

EATON COUNTY BOARD OF COMMISSIONERS
WEDNESDAY, FEBRUARY 15, 2023 AGENDA

- I. Call to Order – 7:00 p.m.
- II. Pledge of Allegiance to the Flag
- III. Invocation
- IV. Roll Call
- V. Agenda Additions or Changes
- VI. Approval of Minutes of January 3, 2023 and January 18, 2023
- VII. Communications
- VIII. Presentation: Greater Lansing Food Bank, Michelle Lantz
- IX. Limited Public Comment
- X. COMMITTEE REPORTS AND RESOLUTIONS
 - A. HEALTH AND HUMAN SERVICES COMMITTEE – Commissioner Lautzenheiser
 - B. PUBLIC SAFETY COMMITTEE – Commissioner Barnes
 - C. INFORMATION TECHNOLOGY & COMMUNICATION COMMITTEE – Commissioner Droscha
 - D. PUBLIC WORKS AND PLANNING COMMITTEE – Commissioner Rogers
 - 1. American Airlines Slot Exemption Letter of Support
 - E. WAYS & MEANS COMMITTEE - Commissioner Mulder
 - 1. Resolution to Approve Youth Facility Construction Design Plan
 - 2. Resolution to Approve FY 2023 Budget Amendments
 - 3. Resolution to Approve FY 2023 Budget Schedule
 - 4. Claims and Purchases
 - 5. Resolution to Approve Sustainability Plan
 - 6. Broadband ROBIN Grant Letter of Support
- XI. Limited Public Comment
- XII. Commissioner Comment
- XIII. Unfinished Business
- XIV. Old Business
- XV. New Business
 - 1. Closed Session - To Consult with Legal Counsel related to COAM Collective Bargaining Unit Request (15.268(c))
- XVI. Adjourn to Wednesday, March 15, 2023 regular meeting at 7:00 p.m.

EATON COUNTY BOARD OF COMMISSIONERS
JANUARY 3, 2023
ORGANIZATIONAL MEETING

The Eaton County Board of Commissioners met in organizational session on Monday, January 3, 2023.

County Clerk Diana Bosworth called the meeting to order at 7:00 p.m.

Pledge of Allegiance was given by all.

Invocation was given by Commissioner Lautzenheiser.

Oath of Office was recited by all Commissioners and given by Clerk Bosworth.

Roll call. Commissioners present: Tim Barnes, Blake Mulder, Terrance Augustine, Brandon Haskell, Jeanne Pearl-Wright, Trevor Youngquist, Mark Mudry, Joseph Brehler, Brian Droscha, Jacob Toomey, Scott Hansen, Brian Lautzenheiser, Jim Mott, Frank Holmes, Barbara Rogers. Commissioners absent: none.

Clerk Bosworth opened the floor for nominations for Chairperson of the Board.

Commissioner Barnes nominated Commissioner Mott for Chairperson of the Board of Commissioners for the two-year term 2023-2024. Seconded by Commissioner Droscha.

Clerk Bosworth asked for any further nominations. There were no other nominations.

Commissioner Mulder moved that the nominations be closed and a unanimous ballot be cast for Commissioner Mott for the next two years. Seconded by Commissioner Pearl-Wright. Motion carried unanimously and was adopted.

Chairperson Mott was given the Chairman's Oath of Office. Clerk Bosworth turned the meeting over to Chairperson Mott.

Chairperson Mott asked for nominations for Vice-Chairperson of the Board for 2023.

Commissioner Mulder nominated Commissioner Rogers for Vice Chairperson of the Board of Commissioners for 2023. Seconded by Commissioner Droscha. There were no other nominations.

Commissioner Lautzenheiser moved that the nominations be closed and a unanimous ballot be cast for Commissioner Rogers for Vice Chairperson of the Board for 2023. Seconded by Commissioner Augustine. Motion carried unanimously and was adopted.

Vice-Chairman was given the Oath of Office by Clerk Bosworth.

Chairman Mott appointed the following commissioners to the Committee on Committees – Chairman Mott, Commissioners Augustine, Brehler, Mulder and Rogers.

Chairman Mott recessed the meeting at 7:05 p.m. for a Committee on Committees meeting.

Chairman Mott reconvened the meeting at 7:21 p.m.

Commissioner Augustine moved to accept the 2023 Committee assignments as distributed including that the members appointed to the Solid Waste Review Committee will be Commissioners Droscha and Brehler. (On file)
Seconded by Commissioner Pearl-Wright. Carried unanimously.

Commissioner Augustine moved the approval of meeting dates and times for the Board of Commissioners and Committees assignments for 2023.
Seconded by Commissioner Pearl-Wright. Carried unanimously.

Commissioner Mulder moved the approval of proposed changes to the County Rules of Procedure of the Board of Commissioners regarding public comment and livestreaming meetings. (On file). Seconded by Commissioner Lautzenheiser.
Discussion held.
Nays: Commissioners Brehler, Haskell and Youngquist. Motion Carried.

Commissioner Lautzenheiser disclosed that occasionally he has clients including EATRAN, who do business with the County. Should this occur he will disclose it to the Board.

Commissioner Brehler moved the approval of #23-1-1 Resolution to Allow County Treasurer to Deposit and Withdraw Funds.

At an organizational meeting of the Board of Commissioners of the County of Eaton, held on January 3, 2023 at 7:00 P.M.

WHEREAS, under the laws of the State of Michigan, Act No. 40 of the Michigan Public Acts of 1932, 1st Extra Session, as amended (MCL 129.12), this Board is required to provide, by resolution, for the deposit of all public monies, including tax monies, belonging to, or held for, the State, County or other political units coming into the hands of the County Treasurer, in one or more banks, savings and loan associations or credit unions within the State.

THEREFORE BE IT RESOLVED as follows:

- (1) the Eaton County Board of Commissioners hereby directs Robert A. Robinson Eaton County Treasurer, to deposit all public monies, including monies and funds held for the State Board of Escheats or missing heirs, coming into his hands as Treasurer in any bank, savings and loan association or credit union within the State which is a legal depository as defined by State and/or Federal Law.
- (2) the Treasurer is authorized to invest funds with these institutions or any institution legally permitted by State statute Act No. 20 of the Michigan Public Acts of 1942, as amended (MCL 129.91), Public Act 342 of 1965, as amended by Public Act 149 of 1999 or Federal law or regulation within the limits set therein, and
- (3) the Treasurer is authorized to enter into and execute on behalf of the County, contracts with any bank or trust company for the safekeeping or third party

custodianship of any of the County's securities as well as any contracts or repurchase agreements with any corporation for the purchase of any such securities which will be the subject of such safekeeping or third party custodianship arrangements, on such terms and conditions as the County Treasurer shall require, and

(4) the County Treasurer is authorized to rely on the continuing effect of these Resolutions until amended or repealed by a subsequent resolution of this or a successor Board of Commissioners.

(5) the County Treasurer is authorized to withdraw investments and deposit into the County General Checking or other County accounts in order to maintain an adequate cash reserve for anticipated expenditures

Seconded by Commissioner Droscha Carried unanimously.

Commissioner Augustine moved the approval of #23-1-2 Resolution to Defer Property Tax Payments for Senior Citizens and Other Qualified Individuals.

BE IT RESOLVED that the Eaton County Board of Commissioners extend the date for payment of the 2022 taxes for Senior Citizens and Other Individuals who qualify under the General Property Tax Act being Section 211.59 (3) until April 30, 2023 without penalties and interest. Provided claimant presents a copy of the form filed for that purpose to the County Treasurer. Carried unanimously.

Seconded by Commissioner Droscha. Carried unanimously.

Public Comment: Bruce Barlund, Dimondale, stated his concerns regarding County spending/funding allocations.

Chairperson Mott recessed the meeting at 7:35 p.m. until January 18, 2023 at 7:00 p.m.

Chairperson of the Board of Commissioners

Clerk of the Board of Commissioners

EATON COUNTY BOARD OF COMMISSIONERS
JANUARY 18, 2023

The Eaton County Board of Commissioners met in regular session at the County Facilities, in the City of Charlotte, Wednesday, January 18, 2023 including the availability of virtual participation by the public.

Chairman Mott called the meeting to order at 7:00 p.m.

The Pledge of Allegiance to the Flag was given by all.

Commissioner Mudry gave the invocation.

Roll call. Commissioners present: Tim Barnes, Blake Mulder, Terrance Augustine, Brandon Haskell, Jeanne Pearl-Wright, Trevor Youngquist, Mark Mudry, Joseph Brehler, Brian Droscha, Jacob Toomey, Scott Hansen, Frank Holmes, Barbara Rogers and Jim Mott.

Commissioners absent: Brian Lautzenheiser.

Commissioner Youngquist requested an addition to New Business: Resolution to Proclaim February 2023 as Black History Month in Eaton County; Commissioner Mulder requested an addition to the Ways and Means Committee Report: Item #7 – MDHHS Grant Agreement Raise the Age – Juvenile Court Project letter regarding the Eaton County Youth Facility Expansion.

Commissioner Brehler moved the approval of the agenda as amended. Seconded by Commissioner Augustine. Carried unanimously.

Communications: Resolution from the Alcona County Board of Commissioners in support for Economic Impact Study of Consumers Energy Dams. Resolution from Branch County Board of Commissioners regarding Prairie River Reclassification.

Commissioner Brehler moved the approval of #23-1-3 Resolution of Appreciation for Daniel Fillion Sheriff's Department.

WHEREAS, Daniel Fillion will be retiring from Eaton County on January 31, 2023 after 25 years of service; and

WHEREAS, Daniel worked in Sheriff's Department from December 15, 1997; until his retirement; and

WHEREAS, Daniel has provided dedicated and honorable service to the residents and employees of Eaton County; and

WHEREAS, the Eaton County Board of Commissioners seeks to recognize and express appreciation for Daniel's years of public service.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners does hereby thank Daniel for years of exceptional service to Eaton County and expresses its best wishes to him in the next chapter of his life; and

BE IT FURTHER RESOLVED, that this resolution of appreciation and support be duly recorded and attached to the permanent records of the County on this 18th day of the month of January in the year 2023.

Seconded by Commissioner Pearl-Wright. Carried unanimously.

Public Comment: Eaton County Facility Manager Chad Powers introduced himself to the Board along with his Custodial Services Supervisor, Amy Sears.

Controller Sobie introduced the staff of the Controller's Office to the Board, and described each employee's role in the office.

Commissioner Mulder moved the approval of #23-1-4 Resolution to approve 2023 Borrowing Resolution (2022 Delinquent Taxes).

WHEREAS, ad valorem real property taxes are imposed by the County and the local taxing units within the County on July 1 and/or December 1 of each year; and

WHEREAS, a certain portion of these taxes remain unpaid and uncollected on March 1 of the year following assessment, at which time they are returned delinquent to the County's treasurer (the "Treasurer"); and

WHEREAS, the Treasurer is bound to collect all delinquent taxes, interest and property tax administration fees which would otherwise be payable to the local taxing units within the County; and

WHEREAS, the statutes of the State of Michigan authorize the County to establish a fund, in whole or in part from borrowed proceeds, to pay local taxing units within the County their respective shares of delinquent ad valorem real property taxes in anticipation of the collection of those taxes by the Treasurer; and

WHEREAS, the County Board of Commissioners (the "Board") has adopted a resolution authorizing the County's 100% Tax Payment Fund (the "Revolving Fund Program"), pursuant to Section 87b of Act No. 206, Michigan Public Acts of 1893, as amended ("Act 206"); and

WHEREAS, such fund has been established to provide a source of monies from which the Treasurer may pay any or all delinquent ad valorem real property taxes which are due the County,

and any city, township, school district, intermediate school district, community college district, special assessment district, drainage district, or other political unit within the geographical boundaries of the County participating in the County's Revolving Fund Program pursuant to Act 206 ("local units"); and

WHEREAS, the Treasurer is authorized under Act 206, and has been directed by the Board, to make such payments with respect to delinquent ad valorem real property taxes (including the property tax administration fees assessed under subsection (6) of Section 44 of Act 206) owed in 2022 to the County and the local units (collectively, the "taxing units") which will have remained unpaid on March 1, 2023 and the Treasurer is authorized to pledge these amounts in addition to any amounts not already pledged for repayment of prior series of Notes (or after such prior series of Notes are retired as a secondary pledge) all as the Treasurer shall specify in an order when the Notes authorized hereunder are issued (the "Delinquent Taxes"); and

WHEREAS, the Board has determined that in order to raise sufficient monies to adequately fund the Revolving Fund, the County must issue its General Obligation Limited Tax Notes, Series 2023 in one or more series, in accordance with Sections 87c, 87d, 87g and 89 of Act 206 and on the terms and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED:

I.

GENERAL PROVISIONS

101. Establishment of 2023 Revolving Fund. In order to implement the continuation of the Revolving Fund Program and in accordance with Act 206, the County hereby establishes a 2023 100% Tax Payment Fund (the "Revolving Fund") as a separate and segregated fund within the existing 100% Tax Payment Fund of the County previously established by the Board pursuant to Section 87b of Act 206.

102. Issuance of Notes. The County shall issue its General Obligation Limited Tax Notes, Series 2023 in one or more series (the "Notes" or "Note"), in accordance with this Resolution and Sections 87c, 87d, 87g and 89 of Act 206, payable in whole or in part from the Delinquent Taxes and/or from the other sources specified below.

103. Aggregate Amount of Notes.

(a) The Notes shall be issued in an aggregate amount to be determined in accordance with this Section by the Treasurer.

(b) The aggregate amount of the Notes shall not be less than the amount by which the actual or estimated Delinquent Taxes exceeds (i) the County's participating share of Delinquent Taxes, and (ii) any sums otherwise available to fund the Tax Payment Account established under Section 702 (including any monies held in respect of Section 704(c)).

(c) The aggregate amount of the Notes shall not be greater than the sum of (i) the actual amount of the Delinquent Taxes pledged to the payment of debt service on the Notes, plus

(ii) the amount determined by the Treasurer to be allocated to a reserve fund. Original proceeds of the Notes devoted to a reserve fund shall not exceed the lesser of (A) the amount reasonably required for those of the Notes secured by the reserve fund, (B) 10% of the proceeds of such Notes,

(C) the maximum amount of annual debt service on such Notes, or (D) 125% of average annual debt service on such Notes.

(d) The aggregate amount of the Notes shall be designated by the Treasurer by written order after (i) the amount of the Delinquent Taxes, or the amount of Delinquent Taxes to be funded by the issuance of the Notes, has been estimated or determined, and (ii) the amount of the reasonably required reserve fund has been calculated. Delinquent Taxes shall be estimated based on delinquencies experienced during the past three fiscal years and on demographic and economic data relevant to the current tax year, and shall be determined based on certification from each of the taxing units. The amount of the reasonably required reserve fund shall be calculated pursuant to such analyses and certificates as the Treasurer may request.

104. Proceeds. If the Notes are issued and sold before the Treasurer has received certification from the taxing units of the amount of the Delinquent Taxes and if such certification is not reasonably anticipated to occur to allow distribution of the proceeds of the Notes within 20 days after the date of issue, the proceeds of the Notes shall be deposited in the County's 2023 Delinquent Tax Project Account and thereafter used to fund the whole or a part of the County's 2023 Tax Payment Account, 2023 Notes Reserve Account and/or 2023 Note Payment Account, subject to and in accordance with Article VII. If the Notes are issued and sold on or after such time, the proceeds of the Notes shall be deposited directly into the County's 2023 Tax Payment Account, 2023 Notes Reserve Account and/or 2023 Note Payment Account, as provided in Article VII.

105. Treasurer's Order Authorizing Notes and Establishing Delinquent Taxes. At

or prior to the time any Note is issued pursuant to this resolution, the Treasurer, as authorized by Act 206, may issue a written order specifying the amount and character of the Delinquent Taxes, the Article or Articles under which the Notes are being issued and any other matters subject to the Treasurers control under either this resolution or Act 206.

II.

FIXED MATURITY NOTES

201. Authority. At the option of the Treasurer, exercisable by written order, the Notes may be issued in accordance with this Article II. All reference to "Notes" in Article II refers only to Notes issued pursuant to Article II, unless otherwise specified.

202. Date. The Notes shall be dated as of the date of issue or as of such earlier date specified by written order of the Treasurer.

203. Maturity and Amounts. Notes issued pursuant to this Article II shall be structured in accordance with subsections (a) or (b) below as determined by the Treasurer pursuant to written order.

(a) The first maturity of the Notes or of a series of the Notes shall be determined by the Treasurer pursuant to written order, but shall not be later than three years after the date of issue. Later maturities of the Notes shall be on the first anniversary of the preceding maturity or on such earlier date as the Treasurer may specify by written order. The Notes shall be structured with the number of maturities determined by the Treasurer to be necessary or appropriate, and the last maturity shall be scheduled for no later than the sixth anniversary of the date of issue. The amount of each maturity or of any mandatory or optional call date shall be set by the Treasurer when the amount of Delinquent Taxes is determined by the Treasurer or when a reliable estimate of the Delinquent Taxes is available to the Treasurer. In determining the exact amount of each maturity or of any mandatory or optional call date the Treasurer shall consider the schedule of delinquent tax collections prepared for the tax years ending December 31, 2022, or ending any other years and the corollary schedule setting forth the anticipated rate of collection of those Delinquent Taxes which are pledged to the repayment of the Notes. The amount of each maturity and the scheduled maturity dates of the Notes shall be established to take into account the dates on which the Treasurer reasonably anticipates the collection of such Delinquent Taxes and shall allow for no more than a 15% variance between the debt service payable on each maturity date, the Notes, and the anticipated amount of pledged monies available on such maturity date to make payment of such debt service.

(b) Alternatively, the Notes or a series of the Notes may be structured with a single stated maturity falling not later than the fourth anniversary of the date of issue. The Notes issued under this subsection (b) shall be subject to redemption on such terms consistent with the applicable parts of subsection (a) of this section and with Section 209 as shall be ordered by the Treasurer, but in no event shall such Notes be subject to redemption less frequently than annually.

204. Interest Rate and Date of Record.

(a) Except as otherwise provided in this paragraph, the Notes issued pursuant to subsection (a) of Section 203 shall bear interest payable semi-annually, with the first interest payment to be payable (i) on the first date, after issuance, corresponding to the day and month on which the maturity of such Notes falls, or (ii) if the Treasurer so orders, six months before such date. In the event (i) any maturity of the Notes arises either less than six months before the succeeding maturity date or less than six months after the preceding maturity date and (ii) the Treasurer so

orders in writing, interest on the Notes shall be payable on such succeeding or preceding maturity date. Subject to the following sentence, the Notes issued pursuant to subsection (b) of Section 203 shall, pursuant to written order of the Treasurer, bear interest monthly, quarterly, or semiannually, as provided by written order of the Treasurer. If the Notes issued under this Article II are sold with a variable rate feature as provided in Article IV, such Notes may, pursuant to written order of the Treasurer, bear interest weekly, monthly, quarterly or on any put date, or any combination of the foregoing, as provided by written order of the Treasurer.

(b) Interest shall not exceed the maximum rate permitted by law.

(c) Interest shall be mailed by first class mail to the registered owner of each Notes as of the applicable date of record, provided, however, that the Treasurer may agree with the Registrar (as defined below) on a different method of payment.

(d) Subject to Section 403 in the case of variable rate Notes, the date of record shall be not fewer than 14 nor more than 31 days before the date of payment, as designated by the Treasurer prior to the sale of the Notes.

205. Note Form. The form of Note shall be consistent with the provisions of this Resolution and shall reflect all material terms of the Notes. Unless the Treasurer shall by written order specify the contrary, the Notes shall be issued in fully registered form both as to principal and interest, registrable upon the books of a Note Registrar (the "Registrar") to be named by the Treasurer. If the Notes are issued in bearer form the Treasurer shall appoint a paying agent (the "Paying Agent"). (The Registrar or Paying Agent so named may be any bank or trust company or other entity, including the County Treasurer, offering the necessary services pertaining to the registration and transfer of negotiable securities.)

206. Denominations and Numbers. The Notes shall be issued in one or more denomination or denominations of \$1,000 each or any integral multiple of \$1,000 in excess of \$1,000, as determined by the Treasurer. Notwithstanding the foregoing, however, in the event the Notes are deposited under a book entry depository trust arrangement pursuant to Section 208, the Notes may, if required by the depository trustee, be issued in denominations of \$5,000 each or any integral multiple of \$5,000. The Notes shall be numbered from one upwards, regardless of maturity, in such order as the Registrar shall determine.

207. Transfer or Exchange of Notes.

(a) Notes issued in registered form shall be transferable on a Note register maintained with respect to the Notes upon surrender of the transferred Notes, together with an assignment executed by the registered owner or his or her duly authorized attorney-in-fact in form satisfactory to the Registrar. Upon receipt of a properly assigned Note, the Registrar shall authenticate and deliver a new Note or Notes in equal aggregate principal amount and like interest rate and maturity to the designated transferee or transferees.

(b) The Notes may likewise be exchanged for one or more other Notes with the same interest rate and maturity in authorized denominations aggregating the same principal amount as the Note or Notes being exchanged, upon surrender of the Note or Notes and the submission of written instructions to the Registrar or, in the case of bearer Notes, to the Paying Agent. Upon receipt of a Note with proper written instructions the Registrar or Paying Agent shall authenticate and deliver a new Note or Notes to the owner thereof or to the owner's attorney-in-fact.

(c) Any service charge made by the Registrar or Paying Agent

for any such registration, transfer or exchange shall be paid for by the County as an expense of borrowing, unless otherwise agreed by the Treasurer and the Registrar or Paying Agent. The Registrar or Paying Agent may, however, require payment by a Noteholder of a sum sufficient to cover any tax or other governmental charge payable in connection with any such registration, transfer or exchange.

208. Book Entry Depository Trust. At the option of the Treasurer, and notwithstanding any contrary provision of Section 212, the Notes may be deposited, in whole or in part, with a depository trustee designated by the Treasurer who shall transfer ownership of interests in the Notes by book entry and who shall issue depository trust receipts or acknowledgments to owners of interests in the Notes. Such book entry depository trust arrangement, and the form of depository trust receipts or acknowledgments, shall be as determined by the Treasurer after consultation with the depository trustee. The Treasurer is authorized to enter into any depository trust agreement on behalf of the County upon such terms and conditions as the Treasurer shall deem appropriate and not otherwise prohibited by the terms of this Resolution. The depository trustee may be the same as the Registrar otherwise named by the Treasurer, and the Notes may be transferred in part by depository trust and in part by transfer of physical certificates as the Treasurer may determine.

209. Redemption.

(a) Subject to the authority granted the Treasurer pursuant to subsection (c) of this Section (in the case of fixed rate Notes) and to the authority granted the Treasurer pursuant to Section 404 (in the case of variable rate Notes), the Notes or any maturity or maturities of the Notes shall be subject to redemption prior to maturity on the terms set forth in subsection (b) below.

(b) Notes scheduled to mature after the first date on which any Notes of the series are scheduled to mature shall be subject to redemption, in inverse order of maturity, on each interest payment date arising after the date of issue.

(c) If the Treasurer shall determine such action necessary to enhance the marketability of the Notes or to reduce the interest rate to be offered by prospective purchasers on any maturity of the Notes, the Treasurer may, by written order prior to the issuance of such Notes, (i) designate some or all of the Notes as non-callable, regardless of their maturity date, and/or (ii) delay the first date on which the redemption of callable Notes would otherwise be authorized under subsection (b) above.

(d) Notes of any maturity subject to redemption may be redeemed before their scheduled maturity date, in whole or in part, on any permitted redemption date or dates, subject to the written order of the Treasurer. The Notes called for redemption shall be redeemed at par, plus accrued interest to the redemption date, plus, if the Treasurer so orders, a premium of not more than 1%. Redemption may be made by lot or pro rata, as shall be determined by the Treasurer.

(e) With respect to partial redemptions, any portion of a Note outstanding in a denomination larger than the minimum authorized denomination may be redeemed, provided such portion as well as the amount not being redeemed constitute authorized denominations. In the event less than the entire principal amount of a Note is called for redemption, the Registrar or Paying Agent shall, upon surrender of the Note by the owner thereof, authenticate and deliver to the owner a new Note in the principal amount of the principal portion not redeemed.

(f) Notice of redemption shall be by first class mail 30 days prior to the date fixed for redemption, or such shorter time prior to the date fixed for

redemption as may be consented to by the holders of all outstanding Notes to be called for redemption. Such notice shall fix the date of record with respect to the redemption if different than otherwise provided in this Resolution. Any defect in any notice shall not affect the validity of the redemption proceedings. Notes so called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand with a paying agent to redeem the same.

210. Discount. At the option of the Treasurer, the Notes may be offered for sale at a discount not to exceed 2%.

211. Public or Private Sale. The Treasurer may, at the Treasurer's option, conduct a public or private sale of the Notes. After a Public sale the Treasurer shall either award the Notes to the lowest bidder or reject all bids. The conditions of a Public sale shall be as specified in a published Notice of Sale prepared by the Treasurer announcing the principal terms of the Notes and the offering. Alternatively, the Treasurer may, at the Treasurer's option, negotiate a private sale of the Notes as provided in Act 206. If required by law, or if otherwise determined by the Treasurer to be in the best interest of the County, (a) the Notes shall be rated by a national rating agency selected by the Treasurer, (b) a good faith deposit shall be required of the winning bidder, and/or (c) CUSIP numbers shall be assigned to the Notes. If a public sale is conducted or if otherwise required by law or the purchaser of the Notes, the Treasurer shall prepare or cause to be prepared and disseminated an offering memorandum or official statement containing all material terms of the offer and sale of the Notes. Pursuant to any sale of the Notes, the County shall make such filings, shall solicit such information and shall obtain such governmental approvals as shall be required pursuant to any state or federal law respecting back-up income tax withholding, securities regulation, original issue discount or other regulated matter.

212. Execution and Delivery. The Treasurer is authorized and directed to execute the Notes on behalf of the County by manual or facsimile signature, provided that if the facsimile signature is used the Notes shall be authenticated by the Registrar or any tender agent as may be appointed pursuant to Section 801(c). The Notes shall be sealed with the County seal or imprinted with a facsimile of such seal. The Treasurer is authorized and directed to then deliver the Notes to the purchaser thereof upon receipt of the purchase price. The Notes shall be delivered at the expense of the County in such city or cities as may be designated by the Treasurer.

213. Renewal, Refunding or Advance Refunding Notes. If at any time it appears to be in the best interests of the County, the Treasurer, by written order, may authorize the issuance of renewal, refunding or advance refunding Notes. The terms of such Notes, and the procedures incidental to their issuance, shall be set subject to Section 309 and, in appropriate cases, Article X.

III.

SHORT-TERM NOTES

301. Authority. At the option of the Treasurer, exercisable by written order, the Notes may be issued in accordance with this Article III. All references to "Notes" in Article III refer only to Notes issued pursuant to Article III, unless otherwise specified.

302. Date and Maturity. The Notes shall be dated as of their date of issuance or any prior date selected by the Treasurer, and each issuance thereof shall mature on such date not exceeding three years from the date of their issuance as may be specified by written order of the Treasurer.

303. Interest and Date of Record. The Notes shall bear interest payable monthly, quarterly, or semi-annually and at maturity at such rate or rates as may be determined

by the Treasurer not exceeding the maximum rate of interest permitted by law on the date the Notes are issued. The date of record shall be not fewer than two nor more than 31 days before the date of payment, as designated by the Treasurer prior to the sale of the Notes.

304. Note Form. The form of Note shall be consistent with the prescriptions of this Resolution and shall reflect all material terms of the Notes. The Notes shall, in the discretion of the Treasurer and consistent with Section 205, either be payable to bearer or be issued in registered form. If issued in registered form, the Notes may be constituted as book-entry securities consistent with Section 208, notwithstanding any contrary provision of Section 308.

305. Denomination and Numbers. The Notes shall be issued in one or more denomination or denominations, as determined by the Treasurer. The Notes shall be numbered from one upwards in such order as the Treasurer determines.

306. Redemption. The authority and obligations of the Treasurer set forth in subsections

(b) and (c) of Section 209 (in the case of fixed rate Notes), or Section 404 (in the case of variable rate Notes), as the case may be, shall apply also to the Notes issued under Article III.

307. Sale of Notes. The authority and obligations of the Treasurer set forth in Sections 210 and 211 respecting Fixed Maturity Notes shall apply also to the Notes issued under Article III.

308. Execution and Delivery. The authority and obligations of the Treasurer set forth in Section 212 respecting Fixed Maturity Notes shall also apply to the Notes issued under Article III.

309. Renewal or Refunding Notes.

(a) The Treasurer may by written order authorize the issuance of renewal or refunding Notes (collectively the "Renewal Notes"). Renewal Notes shall be sold on the maturity date of, and the proceeds applied to the payment of debt service on, the Notes to be renewed. The maturities and repayment terms of the Renewal Notes shall be set by written order of the Treasurer.

(b) In the order authorizing Renewal Notes, the Treasurer shall specify whether the Notes shall be issued in accordance with this Article III, in which event the provisions of Article III shall govern the issuance of the Notes, or whether the Notes shall be issued in accordance with Article II, in which event the provisions of Article II shall govern the issuance of the Notes. The order shall also provide for and shall also govern with respect to:

- (i) the aggregate amount of the Renewal Notes;
- (ii) the date of the Renewal Notes;
- (iii) the denominations of the Renewal Notes;
- (iv) the interest payment dates of the Renewal Notes;
- (v) the maturity or maturities of the Renewal Notes;
- (vi) the terms of sale of the Renewal Notes;
- (vii) whether any Renewal Notes issued in accordance with Article II shall be subject to redemption and, if so, the terms thereof; and
- (viii) any other terms of the Renewal Notes consistent with, but not specified in, Article II or Article III.

(c) Regardless of whether Renewal Notes need be approved by prior order of the Department of Treasury, the Treasurer, pursuant to Section 89(5)(d) of Act 206,

shall promptly report to the Department of Treasury the issuance of any Renewal Notes.

IV.

VARIABLE INTEREST RATE

401. Variable Rate Option. At the option of the Treasurer, exercisable by written order, the Notes, whether issued pursuant to Article II or Article III, may be issued with a variable interest rate, provided that the rate shall not exceed the maximum rate of interest permitted by law.

402. Determination of Rate. The order of the Treasurer shall provide how often the variable interest rate shall be subject to recalculation, the formula or procedure for determining the variable interest rate, whether and on what terms the rate shall be determined by a remarketing agent in the case of demand obligations consistent with Section 801(d), and whether and on what terms a fixed rate of interest may be converted to or from a variable rate of interest. Such formula or procedure shall be as determined by the Treasurer, but shall track or float within a specified percentage band around the rates generated by any one or more of the following indices:

(i) Publicly reported prices or yields of obligations of the United States of America;

(ii) An index of municipal obligations periodically reported by a nationally recognized source; The prime lending rate from time to time set by any bank or trust company in the United States with unimpaired capital and surplus exceeding \$40,000,000;

(i) Any other rate or index that may be designated by order of the Treasurer provided such rate or index is set or reported by a source which is independent of and not controlled by the Treasurer or the County.

The procedure for determining the variable rate may involve one or more of the above indices as alternatives or may involve the setting of the rate by a municipal bond specialist provided such rate shall be within a stated percentage range of one or more of the indices set forth above.

403. Date of Record. The Date of Record shall be not fewer than one nor more than 31 days before the date of payment, as designated by written order of the Treasurer.

404. Redemption. Notwithstanding any contrary provision of subsections (b) and (c) of Section 209, but subject to the last sentence of this Section 404, Notes bearing interest at a variable rate may be subject to redemption by the County and/or put by the holder at any time or times and in any order, as may be determined pursuant to written order of the Treasurer. Notes shall not be subject to redemption more frequently than monthly.

405. Remarketing, Repurchase and Resale.

(a) In the event the Notes issued under this Article IV are constituted as demand obligation, the interest rate on the Notes shall be governed by, and/or shall be subject to, remarketing by a remarketing agent appointed in accordance with Section 801(c), under the terms of a put agreement employed in accordance with Section 801(d).

(b) The County shall be authorized, consistent with Act 206 and pursuant to order of the Treasurer, to participate in the repurchase and resale of the Notes in order to reduce the cost of, or increase the revenue, attendant to the establishment of the Revolving Fund and the issuance and discharge of the Notes. Any purchase of the Notes pursuant to this subsection (b) shall be made with unpledged monies drawn from revolving funds established by the County in connection with retired

general obligation limited tax notes.

V.

MULTIPLE SERIES

501. Issuance of Multiple Series. At the option of the Treasurer, exercisable by written order, the Note or Notes issued under Article II, Article III or Article X may be issued in two or more individually designated series. Each series shall bear its own rate of interest, which may be fixed or variable in accordance with Article IV. Various series need not be issued at the same time and may be issued from time to time in the discretion of the Treasurer exercisable by written order. In determining the dates of issuance of the respective series, the Treasurer shall consider, among other pertinent factors, the impact the dates selected may have on the marketability, rating and/or qualification for credit support or liquidity support for, or insurance of, the Note or Notes. The Note of each such series shall be issued according to this Resolution in all respects (and the term "Note" or "Notes" shall be deemed to include each series of Notes throughout this Resolution), provided that:

(a) The aggregate principal amount of the Notes of all series shall not exceed the maximum aggregate amount permitted under Section 103;

(b) Each series shall be issued pursuant to Article II or Article III, and different series may be issued pursuant to different Articles;

(c) Each series shall be issued pursuant to Section 502 or Section 503, and different series may be issued pursuant to different Sections;

(d) A series may be issued under Article II for one or more of the annual maturities set forth in Article II with the balance of the annual maturities being issued under Article II or under Article III in one or more other series, provided that the minimum annual maturities set forth in Section 203 shall be reduced and applied pro rata to all Notes so issued; and

(e) The Notes of all series issued pursuant to Article II above shall not, in aggregate, mature in amounts or on dates exceeding the maximum authorized maturities set forth in Section 203.

502. Series Secured Pari Passu. If the Notes are issued in multiple series pursuant to this Article V, each series of Notes may, by written order of the Treasurer, be secured *pari passu* with the other by the security described in and the amounts pledged by Article VII below. Moreover, such security may, pursuant to further written order of the Treasurer, be segregated in accordance with the following provisions.

(a) The Treasurer may by written order establish separate sub-accounts in the County's 2023 Note Reserve Account for each series of Notes, into which shall be deposited the amount borrowed for the Note Reserve Account for each such series.

(b) The Treasurer may by written order establish separate sub-accounts in the County's 2023 Note Payment Account for each series of Notes, and all amounts deposited in the Note Payment Account shall be allocated to the sub-accounts.

(c)(i) In the event separate sub-accounts are established pursuant to subsection (b) above, and subject to Paragraph (ii) below, the percentage of deposits to the County's 2023 Note Payment Account allocated to each sub-account may be set equal to the percentage that Notes issued in the corresponding series bears to all Notes issued under this Resolution or to any other percentage designated by the Treasurer pursuant to written order; provided that if the various series are issued at different times or if the various series are structured with different maturity dates, (I)

sums deposited in the Note Payment Account prior to the issuance of one or more series may upon the issuance of each such series be reallocated among the various sub-accounts established under Subsection (b) above to achieve a balance among the sub-accounts proportionate to the designated percentage allocation, and/or (II) deposits to the Note Payment Account may be allocated among the sub-accounts according to the total amount of debt service that will actually be paid from the respective sub-accounts.

(ii) Alternatively, the Treasurer may, by written order, rank the sub-accounts established under Subsection (b) above in order of priority, and specify that each such sub-account shall receive deposits only after all sub-accounts having a higher priority have received deposits sufficient to discharge all (or any specified percentage of) Notes whose series corresponds to any of the sub-accounts having priority.

(d) In the absence of a written order of the Treasurer to the contrary, the amounts in each sub-account established pursuant to this Section 502 shall secure only the Notes issued in the series for which such sub-account was established, until such Notes and interest on such Notes are paid in full, after which the amounts in such sub-account may, pursuant to written order of the Treasurer, be added pro rata to the amounts in the other sub-accounts and thereafter used as part of such other sub-accounts to secure all Notes and interest on such Notes for which such other sub-accounts were created, until paid in full. Alternatively, amounts held in two or more sub-accounts within either the Note Reserve Account or the Note Payment Account may be commingled, and if commingled shall be held *pari passu* for the benefit of the holders of each series of Notes pertaining to the relevant sub-accounts.

503. Series Independently Secured. If the Notes are issued in multiple series pursuant to this Article V, each series of Notes may, by written order of the Treasurer, be independently secured in accordance with this Section 503.

(a) Each series of Notes shall pertain to one or more taxing units, as designated by the Treasurer pursuant to written order, and no two series of Notes shall pertain to the same taxing unit. A school district, intermediate school district, or community college district extending beyond the boundaries of a city in which it is located may, pursuant to written order of the Treasurer, be subdivided along the boundaries of one or more cities and each such subdivision shall be deemed a taxing unit for purposes of this Section 503.

(b) Separate sub-accounts shall be established in the County's 2023 Tax Payment Account. Each sub-account shall receive the proceeds of one and only one series of Notes, and amounts shall be disbursed from the sub-account to only those taxing units designated as being in that series.

(c) In the event Notes are issued for deposit into the Project Account established under Section 701, separate sub-accounts shall be established in the Project Account. Each sub-account shall receive the proceeds of one and only one series of Notes, and amounts shall be disbursed from the sub-account only to accounts, sub-accounts and/or taxing units designated as being in the series corresponding to the sub-account from which disbursement is being made.

(d) A separate sub-account shall be established in the County's 2023 Note Reserve Account for each series of Notes, into which shall be deposited the amount determined by the Treasurer under Section 103 or Section 703 with respect to the series. Each sub-account shall secure one and only one series.

(e) A separate sub-account shall be established in the County's 2023 Note Payment Account for each series of Notes. Each sub-account shall be allocated only those amounts described in Section 704 which pertain to the taxing units included in the series corresponding to the sub-account. Chargebacks received from a taxing unit pursuant to Section 905 shall be deposited in the sub-account corresponding to the series in which the taxing unit is included. Amounts held in each sub-account shall secure the debt represented by only those Notes included in the series corresponding to the sub-account, and disbursements from each sub-account may be applied toward the payment of only those Notes included in the series corresponding to the sub-account.

(f) The amounts in each sub-account established pursuant to this Section 503 shall secure only the Notes issued in the series for which such sub-account was established until such Notes and interest on such Notes are paid in full, after which any amounts remaining in such sub-account shall accrue to the County and shall no longer be pledged toward payment of the Notes.

VI. TAXABILITY OF INTEREST

601. Federal Tax. The County acknowledges that the current state of Federal law mandates that the Notes be structured as taxable obligations. Consequently, the Notes shall, subject to Article X, be issued as obligations the interest on which is not excluded from gross income for purposes of Federal income tax.

602. State of Michigan Tax. Consistent with the treatment accorded all obligations issued pursuant to Act 206, interest on the Notes shall be exempt from the imposition of the State of Michigan income tax and the State of Michigan single business tax, and the Notes shall not be subject to the State of Michigan intangibles tax.

603. Change in Federal Tax Status. In the event there is a change in the Federal tax law or regulations, a ruling by the U.S. Department of Treasury or Internal Revenue Service establishes that the Notes may be issued as exempt from Federal income taxes or a change in Michigan law causes the Notes in the opinion of counsel to be exempt from federal income taxes, the Notes may be so issued.

VII.

FUNDS AND SECURITY

701. Delinquent Tax Project Account. If the Notes are issued and sold before the Treasurer has received certification from the taxing units of the amount of the Delinquent Taxes and if such certification is not reasonably anticipated in time to allow distribution of the proceeds of the Notes within 20 days after the date of issue, a 2023 Delinquent Tax Project Account (the "Project Account") shall be established by the Treasurer as a separate and distinct fund of the County within its general fund. The Project Account shall receive all proceeds from the sale of the Notes, including any premium or accrued interest received at the time of sale. The Project Account shall be held in trust by an escrow agent until the monies therein are disbursed in accordance with this Article VII. The escrow agent shall be a commercial bank, shall be located in Michigan, shall have authority to exercise trust powers, and shall have a net worth in excess of \$25,000,000. The form and content of the agreement between the County and the escrow agent shall be approved by the Treasurer. Subject to the following sentence, monies deposited in the Project Account shall be expended only (i) for the purpose of funding the Tax Payment Account established under Section 702 and (ii) to the extent permitted by Act 206, for the purpose of paying the expenses of the offering of the Notes. In the event the Treasurer by written order so directs, additional funding of the Project Account may be undertaken, and any surplus

proceeds remaining in the Project Account after the Treasurer has completed the funding of the Tax Payment Account may be transferred to either the 2023 Note Reserve Account created under Section 703 or the 2023 Note Payment Account created under Section 704. Monies in the Project Account may be disbursed by the escrow agent to the County's 2023 Tax Payment Account at any time and from time to time, upon receipt of a written requisition signed by the Treasurer.

702. 2023 Tax Payment Account. The County's 2023 Tax Payment Account (the "Tax Payment Account") is hereby established as a distinct account within the Revolving Fund. The Treasurer shall designate all or a portion of the proceeds of the Notes, not to exceed the amount of Delinquent Taxes, for deposit in the Tax Payment Account. If, however, the proceeds of the Notes are initially deposited in the Project Account pursuant to Section 701, the Treasurer is instead authorized and directed to transfer monies included in the Project Account in accordance with the procedures set forth in Section 701. The County shall apply the monies in the Tax Payment Account to the payment of the Delinquent Taxes or expenses of the borrowing in accordance with Act 206. The allocation of monies from the Tax Payment Account may be made pursuant to a single, comprehensive disbursement or may instead be made from time to time, within the time constraints of Act 206, to particular taxing units as monies are paid into the Tax Payment Account, such that the source of the monies (whether from the County's own funds, from the proceeds of a tax exempt borrowing or from the proceeds of a taxable borrowing) may be traced to the particular taxing unit receiving the funds. Moreover, and regardless of whether multiple series of Notes are issued, the Tax Payment Account may be divided into separate sub-accounts in order to allow the Treasurer to designate which taxing units shall receive borrowed funds and which shall receive funds otherwise contributed by the County.

703. 2023 Note Reserve Account. In the event funding is provided as described in this Section 703, the Treasurer shall establish a 2023 Note Reserve Account (the "Note Reserve Account") as a distinct account within the Revolving Fund. After depositing all of the monies to fund the Tax Payment Account pursuant to Section 702, the Treasurer shall next transfer to the Note Reserve Account, either from the Project Account or directly from the proceeds of Notes, any proceeds remaining from the initial issuance of the Notes. In addition, the Treasurer may transfer unpledged monies from other County sources to the Note Reserve Account in an amount which, when added to any other amounts to be deposited in the Note Reserve Account, does not exceed the amount reasonably required for the Notes secured by the Reserve Account or, if less, 20% of the total amount of the Notes secured by the Reserve Account. Except as provided below, all monies in the Note Reserve Account shall be used solely for payment of principal of, premium, if any, and interest on the Notes to the extent that monies required for such payment are not available in the County's 2023 Note Payment Account. Monies in the Note Reserve Account shall be withdrawn first for payment of principal of, premium, if any, and interest on the Notes before County general funds are used to make the payments. All income or interest earned by, or increment to, the Note Reserve Account due to its investment or reinvestment shall be deposited in the Note Reserve Account. When the Note Reserve Account is sufficient to retire the Notes and accrued interest thereon, the Treasurer may order that the Note Reserve Account be used to purchase the Notes on the market, or, if the Notes are not available, to retire the Notes when due. If so ordered by the Treasurer, all or any specified portion of the Note Reserve Account may be applied toward the redemption of any Notes designated for redemption in accordance with Section 209.

704. 2023 Note Payment Account.

(a) The County's 2023 Note Payment Account is hereby established as a distinct account within the Revolving Fund. (The County's 2023 Note Payment Account, as supplemented by monies held in any interim account that are designated for transfer to the 2023 Note Payment Account, is herein referred to as the "Note Payment Account".) The Treasurer is directed to deposit into the Note Payment Account, promptly on receipt, those amounts described below in Paragraphs (i), (ii), (iv), and (v) that are not excluded pursuant to Subsection (c) below. Furthermore, the Treasurer may, by written order, deposit into the Note Payment Account all or any portion of the amounts described below in Paragraph (iii).

(i) All Delinquent Taxes.

(ii) All statutory interest on the Delinquent Taxes.

(iii) All property tax administration fees on the Delinquent Taxes, net of any amounts applied toward the expenses of this borrowing.

(iv) Any amounts which are received by the Treasurer from the taxing units within the County because of the uncollectability of the Delinquent Taxes.

(v) Any amounts remaining in the Project Account after the transfers to the Tax Payment Account and Note Reserve Account have been made as specified in Sections 702 and 703.

(b) Monies in the Note Payment Account shall be used by the County to pay principal of, premium, if any, and interest on the Notes as the same become due and payable.

(c)(i) The Treasurer may by written order provide that only a portion of the sums described above in Subsection (a) shall be deposited into the Note Payment Account and applied toward the payment of debt service on the Notes, in which event those sums which are withheld from the Note Payment Account shall be deposited into the Tax Payment Account or, pursuant to further order of the Treasurer, applied toward any other purpose consistent with Act 206. The portion of any sums described in Subsection (a) which are withheld from the Note Payment Account pursuant to this Subsection shall be determined in accordance with the following Paragraph.

(ii) Prior to the issuance of the Notes, the Treasurer may by written order specify a cut-off date not earlier than March 1, 2023, and only those sums payable to the Note Payment Account and received by the County after the cut-off date shall be applied to the Note Payment Account.

(d) The Treasurer may by written order provide that at such time as sufficient funds shall have been deposited into the Note Payment Account to pay all remaining amounts owed under the Notes the pledge on any additional monies otherwise payable to the Note Payment Account shall be discharged and such monies shall not be deposited into the Note Payment Account or otherwise pledged toward payment of the Notes.

(e) The Treasurer may by written order provide that in the event Notes are issued pursuant to Article III, amounts which would otherwise be included in the Note Payment Account or the Note Reserve Account (or any sub-account therein for a particular series of Notes) shall not include any amounts received by the County prior to the latest maturity date of any series of Notes previously issued under Article II and/or Article III.

705. Limited Tax General Obligation and Pledge.

(a) The Notes shall be the general obligation of the County, backed

by the County's full faith and credit, the County's tax obligation (within applicable constitutional and statutory limits) and the County's general funds. The County budget shall provide that if the pledged monies are not collected in sufficient amounts to meet the payments of the principal and interest due on the Notes, the County, before paying any other budgeted amounts, shall promptly advance from its general funds sufficient monies to pay such principal and interest.

(b) In addition, the monies listed below are pledged to the repayment of the Notes and, subject to Section 901, shall be used solely for repayment of the Notes until the principal of, premium, if any, and interest on the Notes are paid in full:

(i) All amounts deposited or earned in any Project Account, until disbursed in accordance with Section 701;

(ii) All net proceeds from the sale of the Notes deposited or earned in the Tax Payment Account, until disbursed in accordance with Section 702; 704(a);

(iii) All amounts deposited in the Note Payment Account pursuant to Section

(iv) All amounts deposited in the Note Reserve Account;

(v) All amounts earned from the investment of monies held in the Notes Payment Account or the Note Reserve Account; and

(vi) Any supplemental monies placed in the Note Payment Account and drawn in the discretion of the Treasurer from unpledged sums on the revolving funds, which pledge shall be subject to such limitations or exceptions as shall be set forth in the written order of the Treasurer.

(c) If the Notes shall be issued in various series pursuant to Article V, this pledge shall in the case of any independently secured series extend only to monies in accounts or sub-accounts pertaining to the particular series.

(d) If the amounts so pledged are not sufficient to pay the principal and interest when due, the County shall pay the same from its general funds or other available sources. Pursuant to written order of the Treasurer, the County may later reimburse itself for such payments from the Delinquent Taxes collected.

706. Security for Renewal, Refunding or Advance Refunding Notes. Renewal, refunding, or advance refunding Notes shall be secured by all or any portion of the same security securing the Notes being renewed, refunded or advance refunded. The monies pledged in Section 705 for the repayment of the Notes are also pledged for the repayment of the principal of, premium, if any, and interest on any renewal, refunding, or advance refunding Notes issued pursuant to this Resolution, and any such renewal, refunding, or advance refunding Notes shall be the general obligation of the County, backed by its full faith and credit, which shall include the tax obligation of the County, within applicable constitutional and statutory limits.

707. Use of Funds after Full Payment or Provision for Payment. After all principal of, premium, if any, and interest on the Notes have been paid in full or provision made therefor by investments of pledged amounts in direct noncallable obligations of the United States of America in amounts and with maturities sufficient to pay all such principal, premium, if any, and interest when due, any further collection of Delinquent Taxes and all excess monies in any fund or account of the Revolving Fund, and any interest or income on any such amounts, may, pursuant to written order of the Treasurer and subject to Article V, be used for any proper purpose within the Revolving Fund including the securing of subsequent issues of Notes.

VIII. SUPPLEMENTAL AGREEMENTS

801. Supplemental Agreements and Documents. The Treasurer, on behalf of the County, is authorized to enter into any or all of the following agreements or commitments as may, in the Treasurer's discretion, be necessary, desirable or beneficial in connection with the issuance of the Notes, upon such terms and conditions as the Treasurer may determine appropriate:

(a) A letter of credit, line of credit, repurchase agreement, Note insurance, or similar instrument, providing backup liquidity and/or credit support for the Notes;

(b) A reimbursement agreement, revolving credit agreement, revolving credit Note, or similar instrument, setting forth repayments of and security for amounts drawn under the letter of credit, line of credit, repurchase agreement or similar instrument;

(c) A marketing, remarketing, placement, authenticating, paying or tender agent agreement or dealer agreement designating a marketing, remarketing, authenticating, paying, tender or placement agent or dealer and prescribing the duties of such person or persons with respect to the Notes; and

(d) A put agreement or provision allowing the purchaser of the Notes to require the County to repurchase the Notes upon demand at such times as may be provided in such put agreement or provision.

(e) An agreement to use amounts formerly pledged to other years borrowings as security for the Notes when no longer so pledged.

802. Revolving Credit Notes. If the Treasurer enters into a revolving credit agreement (the "Agreement") pursuant to Section 801 above, the Agreement may call for the issuance of one or more revolving credit Notes (the "Revolving Credit Notes") for the purpose of renewing all or part of maturing Note or Notes that have been put pursuant to a put agreement or provision. Such Revolving Credit Notes shall be issued pursuant to Article II or III, as appropriate, and in accordance with the following provisions:

(a) Interest on the Revolving Credit Notes may be payable on maturity, on prior redemption, monthly, bimonthly, quarterly, or as otherwise provided in the Agreement.

(b) The Revolving Credit Notes may mature on one or more date or dates not later than the final maturity date of the Notes, as provided in the Agreement.

(c) The Treasurer may, at the time of the original issuance of the Notes, execute and deliver one Revolving Credit Note in a maximum principal amount not exceeding the lending commitment under the Agreement from time to time in force (and may substitute one such Note in a lesser principal amount for another in the event the lending commitment is reduced), provided that a schedule shall be attached to such Note on which loans and repayments of principal and interest are evidenced and further provided that the making of a loan and the evidencing of such loan on the schedule of any such Note shall constitute the issuance of a renewal Note for the purposes of this Resolution.

IX.

MISCELLANEOUS PROVISIONS

901. Expenses. Expenses incurred in connection with the Notes shall be paid from the property tax administration fees collected on the Delinquent Taxes and, if so ordered by the Treasurer, from any earnings on the proceeds of the offering or from other monies available to the County.

902. Bond Counsel. The Notes (and any renewal, refunding or advance refunding Notes) shall be delivered with the unqualified opinion of Clark Hill PLC, attorneys of Detroit, Michigan, bond counsel chosen by the Treasurer, which selection may, at the option of the Treasurer, be for one or more years.

903. Financial Consultants PFM Financial Advisor, Ann Arbor, Michigan, is hereby retained to act as financial consultant and advisor to the County in connection with the sale and delivery of the Notes.

904. Complete Records. The Treasurer shall keep full and complete records of all deposits to and withdrawals from each of the funds and accounts in the Revolving Fund and any account or sub-account created pursuant to this Resolution and of all other transactions relating to such funds, accounts and sub-accounts, including investments of money in, and gain derived from, such funds and accounts.

905. Chargebacks. If, by the date which is three months prior to the final maturity date of the Notes, sufficient monies are not on deposit in the Note Payment Account and the Note Reserve Account to pay all principal of and interest on the Notes when due, Delinquent Taxes not then paid or recovered at or prior to the latest tax sale transacted two or more months before the final maturity of the Notes shall, if necessary to ensure full and timely payment on the date of final maturity, be charged back to the local units in such fashion as the Treasurer may determine, and, subject to Article V, the proceeds of such chargebacks shall be deposited into the County's 2023 Note Payment Account no later than five weeks prior to the final maturity of the Notes. This Section 905 shall not be construed to limit the authority of the Treasurer under State law to charge back under other circumstances or at other times.

906. Investments. The Treasurer is authorized to invest all monies in the Project Account, in the Revolving Fund or in any account or sub-account therein which is established pursuant to this Resolution in any one or more of the investments authorized as lawful investments for counties under Act No. 20, Public Acts of 1943, as amended. The Treasurer is further authorized to enter into a contract on behalf of the County under the Surplus Funds Investment Pool Act, Act No. 367, Michigan Public Acts of 1982, as amended, and to invest in any investment pool created thereby monies held in the Project Account, in the Revolving Fund, or in any account or sub-account therein which is established pursuant to this Resolution.

907. Mutilated, Lost, Stolen or Destroyed Notes. In the event any Note is mutilated, lost, stolen, or destroyed, the Treasurer may, on behalf of the County, execute and deliver, or order the Registrar or Paying Agent to authenticate and deliver, a new Note having a number not then outstanding, of like date, maturity and denomination as that mutilated, lost, stolen, or destroyed. In the case of a mutilated Note, a replacement Note shall not be delivered unless and until such mutilated Note is surrendered to the Treasurer or the Registrar or Paying Agent. In the case of a lost, stolen or destroyed Note, a replacement Note shall not be delivered unless and until the Treasurer and the Registrar or Paying Agent shall have received such proof of ownership and loss and indemnity as they determine to be sufficient.

ARTICLE X.

TAX-EXEMPT NOTES OR REFUNDING

1001. Refunding of Taxable Debt or Issuance of Tax-Exempt Debt. The County acknowledges that the current state of Federal law precludes the issuance of the Notes as obligations the interest on which is exempt from Federal income tax. However, the County presently contemplates that anticipated amendments to the Internal Revenue Code of 1986 (the "Code") and/or the Treasury Regulations issued

thereunder (the "Regulations") or a change in Michigan law changing the character of the Notes may in the future permit the issuance of general obligation limited tax Notes on a tax-exempt basis, and, in view of this expectation, the County, through the offices of the Treasurer, shall issue tax-exempt Notes or issue obligations to refund any or all outstanding Notes issued as taxable obligations, at the time, on the terms, and to the extent set forth in this Article X.

1002. Timing of Refunding. The aforementioned refunding obligations (the "Refunding Notes") shall be issued after the effective date of any change in the Code, Regulations, Internal Revenue Service pronouncements or judicial rulings which, as confirmed by the written opinion of bond counsel, permit the refunding of all or some of the outstanding Notes with proceeds from obligations the interest on which is excluded from gross income for purposes of Federal income tax.

1003. Extent of Refunding. Subject to the other provisions of this Section 1003, the Refunding Notes shall refund all Notes outstanding at or after the effective date of any change in the law described in Section 1002. This Section 1003 shall not, however, be construed to require the refunding of any Note prior to the time such Note may be refunded on a tax-exempt basis, nor shall this Section 1003 be construed to require the refunding of any Note, if that refunding would result in greater cost to the County (including interest expense, professional fees and administrative outlays) than would arise if the Note were to remain outstanding.

1004. Confirmatory Action. Subsequent to any change in the law described in Section 1002, the Board shall convene to consider any terms of the Refunding Notes requiring specific ratification by the Board.

1005. Arbitrage Covenant and Tax Law Compliance. In the event tax-exempt Notes or Refunding Notes are issued pursuant to this Article X, the following covenants shall be observed by the County:

(i) the County will make no use of the proceeds of the Notes or Refunding Notes and will undertake no other intentional act with respect to the Notes or Refunding Notes which, if such use or act had been reasonably expected on the date of issuance of the Notes or Refunding Notes or if such use or act were intentionally made or undertaken after the date of issuance of the Notes or Refunding Notes, would cause the Notes or Refunding Notes to be "arbitrage bonds," as defined in Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), in the Regulations promulgated under Sections 103 and 148 of the Code or in any successor or supplementary provision of law hereinafter promulgated,

(ii) the County will undertake all actions as shall be necessary to maintain the Notes or Refunding Notes as obligations the interest on which qualifies for the tax exemption provided by Section 103(a) of the Code, including, where appropriate and without limitation, filing informational returns with the Secretary of Treasury, keeping accurate account of all monies earned in any fund, account or sub-account authorized by this Resolution or any resolution adopted in accordance with Section 1004 above, certifying cumulative cash flow deficits of the County and the local units, and investing any required portion of the gross proceeds of the Notes or Refunding Notes, whether on behalf of the County or the local units, in tax-exempt obligations or State and Local Government Series obligations, and

(iii) the County will make timely payment to the United States of any investment earnings, realized by the County on the gross proceeds of the Notes or Refunding Notes, as may be subject to rebate under Section 148(f) of the Code, and, to the extent required under applicable law or deemed by the Treasurer to be in the best

interest of the County pursuant to written order, the County's obligation to make such payment to the United States shall also account for excess investment earnings realized by local units on all or a portion of the gross proceeds distributed to, and held by, the local units pursuant to Section 702.

(iv) the Treasurer shall be directed to take such actions and to enter into such agreements and certifications, on behalf of the County, as the Treasurer shall deem necessary or appropriate to comply with the foregoing covenants. 1006. Undertaking to Provide Continuing Disclosure. If necessary, this Board of Commissioners, for and on behalf of the County of Eaton, hereby covenants and agrees, for the benefit of the beneficial owners of the Notes to be issued by the County, to enter into a written undertaking (the "Undertaking") required by Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule") to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be substantially in the form as approved by the Underwriter of the Notes. The Undertaking shall be enforceable by the beneficial owners of the Notes or by the Underwriter on behalf of such beneficial owners (provided that the Underwriter's right to enforce the provisions of the Undertaking shall be limited to a right to obtain specific enforcement of the County's obligations hereunder and under the Undertaking), and any failure by the County to comply with the provisions of the Undertaking shall not be deemed a default with respect to the Notes.

The County Treasurer or other officer of the County charged with the responsibility for issuing the Notes shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the terms of the County's Undertaking.

Seconded by Commissioner Augustine. Carried unanimously.

Commissioner Mulder moved the approval of #23-1-5 Resolution Authorizing 2023 Administrative Fund.

IT IS RESOLVED BY THE EATON COUNTY BOARD OF COMMISSIONERS AS FOLLOWS:

The County Treasurer, pursuant to Section 87c, Subsection (2), of Act 206, is designated as Agent for the County, and the Treasurer's office shall receive such sums as are provided in Section 87c, Subsection (3), to cover administrative expenses. Seconded by Commissioner Droscha. Carried unanimously.

Commissioner Mulder moved the approval of #23-1-6 Resolution to Approve Jail and Youth Facility Security System Replacement Project Contract Extension.

WHEREAS, the Eaton County Board of Commissioners authorized the contract with Accurate Controls, Inc. for the replacement of the electronic security systems within the Eaton County Jail and Eaton County Youth Facility on January 19, 2022

Resolution #22-1-15; and

WHEREAS, the contractor, Accurate Controls, requested an extension for thirty days to finalize the completion of the project; and

WHEREAS, the Ways and Means Committee is recommending the project extension for thirty days.

THEREFORE, BE IT RESOLVED, that the Eaton County Board of Commissioners does hereby authorize the contract extension for thirty days with Accurate Controls, Inc. for the replacement of the electronic security systems within the Eaton County Jail and Eaton County Youth Facility; and
BE IT FURTHER RESOLVED, that the Chairperson of the Board of Commissioners is authorized to execute the contract modification proposal request.
Seconded by Commissioner Pearl-Wright. Carried unanimously.

Commissioner Mulder moved the approval of #23-1-7 Resolution to Approve FY 2022-2023 Budget Amendments.

WHEREAS, the Eaton County 2022/2023 Appropriations Act of September 21, 2022 states that any amendment to increase a salary and/or a Capital Outlay line-item in excess of \$2,500.00 or any amendment to increase the total budget of any fund or department in excess of \$2,500.00 shall be amended by the Board of Commissioners, except that any amendment to decrease the General Fund Contingency shall be approved by the Board of Commissioners; and
WHEREAS, such amendments are needed in order to comply with the Uniform Budgeting and Accounting Act of 1978, P.A. 621.
NOW, THEREFORE BE IT RESOLVED, that the following budget amendments be approved and added to the 2022/2023 Eaton County Budget:

GENERAL FUND

CONTROLLER'S OFFICE 101-172

Increase	Wages and Fringes	\$ 49,350
Increase	Fund Balance Carryover	\$ 49,350

To increase the budget and amend the positions allocation list to eliminate the Deputy Controller/Administrator and Senior Accountant and add Finance Director and Human Resource Director as reviewed and recommended by the Ways and Means Committee.

SPECIAL REVENUE FUNDS

JUVENILE MILLAGE 296

Increase	Professional Services	\$ 91,969
Increase	Fund Balance Carryover	\$ 91,969

To increase budget for funding to CEI-Community Mental Health for Integrative Community Youth Outreach Unit (ICYOU) program for the period of April 1, 2023 through September 30, 2023 as recommended by Health and Human Services Committee.

Seconded by Commissioner Rogers. Carried unanimously.

Commissioner Haskell moved the approval of #23-1-8 Resolution Pledging Full Faith and Credit to Watson and Watson Drain: Chris J. Drive Branch Drain Drainage District Bonds.

WHEREAS pursuant to a petition filed with the Drain Commissioner of the County of Eaton, State of Michigan (the "Drain Commissioner"), proceedings have been taken under the provisions of Act 40, Public Acts of Michigan, 1956, as amended (the "Act"), for the making of certain intra-county drain improvements referred to as the Watson and Watson Drain: Chris J. Drive Branch Drain Maintenance and Improvement Project (the "Project"), which is being undertaken by the Watson and Watson Drain: Chris J. Drive Branch Drain Drainage District (the "Drainage District") in a Special Assessment District (the "Special Assessment District") established by the Drainage District; and WHEREAS, the Project is necessary for the protection of the public health, and in order to provide funds to pay the costs of the Project, the Drain Commissioner intends to issue the Drainage District's bonds (the "Bonds"), in one or more series, in an amount not to exceed \$907,580.02 pursuant to the Act; and

WHEREAS, the principal of and interest on the Bonds will be payable from assessments to be made upon public corporations and/or benefited properties in the Special Assessment District; and

WHEREAS, the Eaton County Board of Commissioners (the "Board") may, by resolution adopted by a majority of the members of the Board, pledge the full faith and credit of the County for the prompt payment of the principal of and interest on the Bonds pursuant to Section 276 of the Act; and

WHEREAS, the pledge of the full faith and credit of the County to the Bonds will reduce the cost of financing the Project and will be a benefit to the people of the County.

NOW, THEREFORE, IT IS RESOLVED as follows:

1. The County pledges its full faith and credit for the prompt payment of the principal of and interest on the Bonds in a par amount not to exceed \$ 907,580.02. The County shall immediately advance sufficient moneys from County funds, as a first budget obligation, to pay the principal of and interest on any of the Bonds should the Drainage District fail to pay such amounts when due. The County shall, if necessary, levy a tax on all taxable property in the County, to the extent other available funds are insufficient to pay the principal of and interest on the Bonds when due.

2. Should the County advance County funds pursuant to the pledge made in this Resolution, the amounts shall be repaid to the County from assessments or reassessments made upon benefited properties in the Special Assessment District as provided in the Act.

3. The Chairperson of the Board, the County Controller/Administrator, the County Clerk, the County Treasurer and any other official of the County, or any one or more of them ("Authorized Officers"), are authorized and directed to take all actions necessary or desirable for the issuance of the Bonds and to execute any documents or certificates necessary to complete the issuance of the Bonds, including, but not limited to, any applications including the Michigan Department of Treasury, Application for State Treasurer's Approval to Issue Long-Term Securities, any waivers, certificates, receipts, orders, agreements, instruments, and any certificates relating to federal or state securities laws, rules, or regulations and to participate in the preparation of a preliminary official statement and a final official statement for the Bonds and to sign such documents on behalf of the County and give any approvals necessary therefor.

4. Any one of the Authorized Officers is hereby authorized to execute a certificate of the County to comply with the continuing disclosure undertaking of the County with respect to the Bonds pursuant to paragraph (b)(5) of SEC Rule 15c2-12 issued under the Securities Exchange Act of 1934, as amended, and amendments to such certificate from time to time in accordance with the terms of such certificate (the

certificate and any amendments thereto are collectively referred to herein as the “Continuing Disclosure Certificate”).

5. All resolutions and parts of resolutions are, to the extent of any conflict with this resolution, rescinded to the extent of the conflict.

Seconded by Commissioner Droscha. Carried unanimously.

Commissioner Mulder moved the approval of claims as audited by the Ways & Means Committee for \$522,159.48 and to accept the report of previously authorized payments. Seconded by Commissioner Droscha. Carried unanimously.

Commissioner Mulder moved the approval of the MDHHS Grant Agreement Raise the Age – Juvenile Court Project letter regarding the Eaton County Youth Facility Expansion on behalf of the Board of Commissioners.

Seconded by Commissioner Augustine. Carried unanimously.

Public Comment: None

Commissioner Comment: Commissioner Toomey congratulated Central Dispatch Dispatcher Kelly Cunningham and Technology Services Deputy Director Nathan Nighbert were awarded a special tribute for providing excellent services to the residents of Eaton County.

Commissioner Brehler thanked the Board for supporting to CEI-Community Mental Health for Integrative Community Youth Outreach Unit (ICYOU) program.

There was no Unfinished Business, Old Business.

New Business:

Commissioner Youngquist moved the approval of #23-1-9 Resolution to Proclaim February 2023 as Black History Month in Eaton County.

WHEREAS, the Eaton County Board of Commissioners takes pride in recognizing February 2023 as Black History Month. Celebrating the many notable contributions people of African descent have invested to our country;

WHEREAS, “Negro History Week” was first established in 1926 by the Association for the Study of African American Life and History (ASALH), under the leadership of Dr. Carter G. Woodson, the famed African American historian known as the “Father of Black History”; and

WHEREAS, in 1976, ASALH expanded the celebration of Black History Week to a monthlong celebration of Black History; and

WHEREAS, Congress passed Public Law 99-244 designating February 1986 as the sixtieth annual public and private salute to Black History observed as “National Black (Afro-American)History Month;” and

WHEREAS, Crispus Attucks, an American of African and Native decent, was the first casualty of America’s quest for independence. Crispus Attucks was martyred in the Boston Massacre, a conflict that sparked resentment which led to the Revolutionary War, where 9,000 Black Patriots served with dignity and honor; and

WHEREAS, Diversity of Black people is celebrated, whether they self-identify as African, African-American or Black; and
WHEREAS, we recognize this year's theme of "Black Resistance;" and
WHEREAS, we revere the unifying bonds within The Black Family despite challenges placed on those ties by persistent and abundant racial disparities in our society, including the criminal justice system, healthcare, education, economic opportunity, and many other areas affecting the Black community; and
WHEREAS, we now hereby recognize and celebrate all identities of The Black Family structure, whether it is a traditional family unit, or a purposefully created group of individuals formed from shared compassion, love, support, ideas, and beliefs; and
WHEREAS, each Black Family has a unique and interesting American story which, although some may not fully understand, we as Americans should listen and show we care, treating each with respect and empathy; and
WHEREAS, today, we celebrate and affirm the contributions of The Black Family to our Communities, throughout our state and our nation.
NOW, THEREFORE, BE IT RESOLVED, that the Eaton County Board of Commissioners does hereby proclaim February 2023, as Black History Month in Eaton County.
Seconded by Commissioner Brehler. Carried unanimously.

Chairman Mott adjourned the meeting to Wednesday, February 15, 2023 at 7:00 p.m.

Chairman of the Board of Commissioners

Clerk of the Board of Commissioners

MACKINAC COUNTY BOARD OF COMMISSIONERS

100 S. Marley Street Room 10
St. Ignace, Michigan 49781
Phone (906) 643-7300 Fax (906) 643-7302
TDD (800) 649-3777

Corina Clark – Dist. 1
Daniel Litzner – Dist. 2

Jodi Kaiser – Dist. 3
Mike Patrick – Dist. 4
Judy St. Louis-Scott – Dist. 5

RESOLUTION HONORING THE MICHIGAN ASSOCIATION OF COUNTIES ON ITS 125TH ANNIVERSARY

WHEREAS, Michigan's 83 county governments play a central role in the proper delivery of, and oversight for, critical public services for the state's approximately 10 million residents; and

WHEREAS, Michigan county governments are led by Boards of Commissioners, who are elected from their communities; and

WHEREAS, the State Association of Supervisors of Michigan was formed by representatives of 16 counties on Feb. 1, 1898, in the Senate chamber of the Michigan State Capitol in Lansing; and

WHEREAS, the association's name was changed to the Michigan Association of Counties on July 17, 1969; and

WHEREAS, the Michigan Association of Counties is the oldest association representing local governments in Michigan; and

WHEREAS, 48 of Michigan's 83 counties have had at least one of their commissioners (or supervisors prior to 1968) serve as president of the association's Board of Directors; and

WHEREAS, the association created the Michigan Counties Workers' Compensation Fund in 1979 to help county members provide workplace safety and injury insurance services to its employees; and

WHEREAS, the association created the Michigan Association of Counties Service Corporation in 1986 to partner with service providers to help counties save money on everything from health insurance to telecommunications services; and

WHEREAS, the association hosts two major conferences every year to bring together county leaders for briefings on trending public policy issues and to hear from state newsmakers and others; and

WHEREAS, the association's advocacy work in Lansing and beyond has advanced the interests of county governments and the residents they serve; and

WHEREAS, no fewer than five association presidents have served or are serving in the Michigan legislature in the 21st century, a testament to the culture of public service inculcated by the association.

THEREFORE, BE IT RESOLVED that Mackinac County wishes to commend and honor the Michigan Association of Counties on its 125th Anniversary year.

ROLL CALL VOTE

Moved by: Kaiser

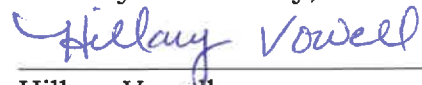
Supported by: Clark

Ayes: Kaiser, Litzner, Clark, Patrick, St.Louis-Scott

Nays: None

Absent: None

I, Hillary Vowell, Clerk of the Mackinac County Board of Commissioners, do hereby certify and set my seal to the above resolution as adopted by the Mackinac County Board of Commissioners at their regular meeting held on the 9th day of February, 2023.



Hillary Vowell
Mackinac County Clerk



BOARD OF COMMISSIONERS

County Building
P.O. Box 70, Room 131
Cheboygan, Michigan 49721

Tel ~ (231) 627-8858
Fax ~ (231) 627-8881
E-mail ~ ccao@cheboygancounty.net

CHEBOYGAN COUNTY BOARD OF COMMISSIONERS

RESOLUTION #2023-04 HONORING the Michigan Association of Counties

WHEREAS, Michigan's 83 county governments play a central role in the proper delivery of, and oversight for, critical public services for the state's approximately 10 million residents; and

WHEREAS, Michigan county governments are led by Boards of Commissioners, who are elected from their communities; and

WHEREAS, the State Association of Supervisors of Michigan was formed by representatives of 16 counties on Feb. 1, 1898, in the Senate chamber of the Michigan State Capitol in Lansing; and

WHEREAS, the association's name was changed to the Michigan Association of Counties on July 17, 1969; and

WHEREAS, the Michigan Association of Counties is the oldest association representing local governments in Michigan; and

WHEREAS, 48 of Michigan's 83 counties have had at least one of their commissioners (or supervisors prior to 1968) serve as president of the association's Board of Directors; and

WHEREAS, the association created the Michigan Counties Workers' Compensation Fund in 1979 to help county members provide workplace safety and injury insurance services to its employees; and

WHEREAS, the association created the Michigan Association of Counties Service Corporation in 1986 to partner with service providers to help counties save money on everything from health insurance to telecommunications services; and

WHEREAS, the association hosts two major conferences every year to bring together county leaders for briefings on trending public policy issues and to hear from state newsmakers and others; and

WHEREAS, the association's advocacy work in Lansing and beyond has advanced the interests of county governments and the residents they serve; and

WHEREAS, no fewer than five association presidents have served or are serving in the Michigan Legislature in the 21st century, a testament to the culture of public service inculcated by the association

THEREFORE, BE IT RESOLVED that **CHEBOYGAN COUNTY** wishes to commend and honor the Michigan Association of Counties on its 125th Anniversary year.

District 1
Jeff Ostman

District 2
Richard B. Sangster
Vice-Chairman

District 3
Michael Newman

District 4
Ron Williams

District 5
Kimberlee Pappas

District 6
John B. Wallace
Chair

District 7
Steve Warfield

Adopted this 14 day of February, 2023.

CHEBOYGAN COUNTY BOARD OF
COMMISSIONERS

By: John B. Wallace
John B. Wallace, Chairperson

I, the undersigned, the Clerk of the County of Cheboygan, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Cheboygan County Board of Commissioners at its regular meeting held on February 14, 2023 relative to adoption of the resolution therein set forth; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be made available as required by said Act.

Dated: February 14, 2023

Karen L. Brewster
Karen L. Brewster, County Clerk





GREATER LANSING
foodbank



MEMBER OF
FEEDING
AMERICA

GREATER LANSING
foodbank



MEMBER OF
FEEDING
AMERICA

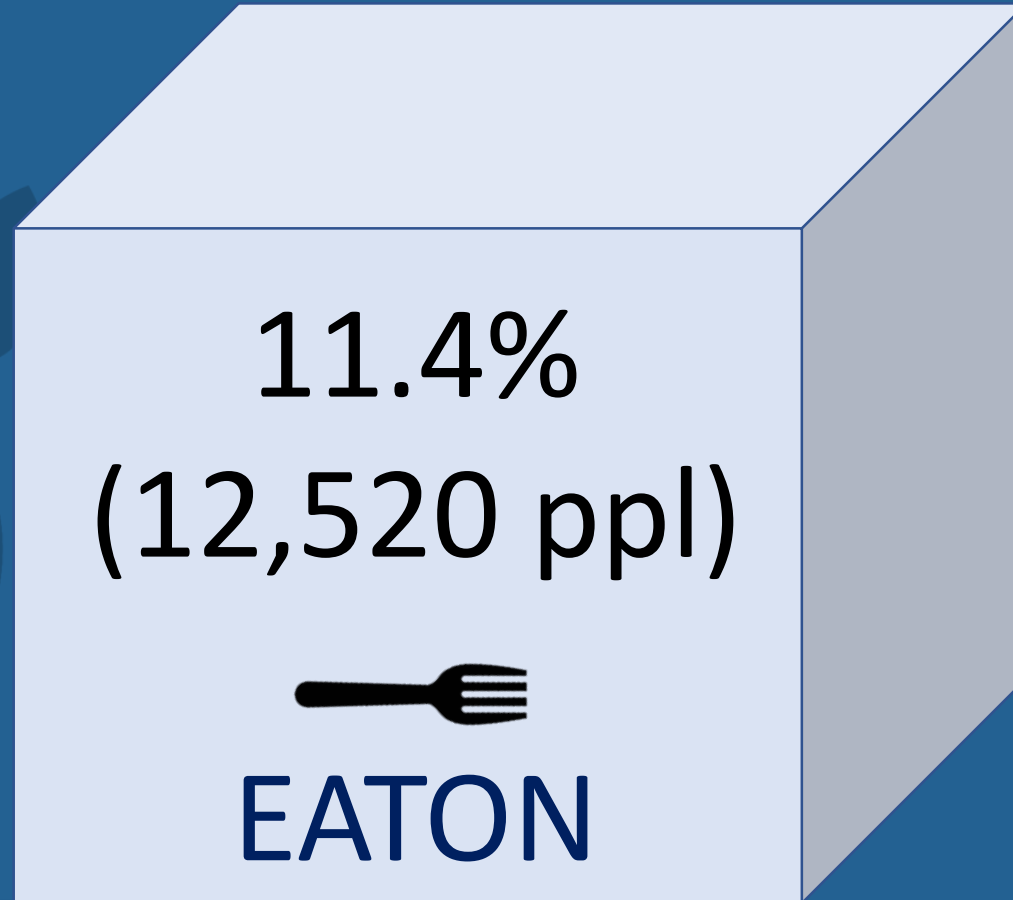
FOOD INSECURITY IN YOUR COUNTY

Being without reliable access to a sufficient amount of affordable, nutritious food.

Direct relationship to:

- Poor Health (social determinant)
- Learning ability
- Sick days at work (productivity)
- Economic & social mobility

COUNTY FOOD INSECURITY RATE



**30-50%
increase
in 2022**

*2021 USDA Data

FOOD BANKS

Warehouse & distribution center (hub for a region)

Procure & store nutritious food

Distribute using partners, mobiles, schools, etc.



18

PANTRY/PARTNERS:

Believers Christian Food Pantry
Bellevue Good Samaritans
Calvary Christian Fellowship
Endeavor House Ministries
First Presbyterian Church of
Dimondale
Gateway Comm. Services
(Crossroads)
Heart and Hands Food Pantry
Helping Hands
Kalamo Food Pantry
Mulliken Area Food Pantry
Potterville Food Pantry
Seventh Day Adventist - Grand Ledge
Seventh Day Adventist - Lansing
St Vincent DePaul Charlotte
St Vincent DePaul Eaton Rapids
St Vincent DePaul St Gerard
Sunfield Area Pantry
Vermontville Food Bank

COMMUNITY KITCHENS

Sharing Grace

5 CHILDREN S BACKPACK & SCHOOL PANTRIES:

The Birdfeeder (Charlotte H.S.)
Delta Township District Library
Delta-Waverly Rotary Club
Eaton Rapids Backpack
Charlotte Assembly of God
Church
Charlotte Assembly of God

8

MOBILE DISTRIBUTIONS:

Eaton County Various Sites
Community Baptist Church
Mt. Hope Church

1 RESIDENTIAL HOMES:

SIREN Eaton Shelter

6 Gardens

How much food 2022:

1.33 million meals

1.6 million lbs

\$2.8 million retail value

13,952 lbs. produce
grown by gardeners



Other Food Resources

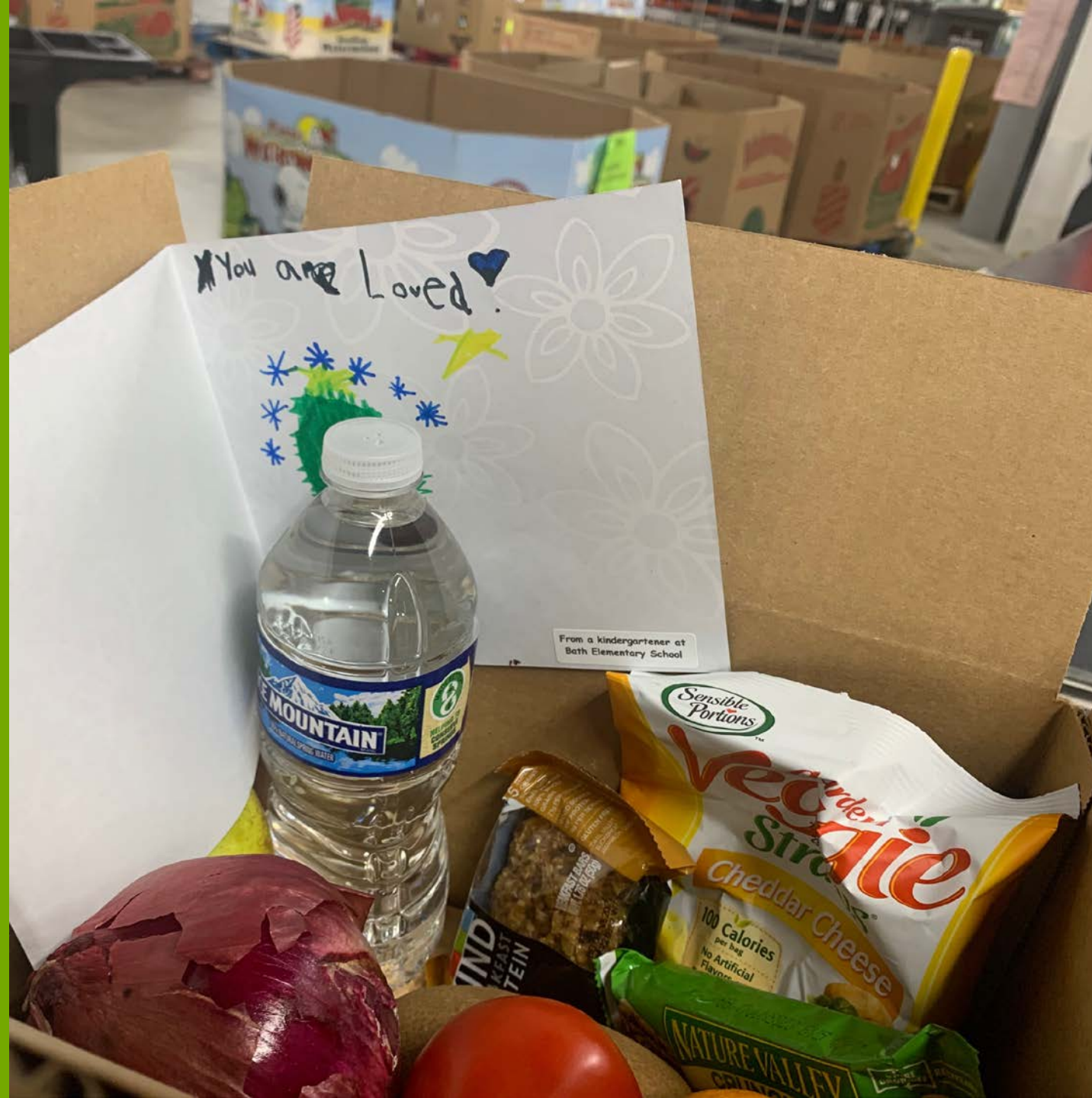
CACS commodities and senior federal programs

Tri-County Office on Aging:
(Meals on Wheels & congregate sites)

Schools Children

SNAP Benefits

Churches Non-Affiliated



Connecting Nutritious Food from our **Community** to our **Neighbors**.

Food Sources



Retail Store
Donations



USDA



Community Agriculture
and Gardens



Community
Food Drives



Prepared Food
Rescue



Purchased
Food



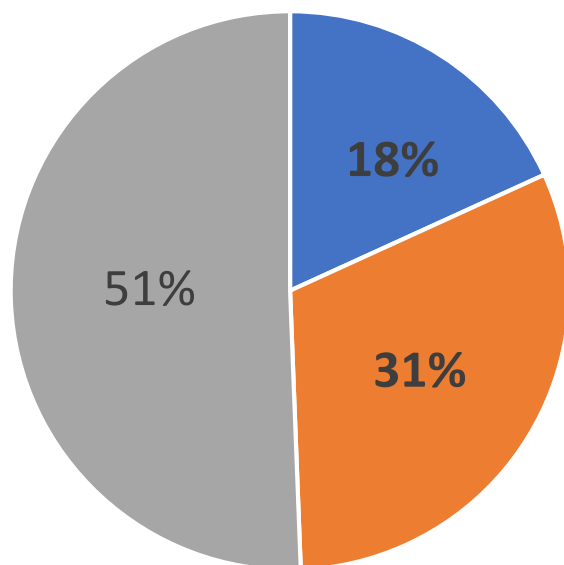
Serving the mid-Michigan counties of
Clare, Clinton, Eaton, Gratiot, Ingham,
Isabella and Shiawassee.





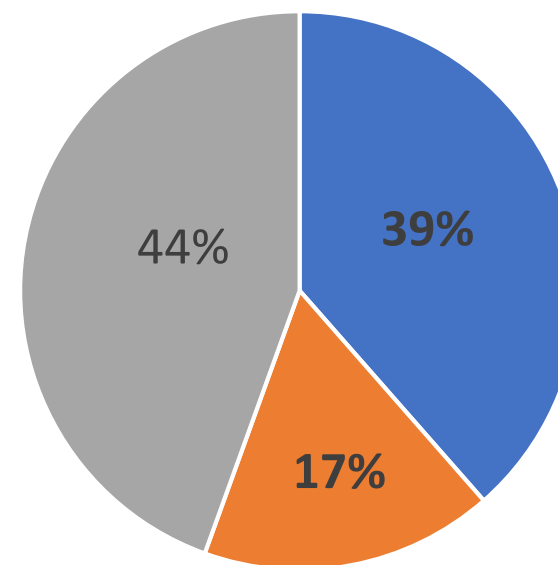
COMPARISON OF FOOD SOURCES

2021



■ Purchased ■ USDA ■ Donated

2022



■ Purchased ■ USDA ■ Donated



Before & During Pandemic

Plentiful USDA loads of food:
economic recovery, trade mitigation &
financial programs

Lots of Retail, Food & Fund Drives





Why

1. Food supply chain still off
2. Food processors still trying to catch up
3. Trucking/Shipping in demand, expensive
4. Food costs higher (gas)
5. War in Ukraine (40% world's grain)
6. Only two growing seasons
7. Everyone competing for food (USDA)



What Can We Do

Stay hopeful & plan

Share information to your residents

Encourage food/fund drives

Funding for Basic Needs for Residents



GREATER LANSING
foodbank

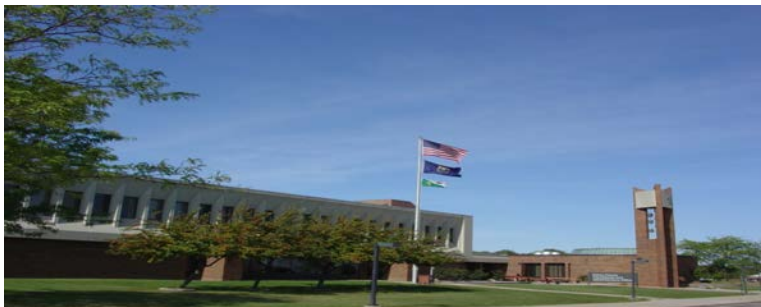


MEMBER OF
FEEDING
AMERICA

EATON COUNTY BOARD OF COMMISSIONERS

MEMBERS

Tim Barnes
Blake Mulder
Terrance Augustine
Brandon Haskell
Jeanne Pearl-Wright
Trevor "TJ" Youngquist
Mark Mudry
Joseph Brehler



MEMBERS

Brian Droscha
Jacob Toomey
Scott Hansen
Brian Lautzenheiser
Jim Mott
Frank Holmes
Barbara Rogers

1045 Independence Blvd, Charlotte, MI 48813

February 15, 2023

Secretary Pete Buttigieg
U.S. Department of Transportation
1200 New Jersey Ave. SE
Washington, D.C. 20590

Acting Administrator Billy Nolen
Federal Aviation Administration
Office of the Associate Administrator for Airports (ARP)
800 Independence Ave. SW
Washington, D.C. 20591

RE: American Airlines Slot Exemption – Docket Number FAA-2015-3491-0424

Dear Secretary Buttigieg & Acting Administrator Nolen:

I am writing to respectfully urge your agencies to extend American Airlines' slot exemption for nonstop daily service between the Capital Region International Airport (LAN) in Lansing and Ronald Reagan Washington National Airport (DCA) in Washington, D.C. This air service is of vital importance to my represented district's economic infrastructure, and to the entire mid-Michigan region.

As the only daily flight between Michigan's capital and the nation's capital, we rely on this service to reach Washington, D.C. Without American's exemption, those traveling between mid-Michigan and Washington, D.C. will be denied nonstop service beginning October 2023, and will be forced to fly less preferable and more time-consuming alternatives. Lansing region businesses have worked on multiple occasions to obtain and then preserve LAN-DCA service, as LAN's only nonstop flight to any of the three Washington area airports.

American started service between LAN and DCA on July 5, 2016. Today, American is LAN's number one airline. Even as business travel has lagged due to the COVID-19 pandemic, Washington, D.C. has historically been Lansing's number one booked market, and load factors continue to see improvement as business travel resumes and our regional economy continues to rebound.

Additionally, the service to DCA also resulted in American adding nonstop service from LAN to Chicago O'Hare International Airport (ORD), giving travelers additional options and connection

opportunities – with more than 100 domestic and 25 international destinations available from ORD, and 50 domestic destinations available from DCA. The relative connectivity American provides through these hubs to mid-Michigan residents both to the East Coast (via DCA) and West Coast (via ORD) is vitally important to both LAN and the region.

As Michigan's state capital and seat of state government, the home of Michigan State University, the insurance capital of Michigan and the center of more than 400 state associations, the greater Lansing business community views convenient air service to D.C. as essential. The annual economic impact of American's LAN-DCA service is nearly \$12 million. Obviously, the loss of this air service would have a major negative impact on those in mid-Michigan.

I can attest with confidence to the benefits of maintaining these flights. Extending American Airlines' service is a true "win-win-win" opportunity that will continue to help create and retain jobs in Michigan, grow our economy, and ensure that the Lansing region remains a cornerstone of mid-Michigan's development strategies.

I respectfully request the DOT and FAA to approve American Airlines' application for an extension of Exemption No. 15867 that will allow American to continue serving the DCA-LAN market until Oct. 28, 2028.

Thank you in advance for your attention to this matter.

Sincerely,

On Behalf of the Eaton County Board of Commissioners
Chairman Jim Mott

EATON COUNTY BOARD OF COMMISSIONERS

FEBRUARY 15, 2023

RESOLUTION TO APPROVE YOUTH FACILITY DESIGN BUILD CONTRACT

Introduced by the Ways and Means Committee

WHEREAS, the Eaton County Youth Facility is owned by the County; and

WHEREAS, the County has received Raise the Age grant funds from Michigan Department of Health and Human Services; and

WHEREAS, the County identified Granger Construction, through an RFP process, as the vendor to assist in the development, design and construction of the proposed Youth Facility Expansion Project; and

WHEREAS, the Controller's Office has negotiated an agreement with Granger Construction, as reviewed by Cohl, Stoker & Toskey, P.C. to provide the following:

- 1) Phase I – Project Design Progression for Permitting: Shall Not To Exceed: \$690,000
- 2) Phase II – Submission of Design Build Lump Sum Proposal for Professional Services for the Construction of the Youth Facility Expansion Project. Total Design Build Lump Sum shall be determined upon completion of Phase I.
- 3) Phase I and Phase II Total Combined Amount: Shall Not to Exceed: \$10,100,000

WHEREAS, the Ways and Means Committee reviewed and is recommending the approval of the design-build construction Phase I Contract with Granger Construction for an amount not to exceed \$690,000 for the expansion to the Youth Facility;

NOW, THEREFORE BE IT RESOLVED, that the Board of Commissioners approves the contract with Granger Construction for an amount not to exceed \$690,000.

BE IT FURTHER RESOLVED, that the Chairman of the Board of Commissioners or his designee is authorized to sign the contract between the County and Granger Construction for the proposed expansion of the Eaton County Youth Facility.

DRAFT AIA® Document A141™ – 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the « » day of « » in the year 2023
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Eaton County
1045 Independence Boulevard
Charlotte, MI 48813

and the Design-Builder:
(Name, legal status, address and other information)

Granger Construction Company
6267 Aurelius Rd.
Lansing, MI 48911

for the following Project:
(Name, location and detailed description)

Eaton County Youth Facility Building Expansion
Eaton County Youth Services
822 Courthouse Drive
Charlotte, MI 48813

The Owner and Design-Builder agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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4	WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT
5	WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT
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7	OWNER'S RESPONSIBILITIES
8	TIME
9	PAYMENT APPLICATIONS AND PROJECT COMPLETION
10	PROTECTION OF PERSONS AND PROPERTY
11	UNCOVERING AND CORRECTION OF WORK
12	COPYRIGHTS AND LICENSES
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14	CLAIMS AND DISPUTE RESOLUTION
15	MISCELLANEOUS PROVISIONS
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B	INSURANCE AND BONDS

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)

§ 1.1.1 The Owner's program for the Project:

(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)

The Owner will develop the Project Program through the Preconstruction and Design Process with the Design-Builder. The Project Program is based on the County of Eaton's Request for Proposals for Construction Management and Design Build Services dated November 1, 2022 (See Exhibit A).

§ 1.1.2 The Owner's design requirements for the Project and related documentation:

(Identify below, or in an attached exhibit, the documentation that contains the Owner's design requirements, including any performance specifications for the Project.)

See Exhibit A

§ 1.1.3 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

«See Exhibit A »

§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:

(Identify the Owner's Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency. If the Owner identifies a Sustainable Objective, incorporate AIA Document A141™-2014, Exhibit C, Sustainable Projects, into this Agreement to define the terms, conditions and Work related to the Owner's Sustainable Objective.)

«No specific sustainability certificates identified. The Project Program will be designed and construed using sustainable methods and materials. »

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builders services, are as follows:

(Identify incentive programs the Owner intends to pursue for the Project and deadlines for submitting or applying for the incentive programs.)

«N/A »

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builders is set forth below:

(Provide total for Owner's budget, and if known, a line item breakdown of costs.)

The total Project Budget shall not exceed \$10,100,000. The Owner and Design Builder will transparently develop a Project Cost Model to include Owner Soft Costs, Contingencies, Architecture Fees, and the Design Builder Costs for Preconstruction / Design and Construction with the initial project scope determination.

§ 1.1.7 The Owner's design and construction milestone dates:

.1 Design phase milestone dates:

Design Progression for Permitting complete June 15, 2023.

.2 Submission of Design-Builders Proposal:

Submission of Design Build Lump Sum Construction Proposal July 15, 2023

.3 Substantial Completion date:

Substantial Completion Date to be determined with Submission of Design Build Lump Sum Construction Proposal.

.4 Other milestone dates:

«N/A »

- .5 The Design-Builder acknowledges and agrees that time is of the essence and that failure to timely perform and complete the services under this Agreement within sixty (60) days after the substantial completion date will result in significant costs, expenses, and damages to Owner, such as loss usage bookings and labor costs associated with setting up bookings cancelled because of delay in completion. The Design-Builder is responsible to the Owner for all such costs, expenses, and damages due to the delay in the completion of the Project, to the extent the delay is caused by the Design-Builder or those for whom the Design-Builder is responsible. The Design-Builder's liability for such costs, expenses, and damages shall be capped at \$30,000.00 per month of additional delay in the completion of the Work and shall not exceed the total sum of all fees to be paid the Design-Builder under this Agreement for the work to be performed both before and after execution of the Design-Builder Amendment.

§ 1.1.8 The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:

(List name, legal status, address and other information.)

.1 Architect

Byce Associates, Inc.
306 S. Kalamazoo Mall
Kalamazoo, MI 49007

.2 Consultants

Securitecture
7381 E 209th St.
Noblesville, IN 46062

.3 Contractors

To Be Determined

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:

(Identify special characteristics or needs of the Project not identified elsewhere, such as historic preservation requirements.)

«N/A »

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Owner and Design-Builder intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Unless otherwise agreed, the parties will use AIA Document E203™-2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

§ 1.1.13 It is understood that the Design-Builder, before submitting an Offer, has reasonably informed itself as to the quality and quantity and character of the Work required, and has made a careful examination of the location and conditions of the Work, to the extent the Work was accessible and observable prior to submitting an Offer. The Owner will in no case be responsible for any loss or for costs that may be suffered by the Design-Builder as a result of the Design-Builder's failure to reasonably acquire information in advance in regard to observable and accessible conditions pertaining to the Work. No oral agreement or conversation with any officer, agent, or personnel of the

Owner either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations herein contained.

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representatives in accordance with Section 7.1.1:

Chad Powers
Facility Director
Eaton-County Physical Plant
1045 Independence Boulevard
Charlotte, MI 48813

Connie Sobie
County Controller/Administrator
1045 Independence Boulevard
Charlotte, MI 48813

§ 1.2.1.1 The Owner's Authorized Representatives are authorized to perform the on-site administration of the Work. The Owner's Authorized Representatives' onsite administration will include deciding all questions that may arise as to the quality and acceptability of Materials furnished and Work performed and as to the rate of progress of the Work and all Work-related questions as to the Design-Builder's acceptable completion of the Work.

§ 1.2.1.2 In extraordinary circumstances, the Owner's Authorized Representative will have the authority to suspend the Work wholly or in part due to the Design-Builder's failure to carry out provisions of this Agreement, for failure to carry out orders, for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason determined by the Authorized Representatives to be in Owner's interest.

§ 1.2.1.3 For the avoidance of doubt, only the Eaton County Administrator, Connie Sobie, is authorized to execute Change Orders, or unilateral Change Orders under this Agreement that are legally binding on the Owner. Change Orders that are acceptable to the Owner shall be signed within twenty-one (21) days of Owner's receipt of a Change Order request.

§ 1.2.1.3 If either of the Owner's Authorized Representatives leaves the contract relationship with the Owner, the Owner will be required to contract with or employ a suitable replacement and provide the Design-Builder with notice of the identity of the replacement Authorized Representative(s).

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:

(List name, address and other information.)

« N/A »

§ 1.2.3 The Owner will retain the following consultants and separate contractors:

(List discipline, scope of work, and, if known, identify by name and address.)

N/A

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:

(List name, address and other information.)

Rob Train
Vice President
Granger Construction
6267 Aurelius Rd.
Lansing, MI 48911

§ 1.2.5 Unless the person named in Section 1.2.4 leaves the employ of the Design-Builder and Architect, the above-named shall serve in this position throughout the performance of this Agreement except as otherwise approved in writing in advance by the Owner.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

☐ Arbitration pursuant to Section 14.4

☐ Litigation in a court of competent jurisdiction

☒ Other: *(Specify): See Section 14.5 Final Resolution Disputes*

« »

§ 1.4 Definitions

§ 1.4.1 **Design-Build Documents.** The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the “Agreement”); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 **The Contract.** The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 **The Work.** The term “Work” means the design, construction and related services required to fulfill the Design-Builder’s obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

§ 1.4.4 **The Project.** The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 **Instruments of Service.** Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 **Submittal.** A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 **Owner.** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term “Owner” means the Owner or the Owner’s authorized representative.

§ 1.4.8 **Design-Builder.** The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term “Design-Builder” means the Design-Builder or the Design-Builder’s authorized representative.

§ 1.4.9 Consultant. A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 Architect. The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 Contractor. A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 Confidential Information. Confidential Information is information containing confidential or business proprietary information that is clearly marked as “confidential.”

§ 1.4.13 Contract Time. Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 Day. The term “day” as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 Contract Sum. The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

§ 1.4.16 Addenda. Addenda record modifications to the drawings and specifications of the Project.

§ 1.4.17 Business Day. The term “business day” shall be any calendar day with the exception of Saturdays, Sundays, and legal holidays at the place of the Project, in which the Owner’s offices are closed.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder’s performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:

(Insert amount of, or basis for, compensation, including compensation for any Sustainability Services, or indicate the exhibit in which the information is provided. If there will be a limit on the total amount of compensation for Work performed prior to the execution of the Design-Build Amendment, state the amount of the limit.)

Not to Exceed \$690,000.00

§ 2.1.1.1 The Owner shall pay the Design-Builder for Work performed before execution of the Design-Build Amendment the reasonable and actual costs incurred by the Design-Builder for design, Reimbursable Expenses, administration, labor, services, materials, and equipment. The total of such costs is guaranteed by the Design-Builder not to exceed the maximum sum of \$690,000.00. Such maximum sum is referred to as the Design Guaranteed Maximum Price. Costs incurred by the Design-Builder which would cause the Design Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder’s Architect, Consultants and Contractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

« »

Individual or Position	Rate
Project Director – Granger	\$120/Hr
Project Manager – Granger	\$85/Hr

Project Estimator – Granger	\$85/Hr
Project Engineer – Granger	\$65/Hr
Project Superintendent- Granger	\$85/Hr
Architect & Engineer (Byce Associates)	
Principal	\$180/Hr
Associate	\$165/Hr
Senior Project Manager	\$150/Hr
Project Manager, Senior Engineer, Senior Architect	\$140/Hr
Project Engineer, Architect, Senior Designer,	\$125/Hr
Commissioning Agent, Senior Interior Designer, BIM	
Manager	
Revit/BIM Specialist III, Project Designer, Interior	\$105/Hr
Designer	
Revit/BIM Specialist II, Graphic Designer	\$90/Hr
Revit/BIM Specialist I, Graphic Designer	\$75/Hr
Administrative	\$65/Hr
Clerical	\$50/Hr

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect, Consultants, and Contractors, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner; and
- .8 Other Project-related expenditures, if authorized in advance by the Owner.

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of five percent (5%) of the expenses incurred.

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment

§ 2.1.4.1 Payments are due and payable within thirty (30) days of the Owner's receipt of the invoice. Amounts unpaid thirty (30) days after the Owner's receipt of an invoice shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder. *(Insert rate of monthly or annual interest agreed upon.)*

0 % , Zero

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times, Monday through Friday between the hours of 9:00 a.m. to 5:00 p.m., for a period of two (2) years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs last. If a dispute arises between the Owner and the Design-Builder during said records retention period and continues past the retention period, the Design-Builder shall continue to retain such records and make them available to the Owner until such dispute, litigation, or arbitration, including all appeals, has been completed.

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.1.1 The Design-Builder shall be responsible for assuring that any Architect, Contractor, Consultant, and Subcontractor performing work on the Project are in compliance with the licensing requirements in the State of Michigan.

§ 3.1.1.2 All work shall be performed in a professional manner and unless the means or methods of performing a task are specified elsewhere in the Design-Build Documents, Design Builder shall employ methods and means that are generally accepted and in use by the Design-Build industry, in accordance with industry standards.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 **General Consultation.** The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of outstanding Submittals;
- .4 Responses to requests for information to be provided by the Owner;
- .5 Approved Change Orders and Change Directives;
- .6 Pending Change Order and Change Directive status reports;
- .7 Tests and inspection reports;

- .8 Status report of Work rejected by the Owner;
- .9 Status of Claims previously submitted in accordance with Article 14;
- .10 Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
- .11 Current Project cash-flow and forecast reports; and
- .12 Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.8.2 In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:

- .1 Design-Builder's work force report;
- .2 Equipment utilization report; and
- .3 Cost summary, comparing actual costs to updated cost estimates.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.9.3 Acceptance of the Schedule by the Owner does not constitute an agreement by the Owner as to the Design-Builder's sequencing, means, methods, or durations.

§ 3.1.10 **Certifications.** Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed

authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 Warranty. The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents; that the Work will be free from defects; and that all materials and equipment selected by Design-Builder, Architect, Consultants, and Contractors will be suitable for the purposes indicated in the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Design-Builder shall promptly remove from the premises and replace all defective materials and equipment as determined by the Owner, whether incorporated in the Work or not. Removal and replacement shall be without loss or expense to the Owner, and Design-Builder shall bear the cost of repairing all Work destroyed or damaged by such removal or replacement.

§ 3.1.12.1 Without limitation of any remedy of Owner, upon Substantial Completion of the Work or termination of this Agreement, the Owner shall be entitled to enforce at its option any and all Contractor warranties relating to Work performed and materials and equipment furnished by such Contractors. The Design-Builder agrees to perform the Work in such manner so as to preserve any and all such Contractor warranties. The Design-Builder also shall collect, assemble in a binder, and submit to the Owner written Contractor warranties and related documents, including, without limitation, from Contractors at all tiers performing Work and furnishing materials, equipment, appliances, and other components of the Project. All such written warranties shall extend to the Owner.

§ 3.1.12.2 Effective upon the written demand of the Owner or upon the insolvency, bankruptcy, dissolution, or other incapacity of the Design-Builder, the Design-Builder assigns to the Owner all Contractors' warranties in materials and equipment and other portions or components of the Work.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's elected and appointed officers/officials, agents, and employees, from and against claims, damages, losses, and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the violations of federal or State of Michigan laws, codes or regulations, intentional tort or misconduct, or negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14. **Pursuant to Act No. 165 of Public Acts of 1966, as amended (MCL 691.991), the responsibility for indemnification set forth in Section 3.1.14 shall**

be limited to the degree of fault of the Design-Builder, Architect, Consultant, Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts or by any of the insurances required in Section 3.1.16.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds.

§ 3.1.16.1 The Design-Builder, and any and all of its subcontractors, shall not commence any services or perform any of its other obligations under this Agreement until the Design-Builder obtains the insurance required under this Section. The Design-Builder shall then maintain the required insurance for the full duration of this Agreement. All coverage shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with insurance carriers acceptable to the Owner. The Design-Builder shall ensure that the Architect, Consultants, Contractors, and Subcontracts maintain insurance of the same types and not less the limits set forth below.

Insurance policies shall not contain endorsements or policy conditions which reduce coverage provided to the Owner. The Design-Builder shall be responsible to the Owner for all costs resulting from both financially unsound insurance companies selected by the Design-Builder and their inadequate insurance coverage. The specified limits of liability do not limit the liability of the Design-Builder. All deductibles and self-insured retentions are the responsibility of the Design-Builder.

.1 **Worker's Compensation Insurance:** The Design-Builder shall procure and maintain during the life of this Agreement Worker's Compensation Insurance, including Employers' Liability Coverage either in accordance with all applicable statutes of the State of Michigan or have the State of Michigan listed under Section 3 - Other States Insurance in the Design-Builder's insurance policy.

.2 **Commercial General Liability Insurance:** The Design-Builder shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability of not less than \$1,000,000.00 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury, and Property Damage. Coverage shall include the following extensions:

- .a Contractual Liability;
- .b Products and Completed Operations;
- .c Independent Service Providers Coverage;
- .d Broad Form General Liability Extensions or equivalent, if not already included; and
- .e Deletion of all Explosion, Collapse, and Underground (XCU) Exclusions, if applicable.

.3 Motor Vehicle Liability Insurance: The Design-Builder shall procure and maintain during the life of this contract Motor Vehicle Liability Insurance, including Michigan No-Fault Coverage, with limits of liability not less than \$1,000,000.00 per occurrence combined single limit for Bodily Injury, and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

.4 Additional Insured: Commercial General Liability Insurance as described above, shall include an endorsement stating the following shall be additional insureds: "Eaton County, all elected and appointed officials, all employees and volunteers, agents, all boards, commissions, and/or authorities and board members, including employees and volunteers thereof." It is understood and agreed that, by naming the Owner as additional insured, coverage afforded is considered to be primary and any other insurance the Owner may have in effect shall be considered secondary and/or excess.

.5 Cancellation Notice: Worker's Compensation Insurance, Commercial General Liability Insurance, and Motor Vehicle Liability Insurance, as described above, shall be endorsed to state the following: "It is understood and agreed thirty (30) days, ten (10) days for non-payment of premium, Advance Written Notice of Cancellation, Non-Renewal, Reduction, and/or Material Change shall be sent to: Eaton County Administrator, 1045 Independence Blvd., Charlotte, MI 48813." If any required insurance expires or is canceled during the term of this Agreement, services and related payments will be suspended and the County may terminate this Agreement immediately.

.6 Proof of Insurance Coverage: The Design-Builder shall provide a certificate of insurance, which includes an endorsement showing the Owner as an additional insured for each type of insurance required in this Agreement, at least ten (10) business days prior to commencement of services under this Agreement.

Should the need arise, the Owner reserves the right to request a copy of any policy mentioned above and if so requested, the Design-Builder agrees to furnish a Certified Copy. No payments shall be made to the Design-Builder until the necessary insurance documents have been received and approved by the Owner. If any of the above coverages expire during the term of this Agreement, the Design-Owner shall deliver renewal certificates to the Owner at least ten (10) days prior to the expiration date.

§ 3.1.16.2 Bond Requirements

After the execution of the Design-Build Amendment, the Design-Builder shall not commence work under this Agreement until it has obtained the bonds required by this section from surety companies acceptable to the Owner. All bonds shall be with surety companies licensed and admitted to do business in the State of Michigan, be listed in the most recently revised U.S. Department of Treasury's Listing of Approved Sureties set forth in Treasury Department Circular 570, and have an A.M. Best Company insurance reports rating of A or A- (Excellent). The Design-Builder shall ensure that all Contractors and Subcontractors covered under this Agreement are also covered by bonds meeting the requirements of this section. The bonds to be provided shall include the following:

- .1 Performance Bond – The Design-Builder, as Principal, shall furnish a Surety Bond in a form acceptable to the Owner in an amount at least equal to one hundred percent (100%) of the amount to be paid Design-Builder under this Agreement as security for faithful performance of this Agreement. The Owner shall be Obligee under said bond. The bond shall guarantee the faithful performance and shall indemnify and save harmless the Obligee from all costs and damages by reason of the Principal's failure to perform in accordance with the provisions of this Agreement. This Agreement, by reference, shall be an integral part of the bond.
- .2 Payment Bond – The Design-Builder, as Principal, shall furnish a Surety Bond in form acceptable to the Owner in an amount at least equal to one hundred percent (100%) of the Contract Sum as security for the prompt payment to the Architect, Consultants, Contractors, and all other persons and entities supplying labor and material in the performance of all work under this Agreement, and any and all authorized modifications under this Agreement. This Agreement, by reference, shall be an integral part of the bond.
- .3 Performance and Payments Bonds shall be submitted to Connie Sobie, Eaton County Controller/Administrator, 1045 Independence Boulevard, Charlotte, MI 48813, at least ten (10) days prior to the commencement of work covered under this Agreement.

- .4 Additional or Substitute Bond – If at any time the Owner, for a justifiable cause, shall become dissatisfied with any Sureties providing the Performance or Payment Bonds, the Design-Builder shall, within five (5) days after such notice from the Owner to do so, substitute an acceptable bond(s) in such forms and sum and issued by such other Surety as may be satisfactory to the Owner. No further payments shall be deemed due nor shall be made until the new Surety or Sureties shall have furnished such an acceptable bond to the Owner.

ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include:

- .1 allocations of program functions, detailing each function and their square foot areas;
- .2 a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
- .3 a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and
- .4 the following:

(List additional information, if any, to be included in the Design-Builder's written report.)

« N/A »

§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

- .1 Confirmation of the allocations of program functions;
- .2 Site plan;
- .3 Building plans, sections and elevations;
- .4 Structural system;
- .5 Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and
- .6 Outline specifications or sufficient drawing notes describing construction materials.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

§ 4.3.2 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

- .1 A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;
- .2 The proposed Contract Sum, including the compensation method and, if based upon the Cost of the Work plus a fee, a written statement of estimated cost organized by trade categories, allowances, contingencies, Design-Builder's Fee, and other items that comprise the Contract Sum;
- .3 The proposed date the Design-Builder shall achieve Substantial Completion;
- .4 An enumeration of any qualifications and exclusions, if applicable;
- .5 A list of the Design-Builder's key personnel, Contractors and suppliers; and
- .6 The date on which the Design-Builder's Proposal expires.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Construction Documents

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.2 Construction

§ 5.2.1 **Commencement.** Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

§ 5.6.1 The Design-Builder shall include in the Contract Sum all allowances stated in the Design-Build Documents. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

- .1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

- .2 the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors, or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. Replacements shall have equal or greater qualifications and experience as the person they are replacing. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3.1 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work.

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

§ 5.9 Use of Site

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up

§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove

waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors

§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

§ 6.1.4 All Change Orders and Change Directives must be in writing. A Change Order or Change Directive will not be effective until its execution by both parties to this Contract, and all approvals required by public contracting laws have been obtained.

§ 6.1.5 Design-Builder shall submit any request for additional compensation (and additional Contract Time if Design-Builder was authorized to start Work before an adjustment of Contract Time was approved) as soon as possible, but no later than thirty (30) days after receipt of the Owner's request for additional Work, adjustments to the Work, or deletions from the Work. If Design-Builder's request for additional compensation or adjustment of Contract Time is not made within the thirty (30) day time limit, Design-Builder's requests pertaining to that change in the Work shall be barred. The thirty (30) day time limit for making requests shall not be extended for any reason, including, without limitation, Design-Builder's claimed inability to determine the amount of additional compensation or adjustment of Contract Time, unless an extension is granted in writing by the Owner. If the Owner denies Design-Builder's request for additional compensation or adjustment of Contract Time, Design-Builder may proceed to file a Claim under Article 14. No other reimbursement, compensation, or payment will be made, except as provided in Section 6.1.5.1.

§ 6.1.5.1 The thirty (30) day time limit applies to claims of the Architect, Contractors, Consultants, suppliers, or manufacturers who may be affected by the Owner's request for additions to, adjustments to, or deletions from the Work and who request additional compensation or an extension of Contract Time to perform. The Design-Builder is responsible for contacting its Architect, Contractors, Consultants, suppliers, or manufacturers within the thirty (30) day time limit, and including their requests with the Design-Builder's requests. If the request involves Work to be completed by the Architect, Contractors, or Consultants, or materials to be furnished by suppliers or manufacturers, such requests shall be submitted to the Design-Builder in writing with full analysis and justification for the adjustments to compensation and Contract Time requested. The Design-Builder shall analyze and evaluate the merits of the requests submitted by Architect, Contractors, Consultants, suppliers, or manufacturers to Design-Builder prior to including those requests and Design-Builder's analysis and evaluation of those requests with Design-Builder's requests for adjustments to compensation or Contract Time that Design-Builder submits to the Owner. Failure of Architect, Contractors, Consultants, suppliers, or manufacturers or others to submit their requests to Design-Builder for inclusion with Design-Builder's requests submitted to Owner within the time period and by the means described in this Section 6.1.5.1 shall constitute a waiver of these claims. The Owner will not consider direct requests or claims from Architect, Contractors, Consultants, suppliers, or manufacturers or others not a party to this Agreement. The consideration of such requests and claims under this Section 6.1.5.1 does not give any person not a party to this Agreement the right to bring a claim against Owner, whether in this claims process, in litigation, or in any dispute resolution process.

§ 6.1.6 No request or Claim by the Design-Builder for additional costs or an adjustment of Contract Time shall be allowed if made after receipt of final payment application under this Contract. Final payment application must be made by the Design-Builder within the time required under Section 9.10.1.2.

§ 6.1.7 It is understood that changes in the Work are inherent in construction of this type. The number of changes, the scope of those changes, and the effect they have on the progress of the original Work cannot be defined at this time.

The Design-Builder is notified that numerous changes may be required. Each change will be evaluated for extension of Contract Time and increase or decrease in compensation based on its own merit.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time being adjusted accordingly.

§ 6.3.2 A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum or, if prior to execution of the Design-Build Amendment, an adjustment in the Design-Builder's compensation, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Design-Build Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 6.3.7.

§ 6.3.4 If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

- .1 Additional costs of professional services;
- .2 Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;

- .3 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .4 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;
- .5 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .6 Additional costs of supervision, field offices, technology and field office personnel directly attributable to the change.

§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.9 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

§ 6.4 Request for Change Order Proposal or Change Directive

Within the time limits set out in this Section 6.4, after receipt of a Request For Change Order Proposal or a Change Directive, the Design-Builder shall submit to the Owner a written Change Order Proposal setting out any proposed adjustment in the Contract Sum, Contract Time, or both, to which the Design-Builder believes it (1) would be entitled as a result of the change in the Work proposed in the Request For Change Order Proposal or (2) is entitled as a result of the change in the Work directed by the Change Directive. Such Change Order Proposal may, at Owner's option, be in the form of a lump sum proposal or a unit price proposal, or a combination thereof, for a proposed increase in the Contract Sum, and in similar form for a proposed extension of the Contract Time, and otherwise shall be in such form and in such detail as the Owner may require. Such Change Order Proposal shall be submitted as soon as practicable after the Design-Builder's receipt of the Request For Change Order Proposal or the Change Directive, but in no event later than thirty (30) days after the Design-Builder's receipt of the Request For Change Order Proposal or the Change Directive.

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations

conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project. Tap Fees, Utility Infrastructure Fees, or other Utility Assessment Costs will be the responsibility of the Owner.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.5.1 Notwithstanding the provisions of Section 7.2.4, the Design-Builder shall be responsible for determining, prior to commencement of the Work, the locations of all underground utility lines, cables, pipelines and similar such underground public service installations within and serving the Project site, utilizing utility locating services or other means permitted by law. The Design-Builder shall coordinate with utility and other involved third party representatives regarding utility locations and related issues, and shall hand excavate or otherwise take special precautions so as to perform the Work in such a manner as to avoid damaging, or interrupting the operation of, all utility lines, cables, pipelines, and similar public service installations within and serving the Project site, whether above ground or underground. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.2.10 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Design Builder shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10 for agreement by the Owner.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

§ 7.9.1 If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

§ 7.9.2 The right of the Owner to correct deficiencies in the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity and shall not affect the Design-Builder's contractual duties under this Agreement, including warranty obligations.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

§ 8.2.4 In the event of any requests for additional compensation or additional Contract Time, or both, as applicable, arising under this Section 8.2 for delays due to one (1) of the causes identified in Section 8.2.1, the Design-Builder shall submit a written notification of the delay to the Owner within two (2) business days of the occurrence of the cause of the delay. This written notification shall state the cause of the potential delay, the project components impacted by the delay, and the anticipated additional Contract Time extension or the additional compensation, or both, as applicable, resulting from the delay. In accordance with the requirements of Article 6, within seven (7) days after the cause of the delay has been mitigated, or in no case more than thirty (30) days after the initial written notification, the Design-Builder shall submit to the Owner a complete report on the delay and how the cause of the delay was resolved allowing the Project to proceed and a request for additional compensation or additional Contract Time, or both, as applicable, resulting from the delay. If the Owner denies Design-Builder's request for additional compensation or adjustment of Contract Time, the Design-Builder may proceed to file a Claim under Article 14. If Design-Builder does not timely submit the notices required under Section 8.2.4, then unless otherwise prohibited by law, the Design-Builder's Claim shall be barred.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least thirty (30) days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site. It is understood and agreed the Owner shall not be responsible for or bear any risk of loss of material or equipment while it is in transit from its manufacturer or supplier or while it is being stored at a site other than a location mutually agreed to in writing with the Design-Builder.

§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 Certificates for Payment

The Owner shall, within seven (7) business days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1. The Owner's review and approval of Design-Builder's Application for Payment is a condition precedent to the Owner's obligation to pay Design-Builder. The Owner's review and approval of Design-Builder's Application for Payment, or any progress payment based thereon, shall not be considered acceptance or approval of any Work or waiver of any defects therein.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- .1 defective Work, including design and construction, not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- .3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.6.7. The Design-Builder shall obtain and maintain a Payment Bond as required by Section 3.1.16.2.2.

§ 9.6.8 Upon reasonable evidence of the unjustified nonpayment of the Architect, Consultants, Contractors, or others by Design-Builder, the Owner may, after giving reasonable notice and opportunity to cure to the Design-Builder, notify the Surety that issued the Payment Bond. Upon request of the Payment Bond's Surety and/or the Owner, the Design-Builder shall furnish to the Payment Bond's Surety and the Owner such information as they may need to determine to whom and in what amount payments may be due.

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.8 Substantial Completion

§ 9.8.1. Substantial Completion is when all items on the final punch list are completed to the Owner's satisfaction and the Owner can occupy and use the Work in its entirety.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall not constitute a waiver of any Claims by the Owner.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

§ 9.11 Retention

§ 9.11.1 For Work following execution of the Design-Build Amendment, pursuant to Act 524 of the Michigan Public Acts of 1980, the following retention provisions shall apply: The Owner shall retain a portion of each progress payment otherwise due which shall be limited to the following:

§ 9.11.1.1 Not more than ten percent (10%) of the dollar value of all Work in place until Work is fifty percent (50%) in place.

§ 9.11.1.2 After the Work is fifty percent (50%) in place, additional retainage shall not be withheld unless the Owner determines the Design-Builder is not making satisfactory progress or for other specific cause relating to the Design-Builder's performance under this Agreement.

§ 9.11.2 The retained funds shall not be commingled with other funds of the Owner and shall be deposited in an interest-bearing account in a regulated financial institution in the State of Michigan wherein all retained funds are kept by the Owner which shall account for both retainage and interest on each construction contract separately.

§ 9.11.3 Except as provided in Sections 9.11.5.6 and 9.11.5.7 below, retainage and interest earned on retainage shall be released to the Design-Builder together with the final progress payment.

§ 9.11.4 At any time after ninety-four percent (94%) of the Work is in place and at the request of the Contractor, the Owner shall release the retainage plus interest to the Design-Builder, only if the Design-Builder provides to the Owner an irrevocable letter of credit in the amount of the retainage plus interest issued by a bank authorized to do business in the State of Michigan, containing terms mutually acceptable to the Design-Builder and the Owner.

§ 9.11.5 If a dispute arises regarding the matter described in Sections 9.11.1, 9.11.2, 9.11.3 and 9.11.4 the Design-Builder and the Owner agree to submit the dispute to the decision of an agent who is a person or persons agreed to or selected by the Design-Builder and the Owner.

§ 9.11.5.1 If a dispute regarding a matter described in Section 9.11.5.2 arises, the Design-Builder and the Owner shall designate an agent who has background, training, and experience in the construction of facilities similar to that which is to be constructed pursuant to this Agreement, as follows:

- .1 In an agreement reached within ten (10) days after a dispute arises.
- .2 If an agreement cannot be reached within ten (10) days after a dispute arises, the Owner shall designate an agent who has background training and experience in the construction of facilities similar to that which is the subject of this Agreement and who is not an employee of the Owner.

§ 9.11.5.2 The Owner may request dispute resolution by the agent regarding the following:

- .1 At any time during the term of this Agreement, to determine whether there has been a delay for reasons that were within the control of the Design-Builder, and the period of time that the delay has been caused, continued, or aggravated by actions of the Design-Builder.
- .2 At any time after ninety-four percent (94%) of the Work is in place, whether there has been an unacceptable delay by the Design-Builder in performance of the remaining six percent (6%) of Work under this Agreement. The agent shall consider the terms of this Agreement and the procedures normally followed in the industry and shall determine whether the delay was for failure to follow reasonable and prudent practices in the industry for completion of the Project.

§ 9.11.5.3 This dispute resolution process shall be used only for the purpose of determining the rights of the parties to retained funds and interest earned on retained funds and is not intended to alter, abrogate, or limit any rights with respect to remedies that are available to enforce or compel performance of the terms of this Agreement by either Owner or Contractor.

§ 9.11.5.4 The agent may request and shall receive all pertinent information from the Owner and Design-Builder and shall provide an opportunity for an informal meeting to receive comments, documents, and other relevant information in order to resolve the dispute. The agent shall determine the time, place, and procedure for the informal meeting. A written decision and reasons for the decision shall be given to the Owner and Design-Builder within fourteen (14) days after the meeting.

§ 9.11.5.5 The decision of the agent shall be final and binding upon both the Owner and Design-Builder. Upon application of either party, the decision of the agent may be vacated by order of the Circuit Court only upon a finding by the Court that the decision was procured by fraud, duress, or other illegal means.

§ 9.11.5.6 If the dispute resolution results in a decision:

- .1 That there has been a delay as described in Section 9.11.5.2(1), above, all interest earned on the retained funds during the period of delay shall become the property of the Owner.
- .2 That there has been an unacceptable delay as described in Section 9.11.5.2(2), above, the Owner may contract with a subsequent contractor to complete the remaining six percent (6%) of the Work, and interest earned on retained funds shall become the property of the Owner. A subsequent Contractor under this Section 9.11.5.6(2) shall be paid by the Owner from the following sources until each source is depleted in the order listed below:
 - .a The dollar value of the original contract (i.e. this Agreement) less the dollar value of funds already paid to the Design-Builder and the dollar value of the Work in place for which the Design-Builder has not received payment.
 - .b Retainage from the Design-Builder or funds made available under a letter of credit provided in Section 9.11.4.
 - .c Interest earned on retainage from the Design-Builder or funds made available under a letter of credit provided under Section 9.11.4.

§ 9.11.5.7 If the Owner contracts with a subsequent contractor as provided in Section 9.11.5.6.2, the final progress payment shall be payable to the Design-Builder within thirty (30) days of certification of the Application for Payment as set forth in Section 9.4. The amount of the final progress payment to the Design-Builder shall not include interest earned on retained funds. The Owner may deduct from the final progress payment all expenses of contracting with the subsequent contractor. This act shall not impair the right of the Owner to bring an action or to otherwise enforce a performance bond to complete the Work under this Agreement.

§ 9.11.6 The aforementioned retention provisions shall not apply if the dollar value of this Agreement is: (a) less than \$30,000.00; or (b) if there will be three (3) or fewer payments.

§ 9.11.7 Neither the final payment nor the remaining retained percentage shall become due until the Design-Builder submits to the Owner the items required in Sections 9.11.7.1, 9.11.7.2 and 9.11.7.3.

§ 9.11.7.1 An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner might in any way be responsible, have been paid or otherwise satisfied.

§ 9.11.7.2 Consent of surety, if any, to final payment.

§ 9.11.7.3 If required by the Owner, other data establishing payment or satisfaction of all such obligations such as receipts, releases, and waivers of liens arising out of this Agreement to the extent and in such form as may be designated by the Owner. If any Contractor or Subcontractor refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond covering such lien. If any such lien remains unsatisfied after all payments are made, the Design-Builder shall refund to the Owner all monies that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorney's fees.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly

employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property. If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 The Designer-Builder is responsible for any and all releases of environmental pollution during the performance of this Agreement which occurs as a result of, or are contributed by, actions of the Design-Builder, its Contractors, Architect, Subcontractors, or agents. The Design-Builder agrees to promptly remediate such releases to the satisfaction of the Owner and proper regulatory agencies at no cost to the Owner.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder, its Contractors, and Subcontractors bring onto the site and/or use in the course of the Work..

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder, its Contractors, and Subcontractors brings to the site and/or use in the course of the Work, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 (INTENTIONALLY DELETED)

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.1.1 Section 11.2.2 does not limit Design-Builder's obligation to correct latent defects that have not been caused by the Owner which will be remedied by the Design-Builder at any time they become apparent.

§ 11.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2, as it applies to the Work corrected. The Design-Builder shall correct any defects in corrected Work discovered within one (1) year after completion of the original correction.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish

the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, renovating, altering, and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

§ 12.3.1 When the Project has been completed, including all items on the final punch list, the Design-Builder shall acquire title to all Instruments of Service pertaining to the Project and convey such title and rights of ownership to the Owner upon the Owner's payment of all remaining sums due under the Design-Build Documents. When title to the Instruments of Service have transferred to the Owner, the license provided Owner pursuant to Section 12.3 shall terminate and the Owner shall be entitled without limitations to use the Instruments of Service for maintaining, renovations, altering, and constructing additions to the Project.

§ 12.3.2 (INTENTIONALLY DELETED)

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, and such failure is not attributable to the Design-Builder's failure to comply with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven (7) days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.3 If the Owner suspends the Project for more than ninety (90) cumulative days for reasons other than the fault of the Design-Builder, the Design-Builder may terminate this Agreement by giving not less than seven days' written notice.

§ 13.1.4 Either party may terminate this Agreement upon not less than fourteen (14) days' written notice and opportunity to cure should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 13.1.5 The Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Design-Builder for the Owner's convenience and without cause whenever Owner determines that termination of this Agreement is in the best interest of the Owner or the public. After such notice, the Design-Builder shall provide the Owner with materials and products for which the Design-Builder received payments under Article 2.

§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall (1) the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1, and (2) the Design-Builder be entitled to its fee or other payment, including, but not limited to, lost profits, on account of Work not performed.

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate this Agreement on seven (7) business days' notice to the Owner if the Work is stopped for a period of ninety (90) consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped; or
- .3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents.

(INTENTIONALLY DELETED)

§ 13.2.1.2 The Design-Builder may terminate this Agreement on seven (7) business days prior written notice to the Owner if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is greater.

§ 13.2.1.3 If the Design-Builder terminates this Agreement for one (1) of the reasons described in Section 13.2.1.1 or 13.2.1.2, the Design-Builder may, upon seven (7) business days' written notice to the Owner, terminate the Agreement and recover from the Owner payment for Work executed. If the reason for termination was as set forth in Section 13.2.1.1.3 or Section 13.2.1.2, the Design-Builder may also recover reasonable overhead and profit on Work executed and costs incurred by reason of such termination.

§ 13.2.1.4 If the Work is stopped for a period of ninety (90) consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, and such failure is not due to causes beyond the Owner's control, the Design-Builder may, upon seven (7) additional business days' written notice to the Owner, terminate this Agreement and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate this Agreement if the Design-Builder

- .1 fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;
- .2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials or equipment;
- .3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- .4 is in violation of applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority either in the conduct of its business or in its performance of the Work;
- .5 persistently or substantially fails to carry out the Work pursuant to the Design-Build Documents;
- .6 persistently or substantially fails to comply with the current Design-Builder's schedule;
- .7 submits one (1) or more Applications for Payment that the Design-Builder overstates the amount to be paid by the Owner; voluntarily or involuntarily seeks protection under the United States Bankruptcy Code; and, as debtor-in-possession or the Trustee for the estate, fails to assume the Agreement within a reasonable time;
- .8 makes a general assignment for the benefit of Design-Builder's creditors;
- .9 causes a receiver to be appointed on account of Design-Builder's insolvency; or
- .10 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

In the event the Owner terminates this Agreement for cause under this Section 13.2.2.1, and such termination is subsequently determined by a final court judgment or arbitration award to have been wrongful, the termination shall automatically be converted to and be deemed for the Owner's convenience pursuant to Section 13.2.4.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- .1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- .2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

- .1 cease operations as directed by the Owner in the notice;

- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work that has been executed. The Design-Builder shall not be entitled to payment for profit and overhead on Work not executed due to the termination.

§ 13.3 As directed by the Owner, the Design-Builder shall, upon termination, transfer title and deliver to the Owner all Instruments of Service, Record Documents, information, and other property that, if the Agreement had been completed, would have been required to be furnished to the Owner.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 **Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 **Time Limits on Claims.** The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.2.1 Claims by Design-Builder for an increase in Contract Sum or Contract Time must be initiated by written notice to the Owner five (5) business days after a denial of Design-Builder's initial request for an adjustment of Contract Sum or extension of Contract Time or other relief, provided that such initial request has been submitted in accordance with the requirements and within the time limits established in this Agreement. Unless the Claim is made in accordance with these time requirements, it shall be waived by Design-Builder.

§ 14.1.2.2 The Owner will review all Claims and take one (1) or more of the following preliminary actions within ten (10) business days of receipt of the written notice of Claim: (1) request additional supporting information from the Design-Builder; (2) inform the Design-Builder in writing of the time required for adequate review and response; (3) reject the Claim in whole or in part and identify the reasons for rejection; (4) based on principles of equitable adjustment, recommend approval of all or part of the Claim; or (5) propose an alternate resolution.

§ 14.1.2.3 The Owner's decision shall be final and binding on the Design-Builder unless appealed by written notice to the Owner within fifteen (15) days of receipt of the decision. The Design-Builder must present written documentation supporting the Claim within fifteen (15) days of the notice of appeal. After receiving the appeal documentation, the Owner shall review the materials and render a decision within thirty (30) days after receiving the appeal documents.

§ 14.1.2.4 The decision of the Owner shall be final and binding unless the Design-Builder delivers to the Owner its request for mediation, which shall be a non-binding process, within thirty (30) days of the date of the Owner's decision. The mediation process will be considered to have commenced as of the date the Design-Builder delivers the request. Both parties acknowledge and agree that participation in mediation is a prerequisite to commencement of litigation or arbitration of any disputes relating to this Agreement. Both parties further agree to exercise their best efforts in good faith to resolve all disputes within sixty (60) days of the commencement of the mediation through the mediation process set forth herein. The mediator shall be an individual mutually acceptable to both parties, but in the absence of agreement, each party shall select a temporary mediator and the temporary mediators shall jointly select the permanent mediator. Each party shall pay its own costs for the time and effort involved in mediation. The cost of the mediator and any filing fees shall be split equally between the two (2) parties. Both parties agree to exercise their best effort in good faith to resolve all disputes in mediation. Participation in mediation is a mandatory requirement of both the Owner and the Design-Builder. The mediation shall be held in the place where the Project is located unless another

location is mutually agreed upon. The mediation schedule and time will be mutually acceptable, or, failing mutual agreement, shall be as established by the mediator. The parties agree to comply with Owner's administrative rules governing the confidentiality of mediation, if any, and shall execute all necessary documents to give effect to such confidentiality rules. In any event, the parties shall not subpoena the mediator or otherwise require the mediator to produce records, notes or work product, or to testify in any future proceedings as to information disclosed or representations made in the course of mediation, except where the disclosure is required by law.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 14.1.7 Claims for Consequential Damages (INTENTIONALLY DELETED)

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten (10) business days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten (10) business days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design-Builder. If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten (10) business days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data; (2) inform the Design-Builder in writing of the time required for adequate review and response; (3) render an initial decision rejecting the Claim in whole or in part; (4) render an initial decision approving the Claim; (5) suggest a compromise; or (6) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 14.2.6 (INTENTIONALLY DELETED)

§ 14.2.6.1 (INTENTIONALLY DELETED)

§ 14.2.7 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 (INTENTIONALLY DELETED)

§ 14.3.2 (INTENTIONALLY DELETED)

§ 14.3.3 Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

§ 14.4 Arbitration (INTENTIONALLY DELETED)

§ 14.4.4 Consolidation or Joinder (INTENTIONALLY DELETED)

§ 14.5 Final Resolution of Disputes

§ 14.5.1 If the Owner and Design-Builder are unable to resolve a dispute in mediation, either party may seek in a court of competent jurisdiction any remedies available in law and/or in equity to resolve the dispute.

§ 14.5.2 The venue for the bringing of any legal or equitable action under this Agreement shall be in a Michigan Court having jurisdiction that is established in accordance with the statutes of the State of Michigan and/or Michigan Court Rules. In the event that any action is brought under this Agreement in or is moved to a federal court, the venue for such action shall be the Federal Judicial District of Michigan, Eastern District, Southern Division.

§ 14.5.3 The Owner and the Design-Builder may, if they mutually agree in writing signed by their authorized representatives, submit a Claim, dispute, or other matter in question arising out of or relating to this Agreement or breach thereof that they specify in said agreement to arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect or such other rules of arbitration in which they may mutually agree. The venue for such arbitration shall be in Eaton County, Michigan.

§ 14.5.4 If the Owner and Design-Builder mutually agree to settle a Claim, dispute, or other matter in question between them by arbitration, the award rendered by the arbitrator(s) shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 14.5.5 It is expressly understood and agreed that any agreement to submit a particular Claim, dispute, or matter to arbitration shall apply only to that particular Claim, dispute, or matter and shall not be binding upon any other Claims, disputes, or matters which may arise between the Owner and Design-Builder.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract and all disputes shall be subject to and construed in accordance with the laws of the State of Michigan, without regard to any choice of law rules that would apply the laws of any other jurisdiction to the extent not inconsistent with or pre-empted by Federal law. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern the arbitration.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1 or 15.6.2.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.6.2 The Design-Builder acknowledges that the Owner is a public entity and municipal corporation subject to the Michigan Freedom of Information Act, MCL 15.231 et seq ("FOIA"). If the Owner receives a FOIA request for information which the Design-Builder transmits as confidential, the Owner shall notify the Design-Builder if the Owner believes the material may not be exempt from FOIA disclosure. It shall be the obligation of the Design-Builder to obtain any necessary court order within the response times required by FOIA to exempt such disclosure. If Design-Builder does not timely pursue, or does not obtain such an order, such information shall be disclosed and Design-Builder waives any and all claims against Owner for such disclosure.

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

§ 15.9 Nondiscrimination

§ 15.9.1 The Design-Builder, Architect, Consultants, Contractors, and Subcontractors, as required by law, shall not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privilege of employment, or a matter directly or indirectly related to employment because of race, color, religion, sex,

national origin, disability that is unrelated to the individual's ability to do a particular job or position, height, weight, marital status, age, or political affiliation.

§ 15.9.2 The Design-Builder shall adhere to all applicable Federal, State, and local laws, ordinances, rules, and regulations prohibiting discrimination, including, but not limited to, the following:

- .1 The Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended.
- .2 The Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended.
- .3 Section 504 of the Federal Rehabilitation Act of 1973, P.L. 93-112, 87 Stat 355, as amended, and regulations promulgated thereunder.
- .4 The Americans with Disabilities Act of 1990, P.L. 101-336, 104 Stat 327 (42 USC §12101 *et seq*), as amended, and regulations promulgated thereunder.

§ 15.9.3 Breach of Section 15.9 shall be regarded as a material breach of the Agreement.

§ 15.10 Compliance With The Law

The Design-Builder, the Design-Builder's Architect, Consultants, Contractors and Subcontractors shall render the services to be provided pursuant to the Agreement in compliance with all applicable Federal, State, and local laws, ordinances, codes, rules, and regulations.

§ 15.11 Meetings

The Design-Builder's authorized representative shall meet as often as necessary with the Owner, Eaton County Board of Commissioners, and/or their representatives to discuss matters regarding the services to be provided by the Design-Builder under the Agreement.

§ 15.12 Compliance With Safety Requirements and Owner Inspections

§ 15.12.1 The Design-Builder and its Architects, Contractor, Consultants and Subcontractors shall comply with all Occupational Safety and Health Administration ("OSHA"), State and County Safety and Design-Builder and its Architects, Contractor, Consultants, and Subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under the Contract Documents.

§ 15.12.2 Under no circumstances shall any tools of any kind or materials being used be left unattended.

§ 15.12.3 If the Work to be performed requires the use of any product which contains any ingredient that could be hazardous or injurious to a person's health, a Material Safety Data Sheet ("MSDS") regarding that product must be submitted to the Owner prior to commencement of the Work.

§ 15.12.4 All work under the Design-Build Documents shall be performed in a skillful and workmanlike manner, and according to applicable code(s). The Owner may, at its sole discretion, require the Design-Builder to remove any employee from work that the Owner deems incompetent or careless. Further, the Owner may, from time to time, make inspections of the work performed under the Design-Build Documents. Any inspection by the Owner does not relieve the Design-Builder from any responsibility regarding defects or other failures to meet the Contract Documents' requirements.

§ 15.13 Independent Contractor

§ 15.13.1 It is expressly understood and agreed that the Design-Builder is an independent contractor. The employees, Architect, Consultants, Contractors, Agents, and Subcontractors of the Design-Builder shall in no way be deemed to be and shall not hold themselves out as employees, servants, or agents of the Owner and shall not be entitled to any fringe benefits of the Owner, such as, but not limited to, health and accident insurance, life insurance, paid vacation or sick leave, or longevity.

§ 15.13.2 The Design-Builder shall be responsible for paying all salaries, wages, and other compensation which may be due its employees, Architect, Consultants, Contractors, or Agents who are performing services under the Design-Build Documents and for the withholding and payment of all applicable taxes, including, but not limited to, income and social security taxes, to the proper federal, State, and local governments.

§ 15.14 Iran Linked Business

The Design-Builder, by executing this Agreement, certifies to the Owner that neither it nor any of its successors, parent companies, subsidiaries, or companies under common ownership or control of the Design-Builder, are an “Iran Linked Business” engaged in investment activities of \$20,000,000.00 or more with the energy sector of Iran, within the meaning of Michigan Public Act 517 of 2012. It is expressly understood and agreed that the Design-Builder shall not become an “Iran linked business” during the term of the Contract.

§15.14.2 NOTE: IF A PERSON OR ENTITY FALSELY CERTIFIES THAT IT IS NOT AN IRAN LINKED BUSINESS AS DEFINED BY PUBLIC ACT 517 OF 2012, IT WILL BE RESPONSIBLE FOR CIVIL PENALTIES OF NOT MORE THAN \$250,000.00 OR TWO (2) TIMES THE AMOUNT OF THE CONTRACT FOR WHICH THE FALSE CERTIFICATION WAS MADE, WHICHEVER IS GREATER, PLUS COSTS OF INVESTIGATION AND REASONABLE ATTORNEY FEES INCURRED, AS MORE FULLY SET FORTH IN SECTION 5 OF ACT NO. 517, PUBLIC ACTS OF 2012.

§ 15.15 Waiver

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

§ 15.16 Amendments

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

§ 15.17 Invalid/Unenforceable Provisions

If any clause or provision of the Contract is rendered invalid or unenforceable because of any State or federal statute or regulation or ruling by any tribunal of competent jurisdiction, that clause or provision shall be null and void and any such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of the Contract. Where the deletion of the invalid or unenforceable clause or provision would result in the illegality and/or unenforceability of the Contract, the Contract shall be considered to have terminated as of the date in which the clause or provision was rendered invalid or unenforceable.

§ 15.18 Survival of Obligations

All rights, duties, and responsibilities under the Contract of either the Owner or Design-Builder that either expressly or by their nature, extend into the future, including, but not limited to, warranties, correcting, or replacing defective work or materials, and indemnification provisions, shall survive the termination of the Contract.

§ 15.19 Certification

The people signing on behalf of the Owner and Design-Builder hereby certify by their signatures that they are duly authorized to sign the Contract on behalf of the party they represent and that the Contract has been authorized by said party.

ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below:

- .1 AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder
- .2 County of Eaton Request for Proposals for Construction Management and Design Build Services dated November 1, 2022, Exhibit A
- .3 AIA Document A141™–2014, Design-Build Amendment, if executed
- .4 AIA Document A141™–2014, Exhibit B, Insurance and Bonds
- .4 AIA Document A141™–2014, Exhibit C, Sustainable Projects, if completed
- .5 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:

« »

- .6 Other:

Proposal for Construction Management and Design Build Services submitted by Granger Construction dated December 8, 2022.

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

«Jim Mott,» «Chairperson, Eaton County Board of Commissioners»

(Printed name and title)

DESIGN-BUILDER (Signature)

« »« »

(Printed name and title)

APPROVED AS TO FORM FOR COUNTY OF EATON:

COHL, STOKER & TOSKEY, P.C.

By: Courtney A. Gabbara

On: February 10, 2023

N:\Client\Eaton\Agreement\Granger Construction\A141-2014 - Contract Eaton Co Youth Facility - cag v2.docx

EATON COUNTY BOARD OF COMMISSIONERS

FEBRUARY 15, 2023

RESOLUTION TO APPROVE 2022/2023 BUDGET AMENDMENTS

Introduced by the Ways and Means Committee

WHEREAS, the Eaton County 2022/2023 Appropriations Act of September 21, 2022 states that any amendment to increase a salary and/or a Capital Outlay line-item in excess of \$2,500.00 or any amendment to increase the total budget of any fund or department in excess of \$2,500.00 shall be amended by the Board of Commissioners, except that any amendment to decrease the General Fund Contingency shall be approved by the Board of Commissioners; and

WHEREAS, such amendments are needed in order to comply with the Uniform Budgeting and Accounting Act of 1978, P.A. 621.

NOW, THEREFORE BE IT RESOLVED, that the following budget amendments be approved and added to the 2022/2023 Eaton County Budget:

GENERAL FUND

TRANSFERS-OUT 101.999

Decrease	Transfers-Out Parks and Recreation	\$376,557
Decrease	Fund Balance Carryover	\$376,557

To decrease the General Fund Appropriation to the Parks and Recreation Fund.

SPECIAL REVENUE FUNDS

PARKS AND RECREATION 208

Decrease	Transfers-In General Fund	\$376,557
Decrease	Fund Balance Carryover	\$376,557

To decrease the General Fund Appropriation to the Parks and Recreation Fund.

CENTRAL DISPATCH 261

Increase	Wages and Fringes	\$ 57,450
Increase	Fund Balance Carryover	\$ 57,450

To increase total budget for to add one new FTE and amend the Position Allocation List as described in the request recommended by the Public Safety Committee.

February 10, 2023

2023/2024 BUDGET SCHEDULE

Wednesday, February 28, 2023	Budget Documents to Elected Officials/Department Heads	
Friday, March 10, 2023	Present Personnel Expenditure Estimates	Ways & Means Committee
Friday, March 17, 2023	Technology and Building Requests Due	
Friday, March 24, 2023	Budget Forms Returned by Elected Officials/Department Heads	
Friday, April 14, 2023	Review Revenue Estimates and Departmental Expenditure Requests	Ways & Means Committee
Friday, May 12, 2023	Review Revised Revenue Estimates and Controller's Office Expenditure Recommendations	Ways & Means Committee
Friday, May 12, 2023	Recommendations to Departments	
Friday, June 16, 2023	Work Session (a.m. and p.m. if necessary) * Departmental Budget Presentations	Ways & Means Committee
Wednesday, June 21, 2023	Adoption of Operating Millage	Board
Friday, June 23, 2023	* Departmental Budget Presentations (a.m. and p.m. if necessary)	Ways & Means Committee
Friday, July 14, 2023	Work Session (a.m. and p.m. if necessary)	Ways & Means Committee
Friday, August 11, 2023	Work Session (a.m. and p.m. if necessary)	Ways & Means Committee
Tuesday, September 12, 2023	Truth in Budgeting Hearing	Board
Friday, September 15, 2023	Work Session (a.m. and p.m. if necessary)	Ways & Means Committee
Wednesday, September 20, 2023	Adoption of Budget and Tax Rates	Board

* **Tentative, will be cancelled if unnecessary.**

p.m. **Indicates work session may cause meeting to continue into the afternoon.**

CLAIMS AUDITED BY THE WAYS AND MEANS COMMITTEE FEBRUARY 10, 2023

FUND#	DEPT#	DEPARTMENT	AMOUNT
101	101	BOARD OF COMMISSIONERS	\$ 2,499.37
101	281.31	CIRCUIT COURT	\$ 4,748.87
101	281.36	DISTRICT COURT	\$ 360.00
101	281.41	FRIEND OF THE COURT	\$ 50.00
101	281.48	PROBATE COURT	\$ 4,472.95
101	281.49	JUVENILE COURT	\$ 16,404.00
101	172	CONTROLLER	\$ 5,028.53
101	215.00	COUNTY CLERK	\$ 786.03
101	253	COUNTY TREASURER	\$ 11,945.00
101	257	EQUALIZATION	\$ 6,377.00
101	265	BUILDING AND GROUNDS	\$ 8,701.29
101	296.29	PROSECUTING ATTORNEY	\$ 756.54
101	296.32	ECONOMIC CRIME UNIT	\$ 45.00
101	301.01	SHERIFF DEPARTMENT	\$ 18,327.46
101	301.03	SHERIFF DELTA	\$ 53,621.52
101	301.43	ANIMAL CONTROL	\$ 1,226.83
101	301.51	SHERIFF CORRECTIONS	\$ 5,421.26
101	631	SUBSTANCE ABUSE - CMH	\$ 34,735.50
101	648	MEDICAL EXAMINER	\$ 47,188.44
101	689	VETERANS	\$ 2,878.49
101	721	COMMUNITY DEVELOPMENT	\$ 1,232.96
208	751	PARKS ADMINISTRATION	\$ 68,689.80
223	721	COMMUNITY DEVELOPMENT	\$ 8,325.00
226	228	TECHNOLOGY SERVICES	\$ 46,451.32
228	530	LOCAL UNIT GRANT PROJECTS	\$ 29.00
249	371	CONSTRUCTION CODE	\$ 249.85
260	299	PUBLIC DEFENDER	\$ 26,630.18
261	325	CENTRAL DISPATCH	\$ 3,576.10
720	301	SHERIFF DONATIONS	\$ 20.00
		GRAND TOTAL	\$ 380,778.29

APPROVED BY:
COMMISSIONERS
AUGUSTINE, BREHLER, MULDER, PEARL-WRIGHT, ROGERS

**CLAIMS AUDITED BY THE WAYS AND MEANS COMMITTEE FEBRUARY 10, 2023
IMMEDIATE PAYMENTS**

FUND#	DEPT#	DEPARTMENT	AMOUNT
101	040.801	STORM WATER IMPCT FEE REC'V	\$ 37,518.64
101	123.004	PREPAID EXPENSE-TELEPHONE	\$ 974.65
101	123.005	PREPAID EXPENSE - POSTAGE	\$ 17,000.00
101	123.006	PREPAID EXPENSE-POSTAGE/PRESORT	\$ 235.07
101	276	RECEIPTS REFUNDABLE	\$ 353.80
101	276.001	RECEIPTS REFUNDABLE - ECU	\$ 14,420.53
101	276.002	RECEIPTS REFUNDABLE - ECU - MDHHS	\$ 3,125.00
101	172	CONTROLLER	\$ 22,797.82
101	215	COUNTY CLERK	\$ 1,296.95
101	215.07	ELECTIONS	\$ 876.49
101	228	INFORMATION SYSTEMS	\$ 3,823.85
101	253	COUNTY TREASURER	\$ 307.36
101	257	EQUALIZATION	\$ 11,777.84
101	265	BUILDING AND GROUNDS	\$ 30,863.38
101	281.31	CIRCUIT COURT	\$ 9,508.75
101	281.36	DISTRICT COURT	\$ 11,415.10
101	281.41	FRIEND OF THE COURT	\$ 125.01
101	281.48	PROBATE COURT	\$ 5,994.71
101	281.49	JUVENILE COURT	\$ 3,654.76
101	281.50	CIRCUIT COURT PROBATION	\$ 79.78
101	296.29	PROSECUTING ATTORNEY	\$ 13,508.18
101	296.32	ECU	\$ 8,108.27
101	301.01	SHERIFF DEPARTMENT	\$ 61,849.51
101	301.03	SHERIFF DELTA	\$ 24,973.64
101	301.51	SHERIFF CORRECTIONS	\$ 41,092.41
101	301.43	ANIMAL CONTROL	\$ 3,474.51
101	442	DRAIN COMMISSION	\$ 4,242.17
101	648	MEDICAL EXAMINER	\$ 24,176.22
101	689	VETERANS	\$ 2,027.57
101	710.00	MSU EXTENSION	\$ 36,547.25
101	711	REGISTER OF DEEDS	\$ 627.81
101	721	COMMUNITY DEVELOPMENT	\$ 289.02
101	728	ECONOMIC DEVELOPMENT	\$ 25,231.50
101	851	INSURANCE & BONDS	\$ 6,215.00
201	449	ROAD COMMISSION	\$ 637,456.74
208	751	PARKS ADMINISTRATION	\$ 3,828.83
208	752	FITZGERALD PARKS	\$ 5,110.45
208	753	FOX PARK	\$ 1,561.62
208	755	LINCOLN PARK	\$ 655.18
221	601	HEALTH DEPARTMENT	\$ 551,106.00
225	211.001	PUBLIC IMPROVEMENT	\$ 429,682.31
226	228.00	COMPUTER FUND	\$ 68,945.18
228	528	RESOURCE RECOVERY	\$ 3,239.80
228	529	COUNTY PROJECTS	\$ 1,591.43
228	530	LOCAL UNIT GRANT PROJECTS	\$ 1,874.28
245	257	REMONUMENTATION	\$ 5,475.00
249	371	CONSTRUCTION CODE	\$ 3,338.04
256	711	REGISTER OF DEEDS - AUTOMATION	\$ 110.00
260	299	PUBLIC DEFENDER	\$ 36,996.23
261	101.26	EMERGENCY SERVICES	\$ 1,689.05
261	325	CENTRAL DISPATCH	\$ 169,181.65
272	281.38	PRIORITY COURT	\$ 3,175.00
273	281.38	SOBRIETY COURT	\$ 1,420.00
274	281.38	SWIFT & SURE SANCTIONS	\$ 580.00
275	281.38	VETERAN'S COURT	\$ 2,530.00
276	281.52	COMMUNITY CORRECTIONS	\$ 428.02
276	281.53	COMMUNITY CORRECTIONS	\$ 5,470.00
276	281.54	OTHER GROUP SERVICES	\$ 200.00
277	301	SHERIFF DEPARTMENT	\$ 7,628.22
278	281.38	DRUG COURT - GRANT FUNDING	\$ 3,849.37
281	301.51	BUILDING BRIDGES DOJ GRANT	\$ 8,858.36
287	301.28	AREA PLANNER	\$ 2,775.82

**CLAIMS AUDITED BY THE WAYS AND MEANS COMMITTEE FEBRUARY 10, 2023
IMMEDIATE PAYMENTS**

FUND#	DEPT#	DEPARTMENT	AMOUNT
292	276	RECEIPTS REFUNDABLE	\$ 453.44
292	281.56	YOUTH FACILITY	\$ 16,678.03
292	281.58	COMMUNITY BASED TREATMENT	\$ 350.70
292	281.60	DAY TREATMENT	\$ 2,834.98
292	281.62	IN HOME CARE	\$ 225.05
292	281.68	CHILD CARE FUND PREVENTION SERVICES	\$ 62,101.04
292	665	OTHER REIMBURSABLE EXPENSE	\$ 39,574.51
293	683	SOLDIERS & SAILORS	\$ 1,200.00
296	281.49	JUVENILE MILEAGE	\$ 897.84
297	325	CENTRAL DISPATCH - 911 SURCHARGE	\$ 8,044.84
512	635	EATON COUNTY HEALTH AND REHABILITATIVE SERVICES	\$ 1,490,658.70
513	253	FORECLOSING GOVERNMENTAL UNIT	\$ 4,462.85
516	253	DELINQUENT TAX REVOLVING FUND	\$ 10,530.00
595	301	COMMISSARY	\$ 240.00
656	861	EMPLOYER SHARE RETIREMENT	\$ 484,494.28
670	851.85	HEALTH INS VISION CLAIMS CURRENT EMP	\$ 2,984.26
670	851-86	REIREES HEALTH INS VISION CLAIMS	\$ 183.00
676	852.00	RETIREE HEALTH INSURANCE	\$ 27,982.74
677	871	WORKERS COMPENSATION	\$ 5,242.16
678	870	MESC	\$ 1,086.00
679	853	LIFE & DISABILITY	\$ 2,448.54
680	854	DENTAL INSURANCE	\$ 17,595.10
690	20X0 224.000	DUE TO ROAD COMMISSION	\$ 3.50
690	20X0 225.000	DUE TO SCHOOLS	\$ 58.54
690	20X0 226.000	DUE TO TOWNSHIPS	\$ 7.72
690	20X0 230.001	DUE TO EATRAN	\$ 0.58
690	20X0 230.004	DUE TO LIBRARY	\$ 2.31
690	20X0 234.000	DUE TO INTERMEDIATE SCHOOLS	\$ 8.78
690	20X0 300.000	BONDS PAYABLE	\$ 70,000.00
690	253.00.993	INTEREST	\$ 610.66
691	20X1 224.000	DUE TO ROAD COMMISSION	\$ 3.55
691	20X1 225.000	DUE TO SCHOOLS	\$ 63.90
691	20X1 226.000	DUE TO TOWNSHIPS	\$ 8.45
691	20X1 230.001	DUE TO OTHER GOVERNMENTAL UNIT EATRAN	\$ 0.59
691	20X1 230.004	DUE TO OTHER GOVERNMENTAL UNIT LIBRARY	\$ 2.34
691	20X1 234.000	DUE TO INTERMEDIATE SCHOOLS	\$ 12.53
691	20X1 275.000	DUE TO TAXPAYERS TAX OVERPAYMENT	\$ 3,369.81
691	20X1 300.000	BONDS PAYABLE	\$ 293,000.00
691	253.00.993	INTEREST	\$ 5,743.88
699	20X9.224.000	DUE TO ROAD COMMISSION	\$ 3.44
699	20X9.225.000	DUE TO SCHOOLS	\$ 57.47
699	20X9.226.000	DUE TO TOWNSHIPS	\$ 7.53
699	20X9.230.001	DUE TO OTHER GOVERNMENTAL UNIT - EATRAN	\$ 0.57
699	20X9.230.004	DUE TO OTHER GOVERNMENTAL UNIT - LIBRARY	\$ 2.27
699	20X9.234.000	DUE TO INTERMEDIATE SCHOOLS	\$ 8.90
701	224.000	DUE TO ROAD COMMISSION	\$ 1,450.15
701	226.020	DUE TO TOWNSHIPS ROXAND TOWNSHIP	\$ 50.00
701	226.060	DUE TO TOWNSHIPS CHESTER TOWNSHIP	\$ 180.00
701	226.090	DUE TO TOWNSHIPS KALAMO TOWNSHIP	\$ 170.00
701	226.100	DUE TO TOWNSHIPS CARMEL TOWNSHIP	\$ 50.00
701	226.110	DUE TO TOWNSHIPS EATON TOWNSHIP	\$ 60.00
701	226.150	DUE TO TOWNSHIPS BROOKFIELD TOWNSHIP	\$ 120.00
701	228-001	DUE TO STATE EDUCATION TAX	\$ 183,045.90
701	228.005	DUE TO STATE NOTARY TRAINING & EDUCATION	\$ 28.00
701	228-006	T/A-DUE TO STATE PROBATE COURT SHARED FEES	\$ 3,387.91
701	228-016	T/A-DUE TO STATE PISTOL PERMITS	\$ 4,165.00
701	228-028	T/A-DUE TO STATE PROBATE CRT ORDERED PYMTS	\$ 125.11
701	228-037	T/A-DUE TO STATE CRIME VICTIMS RIGHTS	\$ 1,359.74
701	228.040	DUE TO STATE REMONUMENTATION	\$ 12,690.74
701	228-042	T/A-DUE TO STATE STATE COURT FEES	\$ 1,047.50
701	228.044	T/A0DUE TO STATE TRANSFER TAX	\$ 255,558.75

**CLAIMS AUDITED BY THE WAYS AND MEANS COMMITTEE FEBRUARY 10, 2023
IMMEDIATE PAYMENTS**

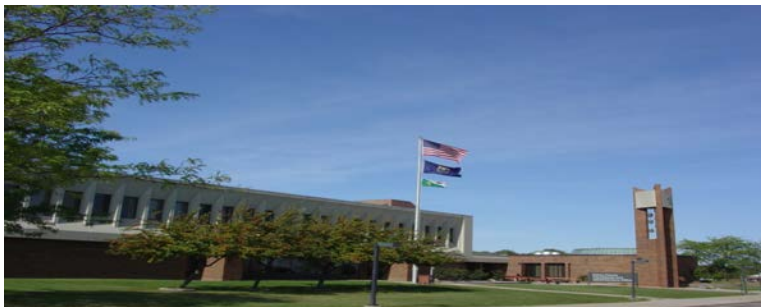
FUND#	DEPT#	DEPARTMENT	AMOUNT
701	228-046	T/A-DUE TO STATE TRAILER COACH PARK SPECIFIC	\$ 4,200.00
701	228-055	T/A-DUE TO STATE DNA SPECIMEN FEE	\$ 39.00
701	228-056	T/A-DUE TO STATE ELECTRONIC FILING FEE	\$ 1,650.00
701	228-057	T/A-DUE TO STATE JUROR COMPENSATION FUND	\$ 100.00
701	228-058	T/A-DUE TO STATE CIVIL FILING FEE FUND	\$ 8,562.00
701	228-059	T/A-DUE TO STATE JUSTICE SYSTEM FUND	\$ 1,963.11
701	228.063	DUE TO STATE CSC OFFENDER REGISTRATION FEE	\$ 150.00
701	228.064	DUE TO STATE FINGERPRINT - OTHER AGENCIES	\$ 821.75
701	230.001	DUE TO OTHER GOVERNMENT UNIT EATRAN	\$ 245.17
701	265-000	T/A-APPEARANCE BONDS PAYABLE	\$ 2,000.00
701	266-000	T/A-COURT ORDERS PAYABLE	\$ 192.30
701	271-002	T/A-RESTITUTION PAYABLE PROBATION	\$ 37,498.75
701	271-004	T/A-RESTITUTION PAYABLE JUVENILE	\$ 1,175.00
701	274.001	UNDISTRIBUTED TAX COLLECTION STATE TAX APPEAL	\$ 3,482.15
701	300-003	T/A-BONDS PAYABLE DRAIN CONTRACT BONDS	\$ 5,000.00
704	228.002	DUE TO STATE MI WITHHOLDING TAX	\$ 65,987.62
704	229.001	DUE TO FEDERAL GOV'T FED WITHHOLDING	\$ 161,527.40
704	229-002	T/A-PAYROLL DUE TO FED GOVT SS TAXES	\$ 108,728.94
704	229-003	T/A-DUE TO FED GOVT MEDICARE TAXES	\$ 25,428.52
704	231.000	T/A - PAYROLL DEDUCTIONS PAYABLE	\$ 15,847.91
704	231-002	T/A-PAYROLL DEDUCTIONS PAYABLE HGB WELLNESS CTR	\$ 1,323.80
704	231.008	PAYROLL DEDUCTIONS PAYABLE FLEXIBLE SPENDING ACCT	\$ 9,021.02
704	231.009	PAYROLL DEDUCTIONS PAYABLE DEF COMP	\$ 38,990.37
704	231.010	PAYROLL DEDUCTIONS PAYABLE AMERICAN FIDELITY	\$ 2,346.92
704	231.011	PAYROLL DEDUCTION PAYABLE HEALTH CARE SAVING PLAN	\$ 24,755.03
704	231.015	PAYROLL DEDUCTIONS PAYABLE MERS	\$ 130,780.08
704	258.000	ACCRUED TAXES PAYABLE	\$ 134,157.76
706	281.49	DONATIOPNS - JUVENILE COURT	\$ 105.44
707	281.56	DONATIONS - YOUTH FACILITY	\$ 403.02
707	281.60	DONATIONS - DAY TREATMENT	\$ 88.60
720	301	SHERIFF DEPT DONATIONS	\$ 376.26
801	445	DRAIN FUND	\$ 768,290.51
802	101.000	REVOVLING DRAIN FUND - INVENTORY	\$ 4,205.76
851	445.00.996	DRAIN BOND ISSUANCE COSTS	\$ 3,500.00
			\$ 6,784,741.25
CATEGORY		WIRE TRANSFERS	
OTHER AGENCIES			
PAYROLL AND BENEFITS			\$ 1,376,554.17
CONSTRUCTION PAYMENTS			
INVESTMENTS			
		TOTAL WIRE TRANSFERS	\$ 1,398,157.09
GRAND TOTAL IMMEDIATE PAYMENTS			\$ 8,182,898.34

**APPROVED BY:
COMMISSIONERS
AUGUSTINE, BREHLER, MULDER, PEARL-WRIGHT, ROGERS**

EATON COUNTY BOARD OF COMMISSIONERS

MEMBERS

Tim Barnes
Blake Mulder
Terrance Augustine
Brandon Haskell
Jeanne Pearl-Wright
Trevor "TJ" Youngquist
Mark Mudry
Joseph Brehler



MEMBERS

Brian Droscha
Jacob Toomey
Scott Hansen
Brian Lautzenheiser
Jim Mott
Frank Holmes
Barbara Rogers

1045 Independence Blvd, Charlotte, MI 48813

February 15, 2023

NAME

ADDRESS

ADDRESS

RE: Realizing Opportunities with Broadband Infrastructure Networks (ROBIN) Grant Program

To LEGISLATOR NAME:

The Eaton County Board of Commissioners respectfully requests a letter of support to include in a 2023 ROBIN Grant application request by ACD.NET. The purpose of the ROBIN grant, to provide high speed internet service to unserved and underserved communities, aligns strongly with the goals of Eaton County and the county's Broadband Communication Action Team.

The Eaton County Broadband Communication Action Team has been working collaboratively with Carmel Township and ACD.net on a grant application highlighting their partnership and commitment to providing high speed internet.

All three partners, Eaton County, ACD.NET and Carmel Township have made financial commitments for the ROBIN grant application as follows:

\$ 2,881,050	Total ACD.NET Capital Investment
\$ 2,681,050	Eaton County Funding Commitment (American Rescue Plan and State and Local Recovery Funds)
\$ 200,000	Carmel Township Funding Commitment
<u>\$ 8,643,150</u>	Total ROBIN Grant Fund to be applied for in partnership with ACD.NET
\$14,405,250	Total Cost

This is the first step in our desire to provide reliable, fixed high-speed internet to all constituents of Eaton County. We look forward to receiving your letter of support which can be sent to broadband@eatoncounty.org by March 6, 2023.

Respectfully.

On Behalf of the Eaton County Board of Commissioners
Chairman Jim Mott

LETTER OF UNDERSTANDING

IT IS HEREBY AGREED between the County of Eaton ("the County"), the Eaton County Sheriff's Office ("the Sheriff's Office"), and the Police Officers Association of Michigan ("the Union") as follows:

1. The parties acknowledge that the Sheriff's Office is experiencing hiring challenges for both Corrections Deputy and Road Deputy candidates due to statewide and nationwide shortages.
2. The parties acknowledge Municipal Employees' Retirement system has decided to extend the rehire retiree guidelines allowing retirees from the same employer to return to work without having their pension suspended if they exceed 1,000 working hours in order to assist employers with filling positions due to labor shortages.
3. The parties further acknowledge that the Sheriff's Office is in need of trained officers to support staffing levels.
4. In light of the above, the parties therefore agree as follows:
 - The Sheriff's Office may, without regard to the provisions of the applicable collective bargaining agreement between the parties, employ or otherwise utilize the services of Ryan Wright, who was employed by the Sheriff's Office as a Road Deputy and who is now retired, as a part-time employee for the purpose of filling vacant corrections deputy positions and/or to substitute for officers who are absent from work.
 - No employee in the bargaining unit represented by the Union shall be laid off as a result of this Agreement, and no grievance or unfair labor practice charge shall arise from the implementation of this Agreement.
 - The part-time position filled by this individual shall be represented by Union.
 - The part-time employee's wage will begin at the two year step of the Corrections Deputy wage scale with step increases and cost of living increases aligned with the salary scale. The part-time employee shall not be entitled to any other contractual benefits.
 - This employee shall not be employed for purposes of this Letter of Understanding for more than 1,560 hours through the term of this Letter of Understanding.
5. This Letter of Understanding shall become effective on the rehire date and shall remain in effect until the employee's resignation or termination or until the end of the Municipal Employees' Retirement System's waiver of work hour limit.
6. This Letter of Understanding represents the entire agreement of the parties as to the matters to which it relates, and no other such agreement shall be binding unless in writing and signed by the parties.

THE COUNTY

By: _____

Its: _____

Date: _____

THE SHERIFF'S OFFICE

By: _____

Its: _____

Date: _____

THE UNION

By: _____

Its: _____

Date: _____

EATON COUNTY BOARD OF COMMISSIONERS

FEBRUARY 15, 2023

RESOLUTION RELATED TO THE MICHIGAN STATE UNIVERSITY SHOOTING

Introduced by Commissioner Jacob Toomey

WHEREAS, on February 13, 2023, a gunman shot and killed at least 3 victims and wounded at least 5 others at Michigan State University in East Lansing, Michigan; and

WHEREAS, there is a need for the Lansing Area governments to express their positions on school safety matters that affect the children and parents residing in its communities; and

WHEREAS, student safety is a prerequisite for consistently high levels of academic and social development; and

WHEREAS, a large population of residents in Eaton County work, study, or visit Michigan State University and are impacted by the events of February 13, 2023; and

WHEREAS, thousands of students have publicly expressed concern for their safety and well-being and have indicated that policymakers should act immediately to protect them in school and beyond; and

WHEREAS, Americans are 25 times more likely to be killed with a gun than people in other developed countries; and

WHEREAS, on average, someone is killed with a gun every 7 hours in Michigan; and

WHEREAS, communities across the State need considerable additional resources to plan for, assess and prevent such horrendous acts of violence, including coordinating with law enforcement in order to secure our schools from intruders intent upon committing violence; and

WHEREAS, many schools lack the mental health counselors, psychologists, and social workers needed to identify and work with students showing warning signs for depression and violence; and

WHEREAS, the most effective approach to creating safe school environments is a comprehensive, coordinated effort including schoolwide, districtwide and communitywide strategies supplemented with policy, resources and support at the local, state and federal level; and

WHEREAS, the multiple school shootings that the nation has witnessed over the years have complex causes requiring multiple solutions.

NOW, THEREFORE, BE IT RESOLVED by the Eaton County Board of Commissioners which finds and determines as follows:

1. Adopts the foregoing recitals as true and correct;
2. The Board stands with the students of Michigan State University and the people of the State of Michigan in solidarity and remembrance of lives lost as a result of gun violence on February 13, 2023.
3. The Board calls on the Legislators of Michigan to appropriate adequate new funds to increase the numbers of counselors, mental health staff, psychologists, and social workers in our communities to both prevent and respond to gun violence.
4. The Board stands with the students of Michigan State University and the people of the State of Michigan in demanding effective and comprehensive action on gun safety legislation to protect students, teachers, parents, support staff, and others visiting the schools of Eaton County from gun violence.

HEALTH AND HUMAN SERVICES COMMITTEE MEETING

MONDAY, FEBRUARY 6, 2023

9:00 A.M.

MINUTES

MEMBERS PRESENT: Commissioners Blake Mulder, Mark Mudry, Joseph Brehler, Barbara Rogers, and Jeanne Pearl-Wright

MEMBERS ABSENT: Commissioner Brian Lautzenheiser and Tim Barnes

ALSO PRESENT: Commissioners Jim Mott and Scot Hansen. Barry-Eaton Community Health Department representatives: Quality Improvement Coordinator Milea Burgstahler and Personal and Community Health Director Laura Fox. Also present: Controller/Administrator Connie Sobie.

The February 6, 2023 regular meeting of the Health and Human Services Committee was called to order at 9:00 a.m. by Vice Chairperson Mulder.

The Pledge of Allegiance was given by all.

Commissioner Rogers moved to approve agenda, as presented. Commissioner Pearl-Wright seconded. Motion carried unanimously.

Commissioner Rogers moved to approve the January 9, 2023 minutes, as presented. Commissioner Mudry seconded. Motion carried unanimously.

Representatives from the Barry-Eaton District Health Department (BEDHD) provided the agency's semiannual update. Quality Improvement Coordinator, Milea Burgstahler provided on the agency's financial department report, various environmental health programs, as well as the Planning Promotion and Evaluation unit. Personal & Community Health Director, Laura Fox spoke regarding the many programs in this division and reported the annual statistics of the programs. Ms. Fox also spoke regarding an employee training workshop which was rolled out last week. Ms. Burgstahler spoke regarding the remodeling of the Health Department Clinic, slated to be finished at the end of April. Discussion held.

There was discussion regarding the BEDHD team and their hard work during the Covid-19 pandemic and the stresses caused by staff turnover and need for the team-building programs.

There was also discussion regarding the lack of substance abuse programs in Eaton County since the loss of Cherry Hill and the earlier loss of Mid-South Substance Abuse. As with many rural counties, Eaton County lacks the resources to meet the ongoing needs of people with substance abuse problems.

Vice Chairperson Mulder adjourned the meeting at 9:26 a.m.

The next regularly scheduled meeting of the Health and Human Services Committee will be held on Monday, March 6, 2023 at 9:00 a.m., in the Board of Commissioners Room of the Courthouse located at 1045 Independence Blvd, Charlotte MI 48813.

Blake Mulder, Vice Chairperson

DRAFT

**INFORMATION TECHNOLOGY AND COMMUNICATION
COMMITTEE MEETING**

WEDNESDAY, FEBRUARY 1, 2023

4:00 P.M.

MINUTES

MEMBERS PRESENT: Commissioners Brian Droscha, Barbara Rogers, Frank Holmes, Jacob Toomey, Brandon Haskell, Mark Mudry and Scott Hansen.

ALSO PRESENT: Eric Daley, Nathan Nighbert, Claudine Williams, Elizabeth Walby and Controller Connie Sobie.

The February 1, 2023 regular meeting of the Information Technology and Communication Committee was called to order at 4:00 p.m. by Chairperson Droscha.

The Pledge of Allegiance was given by all.

Commissioner Rogers moved the addition to Item #10 Miscellaneous – Updated Incident Response Plan. Seconded by Commissioner Haskell. Carried unanimously.

There was no public comment.

Technology Services Director Eric Daley provided a broadband project update. He stated ACD.net had officially submitted the registration for the Realizing Opportunities with Broadband Infrastructure Networks (ROBIN) grant application. ACD.net is currently reviewing all site address point data provided by FCC. There are roughly 2300 address validations checks being performed with the defined project area. Technology Services is also going through the dataset and will provide their findings to FCC directly. There is no set date of when the new data will be released, but the current data set will be included and updated at the next rollout. The data currently provided by the FCC is from June 2022. Data is provided from various sources, including the State of Michigan, internet service providers and various Federal sources. Some of the data matched perfectly, but a small percentage did not match up. These changes will be corrected and submitted to the FCC to consideration and inclusion of the next FCC data release. The ROBIN grant work submissions need to be completed by the end of 2026. The proposed project for ACD.net will be approximately two years until completion.

The Eaton County Broadband Action Team will be meeting Monday, February 6, 2023 at 2:00 p.m. at which ACD.net will give a full report of their progress.

Community Development Director Claudine Williams stated that Eaton Regional Educational School Association (RESA) has offered facility meeting space to the Michigan High-Speed Internet Office (MIHI) without cost. MIHI will be holding listening tour meetings throughout the community to determine priorities of allocation for the 1.6 billion dollars projected to be available for broadband services through the BEAD federal broadband grant. Forty meetings will be held over the several communities in order to provide residents with convenient meeting

locations. The first local meeting will be held at Eaton RESA on February 28, 2023 from 5:30 p.m. to 7:30 p.m.

Director Daley discussed proposed Board Room technology additions. Mr. Daley met with vendor Third Coast Technology, to review the current technology and discuss future updates to. Discussion held.

Controller Sobie suggested the change from Zoom to YouTube for Board meeting usage. She noted that using YouTube would allow meetings to be streamed, recorded and allow for meeting storage for future reference. The public would have easier viewing access to County meetings.

Mr. Daley discussed other technology projects updates. A phone hardware update has been planned since June 2022. The units have been on backorder and are now scheduled to be delivered by the end of February.

The Public Safety firewall project is underway. The first firewall has been installed with the second one slated to be installed on February 13th. Supply chains shortages are still a factor in the planning of these projects.

The Public Defender's office conference room audio and video improvements were completed in January.

This month, display screens and monitors were installed in all of the Court deliberation rooms. The additional monitors were necessary due to the large amount of case videos for viewing.

Mr. Daley gave an overview of the 13 positions in the Technology Services Department. These positions are: Director; Deputy Director; three Network Administrators to handle the servers and network security; three technical services field specialists, (working on scanners, computers, hardware and liaison to third-party software providers); and one PC technician for prepping and rolling out computers to departments and installing updates. They also have a Technical Services Specialist, Liz Walby, as well as one intern position which is vacant. The department has two GIS Administrators for mapping and Public Safety mapping and operations.

Mr. Daley spoke regarding the County's Incident Response Plan. Any changes need to be brought before the Board for approval. There is a need for changes on page 12, Appendix A – Core Group Contacts due to staffing changes in Controllers Office and the Technology Services Department. The previous document listed contacts by position instead of by name. It was advised during a recent audit meeting that the listing should be more specific. Commissioner Toomey moved to acknowledge and support the changes in the document. Seconded by Commissioner Haskell. Motion carried unanimously.

There was no public comment.

Commissioner Haskell motioned to adjourn. Seconded by Commissioner Rogers.

Chairperson Droscha adjourned the meeting at 9:28 a.m.

The next regularly scheduled meeting of the Information Technology & Communication Committee will be held on Monday, March, 1, 2023 at 9:00 a.m., in the Board of Commissioner Room of the Courthouse located at 1045 Independence Blvd, Charlotte, MI 48813.

Brian Droscha, Chairperson

DRAFT

PUBLIC SAFETY COMMITTEE

**THURSDAY, FEBRUARY 2, 2023
4:00 P.M.**

MINUTES

MEMBERS PRESENT: Chairman Commissioner Tim Barnes, Vice-Chairman Commissioner Brian Droscha, Commissioner Scott Hansen, Commissioner Mark Mudry, Commissioner Brandon Haskell, Commissioner Frank Holmes, and Commissioner Jacob Toomey

ABSENT: Commissioner Brandon Haskell

ALSO PRESENT: Controller Connie Sobie, Undersheriff Jeff Cook, Captain Robert Block, Deputy Joshua Turner and K-9 Tank, Deputy Shelby Studley and K-9 Roscoe, Dispatch Director Kelly Cunningham, Deputy Director Francis D'Huyvetter, Emergency Services Manager Ryan Wilkinson, Telecommunicator Katie Hennessey, Community Corrections Coordinator Melanie Achenbach, Deputy Circuit Court Administrator Kathy Brooks, and Jerri Nesbitt

The February 2, 2023, regular meeting of the Public Safety Committee was called to order at 4:00 p.m. by Chairman Commissioner Barnes.

The Pledge of Allegiance was given by all, led by Commissioner Droscha.

AGENDA ADDITIONS AND CHANGES

There were no additions or changes to the Agenda. Agenda was approved unanimously as presented.

APPROVAL OF MEETING MINUTES

Commissioner Droscha moved to approve the Minutes of the January 12, 2023, Public Safety Meeting. Commissioner Mudry seconded. Motion carried unanimously.

LIMITED PUBLIC COMMENT

None.

SHERIFF'S OFFICE UPDATE

Undersheriff Cook reported the highlights for the month of January, 2023. Captain Robert Block introduced himself to the committee and extended an open invitation to the members to do a ride-along at their convenience. Deputy Shelby Studley introduced herself and her partner of 2 years, K-9 Roscoe. K-9 Roscoe is a 3-year-old German Shepherd from Hungary. He is an explosives/tracking K-9 used extensively for article and building searches and tracking. Deputy Joshua Turner introduced himself and his partner of nearly 6 years, K-9 Tank. K-9 Tank is a 7-year-old German Shepherd specializing in narcotics and tracking and is used extensively for vehicle, building, and school searches. Both K-9 teams are on-call 24/7.

HIRING REQUEST – PART-TIME CORRECTIONS DEPUTY

Controller Sobie reported that there is a current need in the jail for Corrections Deputies and reported the Municipal Employees Retirement System waived the number of hours a rehired retiree is limited to

work. Retired Road Patrol Deputy Ryan Wright has expressed an interest in working part-time in the jail. Chairman Commissioner Barnes moved to forward to Ways and Means requesting approval. Commissioner Droscha seconded the motion. Motion carried unanimously.

MONTHLY REPORTS

Controller Sobie expressed her intention to present the monthly reports on a quarterly basis.

CENTRAL DISPATCH UPDATE

Central Dispatch Director Cunningham reported continuing work on finding a CAD replacement. The annual Telecommunicator Meeting was recently held maintaining an open dialect with Dispatch, Police, Fire and EMS. Deputy Director D'Huyvetter conducted Public Safety Communication System End User Training. The reason for the recent 9-1-1 outage was explained as work being done on a fiber wasn't active causing a looping of data. Upgrades to the system by the vendor have been started at a cost of \$6,000,000.

FTE REQUEST – PUBLIC SAFETY TELECOMMUNICATOR

Director Cunningham provided a detailed explanation for a request to add one FTE Public Safety Telecommunicator to maintain adequate staffing levels. Chairman Commissioner Barnes moved to recommend approval to the Ways and Means Committee. Commissioner Toomey seconded. Motion carried unanimously.

EMERGENCY SERVICES UPDATE

Emergency Services Manager Wilkinson reported the Tri-County Hazardous Mitigation Plan has been submitted to FEMA and approval is expected in thirty days. Formal review of the Emergency Operations Plan starts shortly. An Incident Command System (ICS) Emergency Operations Center (EOC) Interface Course was held recently with twenty-two in attendance. A scaled back Emergency Services exercise is being planned with Charlotte Public Schools to include a larger number of personnel. Applications are being accepted for a summer paid internship position. Applicants must reside in Michigan, be in an Undergraduate or Graduate program, and have excellent writing and communication skills.

MISCELLANEOUS

Chairman Commissioner Barnes asked to be approached with anything the committee can do to assist the public safety community. Chairman Commissioner congratulated the 2022 Sheriff's Office award recipients.

LIMITED PUBLIC COMMENT

None.

ADJOURNMENT

Chairman Commissioner Barnes adjourned the meeting at 4:49 p.m.

The next regularly scheduled meeting of the Public Safety Committee will be held March 2, 2023, at 4:00 p.m.

Commissioner Timothy Barnes
Chairperson, Public Safety Committee

PUBLIC WORKS & PLANNING COMMITTEE

**WEDNESDAY, FEBRUARY 8, 2023
9:00 A.M.**

MINUTES

MEMBERS PRESENT: Commissioners Barbara Rogers, Scott Hansen, Terrance Augustine, Joseph Brehler, Blake Mulder and Trevor Youngquist

ALSO PRESENT: Commissioner Jim Mott, Claudine Williams, Morgan Feldpausch, Travis Keeton, Connie Sobie

The February 8, 2023 regular meeting of the Public Works and Planning Committee was called to order at 9:00 a.m. by Chairperson Rogers.

The Pledge of Allegiance was given by all.

Commissioner Augustine moved to amend the agenda to add the EATRAN Semi-Annual report as 5A. Commissioner Mulder requested to add the Sustainability Plan to the agenda as 6A. Commissioner Brehler seconded. Motion carried unanimously.

Commissioner Mulder moved to approve the January 11, 2023 meeting minutes. Commission Augustine seconded. Motion carried unanimously.

EATRAN Executive Director, Brad Funkhouser, was present to provide a semi-annual report. Mr. Funkhouser has been with EATRAN since October of 2022. An update was given on staffing and their participation with CATA in a Job Fair in January. Once fully staffed they will begin to look at efficiencies across the County. An update was also given on funding strategies and work being done with State and Federal representatives to improve individual agency purchasing needs. Economic Development in the Grand Ledge area and how it relates to public transportation was discussed. County wide surveys from EATRAN will going out in the next few months to determine community needs and how to move forward to improve services.

Parks Director, Travis Keeton, was present to provide the Department's monthly update. The application period for the Michigan DNR Trust Fund grant is now open. Information was provided on a fishing pier/nature observation deck at Crandell Park for a potential application. Discussion was held, there was general consensus to move forward. A report was also given on the Parks Workgroup. Discussion was held in reference to the remainder of the budgeted Parks Department general fund allocation and the current millage. The Eaton County Placemaking (Sustainability) Plan was also discussed in reference to the plans projects and the order of completion.

Construction Code Director, Chris Garrison, was present to provide the Department's monthly report. Discussion was held in reference to the Department's Financial Report. Commissioner's noted they would like to see this report once per quarter.

Controller/Administrator Sobie provided a monthly update for Resource Recovery. A non-compliance hearing for Liberty Environmental is potentially being resolved (payment is in process, but has not yet been received). Discussion was held in reference to a civil infraction ticket issued to Lebron Trash Hauling. Lebron has made payment, but has requested a hearing in reference to the ticket.

Community Development Director, Claudine Williams, was present to provide the Department's monthly report. An update on Master Plan activities was given and discussion was held in reference to the work of the Planning Commission Zoning Ordinance Committee. It was noted if development occurred at two new megasite locations in Clinton and/or Calhoun County the need for housing in the area would increase.

Physical Plant Director, Chad Powers, was present to give an update on the Eaton County Placemaking Plan. Mr. Powers explained projects could be done in any order and did not have to be done all at once. Various projects could be done by staff for significantly less. He noted improvements to the campus would make it safer and look nicer which would hopefully help with employee retention. Discussion was held in reference to how the projects were identified. It was explained this is an employee plan, developed by employees (with the assistance of a consultant) for courthouse sustainability efforts specifically. Maintenance, potential savings, and funding were also discussed. Commissioner Brehler moved to recommend the Eaton County Placemaking Plan to Ways and Means for their consideration and funding. Commission Augustine seconded. Discussion was held. Motion carried unanimously.

Controller/Administrator Sobie reported Capital Regional Airport Authority is requesting a letter of support for American Airlines to retain the daily Washington DC flight. Commissioner Augustine moved to send the proposed letter. Commissioner Mulder seconded. Discussion was held in reference to the importance of the airport. Motion carried unanimously.

Chairperson Rogers adjourned the meeting at 10:29 a.m.

The next regularly scheduled meeting of the Public Works and Planning Committee will be held at 9:00 a.m. on Wednesday, March 8, 2023 in the Board of Commissioners Room of the Courthouse located at 1045 Independence Blvd, Charlotte MI 48813.

Barbara Rogers, Chairperson