN: cn=Alan G. Vanderberg, c=US, o=County of Ottawa, ou=Administrator's Office, email=avanderberg@miottawa.org
Reason: I am approving this document
Date: 2011.09.01 11:15:10 -0400

Committee/Governing/Advisory Board Approval Date: Planning and Policy Committee 9/8/2011



MEMORANDUM

Date: August 29, 2011
To: Ottawa County Board of Commissioners
From: John Scholtz, Parks and Recreation Director
RE: Pigeon River Fish Habitat Improvements Grant Agreement

The Ottawa County Parks and Recreation Commission recommends approval of the Partners for Fish and Wildlife Habitat Development Agreement through the United States Fish & Wildlife Service to fund fish habitat improvements on the Pigeon River at Pigeon Creek Park and an adjoining private property. Ottawa County Parks will be serving as a pass through entity for the grant funds which will benefit Pigeon Creek Park by improving fish habitat and stabilizing eroding river banks which are causing sedimentation in the river. The Ottawa County Drain Commission will provide \$7,500 toward the project which includes funds for removal of tree obstructions which are also causing sedimentation problems.

Proposed motion:

To approve and authorize the Board Chairperson and Clerk to sign the Partners for Fish and Wildlife Habitat Development Agreement with the United States Fish & Wildlife Service to fund fish habitat improvements on the Pigeon River with matching funds provided by the Drain Commission and private sources.

This request relates to a non-mandated activity and supports Goal 3 of the Board of Commissioner's Strategic Plan: *To contribute to a healthy physical, economic, and community environment.*



U.S. Fish & Wildlife Service

**PARTNERS FOR FISH AND WILDLIFE
HABITAT DEVELOPMENT AGREEMENT**

This Agreement between County of Ottawa (Cooperator(s)) and the U.S. Fish and Wildlife Service (Service) is authorized by the Fish and Wildlife Coordination Act, 16 U.S.C. Sections 661-666c, the Fish and Wildlife Act of 1956, 16 U.S.C. 742a-j, and the Partners for Fish and Wildlife Act (Pub. L. 109-294).

Region 3 Assistance Agreement	
HabITS #	
DCN #	
Budget fund acct.	31730-1121-03HR
\$ Amount	10,000.00
ABC code	W-4
Budget object code	411-C

The Service and the Cooperator(s) agree to carry out certain wildlife management practices and habitat developments on land owned by the Cooperator(s) as described in the attached Project Plan and identified on the attached map and/or aerial photograph.

The Cooperator(s) agrees to join as a participant in a wildlife habitat development program and grants to the Service the authority to carry out wildlife habitat developments, or agrees to personally carry out wildlife habitat development and management activities with financial or material support, as described in the Project Plan. Any supplies, equipment or direct payment from the Service to the Cooperator(s) for carrying out the wildlife habitat developments are also listed in the Project Plan.

The Cooperator(s) further agrees:

1. To assume responsibility for securing federal, state and local permits needed to carry out the proposed habitat development project.
2. To allow the wildlife habitat development project described in the Project Plan to remain in place for a period of 10 years from the date of the Cooperator's signature on this Agreement.
3. To allow the Service or its representatives reasonable access to the described property for the period of this Agreement in order to complete the agreed upon habitat development project and to make periodic inspections of the habitat development for program monitoring purposes.
4. To complete payment in full to any contractor(s) and/or vendor(s) for agreed upon services and/or materials related to the project, once the project has been finished and approved by the Service or its representative.
5. To provide to the Service copies of all bids, invoices and receipts associated with the project.
6. To notify the Service in writing at least 30 days before closing of any planned sale or other change in the ownership of the described property.
7. To complete all cooperator(s) responsibilities as listed in Section III of the Project Plan.
8. The performance period for completing all restoration practices and submitting all invoices for payment to the U.S. Fish and Wildlife Service for this project may not exceed September 30, 2012, without modification of this contract.

The Service further agrees:

Upon satisfactory completion of the project, and sufficient documentation of projects expenses incurred by the cooperator, to reimburse the cooperator for documented expenses not to exceed \$ 10,000.00 .

The Service assumes no authority over the described property for purposes of controlling trespass, for controlling noxious weeds, for identifying or removing pre-existing hazards including waste materials, for granting rights of way, or for any other incidents of ownership. The Service also assumes no liability for property damage or injuries to people not caused by its own negligence, and any claims shall be processed in accordance with the Federal Tort Claims Act. The Cooperator(s) shall own all of the completed or installed developments and shall be solely responsible for paying all taxes and assessments on the described property.

A fiscal year appropriation may be obligated only to meet a legitimate, or *bona fide*, need arising in, or in some cases arising prior to, but continuing to exist in, the fiscal year for which the appropriation was made. The project defined in the attached project plan clearly describes a bona fide need of the U.S. Fish and Wildlife Service mission. Completion of this work may extend beyond the typical fiscal year limitations, and/or beyond the original performance period due to unforeseen weather and environmental conditions, which is therefore considered a bona fide need.

This Agreement may be modified at any time by mutual written consent of the parties. It may be terminated by either party upon 30 days advance written notice to the other party. However, if the Cooperator(s) terminates the Agreement before its expiration, or if the Cooperator(s) should fail to maintain the wildlife habitat development for the length of the Agreement, then the Cooperator(s) agrees to reimburse the U.S. Fish and Wildlife Service prior to final termination for the pro-rated costs of all habitat development projects placed on the described land through this Agreement. For these purposes the total cost of the development projects to the United States are agreed to be \$ 10,000.00.

"Spatial Information Sharing: In accordance with the Privacy Act of 1974, permission must be obtained from the cooperator before any personal information can be released. The only information that can be shared is payment information that is otherwise authorized by law. Therefore, your consent is requested to allow for sharing of spatial information about this project solely with conservation cooperators providing technical or financial assistance with the restoration, enhancement or management of fish and wildlife habit.

I consent to having spatial information about this project shared with other conservation cooperators

I do not wish to have any spatial information about this project shared with other conservation cooperators"

COOPERATOR(S)



U.S. FISH AND WILDLIFE SERVICE

Cooperator(s)

Project Manager

(Print Name)

(Printed name)

(Date)

(Date)

Cooperator(s)

Contracting Officer

(Print Name)

(Printed name)

(Date)

(Date)

**U.S. Fish and Wildlife Service
Partners for Fish and Wildlife Program
PROJECT PLAN**

I. Landowner Information:

Name: County of Ottawa

Address: 12220 Fillmore St

City West Olive State: MI, Zip code 49460.

Telephone Number(s): 616/738-4808 John Scholtz

II. Description of land:

County: Ottawa Township name: Olive Township: 6N, Range: 15W, Section(s): 8 & 9.

Street name, Town/Village West Olive east of 136th Ave UTM Coordinates: -86.10067, 42.92503

Attach maps and aerial photograph

Project Type: Wetland _____ acres; Grassland _____ acres; * Riparian Corridor 60 feet
* Instream/Fish Passage 1950 feet; Sensitive and/or rare habitat _____ acres
 Other habitat (describe) _____ acres (or other units)

III. Project Plan:

A. Description of Habitat Development or Design (see attached maps and drawings)

The project consists of:

Four habitat project areas within a 1950 foot stretch of the Pigeon River on Turkey City Partnerships and Pigeon Creek Park (Ottawa County Parks property). Problem timber will be cleared and re-inserted in the river as habitat and to repair bank failure. Site 1 will include 60 feet of riprap to tie into existing, successful riprap. Sites 2 and 3 will be timber revetments, will use brush to encourage deposition and timber to repair a bank failure. Site 4 will include a stone vane to deflect river current from an eroding sand bank. All exposed/visible material will be natural to improve aesthetics; any unnatural materials such as cable, limestone or geotextiles should be buried or submerged to be out of sight. See attached materials for design specifications.

The Service, or a partner under written agreement, will:

1. Review the design and oversee completion of the project as described above and in attached documents.
2. Upon completion of the project, conduct a final inspection with the contractor and review maintenance and management requirements with the Cooperator.
3. Reimburse the Cooperator for itemized project costs not to exceed **\$10,000.00** once documentation of paid services has been made. Any excess cost will be the responsibility of the Cooperator
4. Conduct periodic monitoring of the project during the life of the agreement.

The Cooperator(s) will:

1. Keep the projects in place for the 10 years.
2. Annually inspect project area and report any failure or damage to the Service.
3. Obtain contractors and pay all invoices associated with this project.
4. Supply the Service with a written statement requesting reimbursement (not to exceed \$10,000.00) and copies of all paid invoices and/or receipts.
5. Obtain all permits associated with this project.

B. Description of Habitat Management Goals and Objectives for the project:

Enhance instream fish habitat and riparian conditions for spawning cold water fish species both anadromous and indigenous species such as trout and salmon.

V. Partner cost share funds/in-kind services:

Partner	Equipment	Materials	Funds	Inkind Services	Total Cost
USFWS	\$ _____	\$ _____	\$ <u>10,000.00</u>	\$ _____	\$ <u>10,000.00</u>
Private Citizen	\$ _____	\$ _____	\$ <u>2,400.00</u>	\$ _____	\$ <u>2,400.00</u>
Ottawa County					
Drain Comm.	\$ _____	\$ _____	\$ <u>7,500.00</u>	\$ _____	\$ <u>7,500.00</u>
StreamworksLLC	\$ _____	\$ _____	\$ _____	\$ <u>1,200.00</u>	\$ <u>1,200.00</u>
Turkey City	\$500.00tractor	\$ _____	\$ _____	\$ _____	\$ <u>500.00</u>

USFWS Cost: \$ 10,000.00 Total Project Cost: \$ 21,600.00

If there are any questions regarding the habitat development agreement or the Project Plan, please contact the:

U.S. Fish and Wildlife Service
Gib King
Michigan Private Lands Office
2651 Coolidge Rd. Suite 101
Phone: (517)351-2241
E-mail: gib_king@fws.gov

I/we have received and agree to this Project Plan prepared by the U.S. Fish and Wildlife Service.

COOPERATOR(S)



U.S. FISH AND WILDLIFE SERVICE

Cooperator(s)

Project Manager

Philip Kuyers, Ottawa County Board Chair
(Printed name(s))

Gib King, USFWS
(Printed name)

(Date)

(Date)

Cooperator

John Scholtz, Ottawa Parks and Recreation Director
(Printed name)

(Date)

OTTAWA COUNTY
STATE OF MICHIGAN

RESOLUTION

At a regular meeting of the Ottawa County Board of Commissioners, held at the Fillmore Complex in the Township of Olive, Michigan on September 13, 2011 at _____ o'clock p.m. local time.

PRESENT: Commissioners _____

ABSENT: Commissioners _____

It was moved by Commissioner _____ and supported by Commissioner _____ that the following Resolution be adopted:

WHEREAS, the County of Ottawa has the authority to contract with the Michigan Department of Transportation for State and/or Federal funds for passenger transportation related services; and,

WHEREAS, the County of Ottawa does hereby approve Master Agreement No. 2012-0150;

NOW, THEREFORE, BE IT RESOLVED, that the Chairperson of the Ottawa County Board of Commissioners, Philip D. Kuyers, and the Ottawa County Clerk, Daniel C. Krueger be authorized and directed to execute said agreement for and on behalf of the County of Ottawa

YEAS: Commissioners _____

NAYS: Commissioners _____

RESOLUTION DECLARED ADOPTED.

Chairperson, Ottawa County
Board of Commissioners

Ottawa County Clerk

**Unsigned Copy
For Your Files**

AGREEMENT NO. 2012-0150
AGENDA: DIR

**MICHIGAN DEPARTMENT OF TRANSPORTATION
OTTAWA COUNTY BOARD OF COMMISSIONERS
PUBLIC TRANSPORTATION PROJECTS**

This Agreement is made and entered into this date of _____ by and between the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," and Ottawa County Board of Commissioners, hereinafter referred to as the "AGENCY."

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- Section 28. Additional Requirements for the Section 5310 Elderly and Persons with Disabilities Program
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Attachments

- Exhibit A - Insurance Requirements
- Appendix A - Prohibition of Discrimination in State Contracts
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- Appendix C - Assurances That Recipients and Contractors Must Make

1. DEFINITIONS

- COMMISSION - Means the Michigan State Transportation Commission.
- COORDINATING COMMITTEE - Means a group of local human service agencies representing SPECIALIZED SERVICES interests.
- FEDERAL - Means the United States Department of Transportation, Federal Transit Administration (FTA), and/or Federal Highway Administration (FHWA).
- NONURBAN AGENCY - Means an agency that does not receive Section 5307 Urbanized Area Formula Program funding.
- PROJECT - Means a funded activity that is budgeted and managed as a separate entity. If a PROJECT uses FEDERAL funds, the activities and content of the PROJECT will be in accordance with the corresponding FEDERAL grant.
- PROJECT AUTHORIZATION - Means the written document(s) by which a specific PROJECT is to be carried out by the AGENCY under the terms of this Agreement, as defined and initiated by the DEPARTMENT.

- SERVICE OPERATIONS - Means general administration, maintenance, and operations performed under this Agreement as listed in a PROJECT AUTHORIZATION under the category of SERVICE OPERATIONS.
- SPECIALIZED SERVICES - Means transportation services primarily designed for persons with disabilities and persons who are sixty-five (65) years of age or older.
- START-UP OPERATIONS - Means general administration, maintenance, and training performed under this Agreement as listed in a PROJECT AUTHORIZATION under the category of START-UP OPERATIONS, prior to the beginning of SERVICE OPERATIONS.
- STATE - Means the State of Michigan.

2. PURPOSE

This Agreement is to make available FEDERAL and/or STATE grant funds to the AGENCY for the costs of eligible PROJECTS that promote or benefit public transportation. This Agreement sets forth the terms and conditions for any and all PROJECT AUTHORIZATIONS issued under this Agreement. Award of this Agreement will not in any manner provide for or imply any agreement on the part of the DEPARTMENT to issue any PROJECT AUTHORIZATION(S) to the AGENCY.

For each PROJECT AUTHORIZATION under this Agreement that contains FEDERAL funds, the AGENCY must follow the FEDERAL guidelines and regulations of the respective FEDERAL agency and program.

3. ESTIMATED COST OF PROJECT

The maximum cost of any PROJECT will be the amount indicated in the PROJECT AUTHORIZATION. DEPARTMENT funds for PROJECT AUTHORIZATIONS are made available through legislative appropriations and are based on projected revenue estimates. The DEPARTMENT may reduce the amount of any PROJECT AUTHORIZATION or terminate any PROJECT AUTHORIZATION if the revenue actually received is insufficient to support the appropriation under which the PROJECT AUTHORIZATION is issued. The AGENCY will be responsible for all costs in excess of the funds shown in any PROJECT AUTHORIZATION.

If the FEDERAL funds received are less than the amount shown in any PROJECT AUTHORIZATION, the DEPARTMENT funds will be adjusted to maintain the same ratio shown in the PROJECT AUTHORIZATION. In no case will the DEPARTMENT's share increase in ratio or in dollar amount without a revision to the PROJECT AUTHORIZATION.

In any case in which a PROJECT AUTHORIZATION contains STATE funds that match FEDERAL funds, funding of the PROJECT AUTHORIZATION is contingent upon the award of the matching FEDERAL grant. When the DEPARTMENT is the recipient of the FEDERAL grant, PROJECT AUTHORIZATION funding is contingent upon the award of the grant between the DEPARTMENT and the FEDERAL agency that is the prime contractor. When the AGENCY is the recipient of the FEDERAL grant, the PROJECT AUTHORIZATION funding is contingent upon award of the FEDERAL grant between the AGENCY and the FEDERAL agency that is the prime contractor. The DEPARTMENT and the AGENCY must comply with the provisions established by the FEDERAL matching grant as they affect this Agreement and each PROJECT AUTHORIZATION issued under this Agreement, the FEDERAL grant being incorporated herein by reference as if the same were repeated in full herein. When the FEDERAL grant is administered by the AGENCY, special provisions apply as indicated in the PROJECT AUTHORIZATION. The AGENCY must comply with the appropriate fiscal year Contract Clauses Certification referenced in the PROJECT AUTHORIZATION. In addition, the AGENCY agrees that it will comply with any applicable Department of Labor Certification of Transit Employee Protective Arrangements requirements as issued by the U.S. Department of Labor.

4. ELIGIBLE PROJECT COSTS

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

- a. FEDERAL Capital - Determination of eligible PROJECT costs for any public agency receiving FEDERAL capital funds will be in accordance with the criteria set forth in Title 49 Code of Federal Regulations (CFR), Part 18, in effect at the time the PROJECT AUTHORIZATION is signed by both parties, incorporated herein by reference as if the same were repeated in full herein. Determination of eligible PROJECT costs for any private, nonprofit agency receiving FEDERAL capital funds will be in accordance with the criteria set forth in Title 49 CFR, Part 19, in effect at the time the PROJECT AUTHORIZATION is signed by both parties, incorporated herein by reference as if the same were repeated in full herein.

- b. FEDERAL Operating - Determination of eligible PROJECT costs for any agency receiving FEDERAL operating funds will be in accordance with the criteria set forth in the Office of Management and Budget (OMB) Circular A-87, incorporated herein by reference as if the same were repeated in full herein, in effect at the time each PROJECT AUTHORIZATION is signed by both parties, and said criteria will be included in all subdocuments related to this Agreement. Determination of eligible PROJECT costs for any private, nonprofit agency receiving FEDERAL operating funds will be in accordance with the criteria set forth in OMB Circular A-122, incorporated herein by reference as if the same were repeated in full herein, in effect at the time each PROJECT AUTHORIZATION is signed by both parties, and said criteria will be included in all subdocuments related to this Agreement.
- c. STATE Capital - Determination of eligible PROJECT costs for any agency receiving STATE capital funds will be in accordance with the criteria set forth in OMB Circular A-87 and/or Title 49 CFR, Part 18, incorporated herein by reference as if the same were repeated in full herein, in effect at the time each PROJECT AUTHORIZATION is signed by both parties.
- d. STATE Operating - Determination of eligible PROJECT costs for any agency eligible to receive STATE operating funds will be in accordance with the criteria set forth in the "Local Public Transit Revenue and Expense Manual" (R&E Manual), incorporated herein by reference as if the same were repeated in full herein, in effect during the fiscal year(s) in which costs are incurred. The R&E Manual may be viewed at <http://www.michigan.gov/mdotptd> under "Resources," "Audit/Accounting Information." The Circular A-87 can be found at <http://www.whitehouse.gov/omb/rewrite/circulars/a087/a087-all.html>.

If the AGENCY receives STATE and/or FEDERAL operating funds for more than one PROJECT, a narrative cost allocation methodology is required and must be submitted to the DEPARTMENT for approval.

5. BUDGET ADJUSTMENTS, REVISIONS, AND AMENDMENTS

Expenditures that are not consistent with PROJECT AUTHORIZATIONS will not be considered eligible PROJECT costs unless written approval has been requested by the AGENCY and granted by the DEPARTMENT in accordance with this section.

Budget adjustments to a PROJECT AUTHORIZATION are required to change an existing line item. Such changes may include additions or deletions to the quantities and/or description in a specific line item if it is determined that each change is justified to fulfill the purpose of the PROJECT AUTHORIZATION. Upon receipt of a written request to make changes that require a budget adjustment and, if applicable, receipt of written approval from the Rural Task Force or Metropolitan Planning Organization (MPO), the DEPARTMENT must respond to the AGENCY providing written approval or disapproval of the budget adjustment or requesting further information.

Revisions to a PROJECT AUTHORIZATION are required if the proposed change would add a new line item, change the PROJECT AUTHORIZATION amount, change the STATE, FEDERAL, or local amounts, or extend the term of the PROJECT AUTHORIZATION. The PROJECT AUTHORIZATION must be revised to make the change before the expenditure will be deemed an eligible PROJECT cost. Requests to make changes that require a revision to the PROJECT AUTHORIZATION will be processed in a timely manner, as circumstances permit. Upon receipt of a written request to make changes that require revision(s) and, if applicable, receipt of written approval from the Rural Task Force or MPO, the DEPARTMENT must respond to the AGENCY, providing written approval or disapproval of the revision or requesting further information.

Amendments to this Agreement are required for any change in the scope or terms of this Agreement and will be by award of a written amendment to this Agreement by the parties.

The AGENCY agrees to notify the DEPARTMENT in writing of any significant event on a timely basis. A significant event is an event that may have significant potential impact on PROJECT progress, direction, control, or cost.

(Please see Section 27 for additional requirements for the Specialized Services Program.)

6. PROCUREMENT OF VEHICLES BY AGENCY

The AGENCY will purchase PROJECT equipment as shown in each PROJECT AUTHORIZATION through its own local purchase process or through the STATE Extended Purchasing Program.

If the AGENCY purchases vehicles through the STATE Extended Purchasing Program, the AGENCY is exempt from the contract approval process as described in Section 7. When purchasing vehicles from the STATE Extended Purchasing Program, the AGENCY must follow the procedures outlined in the current "Procurement Guidelines" listed at <http://www.michigan.gov/mdotptd> under "Procurement." When purchasing vehicles under the local purchase process, the AGENCY must follow the procedures outlined in the "Guidelines for Local Vehicle Purchase on State Administered Grants," dated November 9, 2009, or as revised, and is not exempt from the procedures set forth in Section 7. The guidelines are available at <http://www.michigan.gov/mdotptd> under "Procurement," "State Vehicle Contracts and Procurement," "Local Purchase."

For procurement of demand response vehicles, the AGENCY must have an approved vehicle accessibility plan in accordance with 1951 Public Act (PA) 51, Section 10(e) 18, as amended, in addition to meeting the equivalent level of service required by the Americans with Disabilities Act (ADA), United States Department of Transportation (US DOT) Final Rule, Title 49 CFR, Parts 27, 37, and 38.

7. THIRD-PARTY CONTRACT PROCEDURES

Unless the AGENCY has been certified in accordance with COMMISSION policy and is the direct recipient of FEDERAL funding for the procurement, the AGENCY will submit to the DEPARTMENT for approval all contracts, including amendments, between the AGENCY and a party other than the DEPARTMENT that relate to this Agreement that are estimated to be in excess of the dollar amount for third-party contracts identified in COMMISSION policy prior to said contracts being signed by the AGENCY. The AGENCY will not enter into multiple contracts of lesser amounts for the purpose of avoiding such approval process.

DEPARTMENT approval does not constitute an assumption of liability, a waiver, or an estoppel to enforce any of the requirements of this Agreement, nor will any such approvals by the DEPARTMENT be construed as a warranty of the third party's qualifications, professional standing, ability to perform the work being subcontracted, or financial integrity.

The AGENCY is responsible for the accuracy of the financial and non-financial data and reports submitted for reimbursement.

- a. PROJECT-Related Procurement: If the AGENCY is not certified in accordance with COMMISSION policy or receives FEDERAL funding through the DEPARTMENT for the procurement, the AGENCY will submit to the DEPARTMENT copies of the following procurement documents for review and approval by the DEPARTMENT for solicitations over the amount identified in COMMISSION policy.
 - i. Prior to solicitation:
 - (a) Invitations for bids (IFBs) and requests for proposals (RFPs) when either of these methods of procurement is used.
 - (b) Amendments to the above, to be submitted by the AGENCY prior to distribution.
 - (c) Any specifications, plans, drawings, and quantity figures to be included in the IFBs or RFPs.
 - ii. After solicitation:
 - (a) Unsigned third-party contracts.
 - (b) Copies of selected bids or proposals. (The AGENCY will retain copies of all other bids and proposals received.)

- (c) Lists that include the names of all bidders or proposers, the amount of each bid or the score for each proposal, responsible and responsive determinations, and identification of the selected bids or proposals.
- b. Competitive Procurement: If the AGENCY is not certified in accordance with COMMISSION policy or receives FEDERAL funding through the DEPARTMENT for the procurement, the AGENCY will comply with the following requirements:
 - i. The AGENCY will follow the procedures outlined in the "MDOT Procurement Guidelines," dated February 1, 2011, or as revised for any procurement after February 1, 2011. The procedures can be found at <http://www.michigan.gov/mdotptd> under "Procurement," "Procurement Guidelines." All purchases must comply with federal, state, and local requirements, as applicable.
 - ii. The AGENCY will document how the price was determined to be fair and reasonable for purchases up to Three Thousand Dollars (\$3,000.00) or, as an alternative, will document compliance with the provisions of subsections iii or iv below.
 - iii. The AGENCY will document competitive quotations from an adequate number of qualified sources for purchases up to One Hundred Thousand Dollars (\$100,000.00), except for purchases up to Three Thousand Dollars (\$3,000.00), or, as an alternative, will document compliance with the provisions of subsection iv below.
 - iv. The AGENCY will solicit and advertise for competitive bids/proposals for purchases of One Hundred Thousand Dollars (\$100,000.00) or greater, except for contracts for architectural and engineering services. The AGENCY will ensure that there is an adequate number of qualified bidders/proposers. The AGENCY may award a contract to a responsible proposer other than the lowest in price provided that adequate provision for such action is included in the RFP. Justification for such selection will be provided to the DEPARTMENT prior to the award of the contract.
 - v. The AGENCY will solicit and advertise for proposals from an adequate number of sources to permit reasonable competition for contracts for architectural and engineering services. The AGENCY will use competitive proposal procedures based on the Brooks Act, as defined in 40 USC Part 541, regardless of the dollar amount of the project.

(Please see Section 27 for additional requirements for the Specialized Services Program.)

8. INSPECTION OF PROJECT EQUIPMENT AND RECORDS

The AGENCY will permit the DEPARTMENT, the Comptroller General of the United States, and the Secretary of the US DOT or their authorized representatives, agents, or employees to audit, review, and inspect all equipment purchased as part of the PROJECT, all transportation services rendered by the AGENCY by the use of such equipment, and all relevant PROJECT records. Any approvals, reviews, and inspections of any nature by the DEPARTMENT will not be construed as a warranty or assumption of liability on the part of the DEPARTMENT. It is expressly understood and agreed that any such approvals are for the sole and exclusive purposes of the DEPARTMENT, which is acting in a governmental capacity under this Agreement, and that such approvals are a governmental function incidental to the PROJECT under this Agreement. Such inspection does not relieve the AGENCY of its obligations hereunder, nor is such inspection to be construed as a warranty of the propriety of the equipment, services, or records. The AGENCY will also permit the above referenced persons to audit the books, records, and accounts of the AGENCY pertaining to the PROJECT.

9. DISPOSITION AND USE OF PROJECT EQUIPMENT

The AGENCY agrees that the facility/PROJECT equipment will be used for the provision of public transportation service for the duration of its useful life and, if funded with FEDERAL and DEPARTMENT funds, will be used in accordance with FEDERAL procedures as set forth in Title 49 CFR, Part 18, incorporated herein by reference as if the same were repeated in full herein. If, during the period of its useful life, any facility/PROJECT equipment is not used in said manner or is withdrawn from public transportation service, the AGENCY will immediately notify the DEPARTMENT in writing and will return such facility/PROJECT equipment to the DEPARTMENT in accordance with FEDERAL and/or DEPARTMENT procedures and will convey the title to said equipment to the DEPARTMENT. If FTA-funded real property is no longer needed for any transit purpose, the AGENCY is required to prepare or update an excess real property utilization plan. The plan should identify and explain the reason for the excess property. Unless the FTA and the AGENCY agree otherwise, the excess real property inventory and updated excess property utilization plan should be retained by the AGENCY and made available upon request and during an FTA review.

During the period of this Agreement, the AGENCY will maintain the facility/PROJECT equipment for the period of the useful life of such equipment. Maintenance will conform to the manufacturer's recommendations as to service and service intervals for such equipment. In addition, the AGENCY is required to submit a vehicle maintenance plan or plan revision, as directed by the DEPARTMENT, for review and approval by the DEPARTMENT. This vehicle maintenance plan, at a minimum, will include all of the components listed in the DEPARTMENT's "Preventive Maintenance Manual," dated May 1, 2000, or as revised. If the AGENCY revises its vehicle maintenance plan, said plan will be submitted for review and approval by the DEPARTMENT. The AGENCY will maintain supporting records documenting such maintenance. Representatives of the DEPARTMENT will have the right to conduct periodic inspection for the purpose of

confirming proper maintenance pursuant to this section. Such inspection by the DEPARTMENT does not relieve the AGENCY of its obligations hereunder, nor is such inspection by the DEPARTMENT to be construed as a warranty as to the sufficiency of the maintenance but is undertaken for the sole use and information of the DEPARTMENT. The DEPARTMENT may withhold operating funds from the AGENCY for failure to maintain PROJECT equipment pursuant to this section until such time as the AGENCY meets the proper maintenance requirements as determined by the DEPARTMENT.

Facility/PROJECT equipment purchased under this Agreement may, at the discretion of the DEPARTMENT, be incorporated into a new or consolidated public transportation service at the time such service is implemented.

At such time as the PROJECT equipment has exceeded its useful life, the AGENCY, with prior notification to the DEPARTMENT, will dispose of said equipment in accordance with DEPARTMENT and/or FEDERAL procedures. All proceeds from the disposal of PROJECT equipment will remain with the AGENCY and be used to support the provision of public transportation services.

It is further expressly agreed that it is the intent of the NONURBAN AGENCIES entering into this Agreement to create and give to the DEPARTMENT a security interest in any PROJECT equipment purchased pursuant to the terms of this Agreement. It is expressly agreed that the DEPARTMENT will have and retain a security interest in any PROJECT equipment purchased pursuant to the terms of this Agreement until the terms of this section have been met.

The AGENCY agrees and warrants that it will not allow any encumbrance, lien, security interest, mortgage, or any evidence of indebtedness to attach to or be perfected against any PROJECT equipment until all of its duties, obligations, and responsibilities are satisfied as required herein.

(Please see Section 28 for additional requirements for the Section 5310 Elderly and Persons with Disabilities Program.)

10. INSURANCE

The AGENCY will carry and maintain for the life of the PROJECT equipment, as a minimum, insurance or self insurance as set forth in Exhibit A, dated November 1, 2005, attached hereto and made a part hereof. Insurance payment for loss or damage will be made to the DEPARTMENT. The AGENCY will also provide and maintain public liability and property damage insurance, insuring as they may appear the interests of all parties to this Agreement against any and all claims that may arise out of the AGENCY's operation hereunder, as set forth in Exhibit A.

Agencies receiving operating funds will provide Workers' Compensation Insurance as required by law.

11. INDEMNIFICATION

The AGENCY agrees to indemnify and save harmless the STATE, the COMMISSION, the DEPARTMENT, and/or the FEDERAL agency and all officers, agents, and employees thereof:

- a. From any and all claims by persons, firms, or corporations for labor, services, materials, or supplies provided to the AGENCY in connection with this Agreement; and
- b. From any and all claims for injuries to or death of any and all persons, for loss of or damage to property, for environmental damage, degradation, and response and cleanup costs, and for attorney fees and related costs arising out of, under, or by reason of this Agreement, except claims resulting from the sole negligence or willful acts or omissions of said indemnitee, its agents, or its employees.

The DEPARTMENT will not be subject to any obligations or liabilities by contractors of the AGENCY or their subcontractors or any other person not a party to the Agreement 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 AGENCY will take no action or conduct that arises either directly or indirectly out of its obligations, responsibilities, and duties under this Agreement that results in claims being asserted against or judgments being imposed against the STATE, the COMMISSION, the DEPARTMENT, and/or the FEDERAL agency.

In the event that the same occurs, it will be considered as a breach of this Agreement, thereby giving the STATE, the COMMISSION, the DEPARTMENT, and/or the FEDERAL agency a right to seek and obtain any necessary relief or remedy, including, but not limited to, a judgment for money damages.

12. ACCOUNTING RECORDS AND DOCUMENTATION

With regard to audits and record-keeping, the AGENCY will:

- a. 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 Agreement and/or any PROJECT AUTHORIZATION, said records to be hereinafter referred to as the "RECORDS." Separate accounts will be established and maintained for all costs incurred for each PROJECT AUTHORIZATION under this Agreement.

- b. Comply with the Single Audit Act of 1984, as amended, including, but not limited to, the Single Audit Amendments of 1996 (31 United States Code (USC) 7501-7507).
- c. Comply with the requirements of the federal OMB Circular A-133, as revised or amended.
 - i. Agencies expending a total of Five Hundred Thousand Dollars (\$500,000.00) or more in FEDERAL funds from one or more funding sources in their fiscal year will submit two (2) copies to the address in part ii below:
 - The Reporting Package
 - The Data Collection Form
 - The audit firm management letter to the agency

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.

- ii. Agencies expending more than One Dollar (\$1.00) but less than Five Hundred Thousand Dollars (\$500,000.00) in FEDERAL funds must submit a letter to the DEPARTMENT advising that an OMB Circular A-133 audit was not required. The letter will 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.

Address: Michigan Department of Transportation
Passenger Transportation
Mail Code B425
P.O. Box 30050
Lansing, MI 48909

- iii. Agencies must also comply with applicable STATE laws and regulations relative to audit requirements.
- iv. Agencies will not charge audit costs to the DEPARTMENT's federal programs that are not in accordance with the aforementioned OMB Circular A-133 requirements.
- v. All agencies are subject to the federally-required monitoring activities, which may include limited scope reviews and other on-site monitoring.

- d. Maintain the RECORDS for at least three (3) years from the date of final payment made by the DEPARTMENT under this Agreement and any PROJECT AUTHORIZATION. In the event of a dispute with regard to the allowable expenses or any other issue under this Agreement or any PROJECT AUTHORIZATION, the AGENCY will 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.
- e. Allow the DEPARTMENT or its representative to inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.
- f. Assure compliance with subsections (a), (b), (c), (d), and (e) above for all subcontracted work.

(Please see Section 27 for additional requirements for the Specialized Services Program.)

13. BILLINGS AND PAYMENTS FOR CAPITAL PROGRAMS

The AGENCY may make requests for payment of allowable PROJECT costs for capital programs. In order for the AGENCY to receive payments from the DEPARTMENT, the following conditions must be met:

- a. The AGENCY must provide a cover letter requesting reimbursement for any eligible PROJECT costs. The cover letter will include the agreement and PROJECT AUTHORIZATION numbers, the payment request number, identification of the payment as a partial payment or a final payment, the amount to be reimbursed, and, if applicable, the third-party contract number. If the request is for reimbursement for (a) replacement vehicle(s), the AGENCY will include in the cover letter the identification number(s) of the vehicle(s) to be replaced.
 - i. The AGENCY will submit a budget summary showing PROJECT costs to date and current billings against individual budget items as shown in the PROJECT AUTHORIZATION.
 - ii. NONURBAN AGENCIES will submit required supporting documentation for each billing as set forth in the Procurement Guidelines for Grantees found at <http://www.michigan.gov/mdotptd>.
 - iii. Prior to requesting reimbursement for a revenue vehicle, the AGENCY will enter the required vehicle information into its vehicle inventory in the Public Transportation Management System, hereinafter referred to as "PTMS."
 - iv. When requesting reimbursements for vehicles purchased under the local purchase process, the AGENCY must follow the procedures outlined in

the "Guidelines for Local Vehicle Purchase on State Administered Grants," dated November 9, 2009, or as revised. The guidelines are available at <http://www.michigan.gov/mdotptd> under "Procurement," "State Vehicle Contracts and Procurement," "Local Purchase."

- v. When requesting reimbursements for vehicles purchased under the STATE's MiDEAL Purchasing Program (Extended Purchase), the AGENCY must follow the procedures outlined in the "Guidelines for MiDEAL Purchasing Programs (Vehicles)," dated March 4, 2010, or as revised. The guidelines can be found at <http://www.michigan.gov/mdotptd> under "Procurement," "State Vehicle Contracts and Procurement," "MiDEAL (Extended) Purchasing Program."
 - vi. The DEPARTMENT reserves the right to verify progress of work and/or delivery of products to the AGENCY by visual inspection.
 - vii. When requesting reimbursements for vehicles under a lease/purchase agreement, the AGENCY will submit a copy of the lease/purchase agreement with the first payment request.
- b. Within sixty (60) days after PROJECT completion or termination, the AGENCY will submit to the DEPARTMENT a billing designated as Final Billing to be charged against the PROJECT AUTHORIZATION. Upon written request by the AGENCY to the DEPARTMENT within the sixty (60) day period, which request will include documentation of the circumstances that prevent timely submission of all billings that support the final billing, the DEPARTMENT may, in writing, extend the sixty (60) day period to a date certain. If the AGENCY fails to provide all billings and supporting documentation for the final billing sixty (60) days after the date of PROJECT completion or termination or before or upon the extended date certain established by the DEPARTMENT, the DEPARTMENT may elect not to accept any further billings, regardless of whether or not the costs are otherwise allowable under the Agreement.

Funds administered by the DEPARTMENT as specified in PROJECT AUTHORIZATION(S) will be payable by the DEPARTMENT to the AGENCY.

14. BILLINGS, PAYMENTS, AND QUARTERLY REPORTS FOR OPERATING PROGRAMS

The AGENCY may make requests for payment of eligible PROJECT costs for operating programs. In order for the AGENCY to receive payments from the DEPARTMENT, the following conditions must be met:

- a. The AGENCY must prepare and furnish to the DEPARTMENT quarterly operating assistance reports; a copy of the report form and access to PTMS can be found at www.michigan.gov/mdotptms. Said reports are due within forty (40)

days after the end of each fiscal year quarter. The DEPARTMENT may withhold operating funds from the AGENCY for failure to provide a quarterly operating assistance report until such time as the AGENCY provides the report.

- b. One-fourth (1/4) of the funds to be provided by the STATE and/or STATE administered FEDERAL funds may be advanced to the AGENCY when the following conditions are met:
 - i. DEPARTMENT award of this Agreement.
 - ii. Award of FEDERAL revenue grant, if applicable.
 - iii. DEPARTMENT award of PROJECT AUTHORIZATION.
 - iv. DEPARTMENT approval and receipt of executed third-party contracts, if applicable.
 - v. DEPARTMENT receipt of reports due from the previous fiscal year.
- c. Up to one-fourth (1/4) of the funds provided by the STATE and/or STATE administered FEDERAL funds set forth in the PROJECT AUTHORIZATION will be payable at the end of each quarter contingent upon the receipt of any outstanding reports from the previous quarter as required by this Agreement.

The DEPARTMENT may appropriately reduce a subsequent payment if a quarterly report submitted by the AGENCY as required under this Agreement indicates that the level of service is lower than budgeted. Upon receipt of the fourth quarterly report, reconciliation will be made of any remaining funds.

(Please see Section 26 for additional requirements for the Section 5311 Nonurbanized Area Formula Operating Program.)

15. AUDIT

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

Within sixty (60) days after the date of the Notice of Audit Results, the AGENCY will (a) respond in writing to the responsible bureau of 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 will be clearly stated and will provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the AGENCY may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE will refer to and apply the language of the Agreement. The AGENCY 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 will 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 AGENCY, the AGENCY will 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 AGENCY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the AGENCY agrees that the DEPARTMENT will deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the AGENCY under this Agreement or any other agreement or payable to the AGENCY 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 AGENCY 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 AGENCY in a timely filed RESPONSE.

16. ACCESS

The AGENCY agrees to provide to the DEPARTMENT copies of all reports and data specified in each PROJECT AUTHORIZATION. The AGENCY further agrees to provide the DEPARTMENT access to all technical data, reports, other documents, and work in process pertaining to any PROJECT. Copies of technical data, reports, and other documents will be provided by the AGENCY upon the request from the DEPARTMENT and/or the FEDERAL agency.

17. TERMINATION OR SUSPENSION

For any reason, the DEPARTMENT or the AGENCY may, by thirty (30) day written notice or as otherwise specified in the PROJECT AUTHORIZATION, suspend any or all

of the rights and obligations under this Agreement or any PROJECT AUTHORIZATION until such time as the event or condition resulting in such suspension has ceased or been corrected.

For any reason, the DEPARTMENT may, by thirty (30) days written notice to the AGENCY, or as otherwise specified in the PROJECT AUTHORIZATION, terminate any or all of the rights and obligations under this Agreement or any PROJECT AUTHORIZATION.

Upon receipt of any notice of termination or suspension of a PROJECT under this section and in accordance with DEPARTMENT procedures, the AGENCY will proceed promptly to carry out the actions required therein, which may, without limitation, include any or all of the following:

- a. Take all necessary action to keep to a minimum the further incurrence of eligible PROJECT costs.
- b. Furnish to the DEPARTMENT a statement of the status of the PROJECT, the inventory, and the PROJECT costs to date, as well as a proposed schedule, plan, and budget for terminating or suspending and closing out PROJECT activities and contracts, and other undertakings, the costs of which are otherwise eligible as PROJECT costs. The closing out will be carried out in conformity with the latest schedule, plan, and budget approved by the DEPARTMENT or under the terms and conditions imposed by the DEPARTMENT for failure of the AGENCY to furnish a schedule, plan, and budget within a reasonable time. The closing out of DEPARTMENT financial participation in the PROJECT will not constitute a waiver of any claim the DEPARTMENT may otherwise have arising out of this Agreement.
- c. For all PROJECTS containing FEDERAL funds, the AGENCY must also comply with FEDERAL procedures as set forth in Title 49 CFR, Part 18.

18. NONDISCRIMINATION AND DISADVANTAGED BUSINESS ENTERPRISE

- a. In connection with the acceptance of this Agreement, the AGENCY (hereinafter in Appendix A referred to as the "contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix A, dated June 2011, attached hereto and made a part hereof. The AGENCY further covenants that it will comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of the PROJECT for which this Agreement is made.
- b. During the performance of this Agreement, the AGENCY, for itself, its assignees, and its successors in interest (hereinafter in Appendix B referred to as the

“contractor”) agrees to comply with the Civil Rights Act 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 US DOT (Title 49 CFR, Part 21) issued pursuant to said Act, including Appendix B, dated June 2011, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to this Agreement.

- c. The AGENCY will carry out the applicable requirements of the DEPARTMENT’s Disadvantaged Business Enterprise (DBE) program and Title 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C, dated October 1, 2005, with regard to its contracting opportunities. The AGENCY’s contracting opportunities include the purchase of any items and the undertaking of any construction projects except transit vehicles or land acquisition, respectively.

When an AGENCY reaches the FEDERAL threshold of Two Hundred Fifty Thousand Dollars (\$250,000.00) per FEDERAL fiscal year on FEDERAL funds administered by the DEPARTMENT, the DEPARTMENT will notify the AGENCY if it is required to submit its quarterly DBE Accomplishments to the DEPARTMENT for these FEDERAL funds. Transit vehicles and land acquisitions are exempt from this Two Hundred Fifty Thousand Dollar (\$250,000.00) threshold. Failure to comply with Title 49 CFR, Part 26, will result in the withholding of FEDERAL funds administered by the DEPARTMENT.

- d. Agencies that direct reports to the FTA for the purposes of the DBE Program are required to provide copies of their FTA DBE participation reports on a semi-annual basis to the DEPARTMENT.

19. UNFAIR LABOR PRACTICES

In accordance with 1980 PA 278, MCL 423.321 *et seq.*, MSA 17.458(22) *et seq.*, the AGENCY, in the performance of this Agreement, will not enter into a contract with a subcontractor, manufacturer, or supplier listed in the register maintained by the United States Department of Labor of employers who have been found in contempt of court by a federal court of appeals on not less than three (3) separate occasions involving different violations during the preceding seven (7) years for failure to correct an unfair labor practice, as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 USC 158. The DEPARTMENT may void this Agreement if the name of the AGENCY or the name of a subcontractor, manufacturer, or supplier utilized by the AGENCY in the performance of this Agreement subsequently appears in the register during the performance period of this Agreement. The website for the register is <http://epls.arnet.gov/>.

20. CERTIFICATION

For any PROJECT AUTHORIZATION in excess of One Hundred Thousand Dollars (\$100,000.00) of FEDERAL funds, the AGENCY certifies to the best of its knowledge and belief that:

- a. No FEDERAL appropriated funds have been paid or will be paid by or on behalf of the AGENCY to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any FEDERAL contract, the making of any FEDERAL grant, the making of any FEDERAL loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any FEDERAL contract, grant, loan, or cooperative agreement.
- b. If any funds other than FEDERAL appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee or a member of Congress in connection with this grant, the AGENCY will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," pursuant to Section 1352, Title 31 USC, in accordance with its instructions.
- c. The AGENCY will require that the language of this certification be included in the award documents for all third-party agreements (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients will certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31 USC. Any person who fails to file the required certification will be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00) for each such failure.

21. PROMPT PAYMENT

The AGENCY agrees to pay each subcontractor for the satisfactory completion of work associated with the subcontract no later than ten (10) calendar days from the receipt of each payment the AGENCY receives from the DEPARTMENT. This requirement is also applicable to all sub-tier subcontractors and will be made a part of all subcontract agreements.

This prompt payment provision is a requirement of Title 49 CFR, Part 26.29, and does not confer third-party beneficiary right or other direct right to a subcontractor against the DEPARTMENT. This provision applies to both DBE and non-DBE subcontractors.

22. INTEREST OF MEMBERS OF OR DELEGATES TO CONGRESS

No member of or delegate to the Congress of the United States will be admitted to any share or part of this Agreement or to any benefit arising therefrom.

23. PROHIBITED INTEREST

No member, officer, or employee of the AGENCY, during his/her tenure or one (1) year thereafter, will have any interest, direct or indirect, in this Agreement or the proceeds thereof.

24. POLITICAL ACTIVITY

None of the funds, the facilities, or the PROJECT equipment provided in any PROJECT AUTHORIZATION under this Agreement will be used for any partisan political or millage activity or to further the election or defeat of any candidate for public office.

25. ASSIGNMENT OF ANTITRUST RIGHTS

With regard to claims based on goods or services that were used to meet the AGENCY's obligation to the DEPARTMENT under this Agreement, the AGENCY hereby irrevocably assigns its right to pursue any claims for relief or causes of action for damages sustained by the STATE or the DEPARTMENT due to any violation of 15 USC, Sections 1 – 15, and/or 1984 PA 274, MCL 445.771 - .788, excluding Section 4a, to the STATE or the DEPARTMENT.

The AGENCY shall require any subcontractors to irrevocably assign their rights to pursue any claims for relief or causes of action for damages sustained by the STATE or the DEPARTMENT with regard to claims based on goods or services that were used to meet the AGENCY's obligation to the DEPARTMENT under this Agreement due to any violation of 15 USC, Sections 1 – 15, and/or 1984 PA 274, MCL 445.771 - .788, excluding Section 4a, to the STATE or the DEPARTMENT as a third-party beneficiary.

The AGENCY shall notify the DEPARTMENT if it becomes aware that an antitrust violation with regard to claims based on goods or services that were used to meet the AGENCY's obligation to the DEPARTMENT under this Agreement may have occurred or is threatened to occur. The AGENCY shall also notify the DEPARTMENT if it becomes aware of any person's intent to commence, or of commencement of, an antitrust action with regard to claims based on goods or services that were used to meet the AGENCY's obligation to the DEPARTMENT under this Agreement.

26. ADDITIONAL REQUIREMENTS FOR THE SECTION 5311 NONURBANIZED AREA FORMULA OPERATING PROGRAM

Billings, payments, and quarterly reports for the Section 5311 Nonurbanized Area Formula Operating Program agreements will be processed in accordance with the following:

- a. At least one-twelfth (1/12) of the PROJECT AUTHORIZATION amount will be withheld until the annual operating assistance report has been approved by the DEPARTMENT via PTMS. Upon approval of the annual operating assistance report, reconciliation will be made of any remaining funds.
- b. Upon completion of the final determination for each of the agencies participating in this Section 5311 Nonurbanized Area Formula Operating Program, the DEPARTMENT will perform a final accounting of this Agreement. If it is found that the percent of the cumulative actual eligible costs exceeds the amount of FEDERAL funds available for that purpose for that fiscal year and sufficient FEDERAL operating funds are not available in the next fiscal year to offset the shortage, a new percentage will be calculated. This new percentage will be calculated by dividing the total FEDERAL funds available for that period and purpose by the total of the actual eligible costs of all the participating agencies. Any agency that has already received payments in a total amount that exceeds the new percentage of its actual eligible costs calculated pursuant to this paragraph will repay the excess to the DEPARTMENT. If, within sixty (60) days after written notification of the overpayment is sent to the AGENCY, arrangements to refund said monies have not been made, the DEPARTMENT may withhold monies from any present or future contracts and/or from distributions to be made to the AGENCY pursuant to statute and may pursue any other available remedy to recover the overpayment. The AGENCY will be responsible for all costs in excess of FEDERAL and DEPARTMENT funding.

27. ADDITIONAL REQUIREMENTS FOR THE SPECIALIZED SERVICES PROGRAM

a. BUDGET ADJUSTMENTS

In addition to the requirements in Section 5, the recipients listed in the PROJECT AUTHORIZATION must request in writing, with the AGENCY and the COORDINATING COMMITTEE jointly agreeing on the request, to adjust funds from one recipient to another.

b. REIMBURSEMENTS

Actual reimbursement will be based on a rate per mile or one-way passenger trip of SPECIALIZED SERVICES up to the maximum amount provided in the PROJECT AUTHORIZATION.

c. **THIRD-PARTY CONTRACT PROCEDURES**

The AGENCY is exempt from the competitive bidding requirements outlined in Section 7 if the recipients listed in the PROJECT AUTHORIZATION are identified in the AGENCY's application to the DEPARTMENT and are nonprofit corporations organized under the nonprofit corporation act, Act 162 of the Public Acts of 1982, and eligible authorities and eligible governmental agencies as defined in Act 51 of the Public Acts of 1951, as amended. Services provided by for-profit organizations are subject to competitive bidding requirements.

d. **ACCOUNTING RECORDS AND DOCUMENTATION**

In addition to the requirements in Section 12:

- i. The AGENCY will assure that records are established and maintained to support the miles traveled and the passengers carried as reported.
- ii. Agencies and subrecipients will use the "Specialized Services Manual," effective October 1, 2007, or as revised. This document may be found at www.michigan.gov/mdotptd under "Resources," "Audit/Accounting Information."

28. ADDITIONAL REQUIREMENTS FOR THE SECTION 5310 ELDERLY AND PERSONS WITH DISABILITIES PROGRAM

a. **DISPOSITION AND USE OF PROJECT EQUIPMENT**

In addition to the requirements in Section 9:

The AGENCY agrees that the facility/PROJECT equipment will be used for the provision of public transportation service primarily for the elderly and persons with disabilities for the duration of its useful life and in accordance with FTA procedures as set forth in Title 49 CFR, Part 19, incorporated herein by reference as if the same were repeated in full herein.

b. **LEASE OF PROJECT EQUIPMENT**

The AGENCY may lease the PROJECT equipment to any other agency with the prior written approval of the DEPARTMENT and the FTA. The AGENCY will maintain or require the lessee to maintain the insurance provisions of Section 10 above. Any such lease will contain all applicable provisions of this Agreement.

29. CONFLICT

In case of any discrepancies between the body of this Agreement and any attachments hereto, the body of this Agreement will govern. In case of any discrepancy between the body of this Agreement and any PROJECT AUTHORIZATION hereof, the body of this Agreement will govern.

30. TERM OF AGREEMENT

The effective date of this Agreement is October 1, 2011, and the Agreement will continue in effect until the last obligation between the parties under this Agreement has been fulfilled. The Agreement will include PROJECT AUTHORIZATIONS for program years 2012 through 2016.

When the funding of a PROJECT AUTHORIZATION under this Agreement is contingent upon the award of the matching FEDERAL grant for DEPARTMENT and FTA funds, the DEPARTMENT will allow costs to be incurred for PROJECTS in advance of FEDERAL and DEPARTMENT approval to be apportioned in fiscal years 2012-2016, including carryover amounts, subject to allowance by the FEDERAL agency and the following: (1) use of this pre-award spending authority must meet all of the conditions and requirements as may be set forth in the Federal Register, and (2) costs incurred for the PROJECT that are not approved by the FEDERAL agency or the DEPARTMENT will not be eligible for reimbursement and will remain the responsibility of the AGENCY.

When a PROJECT AUTHORIZATION contains only STATE funds or only STATE and local funds, the DEPARTMENT will allow costs to be incurred by the AGENCY for the PROJECT prior to award of the PROJECT AUTHORIZATION. If costs are incurred for a PROJECT that are not approved by the DEPARTMENT, those costs will not be eligible for reimbursement and will remain the responsibility of the AGENCY. If for any reason the PROJECT AUTHORIZATION does not get awarded, the DEPARTMENT will not be responsible for expenses that have been incurred.

The DEPARTMENT will not pay or be responsible for any costs incurred by the AGENCY subsequent to the expiration of the PROJECT AUTHORIZATION.

PROJECT AUTHORIZATIONS may be issued under this Agreement beginning October 1, 2011. The term for a PROJECT AUTHORIZATION will be indicated on that PROJECT AUTHORIZATION.

31. SIGNING

This Agreement will become binding on the parties upon signing by the duly authorized officials for the AGENCY and for the DEPARTMENT and upon the adoption of a resolution approving this Agreement and authorizing the signature(s) hereto of the respective official(s) of the AGENCY. A certified copy of the Agreement resolution must be provided to the DEPARTMENT.

Prior to award of any PROJECT AUTHORIZATION, a certified copy of a resolution must be provided to the DEPARTMENT approving the PROJECT AUTHORIZATION and authorizing the signature(s) of the respective official(s) of the AGENCY. In lieu of individual resolutions for each PROJECT AUTHORIZATION, the AGENCY may elect to provide authority to sign the PROJECT AUTHORIZATION as a part of the Agreement resolution.

IN WITNESS WHEREOF, the parties have caused this Agreement to be awarded.

OTTAWA COUNTY BOARD OF COMMISSIONERS

By: _____
Title:

By: _____
Title:

MICHIGAN DEPARTMENT OF TRANSPORTATION

By: _____
Title: Department Director

November 1, 2005

EXHIBIT A INSURANCE REQUIREMENTS

All insurance coverage provided relative to this Contract is primary and none contributing to any comparable insurance (including self-insurances) carried by the STATE. The AGENCY also agrees to provide evidence that all applicable insurance policies contain a waiver of subrogation by the insurance company.

The AGENCY will comply with the following insurance requirements as applicable:

1. Vehicle Insurance

- a. Motor vehicle insurance as required by P.A. 218 of 1956, as amended by P.A. 294 of 1972, the Michigan No-Fault Insurance Law.
 - i. Personal Injury Protection (PIP) as required by MCL 500.3101(1).
 - ii. Property Protection Insurance (PPI) as required by MCL 500.3101(1).
 - iii. Residual Liability Insurance as required by MCL 500.3101(1).
 - iv. Self-insurance may be utilized provided the appropriate coverage, limits, and Secretary of State certification is provided. A One Million Dollar (\$1,000,000) minimum per occurrence limit should be carried.
- b. Collision coverage as provided in P.A. 218 of 1956, MCL 500.3037 and comprehensive coverage as provided in P.A. 218 of 1956, MCL 500.2102 shall be carried. Both collision coverage and comprehensive coverage will be for the actual cash value of the vehicle. The amount of deductible for collision coverage and comprehensive coverage will be determined by the AGENCY and will be payable by the AGENCY. The AGENCY with prior STATE approval may self-insure the collision and comprehensive coverage.
- c. The coverage specified above will name the AGENCY and the STATE as the insured.
- d. Before starting work, the AGENCY will give the STATE a certificate of insurance certifying that at least the minimum coverage required herein are in effect and specifying that the coverage will not be canceled, non-renewed, or materially changed by endorsement or through issuance of other policy(ies) of insurance without thirty (30) days advance written notice to the STATE. Renewals will be procured at least thirty (30) days prior to expiration of said policies.

2. Facility and/or Equipment Insurance (Non-vehicle) and Bonds

a. Insurance - During the term of this Agreement, the AGENCY will:

- i. Keep all buildings, improvements, and equipment in, on, or appurtenant to the transportation facility or premises at the commencement of construction and thereafter, including all alterations, building, rebuilding, replacements, changes, additions, and all improvements, insured against loss, and all perils, in an amount not less than ninety percent (90%) of the full replacement value thereof with a deductible not to exceed Ten Thousand Dollars (\$10,000). The AGENCY will be responsible for the payment of any deductible. The AGENCY will maintain an annual inventory of all equipment purchased under this Agreement with current dollar values.
- ii. Provide Commercial General Liability Insurance covering all operations by or on behalf of AGENCY against claims for personal injury (including bodily injury and death) and property damage in the minimum amount of One Million Dollars (\$1,000,000) each occurrence, and Two Million Dollars (\$2,000,000) general aggregate.
- iii. Before starting work, the AGENCY will give the STATE a certificate of insurance certifying that at least the minimum coverage required herein is in effect and specifying that the coverage will not be canceled, non-renewed, or materially changed by endorsement or through issuance of other policy(ies) of insurance without thirty (30) days advance written notice to the STATE. Renewals will be procured at least thirty (30) days prior to expiration of said policies.

b. Bonds

The AGENCY will require the successful bidder to procure and deliver to the AGENCY a Performance Bond and a Lien Bond each in an amount equal to the Agreement price, underwritten by a surety licensed to do business in Michigan, naming the AGENCY as the obligee. Such bonds will be delivered to the AGENCY prior to any construction work being performed.

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

(Revised October 1, 2005)

APPENDIX C

Assurances 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, subrecipient 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.