

# MANISTEE CITY COUNCIL

## MEETING AGENDA

WEDNESDAY, NOVEMBER 7, 2012 – 7:00 P.M. – COUNCIL CHAMBERS

**I. Call to Order.**

a.) PLEDGE OF ALLEGIANCE.

b.) ROLL CALL.

**II. Public Hearings.**

**III. Citizen Comments on Agenda Related Items.**

**IV. Consent Agenda.** All agenda items marked with an asterisk (\*) are on the consent agenda and considered by the City Manager to be routine matters. If the Mayor or any member of the Council wishes to discuss an item on the consent agenda, it will be deleted from the consent agenda and considered in its regular order on the agenda. Consent agenda items include:

V. Approval of Minutes.

VI. a.) Approval of Payroll.

b.) Cash Balances Report.

XI. b.) Notification Regarding Next Work Session.

c.) Consideration of Sleighbell Parade and Old Christmas Weekend.

At this time Council could take action to approve the Consent Agenda as presented.

**\*V. Approval of Minutes.** Approval of the minutes of the October 16, 2012 regular meeting as attached.

**VI. Financial Report.**

\*a.) APPROVAL OF PAYROLL.

\*b.) CASH BALANCES REPORT.

**VII. Unfinished Business.**

**VIII. New Business.**

a.) CONSIDERATION OF A NON-BINDING RESOLUTION OF SUPPORT FOR THE MANISTEE TOWNSHIP COMMERCIAL ZONE SEWER CONCEPT ALONG US-31.

Manistee Township, Manistee County, Little River Band of Ottawa Indians (LRBOI), and the City of Manistee are being requested to pass a resolution supporting the concept of a gravity sewer collection system being constructed by the LRBOI along US-31 from M-55 to the LRBOI Wastewater Treatment Plant. If the resolution is approved the four governmental units will commence discussions to craft a four-party intergovernmental agreement. Manistee Township and Manistee County have already passed similar resolutions.

At this time Council could take action to adopt a non-binding resolution of support for the Manistee Township Commercial Zone sewer concept along US-31; and authorize the Mayor and City Clerk to execute the resolution; and further authorize City Manager Mitchell Deisch to serve as the City's representative in negotiating a four-way intergovernmental agreement.

b.) CONSIDERATION OF LIQUOR LICENSE TRANSFER FOR STU'S PUB, 506 RAMSDELL STREET.

Under consideration this evening is a liquor license transfer from Stuart Johnson to JHC Investments LLC (Jason Coopshaw and Jon Hornkohl) at 506 Ramsdell Street, formerly Stu's Pub as part of the process to secure approval through the State of Michigan application requirements. The Police Department has reviewed and approved this transfer.

At this time Council could take action to support the request for a liquor license transfer from Stuart Johnson to JHC Investments LLC; formerly Stu's Pub at 506 Ramsdell Street.

c.) CONSIDERATION OF RENEWING SSCENT GRANT AGREEMENT.

The City Police Department participates in the SSCENT Team. Council is being requested to approve the renewal of the SSCENT grant from October 1, 2012 through September 30, 2013. The agreement will release \$21,640 for wages for the SSCENT Officer from the Michigan State Police grant fund. Public Safety Director Dave Bachman supports and recommends this request.

At this time Council could take action to approve the renewal of the SSCENT grant from October 1, 2012 through September 30, 2013; and authorize the City Manager, Finance Director and the Public Safety Director to execute the appropriate documents.

d.) **CONSIDERATION OF AGREEMENT AMENDMENTS WITH FILER CHARTER TOWNSHIP.**

On August 4, 2011 City Council took action to approve three agreements with Filer Charter Township allowing Filer to construct a sewer collection system along US-31 south and for the wastewater to be treated at the City's Wastewater Treatment Plant. Due to a change in operational capacity at the WWTP amendments to the agreements are being considered to remove all language regarding the construction of a third final clarifier, reducing the amount guaranteed by Filer Charter Township, and giving the City greater spending flexibility. All three agreements have been reviewed by and are recommended by the City Attorney.

At this time Council could take action to amend the Sewer Wastewater Treatment Plant Master Agreement, the Wastewater Treatment Agreement, and the Operating Agreement with Filer Charter Township; eliminating construction of the third final clarifier, changing the Township connection charge to \$1,350,000 and allowing complete discretion on how the funds are spent by the City; and further authorize the Mayor and City Clerk to execute the agreements.

**IX. Notices, Communications, Announcements.**

a.) **A REPORT FROM THE CITY CLERK'S OFFICE.**

A regular part of each Council meeting is a report from a cooperating agency, organization or department.

At this time Ms. Michelle Wright will report on the activities of the City Clerk's Office and respond to any questions the Council may have regarding their activities. No action is required on this item.

\*b.) **NOTIFICATION REGARDING NEXT WORK SESSION.**

There is no work session in November. A Council work session has been scheduled for Tuesday, December 11, 2012 at 7:00 p.m. A discussion will be conducted on water policies/road breakage; and such business as may come before the Council. No action is required on this item.

\*c.) CONSIDERATION OF SLEIGHBELL PARADE AND OLD CHRISTMAS WEEKEND.

The 24<sup>th</sup> Annual Victorian Sleighbell Parade and Old Christmas Weekend are scheduled for December 6-9, 2012. The Manistee Main Street DDA and Festival Committee are requesting various street closures and other assistance from City personnel (copy attached). Public Safety Director Dave Bachman supports approval of this request.

At this time Council could take action to authorize the 24<sup>th</sup> Annual Sleighbell Parade and Old Christmas Weekend for December 6-9, 2012.

**X. Concerns and Comments.**

- a.) CITIZEN COMMENT. This is an opportunity for citizens to comment on municipal affairs. Citizens in attendance may be recognized by the Mayor for comments. Citizen comments are not limited to agenda items but should be directed toward municipal services, activities or areas of involvement.
- b.) OFFICIALS AND STAFF.
- c.) COUNCILMEMBERS.
- d.) CONSIDERATION OF ADJOURNING INTO AN EXECUTIVE SESSION.

City Manager Mitchell D. Deisch has requested an Executive Session this evening as permitted by the Open Meetings Act Section 8 (e) to consult with the City's attorney about trial or settlement strategy in pending litigation.

**XI. Adjourn.**

MDD:cl

**COUNCIL AGENDA ATTACHMENTS:**

Council Meeting Minutes – October 16, 2012  
Cash Balances Report  
Resolution – US-31 Sewer Concept  
Liquor License Transfer Request  
SSCENT Grant Renewal  
Filer Agreements  
Sleighbell Parade & Old Christmas Weekend Request

**PROCEEDINGS OF THE MANISTEE CITY COUNCIL – October 16, 2012**

A regular meeting of the Manistee City Council was called to order by her honor, Mayor Colleen Kenny on Tuesday, October 16, 2012 at 7:00 p.m. in the City Hall Council Chambers, 70 Maple Street, followed by the Pledge of Allegiance.

**PRESENT:** Colleen Kenny, Sid Scrimger, Ilona Haydon (*arrived 7:04 p.m.*), Catherine Zaring, Beth Adams, and Alan Marshall.

**ABSENT:** Robert Hornkohl.

**ALSO PRESENT:** City Manager – Mitch Deisch, City Attorney – George Saylor, City Clerk – Michelle Wright, Community Development Director – Jon Rose, DPW Director – Jack Garber, Finance Director – Ed Bradford, and Public Safety Director – Dave Bachman.

**CITIZEN COMMENTS ON AGENDA RELATED ITEMS.**

*None received.*

**CONSENT AGENDA.**

- Minutes
  - October 2, 2012 - Regular Meeting
  - October 9, 2012 - Work Session
- Payroll
  - October 1 - 14, 2012 - \$ 107,566.86
- Monthly Bills
  - September 12, 2012 - \$ 130,978.88
  - September 25, 2012 - \$ 493,677.90
- Consideration of Adopting Ordinance #12-05 Amending Chapter 288 PEG Commission.

The PEG Commission has recommended a change in their ordinance language to broaden the membership on the PEG Commission. The new language would enable interested residents in Manistee County to participate on the commission. The Council Ordinance Committee, along with the City Attorney, has reviewed and recommends the proposed ordinance amendment. Filer Charter Township has also reviewed and approved the proposed changes. This ordinance was introduced at the October 2, 2012 Council meeting and could be adopted at this time.
- Consideration of Adopting Ordinance Z12-04 Amending Section 514 Vehicular Parking Space, Access and Lighting.

This ordinance amends Section 514 Vehicular Parking Space, Access and Lighting of the Zoning Ordinance as recommended by the Planning Commission. Proposed changes include changing the required number of parking spaces for some uses; requires pedestrian walkways for parking lots with 10 or more spaces; establishes a 5 foot buffer (front property

line); establishes Bike Parking for some uses; and requires the installation of sidewalks in some districts for certain uses. The City Attorney and the Council Ordinance Committee has reviewed and approved the proposed amendment. This amendment was first introduced by Council at their meeting of October 2, 2012 and could be adopted this evening.

- Consideration of Adopting Ordinance Z12-06 Amending Section 1813 Bed and Breakfast, Item B.1.h.

This ordinance amendment deletes Item B.1.h of Section 1813 Bed and Breakfast as recommended by the Planning Commission. This amendment deletes the item which establishes the number of sleeping rooms by Zoning District from the Special Use Permit Standards. The City Attorney and the Council Ordinance Committee has reviewed and approved the proposed amendment. This amendment was first introduced by Council at their meeting of October 2, 2012 and could be adopted this evening.

- Consideration of Adopting Ordinance Z12-07 Amending Article 2 Definitions and Section 502 Spatial and Physical Requirements.

This ordinance amendment adds a definition for Outdoor Playset and Porch to Article 2 Definitions and amends Section 502 Spatial and Physical Requirements which allows people to construct porches on the front of their home in the front yard setback where they would have previously needed to obtain a variance from the Zoning Board of Appeals, encouraging interaction in neighborhoods. The City Attorney and the Council Ordinance Committee has reviewed and approved the proposed amendment. This amendment was first introduced by Council at their meeting of October 2, 2012 and could be adopted this evening.

- Consideration of Adopting Ordinance Z12-08 Amending Peninsula District Standards, Article 5 General Provisions, Article 18 Standards and Requirements for Special Uses and Article 21 Signs.

The following Zoning Ordinance amendments have been prepared to address General Regulations, Special Use Permit Standards and Signage in the new Peninsula District (P-D) in the following sections of the ordinance:

Article 5: General Regulations – Section 505.B; Section 511.A and 515.G.3.a

Article 18: Standards and Requirements for Special Uses – 1807.C.2 and Section 1861.B.10

Article 21: Signs – Section 2101.A.7.a; Section 2101.A.7.b; Section 2101.A.7.c; Section 2103.H; Section 2106; Section 2007 and Section 2018

This is a housekeeping item and did not require City Attorney review. The Council Ordinance Committee has reviewed and approved the proposed amendment. This amendment was first introduced by Council at their meeting of October 2, 2012 and could be adopted this evening.

- Notification Regarding Next Work Session – December 11, 2012

There is no work session in November. A discussion will be conducted on water policies/road breakage; and such business as may come before the Council.

Councilmember Adams requested that item b.) Consideration of Adopting Ordinance Z12-04 Amending

Section 514 Vehicular Parking Space, Access and Lighting be removed from the Consent Agenda. MOTION by Marshall, second by Zaring to approve the Consent Agenda with the removal of item b.).

With a roll call vote this motion passed unanimously.

AYES: Kenny, Scrimger, Haydon, Zaring, Adams, and Marshall  
NAYS: None

**CONSIDERATION OF ADOPTING ORDINANCE Z12-04 AMENDING SECTION 514 VEHICULAR PARKING SPACE, ACCESS AND LIGHTING.**

This ordinance amends Section 514 Vehicular Parking Space, Access and Lighting of the Zoning Ordinance as recommended by the Planning Commission. Proposed changes include changing the required number of parking spaces for some uses; requires pedestrian walkways for parking lots with 10 or more spaces; establishes a 5 foot buffer (front property line); establishes Bike Parking for some uses; and requires the installation of sidewalks in some districts for certain uses. The City Attorney and the Council Ordinance Committee has reviewed and approved the proposed amendment. This amendment was first introduced by Council at their meeting of October 2, 2012 and could be adopted this evening.

MOTION by Marshall, second by Haydon to adopt Ordinance Z12-04 amending Section 514 Vehicular Parking Space, Access and Lighting of the City of Manistee Zoning Ordinance. Adams asked for an explanation of the origination and details of this ordinance. Rose responded.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Scrimger, Haydon, Zaring, Adams, and Marshall  
NAYS: None

**PRESENTATION BY DAVID E. WILSON, CPA AND FINANCE DIRECTOR ED BRADFORD ON THE JUNE 30, 2012 AUDIT.**

Mr. David E. Wilson and Finance Director Bradford presented the June 30, 2012 audit report and responded to questions asked by Councilmembers.

**CONSIDERATION OF APPLICATIONS TO BOARDS AND COMMISSIONS.**

The City Clerk has taken action to advertise vacancies on the Brownfield Redevelopment Authority, Compensation Commission, Harbor Commission, Planning Commission and the Zoning Board of Appeals. The following applications have been received:

**BROWNFIELD REDEVELOPMENT AUTHORITY** – One unexpired term ending 06/30/14, Mayoral appointment.

*None received*

**COMPENSATION COMMISSION** – Two vacancies, five-year terms ending 09/30/17, Mayoral appointment.

*None received*

**HARBOR COMMISSION** – Three vacancies, three-year terms ending 10/31/15, Council appointment.

Rick Schrock, 603 Harvard Lane\*  
Rosemary Daniels, 703 Hopkins Street  
Thomas R. Smith, 703 Hopkins Street  
Shelly Memberto, 237 Second Avenue  
Ross M. Spencer, 328 Eighth Street\*

Haydon nominated Rick Schrock – 603 Harvard Lane to the Harbor Commission. Roll call vote was taken, nomination failed 3-3.

AYES: Scrimger, Haydon, and Adams  
NAYS: Kenny, Zaring, and Marshall

Haydon nominated Rosemary Daniels – 703 Hopkins Street to the Harbor Commission. With a roll call vote nomination was approved, 6-0.

AYES: Kenny, Scrimger, Haydon, Zaring, Adams, and Marshall  
NAYS: None

Haydon nominated Thomas R. Smith – 703 Hopkins Street to the Harbor Commission. With a roll call vote nomination was approved, 6-0.

AYES: Kenny, Scrimger, Haydon, Zaring, Adams, and Marshall  
NAYS: None

Zaring nominated Shelly Memberto – 237 Second Avenue to the Harbor Commission. With a roll call vote nomination was approved, 5-1.

AYES: Kenny, Haydon, Zaring, Adams, and Marshall  
NAYS: Scrimger

Daniels, Smith and Memberto were appointed to the Harbor Commission for three year terms ending 10/31/15.

**PLANNING COMMISSION** – Three vacancies, three-year terms ending 10/31/15, Mayoral appointment.

Ray Fortier, 367 Eleventh Street\*

Mayor Kenny appointed Ray Fortier – 367 Eleventh Street to the Planning Commission for a three year term ending 10/31/15. MOTION by Haydon, second by Marshall to support the Mayor's appointment.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Scrimger, Haydon, Zaring, Adams, and Marshall  
NAYS: None

**ZONING BOARD OF APPEALS** – One vacancy (alternate member), unexpired term ending 05/31/15, Mayoral appointment.

*None received*

\*Incumbent

**A REPORT FROM THE HARBOR COMMISSION AND THE MAIN STREET DOWNTOWN DEVELOPMENT AUTHORITY.**

Mr. Ross Spencer reported on the activities of the Harbor Commission and responded to questions the Council had regarding their activities.

Mr. Travis Alden reported on the activities of the Main Street Downtown Development Authority and responded to questions the Council had regarding their activities.

**CITIZEN COMMENT.**

*None received.*

**OFFICIALS AND STAFF.**

Wright reminded Council that the next Council meeting will be held on Wednesday, November 7<sup>th</sup> because of the election on November 6<sup>th</sup>; also encouraged everyone to go vote.

Bradford stated that the Metropolitan Opera event held at the Ramsdell Theatre on Saturday was a huge success; next opera scheduled for Saturday, October 27<sup>th</sup>; Josh White will be performing on Friday, October 26<sup>th</sup>.

Rose asked that the advertising for the two Planning Commission vacancies be deferred until they can discuss the possibility of changing the number of board members at their November meeting.

**COUNCILMEMBERS.**

Scrimger thanked the two Harbor Commission applicants that didn't get appointed and thanked them for their service.

Haydon also thanked the outgoing Harbor Commission members; reminded everyone of the presidential debates on television tonight; and encouraged everyone to vote.

Zaring encouraged people to attend the Paint the Town Pink event on Thursday, October 18<sup>th</sup> at 4 p.m.

Adams asked for an update on the sewer cleaning; also asked if all of the new contracts have been signed with the four unions.

Marshall also thanked the outgoing Harbor Commission members.

Kenny read a proclamation for Paint the Town Pink and declared October 18, 2012 as “Paint the Town Pink” day in the City of Manistee.

**ADJOURN.**

MOTION to adjourn was made by Zaring, second by Marshall. Meeting adjourned at 8:40 p.m.

Michelle Wright MMC / CPFA, MiCPT  
City Clerk/Deputy Treasurer

DRAFT

**CASH TRANSACTIONS REPORT**  
**DRAFT**

Page: 1  
10/31/2012  
10:16 am

MONTH: SEPTEMBER  
City of Manistee

Account Number	Beginning Balance	Debit	Credit	Ending Balance
<b>Fund: 101 - GENERAL FUND</b>				
001.000 Cash	2,655,821.14	349,238.24	347,913.64	2,657,145.74
001.002 Cash - Escrow	81,453.89	0.00	5,023.07	76,430.82
004.000 Cash - Petty	800.00	0.00	0.00	800.00
017.000 MBIA Mi Class Inv	57,070.06	8.01	0.00	57,078.07
Fund: 101	2,795,145.09	349,246.25	352,936.71	2,791,454.63
<b>Fund: 202 - MAJOR STREET FUND</b>				
001.000 Cash	37,971.53	33,491.66	20,995.33	50,467.86
Fund: 202	37,971.53	33,491.66	20,995.33	50,467.86
<b>Fund: 203 - LOCAL STREET FUND</b>				
001.000 Cash	10,492.02	12,009.57	0.00	22,501.59
Fund: 203	10,492.02	12,009.57	0.00	22,501.59
<b>Fund: 204 - STREET IMPROVEMENT FUND</b>				
001.000 Cash	112,362.43	61.34	171.00	112,252.77
Fund: 204	112,362.43	61.34	171.00	112,252.77
<b>Fund: 226 - CITY REFUSE FUND</b>				
001.000 Cash	132,736.36	23,071.87	51,595.89	104,212.34
001.030 Cash Mgt Chk	223,785.13	9.17	0.00	223,794.30
Fund: 226	356,521.49	23,081.04	51,595.89	328,006.64
<b>Fund: 243 - BROWNFIELD REDEVELOPMENT AUTHO</b>				
001.000 Cash	43,700.04	56,573.00	30,000.00	70,273.04
017.000 MBIA Mi Class Inv	138,169.82	19.38	0.00	138,189.20
Fund: 243	181,869.86	56,592.38	30,000.00	208,462.24
<b>Fund: 245 - OIL &amp; GAS FUND</b>				
001.000 Cash	116,304.95	267,312.77	0.00	383,617.72
001.020 Money Market	411,274.63	0.00	259,221.00	152,053.63
003.000 CD	750,000.00	0.00	0.00	750,000.00
Fund: 245	1,277,579.58	267,312.77	259,221.00	1,285,671.35
<b>Fund: 249 - BUILDING INSPECTOR</b>				
001.000 Cash	15,241.63	286.64	0.00	15,528.27
Fund: 249	15,241.63	286.64	0.00	15,528.27
<b>Fund: 251 - EPA GRANT - PETROLEUM</b>				
001.000 Cash	7,569.06	0.00	3,772.00	3,797.06
Fund: 251	7,569.06	0.00	3,772.00	3,797.06
<b>Fund: 252 - EPA GRANT - HAZARDOUS</b>				
001.000 Cash	32,652.42	0.00	4,940.50	27,711.92
Fund: 252	32,652.42	0.00	4,940.50	27,711.92
<b>Fund: 275 - GRANT MANAGEMENT FUND</b>				
001.000 Cash	406,286.57	0.00	36,749.66	369,536.91
Fund: 275	406,286.57	0.00	36,749.66	369,536.91
<b>Fund: 290 - PEG COMMISSION</b>				
001.000 Cash	1,446.68	0.00	1,537.41	-90.73
Fund: 290	1,446.68	0.00	1,537.41	-90.73
<b>Fund: 296 - RAMSDELL THEATRE</b>				
001.000 Cash	50,598.59	5,469.84	22,601.18	33,467.25
001.020 Money Market	27,437.54	1.12	0.00	27,438.66
004.000 Cash - Petty	300.00	0.00	0.00	300.00
Fund: 296	78,336.13	5,470.96	22,601.18	61,205.91

**CASH TRANSACTIONS REPORT**  
DRAFT

MONTH: SEPTEMBER  
City of Manistee

Page: 2  
10/31/2012  
10:16 am

Account Number	Beginning Balance	Debit	Credit	Ending Balance
<b>Fund: 297 - RAMSDELL RESTORATION PROJECT</b>				
001.000 Cash	-2,563.39	0.00	1,420.00	-3,983.39
Fund: 297	-2,563.39	0.00	1,420.00	-3,983.39
<b>Fund: 401 - 2010 CAPITAL IMPROVEMENT BONDS</b>				
001.000 Cash	11,833.29	1.25	0.00	11,834.54
Fund: 401	11,833.29	1.25	0.00	11,834.54
<b>Fund: 430 - CAPITAL IMPROVEMENT FUND</b>				
001.000 Cash	26,412.29	2.46	3,129.59	23,285.16
Fund: 430	26,412.29	2.46	3,129.59	23,285.16
<b>Fund: 490 - RENAISSANCE PARK</b>				
001.000 Cash	12,321.71	1.30	0.00	12,323.01
Fund: 490	12,321.71	1.30	0.00	12,323.01
<b>Fund: 508 - BOAT RAMP FUND</b>				
001.000 Cash	15,743.30	3,305.89	1,222.49	17,826.70
004.000 Cash - Petty	1,000.00	0.00	0.00	1,000.00
Fund: 508	16,743.30	3,305.89	1,222.49	18,826.70
<b>Fund: 573 - WATER &amp; SEWER UTILITY</b>				
001.000 Cash	108,745.87	316,672.77	123,378.76	302,039.88
001.002 Cash - Escrow	31,400.00	1,800.00	2,000.00	31,200.00
004.000 Cash - Petty	300.00	0.00	0.00	300.00
017.000 MBIA Mi Class Inv	488,203.57	68.61	0.00	488,272.18
Fund: 573	628,649.44	318,541.38	125,378.76	821,812.06
<b>Fund: 594 - MARINA FUND</b>				
001.000 Cash	49,532.84	64,698.88	32,587.97	81,643.75
004.000 Cash - Petty	300.00	0.00	0.00	300.00
Fund: 594	49,832.84	64,698.88	32,587.97	81,943.75
<b>Fund: 661 - MOTOR POOL FUND</b>				
001.000 Cash	373,531.24	36.91	24,849.90	348,718.25
Fund: 661	373,531.24	36.91	24,849.90	348,718.25
<b>Fund: 703 - CURRENT TAX COLLECTION</b>				
001.000 Cash	233,774.09	85,229.56	280,565.64	38,438.01
Fund: 703	233,774.09	85,229.56	280,565.64	38,438.01
<b>Fund: 704 - PAYROLL CLEARING FUND</b>				
001.000 Cash	26,260.62	439,663.01	432,492.00	33,431.63
001.005 Cash - NEW Flex \ HRA	8,124.21	8,326.15	8,122.51	8,327.85
001.007 Cash - Federal & State Taxes	3.03	52,537.28	52,536.81	3.50
Fund: 704	34,387.86	500,526.44	493,151.32	41,762.98
<b>Fund: 705 - DELINQUENT TAX COLLECTION</b>				
001.000 Cash	6.01	2,366.44	0.00	2,372.45
Fund: 705	6.01	2,366.44	0.00	2,372.45
Grand Totals:	6,698,403.17	1,722,263.12	1,746,826.35	6,673,839.94

MEMO TO: Mayor Colleen Kenny  
Members of City Council

FROM: Mitch Deisch, City Manager *M Deisch*

DATE: October 24, 2012

SUBJECT: Non-Binding Resolution for Sewer Concept  
for Manistee Township Commercial Zone  
Along US-31



**City Manager's Office  
231-398-2801**

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For the last few years staff has been working with the AES Office, Manistee County and Manistee Township to replace the force main sewer from M-55 to the hospital.

**HISTORY / BACKGROUND**

In the 1970's, a force main was constructed to provide sewer service to West Shore Hospital. A force main is different than a gravity sewer in that it is always pressurized, thus not allowing for a typical tap-in. Currently there are three entities hooked into the County force main (West Shore Hospital, Medical Care Facility, Physician Office Building). Over the past 40+ years other private and public sector entities have inquired about hooking into the force main and were informed by the County that it was not an option.

Over the years the limited flow from the three entities has allowed for the waste to break down in the force main becoming septic and causing hydrogen sulfide to be generated. Hydrogen Sulfide is corrosive to cast iron sewer lines and has resulted in numerous failures to the sewer line in Manistee Township.

For the past several years there has been an effort by the City, County, Township and the AES to replace the force main with a gravity system which would allow other public and private entities to hook into the system and transport the waste to the City of Manistee.

This past fall the Little River Band of Ottawa Indians (LRBOI) informed Manistee County and Manistee Township that the Tribe was planning to expand their Wastewater Treatment Plant to meet the increased demands of the Little River Casino Resort and their new governmental center. An offer was made by the LRBOI to construct a gravity sewer collection system (replacing the existing force main) from M-55 to the LRBOI WWTP at no cost to either the County or the Township. In addition, the LRBOI would also allow commercial tap-ins to the gravity sewer collection system at no cost to the property owners. All sewage collected in the LRBOI gravity sewer system would be transported to and treated by the LRBOI WWTP located off Dontz Road.

The four governmental entities are being requested to pass a resolution supporting this concept. Both Manistee Township and Manistee County have already approved similar resolutions, with the LRBOI also planning on approving a resolution in the near future. All three of the abovementioned resolutions are attached for Council review.

There are several key factors / issues for the City to consider as we progress toward participating in the four-way intergovernmental agreement:

1. Once the gravity sewer collection system is completed and public and private entities are hooked into the system, the LRBOI has requested that the City handle the customer billing for sewer collection and treatment. The City has these procedures in place and could easily incorporate these utility bills into our system. An agreeable administration fee will need to be negotiated.
2. The City bills utility customers based upon water consumption, thus those customers who will be hooking into the new gravity sewer collection line will also need to be hooked up to City water for billing purposes.
3. The LRBOI has advised the City that they have no intent to provide water down US-31 where the City already owns and operates a water distribution system. Incorporating an exclusive / non-competitive clause for providing water service along this corridor is crucial.

City Council is being asked to review and approve the non-binding resolution supporting the Manistee Township commercial zone sewer concept along US-31. Starting in November or December 2012 the discussion on the four-party intergovernmental agreement will commence.

MDD:cl

Attachments

**CITY OF MANISTEE RESOLUTION**  
**NON-BINDING APPROVAL OF SEWER CONCEPT FOR MANISTEE TOWNSHIP**  
**COMMERCIAL ZONE ALONG US-31**

**WHEREAS**, The City of Manistee has all of the administrative processes in place to manage the administrative functions associated with billing customers, recordkeeping and others involving a public utility system; and

**WHEREAS**, The City of Manistee provides public water supply to entities in Manistee Township along and around US-31 running north from the intersection of M-110 and US-31, as well as sanitary sewer to public entities north of M-55 via a Manistee County owned force sewer main; and

**WHEREAS**, The City of Manistee supports the prudent planning and development of all governmental jurisdictions in Manistee County and, in particular, its neighboring governmental jurisdictions; and

**WHEREAS**, Manistee County wishes to replace the existing sewer force main that currently serves West Shore Medical Center and other facilities along US-31; and

**WHEREAS**, Manistee Township wishes to establish wastewater sewer capacity to accommodate business growth in their area zoned commercial along US-31, running north from the intersection of M-55 and US-31; and

**WHEREAS**, The Little River Band of Ottawa Indians (LRBOI) have, subject to formal approval by their Tribal Council and Ogema, indicated that a joint sewer project along that corridor of M-55 & US-31 could be in the best interest of the Tribe, local units of government and its citizens; and

**WHEREAS**, The Little River Band of Ottawa Indians will be expanding their wastewater treatment capacity on land they own in Manistee Township to accommodate their new government center and the growth of Tribal businesses; and

**WHEREAS**, Representatives of the Little River Band, Manistee Township, Manistee County, the City of Manistee and the Alliance from Economic Success recently met to discuss their interests in partnering in a project that would meet goals and objectives related to wastewater treatment and sewerage through a collaborative effort and jointly agreed to develop this resolution for consideration by each of their governing bodies; and

**WHEREAS**, The Little River Band of Ottawa Indians has proposed that they will consider constructing the sewer line to meet the needs of the County and Township at no cost to the County and Township and provide connection to the sewer line at no upfront cost to the existing facilities and at no upfront cost to the County and Township and process said sewage for a later agreed upon fee; and

**WHEREAS**, All parties recognize that there are many details regarding this potential collaborative effort that must be discussed, addressed and formalized through an intergovernmental cooperative agreement or other suitable instrument; now, therefore, be it

**RESOLVED** That the Manistee City Council designates Mitchell D. Deisch, City Manager, to proceed to work with the parties referenced in this Resolution, as well as appropriate advisors and counsel, on an expeditious basis to develop and propose an agreement among all parties that is satisfactory to the governing bodies referenced in this Resolution, with a goal of making best efforts to have a formal agreement in place to meet the wastewater treatment and sewerage goals of the parties by the end of the 2012 calendar year, including potential elements involving City administrative services for the sewerage system and the City's exclusive long-term supply of water to the general area encompassed by the new gravity sewer expansion.

**FURTHER SAYETH NOT THIS RESOLUTION.**

This Resolution was adopted by a vote of the Manistee City Council on November 7, 2012.

---

Mayor Colleen Kenny

Dated

ATTEST:

---

Michelle Wright, City Clerk      Dated



CHAIRPERSON  
Jim Krolczyk  
VICE-CHAIRPERSON  
Ken Hilliard

Duane Anderson  
Ervin Kowalski  
Glenn Lottie  
Carl Rutske  
Richard Schmidt

CLERK  
Jill Nowak  
(231) 723-3331  
CONTROLLER/Administrator  
Thomas Kaminski  
(231) 398-3500

**MANISTEE COUNTY RESOLUTION ON  
DEVELOPMENT OF SEWER CONCEPT FOR MANISTEE TOWNSHIP  
COMMERCIAL ZONE ALONG US 31**

At a regular meeting of the Manistee County Board of Commissioners held in the Manistee County Courthouse & Government Center, 415 Third Street, Manistee, Michigan, on the 23<sup>rd</sup> day of October, 2012.

PRESENT: Anderson, Hilliard, Kowalski, Krolczyk, Lottie, Rutske, Schmidt

ABSENT: None

The following resolution was offered by Rutske and seconded by Kowalski:

**WHEREAS**, the Manistee County Board of Commissioners is concerned with the health, welfare, and economic vitality of Manistee County and its citizens; and

**WHEREAS**, Manistee County wishes to replace the existing sewer that currently serves West Shore Medical Center and other facilities along US 31; and

**WHEREAS**, Manistee Township wishes to establish wastewater sewer capacity to accommodate business growth in their area zoned commercial along US 31, running north from the intersection of M-55 and US 31; and

**WHEREAS**, the Little River Band of Ottawa Indians (LRBOI) have, subject to formal approval by their Tribal Council and Ogema, indicated that a joint sewer project along the US 31 corridor could be in the best interest of the Tribe and local units of government that include Manistee Township, Manistee County, and the City of Manistee and its citizens; and

**WHEREAS**, the Little River Band of Ottawa Indians will be expanding their wastewater treatment capacity on land they own in Manistee Township to accommodate their new government center and the growth of Tribal businesses; and

**WHEREAS**, representatives of the Little River Band, Manistee Township, Manistee County, and the City of Manistee were recently convened by the Alliance for Economic Success to discuss their interests in partnering on a project that would meet goals and objectives related to wastewater treatment and sewerage through a collaborative effort and jointly agreed to develop this resolution for consideration by each of their governing bodies; and

**WHEREAS**, the Little River Band of Ottawa Indians has, subject to formal approval by their governing body, proposed that they will consider constructing the sewer line to meet the needs of

the County and Township at no cost to the County and Township and provide connection to the sewer line at no upfront cost to the existing facilities and at no upfront cost to the County and Township and process said sewage for a later agreed upon fee; and

**WHEREAS**, all parties recognize that there are many details regarding this potential collaborative effort that must be discussed, addressed, and formalized through an intergovernmental cooperative agreement or other suitable instrument;

**NOW, THEREFORE, BE IT RESOLVED**, that the Manistee County Board of Commissioners designates the County Controller/Administrator as the designee to work with the parties referenced in this resolution, as well as appropriate advisors and counsel, on an expeditious basis to develop and propose an agreement among all parties that is satisfactory to the governing bodies referenced in this resolution, with a goal of making best efforts to have a formal agreement in place to meet the wastewater treatment and sewerage goals of the parties by the end of the 2012 calendar year.

STATE OF MICHIGAN                    )  
  )ss.  
COUNTY OF MANISTEE                )

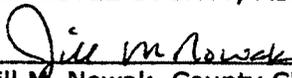
I, Jill M. Nowak, County Clerk, do hereby certify that the foregoing is a true copy of a Resolution adopted by the Manistee County Board of Commissioners at its regular monthly meeting held on the 23<sup>rd</sup> day of October, 2012, by the following vote:

YEAS: 7 Lottie, Rutske, Schmidt, Anderson, Hilliard, Kowalski,  
  Krolczyk  
NAYS: 0 None  
  
NOT VOTING: 0 None

I further certify that the foregoing Resolution is a true, correct and complete transcript of the original of said Resolution appearing on file and of record in my office. I further certify that the meeting was held and the minutes therefore were filed in compliance with Act No. 267 of the Public Acts of 1976.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the County of Manistee this 23<sup>rd</sup> day of October, 2012.

CLERK OF THE COUNTY COMMISSION  
MANISTEE COUNTY, MICHIGAN

  
\_\_\_\_\_  
Jill M. Nowak, County Clerk

(12\_10)

[m h:\resolutions\12\_10 Sewer]

## Manistee Township

### Resolution: To Develop the Sewer Concept for Manistee Township Commercial Zone Along US 31

**WHEREAS**, Manistee Township wishes to establish wastewater sewer capacity to accommodate business growth in their area zoned commercial along US 31, running north from the intersection of M-55 and US 31; and

**WHEREAS**, Manistee County wishes to replace the existing sewer that currently serves West Shore Medical Center and other facilities along US 31; and

**WHEREAS**, the Little River Band of Ottawa Indians (LRBOI) have, subject to formal approval by their Tribal Council and Ogema, indicated that a joint sewer project along the US 31 corridor could be in the best interest of the Tribe and local units of government that include Manistee Township, Manistee County and the City of Manistee and its citizens; and

**WHEREAS**, the Little River Band of Ottawa Indians will be expanding their wastewater treatment capacity on land they own in Manistee Township to accommodate their new government center and the growth of Tribal businesses; and

**WHEREAS**, representatives of the Little River Band, Manistee Township, Manistee County, the City of Manistee and the Alliance for Economic Success recently met to discuss their interests in partnering on a project that would meet goals and objectives related to wastewater treatment and sewerage through a collaborative effort and jointly agreed to develop this resolution for consideration by each of their governing bodies; and

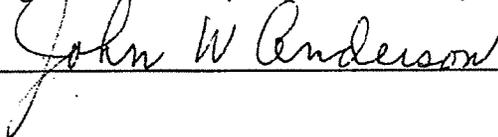
**WHEREAS**, the Little River Band of Ottawa Indians has, subject to formal approval by their Governing body, proposed that they will consider constructing the sewer line to meet the needs of the County and Township at no cost to the County and Township and provide connection to the sewer line at no upfront cost to the existing facilities at no upfront cost to the County and Township and process said sewage for a later agreed upon fee; and

**WHEREAS**, all parties recognize that there are many details regarding this potential collaborative effort that must be discussed, addressed and formalized through an intergovernmental cooperative agreement or other suitable instrument;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Manistee Township Board of Trustees County proceed to work with the parties referenced in this Resolution, as well as appropriate advisors and counsel, on an expeditious basis to develop and propose an agreement among all parties that is satisfactory to the governing bodies referenced in this Resolution, with a goal of making best efforts to have a formal agreement in place to meet the wastewater treatment and sewerage goals of the parties by the end of the 2012 calendar year.

This Resolution was unanimously adopted by a Vote of the Manistee Township Board of Trustees on October 11, 2012.

Signed this 12th day of October 2012 by

 its Township Supervisor.



## Little River Band of Ottawa Indians

375 River Street  
Manistee, MI 49660

#12-\_\_-\_\_

### *Non-Binding Approval of Sewer Concept for M-55 and US 31*

WHEREAS, the status of the *Gaá Čhing Ziibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, Manistee Township wishes to establish wastewater sewer capacity to accommodate business growth in their area zoned commercial along US 31, running north from the intersection of M-55 and US 31; and

WHEREAS, the Tribal Council and Ogema agree that a joint sewer project along that corridor of M-55 & US 31 is in the best interest of the Tribe, local Units of Government and its citizens; and

WHEREAS, the Little River Band of Ottawa Indians will be expanding their wastewater treatment capacity on land they own in Manistee Township to accommodate their new government center and the growth of Tribal businesses; and

WHEREAS, Manistee Township wishes to establish wastewater sewer capacity to accommodate business growth in their area zoned commercial along US 31, running north from the intersection of M-55 and US 31; and

WHEREAS, Manistee County wishes to replace the existing sewer that currently serves West Shore Medical Center and other facilities along US 31; and

WHEREAS, representatives of the Little River Band, Manistee Township, Manistee County, the City of Manistee and the Alliance from Economic Success recently met to discuss their interests in partnering on a project that would meet goals and objectives related to wastewater treatment and sewerage through a collaborative effort and jointly agreed to develop this resolution for consideration by each of their governing bodies; and

WHEREAS, the development of a new sewer line and related sewerage infrastructure to make use of the City of Manistee's wastewater treatment capacity is estimated to cost approximately \$2.1 million; and

WHEREAS, the Little River Band of Ottawa Indians has proposed that they will consider constructing the sewer line to meet the needs of the County and Township at no cost to the County and Township and provide connection to the sewer line at no upfront cost to the existing facilities at no upfront cost to the County and Township and process said sewage for a later agreed upon fee; and

WHEREAS, all parties recognize that there are many details regarding this potential collaborative effort that must be discussed, addressed and formalized through an intergovernmental cooperative agreement of other suitable instrument;

NOW, THEREFORE, BE IT RESOLVED THAT Tribal Council for the Little River Band of Ottawa Indians authorize the Ogema to work with the parties referenced in this resolution, as well as appropriate advisors and counsel, on an expeditious basis to develop and propose an agreement among all parties that is satisfactory to the governing bodies referenced in this resolution, with a goal of making best efforts to have a formal agreement in place to meet the wastewater treatment and sewerage goals of the parties by the end of the 2012 calendar year.

### **CERTIFICATE OF ADOPTION**

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with \_\_FOR, \_\_AGAINST, \_\_ ABSTAINING, \_\_ ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on October \_\_, 2012, at the Little River Band's Dome Room in Manistee, Michigan, with a quorum being present for such vote.

---

Janine M. Sam, Council Recorder

---

Stephen Parsons, Council Speaker

CITY HALL  
70 Maple Street

CITY MANAGER  
231.398.2801

CITY ASSESSOR  
231.398.2802

BUILDING INSPECTOR  
231.398.2806

PLANNING, ZONING &  
COMMUNITY DEV.  
231.398.2805

CITY CLERK  
231.398.2803

CITY TREASURER  
231.398.2804

WATER BILLING  
231.723.2559

ADMINISTRATION  
FAX 231.723.1546

CLERK/TREASURER  
FAX 231.723.5410

POLICE DEPARTMENT  
70 Maple Street  
231.723.2533  
FAX 231.398.2012

FIRE DEPARTMENT  
281 First Street  
231.723.1549  
FAX 231.723.3519

PUBLIC WORKS  
280 Washington St.  
231.723.7132  
FAX 231.723.1803

PARKS DEPARTMENT  
231.723.4051

WATER MAINTENANCE  
231.723.3641

WASTEWATER PLANT  
50 Ninth St.  
231.723.1553

October 24, 2012

Memo To: Mitch Deisch

From: David M Bachman  
Chief of Police

Re: Transfer of Ownership and Liquor License

Mitch:

With this memo is an agenda request to support and approve the request for transfer of the liquor license from Stuart Johnston (Stu's Pub located at 506 Ramsdell) to JHC Investments LLC (Jason Coopshaw and Jon Hornkohl) thereby assisting them to complete the State mandates to complete the transfer of license.

After a review of the business plan proposal and background check, I am recommending the council approve the request.



Handwritten signatures in blue ink, including "MD" and a signature that appears to be "David M Bachman".





**Local Government Approval**

(Authorized by MCL 436.1501)

**Instructions for Applicants:**

- Provide a copy of your Application for New Licenses, Permits, or Transfer of Ownership or Interest in License (form LCC-3011 for Retail or form LCC-3015 for Manufacturers and Wholesalers) to the local unit of government.

**Instructions for Local Legislative Body:**

- Complete this resolution, or provide a resolution, a letter of certification from the clerk, or minutes from the meeting at which this request was considered.

At a \_\_\_\_\_ meeting of the \_\_\_\_\_ council/board  
(regular or special) (township, city, village)  
called to order by \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_  
the following resolution was offered: (date) (time)

Moved by \_\_\_\_\_ and supported by \_\_\_\_\_  
that the application from \_\_\_\_\_  
for the following license(s): CLASS "C" (name of applicant)  
(e.g. Class C, Tavern, B-Hotel, Micro Brewer)

and the following permits, if applied for:  Dance Permit  Entertainment Permit  Topless Activity Permit

Extended Hours Dance Permit Hours Required: \_\_\_\_\_

Extended Hours Entertainment Permit Hours Required: \_\_\_\_\_

to be located at 506 RANSDELL ST. MANISTEE, MI. 49660 ("STU'S PUB")

be considered for \_\_\_\_\_  
(approval or disapproval)

**Approval**

**Disapproval**

Yeas: \_\_\_\_\_

Yeas: \_\_\_\_\_

Nays: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Absent: \_\_\_\_\_

It is the consensus of this body that it \_\_\_\_\_ this application be considered for  
(recommends/does not recommend)

approval by the Michigan Liquor Control Commission.

I hereby certify that the foregoing is true and is a complete copy of the resolution offered and adopted by the \_\_\_\_\_  
council/board at a \_\_\_\_\_ meeting held on \_\_\_\_\_ (township, city, village)  
(regular or special) (date)

Name and title of authorized officer (please print): \_\_\_\_\_

Signature and date of authorized clerk: \_\_\_\_\_

Phone number and e-mail of authorized officer: \_\_\_\_\_

Date Received

(FOR BUREAU USE ONLY)

by Administrator  
Bureau of Commercial Services

AUG 16 2012

This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.

Tran Info: 1 17885677-1 08/15/12  
CHK#: 7590 Amt: \$50.00  
ID: JON HORNKOHL

Name Jason Coopshaw		
Address 3013 ORCHARD Hwy		
City Manistee	State MI	ZIP Code 49660

EFFECTIVE DATE:

Document will be returned to the name and address you enter above.  
If left blank, document will be returned to the registered office.

**D8020C**

**ARTICLES OF ORGANIZATION**

**For use by Domestic Limited Liability Companies**

(Please read information and instructions on reverse side)

Pursuant to the provisions of Act 23, Public Acts of 1993, the undersigned executes the following Articles:

**ARTICLE I**

The name of the limited liability company is: JHC Investments LLC

**ARTICLE II**

The purpose or purposes for which the limited liability company is formed is to engage in any activity within the purposes for which a limited liability company may be formed under the Limited Liability Company Act of Michigan.

To purchase and run a drinking establishment.

**ARTICLE III**

The duration of the limited liability company if other than perpetual is: Forty (40) years

**ARTICLE IV**

1. The name of the resident agent at the registered office is: Jason Coopshaw

2. The street address of the location of the registered office is:  
3013 ORCHARD Hwy Manistee, Michigan 49660  
(Street Address) (City) (Zip Code)

3. The mailing address of the registered office if different than above:  
\_\_\_\_\_, Michigan \_\_\_\_\_  
(P.O. Box or Street Address) (City) (Zip Code)

**ARTICLE V (Insert any desired additional provision authorized by the Act; attach additional pages if needed.)**

Signed this 8th day of August, 2012

By [Signature] [Signature]  
(Signature(s) of Organizer(s))

Jason Coopshaw

Jonathan Hornkohl

(Type or Print Name(s) of Organizer(s))

2

## John Riley

---

**From:** Mark Niesen  
**Sent:** Thursday, October 11, 2012 11:53 AM  
**To:** John Riley



Good Morning John,

I stopped over to Stu's Pub today and calculated the OCCUPANCY LOAD.....it is 38 for this building.

Let me know is I can assist you further.

Thanks!

Mark



**Application for New Licenses, Permits, or Transfer of Ownership or Interest in License**

**(Retail License Applicants)**

**PLEASE READ!** A copy of this completed application should be submitted to the local legislative body and local law enforcement agency where the license is/will be held so your request can be processed correctly.

**Part 1 - Please answer both questions below (if you are requesting a license as a part of your application)**

Are you requesting a new license as a part of your application?  Yes  No (If yes, cashier is instructed to use fee code 4012)

Are you transferring an existing license as a part of your application?  Yes  No (If yes, cashier is instructed to use fee code 4034)

If you answer **yes** to **both** questions, which type of license is to be transferred? \_\_\_\_\_

**Part 2 - Definitions**

**Off-premise licenses** - Licenses that are issued for the type of business where alcoholic beverages are sold for consumption elsewhere, and where consumption on the premises is not allowed. There are two main types; SDD (spirits and mixed drink spirits) and SDM (beer and wine). Please check the appropriate box for your request. Note: Any additional transfer or license fees may be calculated and collected at a later date.

**On-premise licenses** - Licenses that are issued to allow alcoholic beverages to be sold, served and consumed on the premises. Note: Any additional transfer or license fees may be calculated and collected at a later date.

**Part 3 - Inspection Fees (Check box applicable to your application)**

Inspection fee - 1 license (4036) \$70.00  Inspection fee - 2 licenses (4036) \$140.00  Inspection fee - 3 licenses (4036) \$210.00

**Part 4 - Transaction Information (Check boxes applicable to your application)**

New license  Transfer stock/interest  Add/Drop space  Transfer location  Transfer classification  Change status (self incorporation)

New permit  Transfer ownership  Transfer limited partnership interest

Name(s) of current licensee: STUART JOHNSTON

Current licensed address: 506 RAMSDELL STREET, MANISTEE, MI 49660

**Part 5 - License Types and Permits (Check boxes applicable to your application)**

MCL 436.1525(1) provides that license fees shall be paid at the time of filing applications. (All checks/money orders should be made payable to the State of Michigan)

Off Premise License Type:	Base Fee:	Off Premise Permits:	Base Fee:
<input type="checkbox"/> SDM License	\$100.00	<input type="checkbox"/> Sunday Sales Permit (AM)	\$160.00
<input type="checkbox"/> SDD License	\$150.00	<input type="checkbox"/> Sunday Sales Permit (PM) (Held with SDD license)	\$22.50
<input type="checkbox"/> Resort SDD License	Upon Licensure	<input type="checkbox"/> Catering Permit	\$100.00
<input type="checkbox"/> Transfer Resort SDD license	\$150.00	<input type="checkbox"/> Beer and Wine Sampling	No charge *
		<input type="checkbox"/> Living Quarters	No charge *

\*Note: MCL 436.1529(5)(b) provides that an inspection fee shall not be required for the issuance of a new permit, or the transfer of an existing permit, if the permit is issued or transferred simultaneously with the issuance or transfer of a license or an interest in a license.

Off Premise Permission(s):	Base Fee:
<input type="checkbox"/> Off-premise Storage	No charge
<input type="checkbox"/> Direct Connection(s)	No charge
<input type="checkbox"/> Gas Pumps	No charge

RECEIVED  
 SEP 18 2011  
 CITY OF MANISTEE  
 CLERK-TREASURER



**Application for New Licenses, Permits, or Transfer of Ownership or Interest in License**  
**(Retail License Applicants)**

**Part 5 Continued - License Types and Permits (Check boxes applicable to your application)**

On Premise License Type:	Base Fee:	On Premise Permits:	Base Fee:
<input type="checkbox"/> B-Hotel License	\$600.00	<input type="checkbox"/> New Banquet Facility Permit	\$600.00
<input type="checkbox"/> A-Hotel License	\$250.00	<input type="checkbox"/> Sunday Sales Permit (AM)	\$160.00
<input type="checkbox"/> Brewpub license	\$100.00	<input checked="" type="checkbox"/> Sunday Sales Permit (PM)	15% of license fee
<input checked="" type="checkbox"/> Class C License	\$600.00	<input type="checkbox"/> Catering Permit	\$100.00
<input type="checkbox"/> Club License	\$300.00	<input type="checkbox"/> Outdoor Service	No charge *
<input type="checkbox"/> Resort License	Upon Licensure	<input type="checkbox"/> Entertainment Permit	No charge *
<input type="checkbox"/> Redevelopment License	Upon Licensure	<input type="checkbox"/> Dance Permit	No charge *
<input type="checkbox"/> Tavern License	\$250.00	<input type="checkbox"/> Topless Activity Permit	No charge *
<input type="checkbox"/> G-1 License	\$1,000.00	<input type="checkbox"/> Banquet Facility Permit	No charge *
<input type="checkbox"/> G-2 License	\$500.00	<input type="checkbox"/> Living Quarters	No charge*
<input type="checkbox"/> Aircraft License	\$600.00	<input type="checkbox"/> Specific Purpose Permit (list activity below):	No charge *
<input type="checkbox"/> Watercraft License	\$100.00	Hours requested: _____	
<input type="checkbox"/> Train	\$100.00	<input type="checkbox"/> Extended Hours Permit (check type below):	No charge *
<input type="checkbox"/> Continuing Care License	\$600.00	<input type="radio"/> Dance <input type="radio"/> Entertainment	
		Hours requested: _____	
		<input type="checkbox"/> New Additional Bar Permit (s)** Indicate #: _____	\$350.00
<b>On Premise Permission(s):</b>	<b>Base Fee:</b>	*Note: MCL 436.1529(5)(b) provides that an inspection fee shall not be required for the issuance of a new permit, or the transfer of an existing permit, if the permit is issued or transferred simultaneously with the issuance or transfer of a license or an interest in a license.	
<input type="checkbox"/> Off-premise Storage	No charge	**Note: \$350.00 is due for each additional bar requested. This fee must also be included when calculating the total amount due for Sunday Sales Permit (PM).	
<input type="checkbox"/> Direct Connection(s)	No charge		
<input type="checkbox"/> Gas Pumps	No charge		

**Part 6 - Applicant Information**

Name of entity/person that will hold the license: JHC INVESTMENTS, LLC

- Corporations/Limited Liability Company(s) - State the name as it is filed with the State of Michigan Corporation Division and provide a copy of your articles.
- Corporations/Limited Liability Company(s) must provide a list of stockholders/members in Part 8 of this form.
- If your company has not filed with the State of Michigan, you must submit a copy of a filed certificate of authority to transact business in Michigan along with your application.

Street address of proposed licensed establishment: 3013 ORCHARD HWY, MAWISTEE, MI 49660 Zip Code: 49660

City, Village: MAWISTEE Township: \_\_\_\_\_ County: MAWISTEE

Contact person for your company: JASON COOPSHAW

Business Phone: \_\_\_\_\_ Cell Phone: 231-349-9514 E-mail address: jcoop26@hotmail.com

Do you have an attorney that you would like us to contact?  Yes - See below  No

Attorney name and address: \_\_\_\_\_

Office Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ E-mail address: \_\_\_\_\_



**Application for New License, Permits, or Transfer of Ownership or Interest in License**  
**(Retail License Applicants)**

**Part 7a - Name and Address**

- Each stockholder/member/partner must complete Part 7b of the application.  
 (For companies with multiple stockholders/members/partners, please make copies of this section for each individual to complete)
- Administrative rule R 436.1115 provides that an applicant for a license shall submit fingerprints and undergo investigation by the Commission. Fingerprints are not required for an applicant previously fingerprinted for a license with the Commission. If your local police agency does not have paper fingerprint cards, please contact the MLCC today at (866) 813-0011 and we will send them to you right away.
- Please attach the the fingerprint card and \$30.00 fee payable (for each card) to the State of Michigan and return them to the Lansing office of the Michigan Liquor Control Commission.

Name: \_\_\_\_\_  
 Home address: \_\_\_\_\_  
 Business Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ E-mail address: \_\_\_\_\_

**Part 7b - Personal Information (Individuals)**

Date of Birth: 2.27.62 Social Security Number: \_\_\_\_\_

Are you a citizen of the United States of America?  Yes  No (If you answered "no", you will be asked to provide documentation to verify citizenship)

Have you ever legally changed your name?  Yes  No (If you are/were married remember to list your prior name(s) or during naturalization or court process.)

If you answered yes, please state your prior name(s) (including maiden): \_\_\_\_\_

Have you ever been arrested?  Yes  No If yes, list below (attach additional pages if necessary)

Date	City/State	Charge	Disposition
2000/2001?	MAVISTEE MI	D.O.I.	6 mth Probation

If you are currently married, what is your spouse's full name? \_\_\_\_\_ (first, middle, last)

Spouse's date of birth: \_\_\_\_\_

Is your spouse a citizen of the United States of America?  Yes  No (If you answered "no", you will be asked to provide documentation to verify your spouse's citizenship)

Has your spouse ever been arrested?  Yes  No If yes, list below (attach additional pages if necessary)

Date	City/State	Charge	Disposition
------	------------	--------	-------------

Do you or your spouse hold any position, either by appointment or election, which involves the duty to enforce any penal law of the United States of America, or the penal laws of the State of Michigan, or any penal ordinance or resolution of any municipal subdivisions of the State of Michigan (civil defense volunteer policeman, mayors, village presidents, and members of city councils are not considered to be law enforcement officers).  
 Yes  No

Do you or your spouse hold any class of license for the manufacture or sale of alcoholic beverages at wholesale in Michigan?  
 Yes  No

I certify that the information contained in this form is true and accurate to the best of my knowledge and belief. I agree to comply with all requirements of the Michigan Liquor Control Code and Administrative Rules. I also understand that providing false or fraudulent information is a violation of the Liquor Control Code pursuant to MCL 436.2003.

7.14.12 Date      Jon R Horvokohl Individual, print name      Jon Horvokohl Individual signature



**Application for New License, Permits, or Transfer of Ownership or Interest in License**  
**(Retail License Applicants)**

**Part 7a - Name and Address**

- Each stockholder/member/partner must complete Part 7b of the application.  
 (For companies with multiple stockholders/members/partners, please make copies of this section for each individual to complete)
- Administrative rule R 436.1115 provides that an applicant for a license shall submit fingerprints and undergo investigation by the Commission. Fingerprints are not required for an applicant previously fingerprinted for a license with the Commission. If your local police agency does not have paper fingerprint cards, please contact the MLCC today at (866) 813-0011 and we will send them to you right away.
- Please attach the the fingerprint card and \$30.00 fee payable (for each card) to the State of Michigan and return them to the Lansing office of the Michigan Liquor Control Commission.

Name: \_\_\_\_\_  
 Home address: \_\_\_\_\_  
 Business Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ E-mail address: \_\_\_\_\_

**Part 7b - Personal Information (Individuals)**

Date of Birth: 8.28.79 Social Security Number: \_\_\_\_\_

Are you a citizen of the United States of America?  Yes  No (If you answered "no", you will be asked to provide documentation to verify citizenship)  
 Have you ever legally changed your name?  Yes  No (If you are/were married remember to list your prior name(s) or during naturalization or court process.)

If you answered yes, please state your prior name(s) (including maiden): \_\_\_\_\_

Have you ever been arrested?  Yes  No If yes, list below (attach additional pages if necessary)

Date	City/State	Charge	Disposition
<u>N/A</u>	<u>MADISTEE, MI</u>	<u>Attempted B&amp;E</u>	<u>No charges / Thrown out</u>

If you are currently married, what is your spouse's full name? CAREY REWEE COOPSHAW  
 Spouse's date of birth: 8.12.81 (first, middle, last)

Is your spouse a citizen of the United States of America?  Yes  No (If you answered "no", you will be asked to provide documentation to verify your spouse's citizenship)

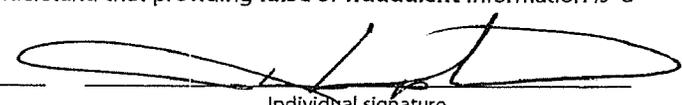
Has your spouse ever been arrested?  Yes  No If yes, list below (attach additional pages if necessary)

Date	City/State	Charge	Disposition
------	------------	--------	-------------

Do you or your spouse hold any position, either by appointment or election, which involves the duty to enforce any penal law of the United States of America, or the penal laws of the State of Michigan, or any penal ordinance or resolution of any municipal subdivisions of the State of Michigan (civil defense volunteer policeman, mayors, village presidents, and members of city councils are not considered to be law enforcement officers).  
 Yes  No

Do you or your spouse hold any class of license for the manufacture or sale of alcoholic beverages at wholesale in Michigan?  
 Yes  No

I certify that the information contained in this form is true and accurate to the best of my knowledge and belief. I agree to comply with all requirements of the Michigan Liquor Control Code and Administrative Rules. I also understand that providing false or fraudulent information is a violation of the Liquor Control Code pursuant to MCL 436.2003.

7.30.12 Date JASON COOPSHAW Individual, print name  Individual signature





Michigan Department of Licensing and Regulatory Affairs  
 Liquor Control Commission (MLCC)  
 7150 Harris Drive, P.O. Box 30005 - Lansing, Michigan 48909-7505  
 Toll Free (866) 813-0011 • www.michigan.gov/lcc

Business ID: \_\_\_\_\_  
 Request ID: \_\_\_\_\_  
 (For MLCC use only)

**Application for New Licenses, Permits, or Transfer of Ownership or Interest in License  
 (Retail License Applicants)**

**Part 8 Continued - Report of Stockholders/Members/Limited Partners**

**Limited Partnerships - Please complete this section and attach more copies of this page if more room is needed.**

Name and address of all partners:	Total Percent (%) of interest held

Name and address of Managers, pursuant to administrative rule R 436.1111


**Signature of Applicant:**

I certify that the information contained in this form is true and accurate to the best of my knowledge and belief. I agree to comply with all requirements of the Michigan Liquor Control Code and Administrative Rules. I also understand that providing **false** or **fraudulent** information is a violation of the Liquor Control Code pursuant to MCL 436.2003.

9/10/2012

Date

*[Handwritten Signature]*

Print name of applicant/licensee and title

JASON COOPSHAW

Signature of applicant/licensee

To check the status of your request, visit [www.michigan.gov/lcc](http://www.michigan.gov/lcc) and click on "Online Services." Scroll down to Liquor Control Commission and click on "Online Status Check." Enter your request id number (RID) to check on your application 24 hours a day.

**CITY HALL**  
70 Maple Street

**CITY MANAGER**  
231.398.2801

**CITY ASSESSOR**  
231.398.2802

**BUILDING INSPECTOR**  
231.398.2806

**PLANNING, ZONING &  
COMMUNITY DEV.**  
231.398.2805

**CITY CLERK**  
231.398.2803

**CITY TREASURER**  
231.398.2804

**WATER BILLING**  
231.723.2559

**ADMINISTRATION**  
FAX 231.723.1546

**CLERK/TREASURER**  
FAX 231.723.5410

**POLICE DEPARTMENT**  
70 Maple Street  
231.723.2533  
FAX 231.398.2012

**FIRE DEPARTMENT**  
281 First Street  
231.723.1549  
FAX 231.723.3519

**PUBLIC WORKS**  
280 Washington St.  
231.723.7132  
FAX 231.723.1803

**PARKS DEPARTMENT**  
231.723.4051

**WATER MAINTENANCE**  
231.723.3641

**WASTEWATER PLANT**  
50 Ninth St.  
231.723.1553

October 30, 2012

Memo To: Mitch Deisch

From: David M Bachman

Re: Renewal of Sscent grant funding

Mitch:

With this memo is an agenda request item to renew the Sscent grant from October 1, 2012 thru September 30, 2013.

Action by council will be to approve the requested signatures to request and release the funds.

I believe it best serves the community to support this request and use the available support to combat drug activities in our area.

DB



**BYRNE JUSTICE ASSISTANCE (BYRNE JAG) GRANT  
RESIDENTIAL SUBSTANCE ABUSE TREATMENT (RSAT) GRANT  
SUBCONTRACT**

AUTHORITY: 1935 PA 59; COMPLIANCE: Voluntary, however, grant funds will be withheld if not returned to MSP within 60 days of award.

<b>SUBCONTRACTOR:</b> Dept. Name: <b>Manistee Police Department</b> Address: <b>70 Maple Street</b> City, State & Zip: <b>Manistee, MI 49660</b> Telephone: <b>(231)723-2533</b> Fax: <b>(231) 398-2012</b>		<b>SUBCONTRACTOR PROJECT OFFICIAL:</b> Project Director: <b>David Bachman</b> Title: <b>Chief</b> Department: <b>Manistee Police Department</b> Address: <b>70 Maple Street</b> City, State & Zip: <b>Manistee, MI 49660</b> Telephone: <b>(231)723-2533</b> Fax: <b>(231) 398-2012</b>	
<b>MSP PROJECT #70889-5-13-B</b>		<b>SUBCONTRACTOR FINANCIAL OFFICIAL:</b> Project Director: <b>Edward Bradford</b> Title: <b>Treasurer</b> Department: <b>City of Manistee</b> Address: <b>70 Maple Street</b> City, State & Zip: <b>Manistee, MI 49660</b> Telephone: <b>(231)398-9843</b> Fax: <b>(231) 723-5410</b>	
<b>SUBCONTRACTOR FEDERAL ID#</b> 38-6004570		<b>PROJECT TITLE: S.S.C.E.N.T.</b>	
<b>PROJECT START DATE</b> 10-1-2012	<b>PROJECT END DATE</b> 9-30-2013	<b>MSP Contract No.: 201370889</b> <b>Federal Grant Award No.: 2012-DJ-BX-0109</b> <b>CFDA No.: 16.738</b>	
<b><u>BUDGET SUMMARY</u></b>			
<b><u>CATEGORY</u></b>		<b><u>AMOUNT</u></b>	
Salaries/Wages/Fringe Benefits	21,640	<b>BYRNE JAG/RSAT GRANT FUNDS</b>	
Travel			10,820
Supplies & Materials		<b>MATCHING FUNDS</b>	
Equipment			10,820
Other Expenses:		<b>TOTAL</b>	
<b>TOTAL</b>	<b>21,640</b>		<b>21,640</b>

We hereby accept this Subcontract in the amount and for the period shown above on the basis of the application, assurances and supporting documents submitted by the Contractor to the Michigan State Police, Grants & Community Services Division. The Subgrant becomes effective upon the return of the executed Subcontract to the Contractor. This award does not assure or imply continuation in funding beyond the funding period of this Subcontract. The Subcontractor agrees to provide the Contractor with a copy of the Single Audit Report of the Subcontractor's entity.

<b>FOR THE SUBCONTRACTOR:</b>		<b>FOR THE CONTRACTOR:</b>	
Signature:		Signature:	
Name: <b>Mitchell D. Deisch</b> Subcontractor Authorizing Official	Date:	Name: <b>D/Lt. Matthew Kanitz</b> Project Director	Date:
Signature:		<b>CONTRACTOR:</b> Department: <b>Department of State Police</b> Address: <b>333 Grand Ave.</b> City, State & Zip: <b>Lansing, MI 48909</b>	
Name: <b>David Bachman</b> Subcontractor Project Official	Date:		
Signature:			
Name: <b>Edward Bradford</b> Subcontractor Financial Official	Date:		

## ATTACHMENT A

### **Subcontractor/Vendor Monitoring:**

Contractor must ensure that each of its subcontractors comply with the Single Audit Act of 1984, as amended, 31 USC 7501 et seq. requirements and must issue management decisions on audit findings of their subcontractors as required by OMB Circular A-133. The Contractor is responsible for reviewing all single audit adverse findings and ensuring that corrective actions are implemented. Contractor will ensure subcontractors forward all single audits covering grant funds administered through the Department to the Contractor.

Contractor must also develop a subcontractor monitoring plan that addresses "during the award monitoring" of subcontractors to provide reasonable assurance that the subcontractor administers Federal awards in compliance with laws, regulations, provisions of contracts and that performance goals are achieved.

Contractor must establish requirements to ensure compliance for for-profit subcontractors as required by OMB Circular A-133, Section .210(e). Contractor must ensure that transactions with **vendors** comply with laws, regulations, and provisions of contracts or grant agreements in compliance with OMB Circular A-133, Section .210(f).

### **Subcontracts:**

Assure for any subcontracted service, activity or product:

- a. That the Contractor will submit copies of all executed subcontracts within 60 days of the execution of this Agreement. Subcontracts should cover all personnel contained in the "contractual" line item within the grant budget. Each listed agency shall have its own subcontract signed by the Contractor and an official of that jurisdiction. Failure to submit these documents to the Department within 60 days may result in withholding future payment or other penalties, as determined by the Department.
- b. That a written subcontract is executed by all affected parties prior to the initiation of any new subcontract activity. Exceptions to this policy may be granted by the Department upon written request within 30 days of execution of this Agreement.
- c. That any executed subcontract to this Agreement shall require the subcontractor to comply with all applicable terms and conditions of this Agreement, including all Certifications and Assurances referenced in this Agreement.
- d. In the event of a conflict between this Agreement and the provisions of the subcontract, the provisions of this Agreement shall prevail. A conflict between this Agreement and a subcontract, however, shall not be deemed to exist where the subcontract:
  - i. Contains additional non-conflicting provisions not set forth in this Agreement;
  - ii. Restates provisions of this Agreement to afford the Contractor the same or substantially the same rights and privileges as the Department; or,
  - iii. Requires the subcontractor to perform duties and/or services in less time than that afforded the Contractor in this Agreement.
- e. That the subcontract does not affect the Contractor's accountability to the Department for the subcontracted activity.
- f. That any billing or request for reimbursement for subcontract costs is supported by a valid subcontract and adequate source documentation on costs and services. All subcontractors must submit requests for reimbursement to the Contractor in a timely manner such that the Contractor can include these requests on the proper month's FSR. **Subcontractors must be paid within 30 days of receipt of reimbursement by the Contractor.**

## ATTACHMENT B

**SALARY/WAGES/FRINGE BENEFITS:** List the positions and salary/wages/fringe benefits cost for each position. Also indicate the total number of hours or percentage of time each position will be assigned to grant activities.

One full time police officer assigned 100% to grant activities including overtime and fringe benefits that include: health and dental insurance, retirement, workers compensation, life insurance, SUTA, Medicare.

**TRAVEL:** This includes cost for mileage, per diem, lodging, lease vehicles, registration fees, approved seminars or conferences and other approved travel costs incurred by the employees.

**SUPPLIES & MATERIALS:** This category is used for all consumable and short-term items, and equipment items costing less than \$5,000.

**EQUIPMENT:** Only individual line items of \$5,000 or more belong in this category.

**OTHER EXPENSES:** Communication, space and allowable expenses not covered by other line items.

## **CERTIFICATIONS AND ASSURANCES**

Contractors should refer to the regulations cited below to determine the certification to which they are required to attest. These Certifications and Assurances are applicable to the Contractor and all subcontractors of the Contractor. It is the Contractor's responsibility to ensure that subcontractors are adhering to the Certifications and Assurances. Failure to do so may result in termination of grant funding or other remedies.

### **Certifications:**

Contractors should refer to the regulations cited below to determine the certification to which they are required to attest. Acceptance of this Agreement provides for compliance with certification requirements under 28 C.F.R. Part 69, "New Restrictions on Lobbying" and 28 C.F.R. Part 67, "Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants)."

### **Lobbying:**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 C.F.R. Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 C.F.R. Part 69, the Contractor certifies that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the contractor shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions; and,
3. The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

### **Debarment, Suspension and Other Responsibility Matters (Direct Recipient):**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 2 C.F.R. Part 2867, for prospective participants in primary covered transactions, as defined at 28 C.F.R. Part 2867, Section 2867.20(a):

1. The Contractor certifies that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of federal benefits by a state or federal court, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Have not within a two-year period preceding this application been convicted of a felony criminal violation under any Federal law, unless such felony criminal conviction has been disclosed in writing to the Office of Justice Programs (OJP) at [Ojpcompliancereporting@usdoj.gov](mailto:Ojpcompliancereporting@usdoj.gov), and, after such disclosure, the applicant has received a specific written determination from OJP that neither suspension nor debarment of the applicant is necessary to protect the interests of the Department and U.S. Government in this case.
  - d. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,

- e. Have not within a three-year period preceding this application had one or more public transactions (federal, state or local) terminated for cause or default.

**Federal Taxes:**

If the applicant is a corporation, the applicant certifies that either (1) the corporation has no unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, or (2) the corporation has provided written notice of such an unpaid tax liability (or liabilities) to OJP at [Ojpcompliancereporting@usdoj.gov](mailto:Ojpcompliancereporting@usdoj.gov), and after such disclosure, the applicant has received a specific written determination from OJP that neither suspension nor debarment of the applicant is necessary to protect the interests of the Department and U.S. Government in this case.

**Drug-Free Workplace:**

1. As required by the Drug-Free Workplace Act of 1988, and implemented at 28 C.F.R. Part 83. The Contractor certifies that it will provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - b. Establishing an on-going drug-free awareness program to inform employees about:
    - i. The dangers of drug abuse in the workplace;
    - ii. The Contractor's policy of maintaining a drug-free workplace;
    - iii. Any available drug counseling, rehabilitation and employee assistance programs; and,
    - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
  - c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) of this section.
  - d. Notifying the employee in the statement required by paragraph (a) of this section that, as a condition of employment under the grant, the employee will:
    - i. Abide by the terms of the statement; and,
    - ii. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
  - e. Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d) (ii) of this section from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, Attn: Control Desk, 810 7<sup>th</sup> Street, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant.
  - f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(ii) of this section, with respect to any employee who is so convicted:
    - i. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or,
    - ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement or other appropriate agency.
  - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (a), (b), (c), (d), (e), and (f) above.

**Standard Assurances:**

The Contractor hereby assures and certifies compliance with all applicable federal statutes, regulations, policies, guidelines, and requirements, including OMB Circulars A-21, A-87, A-102, A-110, A-122, A-133; Executive Order 12372 (intergovernmental review of federal programs); and, 28 C.F.R. pts. 66 or 70 (administrative requirements for grants and cooperative agreements). The Contractor also specifically assures and certifies that:

1. It has the legal authority to apply for federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay any required non-federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. It will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
3. It will give the awarding agency or the general accounting office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance. It will comply with all lawful requirements imposed by the awarding agency, specifically including any applicable regulations, such as 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 61 and 63, and the award term in 2 C.F.R. § 175.15(b).
4. It will assist the awarding agency (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470), Executive Order 11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321).
5. It will comply (and will require any subgrantees or Contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act of 1984 (42 U.S.C. § 10604(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131-34); the Education Amendments of 1972 (20 U.S.C. §§1681, 1683, 1685-86); and, the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); see Executive Order 13279 (equal protection of the laws for faith-based and community organizations).

**If a governmental entity:**

1. It will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and,
2. It will comply with requirements of 5 U.S.C. §§ 1501-08 and §§ 7324-26, which limit certain political activities of state or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

**Non-Supplanting:**

It is imperative that the Contractor understand that the nonsupplanting requirement mandates that grant funds may be used only to supplement (increase) a Contractor's budget, and may not supplant (replace) state, local or tribal funds that a Contractor (inclusive of any subcontractors) otherwise would have spent on positions and/or any other items approved in this Grant Budget if it had not received a grant award.

This means that if your agency plans to:

1. Hire new positions (including filling existing vacancies that are no longer funded in your agency's budget), it must hire these additional positions on or after the official grant award start date, above its current budgeted (funded) level of positions.
2. Rehire personnel who have already been laid off (at the time of application) as a result of state, local, or tribal budget cuts, it must rehire the personnel on or after the official grant award start date, and maintain documentation showing the date(s) that the positions were laid off and rehired.
3. Maintain personnel who are (at the time of application) currently scheduled to be laid off on a future date as a result of state, local or tribal budget cuts, it must continue to fund the personnel with its own funds from the grant award start date until the date of the scheduled lay-off (e.g., if the grant award start date is July 1 and the lay-off is scheduled for October 1, then the grant funds may not be used to fund the officers until October 1, the date of the scheduled layoff), and maintain documentation showing the date(s) and reason(s) for the lay-off. [Please note that as long as your agency can document the date that the lay-off(s) would occur if the grant funds were not available, it may transfer the personnel to the grant funding on or immediately after the date of the lay-off without formally completing the administrative steps associated with a lay-off for each individual personnel.]
4. Documentation that may be used to prove that scheduled lay-offs are occurring for local economic reasons that are unrelated to the availability of grant funds may include (but are not limited to) council or departmental meeting minutes, memoranda, notices, or orders discussing the lay-offs; notices provided to the individual personnel regarding the date(s) of the layoffs; and/or budget documents ordering departmental and/or jurisdiction-wide budget cuts. These records must be maintained with your agency's grant records.

### **Compliance with Applicable Laws:**

Contractor will comply with applicable federal and state laws, guidelines, rules and regulations in carrying out the terms of this Agreement. The Contractor will also comply with all applicable general administrative requirements such as OMB Circulars covering cost principles, grant/agreement principles, and audits in carrying out the terms of this Agreement.

### **Hatch Political Activity Act and Intergovernmental Personnel Act:**

Contractor will comply with the Hatch Act of 1939, 5 USC 1501-08, and the Intergovernmental Personnel Act of 1970, as amended by Title VI of the Civil Service Reform Act of 1978, 42 USC 4728. Federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally-assisted programs.

### **Health Insurance Portability and Accountability Act of 1996:**

To the extent that the Health Insurance Portability and Accountability Act of 1996 is pertinent to the services that the Contractor provides to the Department under this Agreement, the Contractor assures that it is in compliance with the HIPAA requirements including the following:

1. Contractor must not share any protected health data and information provided by the Department that falls within the HIPAA requirements except to a subcontractor, as appropriate under this Agreement.
2. Contractor must require the subcontractor not to share any protected health data and information from the Department that falls under the HIPAA requirements in the terms and conditions of the subcontract.
3. Contractor must only use the protected health data and information for the purposes of this Agreement.
4. Contractor must have written policies and procedures addressing the use of protected health data and information that falls under the HIPAA requirements. The policies and procedures must meet all applicable federal and state requirements including the HIPAA regulations. These policies and procedures must include restricting access to the protected health data and information by the Contractor's employees.
5. Contractor must have a policy and procedure to report to the Department unauthorized use or disclosure of protected health data and information that falls under the HIPAA requirements of which the Contractor becomes aware.
6. Failure to comply with any of these contractual requirements may result in the termination of this Agreement in accordance with Section XI, Agreement Suspension/Termination, above.
7. In accordance with the HIPAA requirements, the Contractor is liable for any claim, loss or damage relating to unauthorized use or disclosure of protected health data and information received by the Contractor from the Department or any other source.

### **Unallowable Expenses and Activities:**

- Costs in applying for this grant (e.g., consultants, grant writers, etc.).
- Any expenses incurred prior to the date of the Agreement.
- Any administrative costs not directly related to the administration of this Agreement.
- Indirect costs rates or indirect administrative expenses (only direct costs permitted).
- Personnel, including law enforcement officers, not connected to the project for which you are applying.
- Lobbying or advocacy for particular legislative or administrative reform.
- Fund raising and any salaries or expenses associated with it.
- Legal fees.
- All travel including first class or out-of-state travel (unless prior approval by the Department is received).
- Promotional items (unless prior approval by the Department is received).
- One-time events, prizes, entertainment (e.g., tours, excursions, amusement parks, sporting events) (unless prior approval by the Department is received).
- Honorariums.
- Contributions and donations.
- Management or administrative training, conferences (unless prior approval by the Department is received).
- Management studies or research and development (costs related to evaluation are permitted).
- Fines and penalties.
- Losses from uncollectible bad debts.
- Purchases of land.
- Memberships and agency dues, unless a specific requirement of the project (unless prior approval by the

Department is received).

- Compensation to federal employees.
- Military type equipment such as armored vehicles, explosive devices, and other items typically associated with the military arsenal.
- Purchasing of vehicles, vessels or aircraft.
- Construction costs and/or renovation (including remodeling).
- Service contracts and training beyond the expiration of this Agreement.
- Informant fees, rewards or buy money.
- K9 dogs and horses (including any food and/or supplies relating to the upkeep of law enforcement animals).
- Livescan devices for applicant prints including any related supplies.
- Food, refreshments, snacks
  - Note: No funding can be used to purchase food and/or beverages for any meeting, conference, training, or other event. Exceptions to this restriction may be made only in cases where such sustenance is not otherwise available (e.g., extremely remote areas), or where a special presentation at a conference requires a plenary address where there is no other time for sustenance to be attained. Such an exception would require prior approval from the Department and the U.S. Department of Justice. This restriction does not apply to water provided at no cost, but does apply to any and all other refreshments, regardless of the size or nature of the meeting. Additionally, this restriction does not impact direct payment of per diem amounts to individuals in a travel status under your organization's travel policy.

**Conditions on Expenses:**

Costs must be reasonable and necessary. If required by the local jurisdiction, costs must be sustained by competitive bids. All contracts and subcontracts require prior approval by the Department. If detailed information is not included as part of the application process, the Contractor must submit a request seeking approval once the subcontractors are identified.

Individual consultant fees are limited to \$450 (excluding travel, lodging and meal costs) per day, which includes legal, medical, psychological and accountant consultants. If the rate will exceed \$450 for an eight-hour day, prior written approval is required from the Department. Compensation for individual consultant services is to be responsible and consistent with that paid for similar services in the marketplace.

MEMO TO: Mayor Colleen Kenny  
Members of City Council

FROM: Mitch Deisch, City Manager

DATE: November 1, 2012

SUBJECT: Filer Charter Township  
Agreement Amendments



**City Manager's Office  
231-398-2801**

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On August 4, 2011 City Council approved the Sewer Wastewater Treatment Plant Master Agreement, the Wastewater Treatment Agreement, and the Operating Agreement with Filer Charter Township (FCT) to allow FCT to construct a sewer collection system along US-31 south and for the wastewater to be treated at the City of Manistee Wastewater Treatment Plant (WWTP). These three agreements were the culmination of more than 20 years of discussions / negotiations between the City and Filer Charter Township.

Included in the Wastewater Treatment Agreement Section 3 Connection Charge; Usage Fee and Rates, subsection 3.1 Township Connection Charge it is identified that FCT would allocate 1.6 million dollars for the construction of a third final clarifier at the WWTP. If the third final clarifier costs less than the 1.6 million, the balance would be returned to FCT. When we negotiated these agreements with FCT the flows at the WWTP exceeded 1.0 million gallons per day (gpd). Since this time the final two combined sewer districts have been eliminated, numerous illicit cross-connections have been eliminated and currently the Oaks Correctional Facility has reduced their daily flow by approximately 100,000 of gpd. Therefore, based upon the most recent information we have available regarding annual sustained flows between 700,000-800,000 gpd our wastewater engineers Fishbeck Thompson Carr & Huber and WWTP staff believe that construction of the third final clarifier would not be beneficial to the plant and could actually cause operational issues.

Based upon this information Administration negotiated with FCT to amend the three agreements to remove all language in the agreements regarding construction of the third final clarifier and to allow the City of Manistee flexibility to use the Township connection charge as determined by the City. Through these discussions Administration agreed to a guaranteed amount of \$1,350,000, rather than the 1.6 million which would also require refunding any unused portion. The new figure of \$1,350,000 is a guaranteed amount that the City can use at its own discretion.

There are no other proposed changes to the three agreements. Copies of the agreements, showing amendments, have been attached for your review. Administration supports the requested amendments and believes the flexibility on the use of Filer Charter Township connection charges is a benefit to the City of Manistee. City Attorney George Saylor has reviewed and approved the amendments.

MDD:cl

FIRST AMENDED  
WASTEWATER TREATMENT  
AGREEMENT

THIS WASTEWATER TREATMENT AGREEMENT dated the \_\_\_ day of \_\_\_\_\_, 2011, by and between the CITY OF MANISTEE (hereinafter "City"), a Michigan Municipal Corporation, 70 Maple Street, Manistee, Michigan 49660, and the CHARTER TOWNSHIP OF FILER (hereinafter "Township"), a Michigan Charter Township, 2505 Filer City Road, Manistee, Michigan 49660, (collectively, the "Parties" and sometimes, individually, a "Party");

WHEREAS, The City owns and operates a sanitary sewer system consisting of a sanitary sewage collection system and a wastewater treatment plant for the benefit of users in the City, and for the benefit of certain users outside the City limits including several in the Township; and,

WHEREAS, Township has under study and consideration the design, construction and/or operation of a sanitary sewage collection and wastewater treatment system for users in the Township generally and specifically in the downtown development district as established by Chapter 7 of the Township Code of Ordinances; and,

WHEREAS, the Parties have had numerous meetings between representatives of each Party to explore possible collaborations and mutual arrangements for combining their efforts and resources in ~~the construction of an expansion use~~ of the City WWTP ~~sufficient~~ to accommodate the ~~expanding~~ needs of the City and the needs of the Township in a mutually beneficial manner; and,

WHEREAS, the Parties desire to enter into three agreements in accordance with The Urban Cooperation Act of 1967, Act 7 of the Public Acts of 1967 (Ex Sess); MCL 124.501, et seq., (the "Act") on the following terms and conditions consisting of this Agreement for the treatment and discharge of sanitary sewage from the Township (the "Treatment Agreement"), an agreement for the operation, maintenance and repair of the sanitary sewage collection system to be constructed in the Township (the "Operating Agreement"), and an agreement covering ancillary matters involving construction of ~~a new third final clarifier by the City and construction of~~ a wastewater collection system in the Township, and other matters related to the Parties' relationship, (the "Master Agreement"), all of which are dated as of the date of this Treatment Agreement;

NOW, THEREFORE, the Parties, agree as follows:

1. Definitions.

1.1 General. As used herein, the following terms shall have the meanings herein specified, unless the context clearly indicates otherwise.

- a. "Agreements" means the Master Agreement, the Operating Agreement and this Treatment Agreement.
- b. "City Collection System" means the existing sanitary sewer collection system located principally in the City, as expanded, modified, repaired and improved during the course of the Agreements.
- c. "City WWTP" means the existing wastewater treatment plant owned and operated by the City, as expanded, modified, repaired and improved during the course of the Agreements.
- d. "City System" means the City Collection System and the City WWTP.
- e. "DDA District" means the downtown development district as established by Chapter 7 of the Township Code of Ordinances.
- f. "DDA Plan" means the DDA Development Plan and Tax Increment Financing Plan No. 1993-1, dated April 6, 1993, as amended or extended during the course of the Agreements.
- g. "DDA Urban Service District" means the initial Urban Service District required to be established by the Township under this Master Agreement and which shall be generally coextensive with the DDA District, being that area along the US-31 Corridor from Twelfth Street to Stronach Road, east along 28<sup>th</sup> Street and west along Red Apple Road. A map of the planned DDA Urban Service District is attached hereto as Exhibit 1.
- h. "Filer DDA" means the Charter Township of Filer Downtown Development Authority as established by Chapter 7 of the Township Code of Ordinances.
- i. "Guaranteed Township Daily Capacity" or "GTDC" means the quantity of untreated and/or industrially pre-treated sanitary sewage from users in the Township that the Township has the right to have the City treat and process in the City WWTP pursuant to the Agreements, expressed in gallons per day (g.p.d.). The minimum or guaranteed quantity is 125,000 gpd, which quantity may be increased in accordance with the Agreements. The quantity of sanitary sewage that may originate from private users of the City WWTP located in the Township that are not connected to the Township Collection System shall not be deemed part of, or deducted from, the Guaranteed Township Daily Capacity.
- j. "Master Agreement" means that agreement between the Township and the City of even date herewith addressing all matters relating to the Parties' relationship with respect to

sanitary sewage not addressed in the Operating Agreement or the Treatment Agreement.

- k. "Operating Agreement" means that agreement between the Township and the City for the operation, maintenance and repair of the Township Collection System of even date with this Master Agreement.
- l. "Sewer Plan Implementation Agreement" means draft #7B of that agreement between the Township and the Filer DDA approved by the Township on May 12, 2011 and the Filer DDA on June 15, 2011.
- m. "Treatment Agreement" means this agreement between the Township and the City for the acceptance, treatment and discharge of sanitary sewage from the Township Collection System of even date with the Master Agreement.
- n. "Township Collection System" means that system of connected or unconnected pipes, pumps, valves and related equipment as may be reasonable or necessary to collect sanitary sewage from structures located in the DDA Urban Service District in which sanitary sewage is generated and transport it to the City Collection System, as expanded, modified, repaired and improved during the course of the Agreements
- o. "Urban Service District" means one or more geographical areas in the Township in which it intends to construct the Township Collection System, provide the sanitary sewage services available as the result of the Township Collection System's connection with the City System and specially assess the parcels of land located therein or otherwise finance the expansion of the Township Collection System.

1.2 Additional Terms. Additional terms are defined throughout the Agreements and shall have the meanings supplied by the Agreements. Terms not defined in the Agreements shall have their usual and customary meaning.

2. City Obligation to Treat; Guaranteed Township Daily Capacity:

2.1 City Obligation to Treat. On the date that is the last to occur of (a) the connection of the Township Collection System to the City System, and (b) the City's obtaining all permits required by all applicable state and federal laws to treat sanitary sewage generated in the Township, the City shall accept and treat untreated and/or industrially pretreated sanitary sewage from the Township, by way of the Township Collection System in accordance with the terms of this Treatment Agreement.

2.2 Penalty for Use in Excess of GTDC. If the average daily volume of untreated and/or industrially pre-treated sanitary sewage generated in the Township and transported through the Township Collection System to the City WWTP exceeds the Guaranteed Township Daily Capacity during a quarterly billing cycle of the Township, or three

consecutive months if the Township changes its billing cycle to a monthly basis, (such that Total Volume of Sanitary Sewage Generated Per Quarter or 3 Month Period/91.25 > 125,000 g.p.d.), Township shall pay a penalty to the City equal to the Variable Charge component of the Rates on the excess volume, in addition to the standard Rates on such excess volume. Additionally, the Parties shall meet to discuss what steps are necessary to either reduce the volume of sanitary sewage originating in the Township or to further increase the capacity of the City WWTP in accordance with Section 2.5. If an agreement cannot be reached, the Township agrees to reduce flows so as not to exceed the GTDC.

2.3 City Use of Guaranteed Township Daily Capacity. On a day by day basis, to the extent that Township does not transport through the Township Collection System to the City WWTP a quantity of untreated and/or industrially pre-treated sanitary sewage equal to the Guaranteed Township Daily Capacity, City shall be privileged to utilize such unused Guaranteed Township Daily Capacity to treat sanitary sewage collected from the City Collection System or other users of the City WWTP. Such use by the City shall be without cost to the City.

2.4 Penalty for Restricted Use of GTDC. In the event the City utilizes all or part of the GTDC as authorized in Section 2.3 and such utilization restricts or limits the average daily volume of untreated or industrially pretreated sanitary sewage generated in the Township and transported through the Township Collection System that the City can treat in the City WWTP during a quarterly billing cycle of the Township, or three consecutive months if the Township changes its billing cycle to a monthly basis, to less than the GTDC, then City shall pay a penalty to the Township equal to the Variable Charge component of the Rates on the shortage of volume of the GTDC. Additionally, the Parties shall meet to discuss what steps are necessary to either reduce the volume of sanitary sewage originating in the City or to further increase the capacity of the City WWTP. If an agreement cannot be reached, the City agrees to reduce flows so as not to restrict or limit the City's ability to treat sanitary sewage from the Township Collection System up to the GTDC.

2.5 Township Renegotiation for Increased Capacity: If Township routinely generates and transports to the City WWTP a quantity of untreated and/or industrially pre-treated sanitary sewage that exceeds the Guaranteed Township Daily Capacity or desires to extend the Township Collection System, the Township, by notice given, may request an opportunity to renegotiate the Guaranteed Township Daily Capacity with the City for increased daily capacity. The City agrees to meet with the Township within fourteen (14) days of Township's notice to the City and hold these discussions in good faith.

2.6 Restrictions on Use of Excess City ~~Third Final Clarifier~~ Capacity. If prior to January 1, 2022, (a) the City receives a request to accept a connection to the City Collection System from a single proposed retail establishment larger than 35,000 square feet in size located outside the political boundaries of the City or the Township, and (b) the design capacity of the City WWTP at the date of the request expressed in terms of million gallons per day ("mgd") ("DC"), less the average daily flows, over the previous twelve months, into the City

WWTP (“ADF”), is less than 200,000 gallons per day less the average daily flow from the Township Collection System over the same 12 month period (“TF”), [DC – ADF < 200,000 mgd – TF] then the City will not grant the request to connect to the City Collection System as stated in this Section 3.7 without the prior written consent of the Township, which consent will not be unreasonably withheld or delayed.

### 3. Connection Charge; Usage Fee and Rates

3.1 Township Connection Charge City shall charge and Township shall pay to City a fee for the privilege of connecting the Township Collection System to the City System in the amount of ~~One Million Six Hundred Thousand~~ One Million Three Hundred Fifty Thousand and 00/100 Dollars (\$~~1,600,000.00~~ 1,350,000.00) (the “Connection Charge”). Payment shall be made in a single traunch not later than the date funds are first disbursed from the closing of the Township’s Financial Commitment (hereafter defined), or as otherwise authorized by USDA.

~~3.1.1 Partial Refund of Connection Charge. To the extent that the total cost of designing and constructing a third final clarifier as described in the Master Agreement, including financing charges, if any, does not exceed the Connection Charge, City shall refund to Township the difference prior to final completion of the Township Collection System.~~

3.2 Usage Fee and Rates; Township Surcharge. Township shall pay to City a Usage Fee for treating and processing sanitary sewage generated by Township users. The Usage Fee shall be calculated and paid according to Section 2 of the Operating Agreement and shall be based on rates for sewer services that will not exceed the rates concurrently being charged to City users (the “Rates”). A schedule of the Rates in effect as of the date this Treatment Agreement is signed is attached as Exhibit 1. The Parties agree that the Rates will consist of (i) a fixed monthly charge based on meter size (the “Fixed Charge”), and (ii) variable charges based on actual gallons of water consumed that generate sanitary sewage (the “Variable Charge”), as established by City ordinance. Rates for different classes of property (residential, commercial, industrial, etc.) shall be uniform with the rates concurrently in effect for City users of the same classification, as such classifications have been or may hereafter be established by City ordinance. Nothing in this Agreement shall be construed as preventing the Township from imposing a surcharge on Township users to cover administrative and other proper costs in respect of this Agreement, which surcharge shall be retained by the Township.

3.3 Rate Changes: The City reserves the right to change the Rates, provided the resulting Rates do not exceed the rates charged to the users of the same property classification in the City, and provided further the Rates will not include charges or fees used or intended to pay principal and/or interest on bonds or other indebtedness, expenses or liabilities, that are not outstanding as of the date of this Agreement and which finance improvements or other projects intended to benefit or service municipalities other than the City or Township, or private users of the City System not located in the City or Township.

3.4 Commencement of Usage Fee: Township shall be liable to pay Usage Fees commencing as of the date determined under Section 2.1 for the commencement of treating sanitary sewage from the Township.

4. Capital Use and Future Capacity Option Fee.

4.1 Capital Use and Future Capacity Option Fee Calculation and Payment In consideration of the continuing costs to be incurred by the City as the result of the Agreements, including but not limited to, increased wear and tear on, and obsolescence of, the City WWTP and the historical investment of the City in the City WWTP, and in further consideration of the contribution the Agreements have to the realization and implementation of the DDA Plan and the economic growth of the DDA District, Township shall pay to the City, annually, commencing on the 30th day of September that is not less than 3 months following the date established in Section 3.1 above, and on each September 30 thereafter during the term of this Agreement, a Capital Use and Future Capacity Option Fee (“CUFCOF”) calculated according to the following formula:

$$\text{(City's WWTP Replacement Cost/2 + Total Taxable Value of the DDA District) X 4.75\% X Guaranteed Township Daily Capacity/Total Capacity of City WWTP.}$$

Provided however, that the sum so calculated shall not in any one fiscal year of the Township exceed 55% of the “tax increment revenues” of the Filer DDA, as that term is defined in MCL 125.1651(bb). Following the date the Total Taxable Value of the DDA District exceeds \$20,500,000, the CUFCOF shall not exceed 50% of the tax increment revenue of the Filer DDA.

As used in this Section, “City’s WWTP Replacement Cost” shall mean \$18,000,000. City shall have the right to amend this amount once every five (5) years, at its cost, provided that such amendment is supported by a written estimate from an engineering firm acceptable to all Parties.

As used in this Section, “Total Taxable Value of the DDA District” shall mean that amount as determined and reported by Township’s duly appointed assessor in accordance with and as of the date determined by the General Property Tax Act, 1893 PA 206, as amended.

4.2 Future Capacity Option. In further consideration of the Capital Use and Future Capacity Option Fee, the City agrees that in the event it increases the capacity of the City WWTP above 1.35 mgd, Township shall have the right to use up to 10% of the additional capacity above 1.35 mgd, on the same terms and conditions as stated in the Agreements. Such increase in capacity, whether or not immediately utilized by Township, shall be added to the Guaranteed Township Daily Capacity established herein and City may utilize unused additional Guaranteed Township Daily Capacity as set forth in Section 2.3 above. Nothing in this

Agreement shall be construed as imposing on the City any duty or obligation, express or implied, to increase the capacity of the City WWTP, which increase shall be solely within the City's discretion.

5. Ownership, Operation and Maintenance.

5.1 Ownership. Township shall have no ownership interest in the City System and the City shall have no ownership interest in Township Collection System.

5.2 Operation and Maintenance. City shall operate and maintain the Township Collection System in accordance with the Operating Agreement.

6. Reports and Information:

6.1 Access to Information. The Parties shall provide each other with detailed information concerning the volume of usage by Township users and user rates, repair and maintenance records, operational costs, annual financial audits and access to books, records, and financial information concerning the City System and the Township Collection System, annually, or more frequently as the Parties may agree.

7. Insurance.

7.1 Casualty Insurance. The City shall maintain reasonably available property insurance on the insurable components of the City System up to their full replacement cost and the Township shall maintain reasonably available property insurance on the insurable components of the Township Collection System up to its full replacement cost, or such other limits as may be imposed by any governmental or funding agency. Property insurance policies shall cover all risks covered in the standard fire and casualty insurance contract in the State of Michigan and such other risks as the City and the Township may agree.

7.2 Liability Insurance. The City and the Township shall each maintain a general liability policy with limits not less than \$2,000,000/\$4,000,000, covering bodily injury and death, and \$3,000,000 property damage coverage.

8. Term of Agreement:

8.1 Initial Term: This Treatment Agreement shall be effective upon the satisfaction or waiver of all contingencies described in Section 9. Once effective, this Treatment Agreement shall remain in full force and effect for forty (40) years from and after the date established by Section 2.1 above that the City first begins to process and treat sanitary sewage originating in the Township and transported to the City WWTP through the Township Collection System (the "initial term").

8.2 Extensions: Township shall have the option to extend this Treatment Agreement under the same terms and conditions for five (5) additional years beyond the initial term (the "extended term"). The Parties may mutually agree in writing to extend this Treatment Agreement beyond the initial term and the extended term. In the event the City or the Township does not desire to extend this Treatment Agreement beyond the initial term or the extended term, the Party desiring to terminate this Agreement shall give the other Party not less than sixty (60) months written notice of its intention not to extend this Treatment Agreement.

9. Contingencies:

9.1 General. Township and the City acknowledge that the Agreements are contingent upon the fulfillment, waiver or occurrence of the contingencies described in this Section 9, all of which are conditions precedent to the Parties' performance under the Agreements, as stated herein

9.2 Township Conditions Precedent. The full performance of the Agreements by the Township is expressly conditioned upon the fulfillment, waiver or occurrence of each of the following:

- a. The Agreements have been approved by the Township board of trustees;
- b. Township has obtained a binding, unconditional commitment for the total amount of the funds necessary to pay all costs associated with the design and construction of the Township Collection System, from Rural Development of the United States Department of Agriculture (“USDA”), including any required approval by the electors of the Township or persons residing in a special assessment district, approval of this Agreement by bond counsel and approval of this Agreement by the Office of General Counsel for the USDA (the “Township Financial Commitment”);
- c. The fulfillment, waiver or occurrence of each of the City’s condition precedents as set forth in Section 9.3 below;
- d. Township has obtained the opinion of counsel that it’s performance of this Agreement and Sewer Plan Implementation Agreement is not contrary to law; and,
- e. Township and the Charter Township of Filer Downtown Development Authority have executed the Sewer Plan Implementation Agreement.

9.3 City Conditions Precedent. The full performance of this Agreement by the City is expressly conditioned upon the fulfillment, waiver or occurrence of each of the following:

- a. The Agreements have been approved by the City Council and no initiatory referendum has been filed challenging the Agreements or any of them; or, if an initiatory referendum is filed, the challenge to the Agreements has been defeated by the electors;
- b. The MDNRE or any successor agency of the State of Michigan has approved the ~~design and construction of a third final clarifier at the City WWTP and City to treatment of~~ sanitary sewage originating in the Township and transported to the City System by the Township Collection System;
- c. City has obtained a new or amended NPDES Permit authorizing the discharge of treated sanitary sewage originating in the Township and transported to the City System by the Township Collection System;
- d. The fulfillment, waiver or occurrence of each of the Township’s condition precedents as set forth in Section 9.2 above; and,
- e. ~~City has obtained a binding, unconditional commitment for the total amount of the funds necessary to pay all costs associated with the design and~~

~~construction of the third final clarifier described in Section 2.1, on terms and conditions reasonably acceptable to the City.~~

9.4 Governor Approval. This Agreement is also contingent as to all Parties upon the approval of the Governor of Michigan, if and as may be required by Section 10 of the Act, being MCL 124.510, and such other formal requirements as may be imposed by the Act.

10. Cooperation and Deadlines:

10.1 Statement of Understanding. The City and Township acknowledge and recognize that intergovernmental cooperative agreements require significant collaboration, organization and coordination. Township and the City agree to pursue timely and in good faith those separate actions and activities necessary to the accomplishment of the goals of the Agreements. Without limiting the generality of the foregoing, Township covenants that it will renew or extend the Filer DDA and the DDA Plan, if and when necessary, in a manner consistent with the intent and purposes of the Agreements. Township further covenants that it will not reduce the geographical size of the DDA District without City's prior consent.

10.2 Satisfaction of Conditions Precedent. The Parties anticipate that they will have satisfied all conditions precedent by July 1, 2012. In the event all conditions precedent have not been fulfilled, waived or occurred by July 1, 2012, then any Party may terminate the Agreements by notice to the other Party not later than August 1, 2012, unless the Parties have agreed to modify dates and deadlines in the manner set forth in Section 10.3.

10.3 Modification of Deadlines. The Parties acknowledge that the times and dates set forth in the Agreements may be changed as the Parties proceed to develop, design, finance and construct the public facilities and systems contemplated by the Agreements. Accordingly, time shall not be of the essence to the Agreements, provided however, that as to any specific date identified or established in or by reference to the Agreements, either Party may make such date a material term of the Agreements by specifying that fact in a written notice to the other Party and specifying a date for the other Party's performance that is not less than 90 days from the date of such notice.

10.4 Force Majeure. A Party shall be excused from any delay or failure of performance on account of war, sabotage, insurrection, riot or other civil disobedience, acts of public enemies, acts of federal or state governments, labor disputes, fires, explosions, floods, storms, utility outages, computer hardware or software malfunctions not caused by such Party or other matters beyond the reasonable control of such Party. The Party claiming force majeure shall exercise reasonable good faith efforts to prevent, work around or otherwise minimize the effects of such events to the extent possible and the delay or failure to perform shall last only as long as the events or occurrences giving rise to the force majeure.

11. Miscellaneous.

11.1. Entire Agreement The Parties acknowledge that the Agreements, taken together, and interpreted *in pari materia*, are their entire agreement as it relates to the subject matter hereof and there are no other agreements, oral or written, pertaining hereto that are not specifically incorporated herein. Without limiting the generality of the foregoing sentence, the City Of Manistee-Charter Township Of Filer Interlocal Governmental Sewer & Wastewater Treatment Plant Cooperative Agreement dated March 2, 2010 is superseded in its entirety by the Agreements. The Agreements may be modified or changed only upon the written mutual consent of all Parties.

11.2 Notice Any notice required to be given by the Agreements shall be in writing and delivered to the Parties at their addresses stated in the opening paragraph of this Master Agreement. Delivery may be done in person, by facsimile transmission (with proof of sending preserved), or by certified or registered mail to the City Manager on behalf of the City, and to the Township Clerk on behalf of the Township.

11.3 Severability In the event that any provision of the Agreements shall be found or held to be illegal or unenforceable by a court of competent jurisdiction, such finding shall not affect the other provisions of the Agreements and they shall remain enforceable according to their terms.

11.4 Interpretation The Agreements shall be interpreted in accordance with the laws of the State of Michigan.

11.5 Binding Effect This Agreement shall be binding upon the Parties, their respective successors (including successor-governing bodies) and assigns. The Parties intend that no third parties be benefited by the Agreements and that only the Parties, their successors and permitted assigns shall be allowed to enforce the Agreements in any respect.

11.6 Assignment. The Agreements may be assigned, in whole or in part, by either Party with the other Party's prior written consent, which shall not be unreasonably withheld, delayed or conditioned. Assignment by legal process shall not be subject to the consent of the City.

IN WITNESS WHEREOF, the Parties execute this agreement on the dates denoted next to their respective signatures this \_\_\_\_ day of \_\_\_\_\_, 2012.

CHARTER TOWNSHIP OF FILER

CITY OF MANISTEE

By: \_\_\_\_\_  
Jim Espvik, Supervisor  
Mayor

By: \_\_\_\_\_  
~~Richard L. Maek~~ Colleen Kenny,

By: \_\_\_\_\_  
Shirley Ball, Township Clerk

By: \_\_\_\_\_  
Michelle Wright, City Clerk

FIRST AMENDED  
CITY OF MANISTEE – CHARTER TOWNSHIP OF FILER  
SEWER & WASTEWATER TREATMENT PLANT  
MASTER AGREEMENT

THIS MASTER AGREEMENT dated the \_\_\_ day of \_\_\_\_\_, 2011, by and between the CITY OF MANISTEE (hereinafter “City”), a Michigan Municipal Corporation, 70 Maple Street, Manistee, Michigan 49660, and the CHARTER TOWNSHIP OF FILER (hereinafter “Township”), a Michigan Charter Township, 2505 Filer City Road, Manistee, Michigan 49660, (collectively, the “Parties” and sometimes, individually, a “Party”);

WHEREAS, The City owns and operates a sanitary sewer system consisting of a sanitary sewage collection system (the “City Collection System”) and a wastewater treatment plant (the “City WWTP”) (collectively, the “City System”) for the benefit of users in the City, and for the benefit of certain users outside the City limits including several in the Township; and,

WHEREAS, Township has under study and consideration the design, construction and/or operation of a sanitary sewage collection and wastewater treatment system for users in the Township generally and specifically in the downtown development district as established by Chapter 7 of the Township Code of Ordinances (hereinafter, the “DDA District”); and,

WHEREAS, the Parties have had numerous meetings between representatives of each Party to explore possible collaborations and mutual arrangements for combining their efforts and resources in the ~~construction of an expansion use~~ of the City WWTP ~~sufficient~~ to accommodate the ~~expanding~~ needs of the City and the needs of the Township in a mutually beneficial manner; and,

WHEREAS, the Parties desire to enter into three agreements in accordance with The Urban Cooperation Act of 1967, Act 7 of the Public Acts of 1967 (Ex Sess); MCL 124.501, et seq., (the “Act”) consisting of this Agreement (the “Master Agreement”), an agreement for the treatment and discharge of sanitary sewage from the Township (the “Treatment Agreement”) and the operation, maintenance and repair of the sanitary sewage collection system to be constructed in the Township (the “Operating Agreement”), all of which are dated as of the date of this Master Agreement;

NOW, THEREFORE, the Parties, agree as follows:

1. Definitions.

1.1 General. As used herein, the following terms shall have the meanings herein specified, unless the context clearly indicates otherwise.

- a. "Agreements" means this Master Agreement, the Operating Agreement and the Treatment Agreement.
- b. "City Collection System" means the existing sanitary sewer collection system located principally in the City, as expanded, modified, repaired and improved during the course of the Agreements.
- c. "City WWTP" means the existing wastewater treatment plant owned and operated by the City, as expanded, modified, repaired and improved during the course of the Agreements.
- d. "City System" means the City Collection System and the City WWTP.
- e. "DDA District" means the downtown development district as established by Chapter 7 of the Township Code of Ordinances.
- f. "DDA Plan" means the DDA Development Plan and Tax Increment Financing Plan No. 1993-1, dated April 6, 1993, as amended or extended during the course of the Agreements.
- g. "DDA Urban Service District" means the initial Urban Service District required to be established by the Township under this Master Agreement and which shall be generally coextensive with the DDA District, being that area along the US-31 Corridor from Twelfth Street to Stronach Road, east along 28<sup>th</sup> Street and west along Red Apple Road. A map of the planned DDA Urban Service District is attached hereto as Exhibit 1.
- h. "Filer DDA" means the Charter Township of Filer Downtown Development Authority as established by Chapter 7 of the Township Code of Ordinances.
- i. "Guaranteed Township Daily Capacity" or "GTDC" means the quantity of untreated and/or industrially pre-treated sanitary sewage from users in the Township that the Township has the right to have the City treat and process in the City WWTP pursuant to the Agreements, expressed in gallons per day (g.p.d.). The minimum or guaranteed quantity is 125,000 gpd, which quantity may be increased in accordance with the Agreements. The quantity of sanitary sewage that may originate from private users of the City WWTP located in the Township that are not connected to the Township Collection System shall not be deemed part of, or deducted from, the Guaranteed Township Daily Capacity.
- j. "Master Agreement" means this agreement between the Township and the City addressing all matters relating to the Parties' relationship with respect to sanitary sewage not addressed in the Operating Agreement or the Treatment Agreement of even date herewith.

- k. "Operating Agreement" means that agreement between the Township and the City for the operation, maintenance and repair of the Township Collection System of even date with this Master Agreement.
- l. "Sewer Plan Implementation Agreement" means draft #7B of that agreement between the Township and the Filer DDA approved by the Township on May 12, 2011 and the Filer DDA on June 15, 2011.
- m. "Treatment Agreement" means that agreement between the Township and the City for the acceptance, treatment and discharge of sanitary sewage from the Township Collection System of even date with this Master Agreement.
- n. "Township Collection System" means that system of connected or unconnected pipes, pumps, valves and related equipment as may be reasonable or necessary to collect sanitary sewage from structures located in the DDA Urban Service District in which sanitary sewage is generated and transport it to the City Collection System, as expanded, modified, repaired and improved during the course of the Agreements
- o. "Urban Service District" means one or more geographical areas in the Township in which it intends to construct the Township Collection System, provide the sanitary sewage services available as the result of the Township Collection System's connection with the City System and specially assess the parcels of land located therein or otherwise finance the expansion of the Township Collection System.

1.2 Additional Terms. Additional terms are defined throughout the Agreements and shall have the meanings supplied by the Agreements. Terms not defined in the Agreements shall have their usual and customary meaning.

2. Expansion of City WWTP

[Intentionally omitted]

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~~2.1 — Capacity Increase By Third Final Clarifier: The City, in accordance with this Master Agreement, will increase the capacity of the City System to process and treat sanitary sewage from its existing 1.3 million gallons per day ("mgd") capacity to not less than 1.5 mgd. This increase will be accomplished by constructing a third final clarifier at the City WWTP which, when constructed, shall become part of the City WWTP for purposes of the Agreements. The third final clarifier shall be built by the City to the City's specifications and the City shall select the engineering firm and contractor(s) and otherwise be responsible for all phases of the planning, permitting and construction of the third final clarifier and all related pumps, piping and equipment necessary or desirable to incorporate the third final clarifier into the City WWTP.~~

~~2.2 — Ownership and Maintenance of the Third Final Clarifier: The Township shall have no interest in the City WWTP other than as stated in the Agreements, and the City will~~

~~retain sole legal ownership of the third final clarifier and the City WWTP. City shall be solely responsible for the operation, maintenance, repair, replacement and upgrades to the City WWTP, including the third final clarifier.~~

~~2.3 Construction Timeline. City shall commence design and construction of the third final clarifier not later than the date of payment of the Connection Charge as specified in the Treatment Agreement and continue with reasonable promptness to place the third final clarifier into service at or prior to the date of substantial completion of the Township Collection System. Unless otherwise required by the Michigan Department of Natural Resources and Environment (MDNRE), completion of the third final clarifier is not a condition precedent to the City's obligation to treat sanitary sewage from the Township Collection System in accordance with the Treatment Agreement.~~

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### 3. Township Collection System and Urban Service Districts.

3.1 Establishment of DDA Urban Service District: Township, at its sole cost and expense, shall establish the DDA Urban Service District in accordance with this Master Agreement and may establish one or more Urban Service Districts as set forth in Section 3.3.. The area constituting the final description of the DDA Urban Service District, shall be subject to the final design parameters of the Township Collection System.

3.2 Township Collection System: In accordance with the Agreements, Township, at its sole cost and expense, shall build or cause to be built the Township Collection System. The Township Collection System shall be compatible in design with the City System, its design shall be approved by the City Engineer prior to construction and it shall be connected to the City Collection System at the locations shown on Exhibit 2. Upon connection of the completed Township Collection System to the City System, the City shall assume responsibility for the operation, maintenance and repair of the Township Collection System in accordance with the terms and conditions of the Operating Agreement.

3.3 Expansion of Township Collection System; Oak Hill and Filer City USDs. So long as there remains Guaranteed Township Daily Capacity in the City System that is not being utilized by the Township, and upon reasonable notice to the City, Township may expand the geographical extent of the DDA Urban Service District to include lands, if any, located in the DDA District which were not originally included in the DDA Urban Service District or create one or more additional Urban Service Districts and, at Township's sole cost and expense, construct additions to the Township Collection System into the expanded or new Urban Service Districts. Additional Urban Service Districts shall be limited to the areas described as follows:

a. That area bounded on the North by 21<sup>st</sup> Street (including parcels with frontage on the north side of 21<sup>st</sup> Street), on the South by 28<sup>th</sup> Street (including parcels with frontage on the south side of 28<sup>th</sup> Street), on the East by Filer City Road (including parcels with frontage on the east side of Filer City Road), and on the West by the eastern boundary of the DDA District (the "Oak Hill USD")

b. That area bounded on the North by Mee Street, on the South by Warren Street, on the East by Grant Street and on the West by platted Tabor Street extended south to the easterly extension of Warren Street (the "Filer City USD").

Any extension of the Township Collection System authorized by this Section 3.3 shall be designed and constructed to be compatible with the City System and shall be approved by the City Engineer prior to construction, which approval shall not be unreasonably withheld or delayed. City shall assume responsibility for the operation, maintenance and repair of any extension of the Township Collection System upon connection of the extension to the City Collection System in accordance with Operating Agreement.

3.3.1 Other Expansion of Township Collection System. Except for expansion into the Oak Hill USD or the Filer City USD, Township shall not construct additions to the Township Collection System to service parcels outside of the DDA Urban Service District except by mutual agreement of the Parties.

3.4 Effect of Additional or Expanded Urban Service Districts. The taxable value of parcels located in the Oak Hill USD or the Filer City USD shall not be included in the calculation of the Capital Use and Future Capacity Option Fee described in Section 4 of the Treatment Agreement. The taxable value of parcels located in any future expanded DDA Urban Service District shall be included in the calculation of the Capital Use and Future Capacity Option Fee described in Section 4 of the Treatment Agreement.

3.5 Conveyance by City City agrees to cooperate with Township in designing the Township Collection System in a manner that allows the maximum number of parcels in the DDA Urban Services District to be connected to the Township Collection System. To that end, and in consultation with the City Engineer, City agrees to convey to Township, at no cost, ownership of existing pipes, pumps, valves and related equipment located *in situ* in the Township for incorporation into the design of the Township Collection System. Conveyance shall be by one or more instruments acceptable to legal counsel for the Parties, shall convey title free and clear of all liens, but otherwise shall be without warranty of any kind, express or implied.

#### 4. Current Agreements with Township Users; Mandatory Connection.

4.1 Cancellation of Existing Agreements: All existing private use agreements between Township users and the City, insofar as such Township users are required to connect to the Township Collection System, shall be cancelled by the City as of the date established in Section 2.1 of the Treatment Agreement; provided that such users have paid all outstanding amounts due under these agreements. Such cancellations shall be without penalty otherwise specified by such agreements. Prior to the date established in Section 2.1 of the Treatment Agreement, City agrees to bill all charges under private use agreements on or before July 1 of each year. Unless incorporated into the design or configuration of the Township Collection

System, disposition or abandonment of existing facilities serving such private users shall be the sole responsibility and cost of the private users.

4.2 Requirement of Hook Up: All structures in which sanitary sewage originates, as that phrase is defined in Section 12751 of Act 368 of the Public Acts of 1978, MCL 333.12751, located in the Township and within 200 feet of the Township Collection System shall be required to connect to the Township Collection System and the Township shall enforce this requirement by appropriate ordinance. Private users of the City System located in the DDA Urban Service District and whose agreements are subject to cancellation under Section 4.1 shall not be exempt from the requirement to connect to the Township Collection System. To the extent not prohibited by law, the Township reserves the right to increase the distance specified in MCL 333.12751 by appropriate ordinance.

5. Treatment and Operation of Township Collection System.

5.1 Treatment of Sanitary Sewage. The City will treat untreated and/or industrially pretreated sanitary sewage received from the Township Collection System in accordance with the Treatment Agreement of even date herewith.

5.2 Operation of Township Collection System. The City will operate the Township Collection System in accordance with the Operating Agreement of even date herewith.

6. Reports and Information:

6.1 Access to Information. The Parties shall provide each other with detailed information concerning the volume of usage by Township users and user rates, repair and maintenance records, operational costs, annual financial audits and access to books, records, and financial information concerning the City System and the Township Collection System, annually, or more frequently as the Parties may agree.

7. Insurance.

7.1 Casualty Insurance. The City shall maintain reasonably available property insurance on the insurable components of the City System up to their full replacement cost and the Township shall maintain reasonably available property insurance on the insurable components of the Township Collection System up to its full replacement cost, or such other limits as may be imposed by any governmental or funding agency. Property insurance policies shall cover all risks covered in the standard fire and casualty insurance contract in the State of Michigan and such other risks as the City and the Township may agree.

7.2 Liability Insurance. The City and the Township shall each maintain a general liability policy with limits not less than \$2,000,000/\$4,000,000, covering bodily injury and death, and \$3,000,000 property damage coverage.

8. Term of Agreement:

8.1 Initial Term: This Master Agreement shall be effective upon the satisfaction or waiver of all contingencies described in Section 9. Once effective, this Master Agreement shall remain in full force and effect for forty (40) years from and after the date established by Section 2.1 of the Treatment Agreement that the City first begins to process and treat sanitary sewage originating in the Township and transported to the City WWTP through the Township Collection System (the "initial term").

8.2 Extensions: Township shall have the option to extend this Master Agreement under the same terms and conditions for five (5) additional years beyond the initial term (the "extended term"). The Parties may mutually agree in writing to extend this Master Agreement

beyond the initial term and the extended term. In the event the City or the Township does not desire to extend this Master Agreement beyond the initial term or the extended term, the Party desiring to terminate this Agreement shall give the other Party not less than sixty (60) months written notice of its intention not to extend this Master Agreement.

9. Contingencies:

9.1 General. Township and the City acknowledge that the Agreements are contingent upon the fulfillment, waiver or occurrence of the contingencies described in this Section 9, all of which are conditions precedent to the Parties' performance under the Agreements, as stated herein

9.2 Township Conditions Precedent. The full performance of the Agreements by the Township is expressly conditioned upon the fulfillment, waiver or occurrence of each of the following:

- a. The Agreements have been approved by the Township board of trustees;
- b. Township has obtained a binding, unconditional commitment for the total amount of the funds necessary to pay all costs associated with the design and construction of the Township Collection System, from Rural Development of the United States Department of Agriculture ("USDA"), including any required approval by the electors of the Township or persons residing in a special assessment district, approval of this Agreement by bond counsel and approval of this Agreement by the Office of General Counsel for the USDA (the "Township Financial Commitment");
- c. The fulfillment, waiver or occurrence of each of the City's condition precedents as set forth in Section 9.3 below;
- d. Township has obtained the opinion of counsel that its performance of this Agreement and the Sewer Plan Implementation Agreement is not contrary to law; and,
- e. Township and the Charter Township of Filer Downtown Development Authority have executed the Sewer Plan Implementation Agreement.

9.3 City Conditions Precedent. The full performance of this Agreement by the City is expressly conditioned upon the fulfillment, waiver or occurrence of each of the following:

- a. The Agreements have been approved by the City Council and no initiatory referendum has been filed challenging the Agreements or any of them; or, if an initiatory referendum is filed, the challenge to the Agreements has been defeated by the electors;

- b. The MDNRE or any successor agency of the State of Michigan has approved the ~~City to treat design and construction of a third final clarifier at the City WWTP and treatment of~~ sanitary sewage originating in the Township and transported to the City System by the Township Collection System;
- c. City has obtained a new or amended NPDES Permit authorizing the discharge of treated sanitary sewage originating in the Township and transported to the City System by the Township Collection System;
- d. The fulfillment, waiver or occurrence of each of the Township's condition precedents as set forth in Section 9.2 above; and,
- e. ~~City has obtained a binding, unconditional commitment for the total amount of the funds necessary to pay all costs associated with the design and construction of the third final clarifier described in Section 2.1, on terms and conditions reasonably acceptable to the City.~~

9.4 Governor Approval. This Agreement is also contingent as to all Parties upon the approval of the Governor of Michigan, if and as may be required by Section 10 of the Act, being MCL 124.510, and such other formal requirements as may be imposed by the Act.

10. Cooperation and Deadlines:

10.1 Statement of Understanding. The City and Township acknowledge and recognize that intergovernmental cooperative agreements require significant collaboration, organization and coordination. Township and the City agree to pursue timely and in good faith those separate actions and activities necessary to the accomplishment of the goals of the Agreements. Without limiting the generality of the foregoing, Township covenants that it will renew or extend the Filer DDA and the DDA Plan, if and when necessary, in a manner consistent with the intent and purposes of the Agreements. Township further covenants that it will not reduce the geographical size of the DDA District without City's prior consent.

10.2 Satisfaction of Conditions Precedent. The Parties anticipate that they will have satisfied all conditions precedent by July 1, 2012. In the event all conditions precedent have not been fulfilled, waived or occurred by July 1, 2012, then any Party may terminate the Agreements by notice to the other Party not later than August 1, 2012, unless the Parties have agreed to modify dates and deadlines in the manner set forth in Section 10.3.

10.3 Modification of Deadlines. The Parties acknowledge that the times and dates set forth in the Agreements may be changed as the Parties proceed to develop, design, finance and construct the public facilities and systems contemplated by the Agreements. Accordingly, time shall not be of the essence to the Agreements, provided however, that as to any specific

date identified or established in or by reference to the Agreements, either Party may make such date a material term of the Agreements by specifying that fact in a written notice to the other Party and specifying a date for the other Party's performance that is not less than 90 days from the date of such notice.

10.4 Force Majeure. A Party shall be excused from any delay or failure of performance on account of war, sabotage, insurrection, riot or other civil disobedience, acts of public enemies, acts of federal or state governments, labor disputes, fires, explosions, floods, storms, utility outages, computer hardware or software malfunctions not caused by such Party or other matters beyond the reasonable control of such Party. The Party claiming force majeure shall exercise reasonable good faith efforts to prevent, work around or otherwise minimize the effects of such events to the extent possible and the delay or failure to perform shall last only as long as the events or occurrences giving rise to the force majeure.

10.5 Termination upon Abandonment of Project. In the event construction of the Township Collection System has not commenced on or before July 1, 2015, then unless the Parties have specifically agreed, in writing, to extend the Agreements beyond that date, and notwithstanding anything to the contrary contained herein, the sanitary sewer project contemplated by and described in the Agreements shall be considered abandoned by the Parties and the Agreements shall terminate without further act or deed of either Party at midnight, local time, July 1, 2015.

11. Miscellaneous.

11.1. Entire Agreement The Parties acknowledge that the Agreements, taken together, and interpreted *in pari materia*, are their entire agreement as it relates to the subject matter hereof and there are no other agreements, oral or written, pertaining hereto that are not specifically incorporated herein. Without limiting the generality of the foregoing sentence, the City Of Manistee-Charter Township Of Filer Interlocal Governmental Sewer & Wastewater Treatment Plant Cooperative Agreement dated March 2, 2010 is superseded in its entirety by the Agreements. The Agreements may be modified or changed only upon the written mutual consent of all Parties.

11.2 Notice Any notice required to be given by the Agreements shall be in writing and delivered to the Parties at their addresses stated in the opening paragraph of this Master Agreement. Delivery may be done in person, by facsimile transmission (with proof of sending preserved), or by certified or registered mail to the City Manager on behalf of the City, and to the Township Clerk on behalf of the Township.

11.3 Severability In the event that any provision of the Agreements shall be found or held to be illegal or unenforceable by a court of competent jurisdiction, such finding shall not affect the other provisions of the Agreements and they shall remain enforceable according to their terms.

11.4 Interpretation The Agreements shall be interpreted in accordance with the laws of the State of Michigan.

11.5 Binding Effect This Agreement shall be binding upon the Parties, their respective successors (including successor-governing bodies) and assigns. The Parties intend that no third parties be benefited by the Agreements and that only the Parties, their successors and permitted assigns shall be allowed to enforce the Agreements in any respect.

11.6 Assignment. The Agreements may be assigned, in whole or in part, by either Party with the other Party's prior written consent, which shall not be unreasonably withheld, delayed or conditioned. Assignment by legal process shall not be subject to the consent of the City.

IN WITNESS WHEREOF, the Parties execute this agreement on the dates denoted next to their respective signatures this \_\_\_\_ day of \_\_\_\_\_, 2012.

CHARTER TOWNSHIP OF FILER

CITY OF MANISTEE

By: \_\_\_\_\_  
Jim Espvik, Supervisor  
Mayor

By: \_\_\_\_\_  
~~Richard L. Mack~~ Colleen Kenney,

By: \_\_\_\_\_  
Shirley Ball, Township Clerk

By: \_\_\_\_\_  
Michelle Wright, City Clerk

FIRST AMENDED  
OPERATING AGREEMENT

THIS OPERATING AGREEMENT dated the \_\_\_ day of \_\_\_\_\_, 2011, by and between the CITY OF MANISTEE (hereinafter "City"), a Michigan Municipal Corporation, 70 Maple Street, Manistee, Michigan 49660, and the CHARTER TOWNSHIP OF FILER (hereinafter "Township"), a Michigan Charter Township, 2505 Filer City Road, Manistee, Michigan 49660, (collectively, the "Parties" and sometimes, individually, a "Party");

WHEREAS, The City owns and operates a sanitary sewer system consisting of a sanitary sewage collection system and a wastewater treatment plant for the benefit of users in the City, and for the benefit of certain users outside the City limits including several in the Township; and,

WHEREAS, Township has under study and consideration the design, construction and/or operation of a sanitary sewage collection and wastewater treatment system for users in the Township generally and specifically in the downtown development district as established by Chapter 7 of the Township Code of Ordinances; and,

WHEREAS, the Parties have had numerous meetings between representatives of each Party to explore possible collaborations and mutual arrangements for combining their efforts and resources in the ~~construction of an expansion use~~ of the City WWTP ~~sufficient~~ to accommodate the ~~expanding~~ needs of the City and the needs of the Township in a mutually beneficial manner; and,

WHEREAS, the Parties desire to enter into three agreements in accordance with The Urban Cooperation Act of 1967, Act 7 of the Public Acts of 1967 (Ex Sess); MCL 124.501, et seq., (the "Act") on the following terms and conditions consisting of this agreement for the operation, maintenance and repair of the sanitary sewage collection system to be constructed in the Township (the "Operating Agreement"), an agreement for the treatment and discharge of sanitary sewage from the Township (the "Treatment Agreement"), and an agreement covering ancillary matters involving construction of ~~a new third final clarifier by the City and construction of a~~ wastewater collection system in the Township, and other matters related to the Parties' relationship, (the "Master Agreement"), all of which are dated as of the date of this Operating Agreement;

NOW, THEREFORE, the Parties, agree as follows:

1. Definitions.

1.1 General. As used herein, the following terms shall have the meanings herein specified, unless the context clearly indicates otherwise.

- a. "Agreements" means the Master Agreement, this Operating Agreement and the Treatment Agreement.
- b. "City Collection System" means the existing sanitary sewer collection system located principally in the City, as expanded, modified, repaired and improved during the course of the Agreements.
- c. "City WWTP" means the existing wastewater treatment plant owned and operated by the City, as expanded, modified, repaired and improved during the course of the Agreements.
- d. "City System" means the City Collection System and the City WWTP.
- e. "DDA District" means the downtown development district as established by Chapter 7 of the Township Code of Ordinances.
- f. "DDA Plan" means the DDA Development Plan and Tax Increment Financing Plan No. 1993-1, dated April 6, 1993, as amended or extended during the course of the Agreements.
- g. "DDA Urban Service District" means the initial Urban Service District required to be established by the Township under this Master Agreement and which shall be generally coextensive with the DDA District, being that area along the US-31 Corridor from Twelfth Street to Stronach Road, east along 28<sup>th</sup> Street and west along Red Apple Road. A map of the planned DDA Urban Service District is attached hereto as Exhibit 1.
- h. "Filer DDA" means the Charter Township of Filer Downtown Development Authority as established by Chapter 7 of the Township Code of Ordinances.
- i. "Guaranteed Township Daily Capacity" or "GTDC" means the quantity of untreated and/or industrially pre-treated sanitary sewage from users in the Township that the Township has the right to have the City treat and process in the City WWTP pursuant to the Agreements, expressed in gallons per day (g.p.d.). The minimum or guaranteed quantity is 125,000 gpd, which quantity may be increased in accordance with the Agreements. The quantity of sanitary sewage that may originate from private users of the City WWTP located in the Township that are not connected to the Township Collection System shall not be deemed part of, or deducted from, the Guaranteed Township Daily Capacity.
- j. "Master Agreement" means that agreement between the Township and the City of even date herewith addressing all matters relating to the Parties' relationship with respect to sanitary sewage not addressed in the Operating Agreement or the Treatment Agreement.

- k. "Operating Agreement" means this agreement between the Township and the City for the operation, maintenance and repair of the Township Collection System of even date with this Master Agreement.
- l. "Sewer Plan Implementation Agreement" means draft #7B of that agreement between the Township and the Filer DDA approved by the Township on May 12, 2011 and the Filer DDA on June 15, 2011.
- m. "Treatment Agreement" means that agreement between the Township and the City for the acceptance, treatment and discharge of sanitary sewage from the Township Collection System of even date with this Master Agreement.
- n. "Township Collection System" means that system of connected or unconnected pipes, pumps, valves and related equipment as may be reasonable or necessary to collect sanitary sewage from structures located in the DDA Urban Service District in which sanitary sewage is generated and transport it to the City Collection System, as expanded, modified, repaired and improved during the course of the Agreements
- o. "Urban Service District" means one or more geographical areas in the Township in which it intends to construct the Township Collection System, provide the sanitary sewage services available as the result of the Township Collection System's connection with the City System and specially assess the parcels of land located therein or otherwise finance the expansion of the Township Collection System.

1.2 Additional Terms. Additional terms are defined throughout the Agreements and shall have the meanings supplied by the Agreements. Terms not defined in the Agreements shall have their usual and customary meaning.

2. Administration, Operation & Maintenance:

2.1 General. The City shall be responsible for the operation, maintenance, and repair of the Township Collection System in accordance with this Operating Agreement. Township agrees to reasonably cooperate with the City in such matters. The City shall be solely responsible for the administration, operation, maintenance, repair, replacement and upgrade of the City System. The City shall be solely responsible for obtaining and maintaining all necessary permits, licenses, certificates or accreditations necessary to operate the City System and the Township Collection System.

2.2 Remittance of Usage Fees. Without prior demand, Township shall remit to the City the total amount of Usage Fees calculated in accordance with this Section for the billing cycle then ended, by the end of the month following the billing cycle then ended, regardless of the date Township collects payments from users. Usage Fees due and payable to City shall be the total of the following:

- a. the sum of the Fixed Charge for each user; and

b. the sum of the products of the Variable Charge multiplied by the quantity of water consumed by each user connected to the Township Collection System as determined by the water meters maintained and read by Township.

2.2.1 Administration of Sewer Service; Exterior Consumption Meters. Township shall be responsible for the general administration of sewer services in the Township. Township shall be responsible for billing users connected to the Township Collection System for sewer services and, unless otherwise agreed by the Parties, shall bill users on the same schedule as Township water users are billed. Township shall also be responsible for collecting all fees receivable from Township users of the Township Collection System, on terms and conditions to be established by the Township. Township shall be responsible for reading the water meters of all users located in the Township for purposes of calculating Usage Fees due to City. Township may permit users to install multiple water meters to separately meter water for exterior water consumption that does not generate sanitary sewage in the same manner and on the same terms as permitted by City ordinance and regulation. Water so separately metered shall not be included in the calculation of the Usage Fees payable by the Township.

### 2.3 Hook-Up Charges:

2.3.1 Collection and Distribution of Fees. Hook-up charges or tap fees for connecting single or multiple users to the Township Collection System, will be charged by the Township to all users connecting to the Township Collection System in accordance with this Section 2.3.. Township users shall pay hook up charges or tap fees at rates equal to those established by City ordinance for City users. Township shall bill and collect the hook-up or tap fees directly from the user and shall be responsible for accepting and processing all applications for connection. The City reserves the right to change hook-up rates or tap fees, provided such rates remain uniform for the users in both the City and Township. In consideration of the services provided by the City in respect to inspections and approvals of connections to the Township Collection System, the Township shall account to the City and pay annually to the City one-half of all hook-up charges or tap fees collected from Township users.

2.3.2 City Inspection and Approval of Connections. The City shall be responsible for inspecting and approving all connections to the Township Collection System under the same rules and regulations in effect for connections to the City System. The Parties will cooperate in the scheduling of inspections and other pertinent matters.

2.3.3 Exemption for Initial Connections. Without obligation to the City for the waived fees, the Township may waive the hook up or tap fees for Township users that are required to connect to the Township Collection System on the date established in Section 2.1 of the Treatment Agreement (whether or not actually connected on that date). Waiver of the hook up or tap fees shall be on uniform terms and conditions to be

established by the Township. In the event of an expansion of the Township Collection System under Section 3.3 of the Master Agreement, Township and City may mutually agree to offer a waiver of hook up or tap fees on the same terms as stated herein.

2.4 Industrial Pre-treatment Program: The City maintains and enforces an Industrial Pre-Treatment Program (IPP) to insure that users of the City System and the City comply with all state and federal laws, rules, regulations and permits including the City's National Pollution Discharge Elimination System (NPDES) Permit. Township shall adopt such ordinances, rules and regulations as needed to adopt and implement an IPP equivalent to the City's IPP and any subsequent amendments and the City shall uniformly administer such IPP in the Township in conjunction with the City's IPP.

2.5 Compliance and Enforcement: Township shall strive to insure that Township users comply with the Parties' IPP and the City's NPDES Permits, including imposing the same fines and costs as those provided by the ordinances and IPP of the City, and agrees to shut off use of the Township Collection System to any Township user not in compliance with the IPP or NPDES Permits. The City shall provide to the Township Supervisor, or the Supervisor's designee, timely copies of all notices of violations, hearings on notices of violation, orders of compliance and final shut-off and other enforcement notices. The Township shall promptly disconnect or shut off from the Township Collection System any non-complying Township user in accordance with the City's decisions and notices, by any lawful means. Consistent with the Parties' IPP and NPDES Permits, and consistent with the requirements of the State of Michigan, and when feasible under the circumstances, the City and Township shall work cooperatively to bring non-complying Township users back into compliance before proceeding with actual shut-off. Township acknowledges the immediate and direct impact non-compliance with the IPP and NPDES Permits has on the public health, safety and welfare and in the event the Township without lawful justification fails, refuses or neglects to fulfill its obligations under this Section 2.5, City shall be entitled to the immediate issuance of a temporary restraining order without notice, and thereafter a preliminary and/or final injunction compelling the Township's compliance with this Section 2.5 by any court of competent jurisdiction, and shall be entitled to recover, in addition, its reasonable attorney fees and costs in obtaining such equitable relief and any fines which may be imposed on the City as the result of the Township's failure to fulfill its obligations under this Section 2.5.

2.6 Operation and Maintenance. City shall be solely responsible for the operation and maintenance of and repairs, replacements and upgrades to the City System. The City shall be solely responsible for the operation, maintenance and repair of the Township Collection System and shall provide such operation, maintenance and repair services and materials with respect to the Township Collection System at no cost to the Township other than as stated in the Agreements. The City's obligation of repair to the Township Collection System does not extend to replacement of the entire Township Collection System, but does include replacement of components or subsystems of the Township Collection System the cost of which does not exceed \$10,000, per component or subsystem. If the cost of a component or subsystem exceeds \$10,000, then the City shall pay the first \$10,000 and the Township shall pay all

amounts in excess of \$10,000 for such component or subsystem. The amount stated in the preceding two sentences shall be increased annually on January 1 by the “inflation rate” as that term is defined in MCL 211.34d, as amended.

2.7 City Representations and Warranties. City hereby represents and warrants to Township that it does and shall operate and maintain the City System and the Township Collection System in substantial compliance with all applicable state and federal laws, rules and regulations and all permits issued to or for the City System, and shall indemnify, defend and hold harmless Township from and against all fines, costs, penalties and Township’s reasonable attorneys fees and costs, arising from the City’s violation of any state or federal law, rule, regulation or permit governing the construction and operation of the City System or the operation of the Township Collection System.

3. Township Operating and Employment Procedures; Township Budget.

3.1 General. City agrees to operate and manage the Township Collection System in accordance with operating and employment policies and procedures that the Township may, from time to time, adopt and which are not contrary to the terms and conditions of the Agreements. Township agrees to consult with, and secure the approval of, the City on such matters prior to adopting any policies or procedures for the operation and management of the Township Collection System that are at variance with the City’s established policies and procedures addressing the same matters.

3.2 Budget. City agrees to operate the Township Collection System within the budget and fee schedule adopted by the Township, which budget and fee schedule shall be consistent with the terms and conditions of the Agreements.

3.3 Township Funds. The parties do not contemplate that the City will come into possession of any funds belonging to the Township as the result of the City’s undertakings as set forth in the Agreements. In the event the City should come into possession of such funds, it shall transfer the same, in full, to the Township not less frequently than monthly.

4. Reports and Information:

4.1 Access to Information. The Parties shall provide each other with detailed information concerning the volume of usage by Township users and user rates, repair and maintenance records, operational costs, annual financial audits and access to books, records, and financial information concerning the City System and the Township Collection System, annually, or more frequently as the Parties may agree.

5. Insurance.

5.1 Casualty Insurance. The City shall maintain reasonably available property insurance on the insurable components of the City System up to their full replacement cost and the Township shall maintain reasonably available property insurance on the insurable components of the Township Collection System up to its full replacement cost, or such other limits as may be imposed by any governmental or funding agency. Property insurance policies shall cover all risks covered in the standard fire and casualty insurance contract in the State of Michigan and such other risks as the City and the Township may agree.

5.2 Liability Insurance. The City and the Township shall each maintain a general liability policy with limits not less than \$2,000,000/\$4,000,000, covering bodily injury and death, and \$3,000,000 property damage coverage.

6. Term of Agreement:

6.1 Initial Term: This Operating Agreement shall be effective upon the satisfaction or waiver of all contingencies described in Section 7. Once effective, this Operating Agreement shall remain in full force and effect for forty (40) years from and after the date established by Section 2.1 of the Treatment Agreement that the City first begins to process and treat sanitary sewage originating in the Township and transported to the City WWTP through the Township Collection System (the “initial term”).

6.2 Extensions: Township shall have the option to extend this Operating Agreement under the same terms and conditions for five (5) additional years beyond the initial term (the “extended term”). The Parties may mutually agree in writing to extend this Operating Agreement beyond the initial term and the extended term. In the event the City or the Township does not desire to extend this Operating Agreement beyond the initial term or the extended term, the Party desiring to terminate this Agreement shall give the other Party not less than sixty (60) months written notice of its intention not to extend this Operating Agreement.

7. Contingencies:

7.1 General. Township and the City acknowledge that the Agreements are contingent upon the fulfillment, waiver or occurrence of the contingencies described in this Section 7, all of which are conditions precedent to the Parties’ performance under the Agreements, as stated herein

7.2 Township Conditions Precedent. The full performance of the Agreements by the Township is expressly conditioned upon the fulfillment, waiver or occurrence of each of the following:

- a. The Agreements have been approved by the Township board of trustees;

- b. Township has obtained a binding, unconditional commitment for the total amount of the funds necessary to pay all costs associated with the design and construction of the Township Collection System, from Rural Development of the United States Department of Agriculture (“USDA”), including any required approval by the electors of the Township or persons residing in a special assessment district, approval of this Agreement by bond counsel and approval of this Agreement by the Office of General Counsel for the USDA (the “Township Financial Commitment”);
- c. The fulfillment, waiver or occurrence of each of the City’s condition precedents as set forth in Section 7.3 below;
- d. Township has obtained the opinion of counsel that it’s performance of this Agreement and Sewer Plan Implementation Agreement is not contrary to law; and,
- e. Township and the Charter Township of Filer Downtown Development Authority have executed the Sewer Plan Implementation Agreement.

7.3 City Conditions Precedent. The full performance of this Agreement by the City is expressly conditioned upon the fulfillment, waiver or occurrence of each of the following:

- a. The Agreements have been approved by the City Council and no initiatory referendum has been filed challenging the Agreements or any of them; or, if an initiatory referendum is filed, the challenge to the Agreements has been defeated by the electors;
- b. The MDNRE or any successor agency of the State of Michigan has approved the ~~City to treat design and construction of a third final clarifier at the City WWTP and treatment of~~ sanitary sewage originating in the Township and transported to the City System by the Township Collection System;
- c. City has obtained a new or amended NPDES Permit authorizing the discharge of treated sanitary sewage originating in the Township and transported to the City System by the Township Collection System;
- d. The fulfillment, waiver or occurrence of each of the Township’s condition precedents as set forth in Section 7.2 above; and,
- e. ~~City has obtained a binding, unconditional commitment for the total amount of the funds necessary to pay all costs associated with the design and construction of the third final clarifier described in Section 2.1, on terms and conditions reasonably acceptable to the City.~~

7.4 Governor Approval. This Agreement is also contingent as to all Parties upon the approval of the Governor of Michigan, if and as may be required by Section 10 of the Act, being MCL 124.510, and such other formal requirements as may be imposed by the Act.

8. Cooperation and Deadlines:

8.1 Statement of Understanding. The City and Township acknowledge and recognize that intergovernmental cooperative agreements require significant collaboration, organization and coordination. Township and the City agree to pursue timely and in good faith those separate actions and activities necessary to the accomplishment of the goals of the Agreements. Without limiting the generality of the foregoing, Township covenants that it will renew or extend the Filer DDA and the DDA Plan, if and when necessary, in a manner consistent with the intent and purposes of the Agreements. Township further covenants that it will not reduce the geographical size of the DDA District without City's prior consent.

8.2 Satisfaction of Conditions Precedent. The Parties anticipate that they will have satisfied all conditions precedent by July 1, 2012. In the event all conditions precedent have not been fulfilled, waived or occurred by July 1, 2012, then any Party may terminate the Agreements by notice to the other Party not later than August 1, 2012, unless the Parties have agreed to modify dates and deadlines in the manner set forth in Section 8.3.

8.3 Modification of Deadlines. The Parties acknowledge that the times and dates set forth in the Agreements may be changed as the Parties proceed to develop, design, finance and construct the public facilities and systems contemplated by the Agreements. Accordingly, time shall not be of the essence to the Agreements, provided however, that as to any specific date identified or established in or by reference to the Agreements, either Party may make such date a material term of the Agreements by specifying that fact in a written notice to the other Party and specifying a date for the other Party's performance that is not less than 90 days from the date of such notice.

8.4 Force Majeure. A Party shall be excused from any delay or failure of performance on account of war, sabotage, insurrection, riot or other civil disobedience, acts of public enemies, acts of federal or state governments, labor disputes, fires, explosions, floods, storms, utility outages, computer hardware or software malfunctions not caused by such Party or other matters beyond the reasonable control of such Party. The Party claiming force majeure shall exercise reasonable good faith efforts to prevent, work around or otherwise minimize the effects of such events to the extent possible and the delay or failure to perform shall last only as long as the events or occurrences giving rise to the force majeure.

9. Miscellaneous.

9.1. Entire Agreement The Parties acknowledge that the Agreements, taken together, and interpreted *in pari materia*, are their entire agreement as it relates to the subject matter hereof and there are no other agreements, oral or written, pertaining hereto that are not

specifically incorporated herein. Without limiting the generality of the foregoing sentence, the City Of Manistee-Charter Township Of Filer Interlocal Governmental Sewer & Wastewater Treatment Plant Cooperative Agreement dated March 2, 2010 is superseded in its entirety by the Agreements. The Agreements may be modified or changed only upon the written mutual consent of all Parties.

9.2 Notice Any notice required to be given by the Agreements shall be in writing and delivered to the Parties at their addresses stated in the opening paragraph of this Master Agreement. Delivery may be done in person, by facsimile transmission (with proof of sending preserved), or by certified or registered mail to the City Manager on behalf of the City, and to the Township Clerk on behalf of the Township.

9.3 Severability In the event that any provision of the Agreements shall be found or held to be illegal or unenforceable by a court of competent jurisdiction, such finding shall not affect the other provisions of the Agreements and they shall remain enforceable according to their terms.

9.4 Interpretation The Agreements shall be interpreted in accordance with the laws of the State of Michigan.

9.5 Binding Effect This Agreement shall be binding upon the Parties, their respective successors (including successor-governing bodies) and assigns. The Parties intend that no third parties be benefited by the Agreements and that only the Parties, their successors and permitted assigns shall be allowed to enforce the Agreements in any respect.

9.6 Assignment. The Agreements may be assigned, in whole or in part, by either Party with the other Party's prior written consent, which shall not be unreasonably withheld, delayed or conditioned. Assignment by legal process shall not be subject to the consent of the City.

IN WITNESS WHEREOF, the Parties execute this agreement on the dates denoted next to their respective signatures this \_\_\_\_ day of \_\_\_\_\_, 20142.

CHARTER TOWNSHIP OF FILER

CITY OF MANISTEE

By: \_\_\_\_\_  
Jim Espvik, Supervisor  
Mayor

By: \_\_\_\_\_  
~~Richard L. Maack~~ Colleen Kenny,

By: \_\_\_\_\_

By: \_\_\_\_\_

Shirley Ball, Township Clerk

Michelle Wright, City Clerk

**CITY HALL**  
70 Maple Street

**CITY MANAGER**  
231.398.2801

**CITY ASSESSOR**  
231.398.2802

**BUILDING INSPECTOR**  
231.398.2806

**PLANNING, ZONING &  
COMMUNITY DEV.**  
231.398.2805

**CITY CLERK**  
231.398.2803

**CITY TREASURER**  
231.398.2804

**WATER BILLING**  
231.723.2559

**ADMINISTRATION**  
FAX 231.723.1546

**CLERK/TREASURER**  
FAX 231.723.5410

**POLICE DEPARTMENT**  
70 Maple Street  
231.723.2533  
FAX 231.398.2012

**FIRE DEPARTMENT**  
281 First Street  
231.723.1549  
FAX 231.723.3519

**PUBLIC WORKS**  
280 Washington St.  
231.723.7132  
FAX 231.723.1803

**PARKS DEPARTMENT**  
231.723.4051

**WATER MAINTENANCE**  
231.723.3641

**WASTEWATER PLANT**  
50 Ninth St.  
231.723.1553

Memo To: Mitch Deisch 

From: David M Bachman

Re: Council Agenda Item

Sir:

Please find attached to this memo a request from the Chamber of Commerce to hold the Victorian Sleighbell Parade and Old Christmas Weekend from December 6<sup>th</sup> through the 9<sup>th</sup> 2012.

This is an annual request and requires significant city resources in order for it to be successful. The event showcases the City and brings n thousands of visitors to the community for the weekend.

Sgt. Schmeling has been attending the planning meetings and will be coordinating the event with Mr. Garber and the Parks Department. I have attached a complete set of activities for your dispersal to the council.

There are no known objections to this event and I recommend the council approve it.

  
David M Bachman  
Chief of Police



# Downtown Manistee

Manistee Main Street  
Downtown Development Authority  
11 Cypress Street  
Manistee, MI 49660  
231-398-3262

DATE: October 30, 2012  
TO: Mr. Mitch Deisch and Manistee City Council  
FROM: Manistee Main Street DDA  
RE: 2012 Victorian Sleighbell Parade and Old Christmas Weekend

The 24<sup>th</sup> Annual Victorian Sleighbell Parade and Old Christmas Weekend will be held December 6-9, 2012. The Manistee Main Street DDA requests your permission to have the following streets closed for the festival:

Saturday, December 8, 2012 from 2 p.m. until 6:30 p.m. for the Sleighbell Parade.

1. Division Street, from River to Clay.
2. River Street from U.S. 31 to Spruce Street.
3. Side streets coming down the hill to River Street need to be closed at top EXCEPT Poplar Street to allow access to the Manistee Inn and Marina.

We also request:

1. "No parking" signs placed up in advance that state no parking rules, also hours for the event, (so that the street is clear of cars for the parade).
2. River Street surface to be well sanded on Saturday as close to parade time as possible for the safety of both pedestrians and horses.
3. Side streets/sidewalks coming down the hills also need to be sanded for pedestrian traffic.
4. Closure of the parking lot at the SW corner of Division and River Streets. We would like to use that lot for parade staging as well as the sled dog display and/or horse display.
5. Assistance with crowd/traffic control right before and during the parade on Saturday Dec, 8<sup>th</sup>
6. Misc. Assistance from DPW, including securing/mounting the large trees, placing the chestnut grills, etc. To be arranged directly with DPW Director Garber.

Surrey Wagon Rides will again take place on Saturday, December 8, 12 p.m.- 4 p.m.

Route: River Street to Water Street - Water Street to First Street - First Street to Division Street - Division Street to River Street

Thank you for your outstanding support and cooperation of this event, as well as others held in Historic Manistee, the Victorian Port City. The Department of Public Works and the Public Safety Department in particular are extremely helpful with these events, and without them it would be extremely difficult to pull off events like Sleighbell Weekend. It is an outstanding example of community spirit, and those departments should be commended.

Sincerely,



Travis B. Alden  
Director, Manistee Main Street Downtown Development Authority



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**EVENT:** Manistee's 24th Annual Victorian Sleighbell Parade and Old Christmas Weekend

**EVENT DATE:** December 6th-9th, 2012

**LOCATION:** Downtown Manistee, Michigan | [MAP IT!](#)

**PRESENTING SPONSOR:** Manistee Mainstreet DDA

**EVENT DESCRIPTION:**

Enjoy roasted chestnuts and carolers as you take part in one of Michigan's most unique holiday celebrations. A whole weekend of excitement including the Sleighbell Parade on Saturday at 5:30 pm with horse drawn entries, historic building tours, special Christmas production at the historic Ramsdell Theatre, Festival of Trees, concerts, museum and art exhibits, and much more.

**EVENT SCHEDULE (As of 10-17-12)**

Pre-Festival production of Irving Berlin's *White Christmas* on the mainstage of the Ramsdell Theatre. Performance by the Manistee Civic Players.

Friday, November 30, 2012 at 7:30 pm  
Saturday, December 1, 2012 at 7:30 pm  
Sunday, December 2, 2012 at 2:00 pm

**Visions of Sugar Plums Student Art Show**

Friday, November 30, 2012 from 6:00 pm - 8:30 pm  
Saturday, December 1, 2012 from 1:00 pm - 9:00 pm  
Sunday, December 2, 2012 from 1:00 pm - 5:00 pm

**Business After Hours**

Wednesday, December 5, 2012 from 5:00 pm - 7:00 pm

**Sleighbell Prince & Princess Pageant**

Wednesday, December 5, 2012 at 6:30 pm

## Thursday, December 6, 2012

**Victorian Desert Contest, 7:00 pm**  
Faith Covenant Church, 475 8th Street, Manistee

## Friday, December 7, 2012

**Victorian Gingerbread House Contest, 10am - 7pm**  
Faith Covenant Church, 475 8th Street

**Christmas in Wartime, 10am - 8pm**  
Manistee Historical Museum

**Cookie Fun for Everyone, 10am - 8pm**  
Manistee Inn & Marina

**Festival of Trees, 1pm - 8pm**  
Ramsdell Theatre Ballroom

**Sleighbell Chocolate Shop, 3pm - 8pm**  
318 River Street, Manistee

**Soup Cook-Off, 4pm - 6:30 pm**  
Downtown Merchant Stores

**Visions of Sugar Plums Student Art Show, 5pm - 9pm**

**Manistee Historical Museum Open House, 5pm - 8pm**  
425 River Street, Manistee

**Bell Tower Concert, 7pm**  
Guardian Angels Catholic Church

**Irving Berlin's White Christmas, 7:30 pm**  
Ramsdell Theatre mainstage

## Saturday, December 8, 2012

Note: River Street will be closed to vehicular traffic at 2:00pm for carriage rides and to prepare for the Sleighbell Parade

**Sleighbell Craft Show & Bazaar, 9am - 4pm**  
Manistee High School, 12th Street

**Cookie Fun for Everyone, 10am - 8pm**

Manistee Inn & Marina

Victorian Gingerbread House Contest, 10am - 3pm (Awards at 3pm)  
Faith Covenant Church, 475 8th Street

Christmas in War Time, 10am - 8pm  
Manistee Historical Museum

Historic River Street Merchant Open House, 10am - 8pm

Jingle Bell Jog, 10am  
Manistee High School, 12th Street

Vogue Theatre Welcome Center, 10am - 5:30pm

Lumberjack Lunch, 11am - 2pm

Horsedrawn Carriage Rides, 12pm - 4pm  
Downtown Manistee River Street

Sleighbell Chocolate Shop, 12pm - 8pm

Ramsdell Theatre Tours, 1pm - 4pm  
Corner of Maple & First Street, Manistee

Babcock House Tours, 1pm - 4pm  
420 Third Street, Manistee

Historic Manistee Firehouse Tours, 1pm - 4pm  
281 First Street, Manistee

Festival of Trees, 1pm - 8pm  
Ramsdell Theatre Ballroom

Visions of Sugar Plumbs Student Art Show, 1pm - 9pm

Santa's Arrival, 2pm - 4pm

Meet the Sled Dog Team, 2:30pm - 5pm  
Downtown Manistee River Street

Manistee Community Band Christmas Concert, 4pm  
Downtown Manistee River Street

Hot Cider Served, 4pm  
Downtown Manistee River Street

Hot Drinks & Cool Treats, 4pm - 8pm  
Manistee Senior Center

Kiwanis Cops, 4:30pm  
Downtown River Street

Roasted Chestnuts, 4:30pm - 7:30pm  
Downtown River Street

Jingle Mingle, 4:30pm - 9pm  
Ramsdell Inn on River Street

Victorian Sleighbell Parade, 5:30pm  
Downtown Manistee River Street  
During the parade, postal carriers will collect "Letters to Santa" for official delivery to the North Pole.  
After the final Christmas Tree is pulled down the parade route, the crowd follows the tree to the fountain plaza to sing Christmas Carols during the Tree Lighting ceremony.

Warm Up After the Parade, 6pm - 7:30pm  
Manistee United Methodist Church, 387 First Street

Gaslight Guided Tour of the Babcock House, 7pm - 9pm  
420 Third Street, Manistee

Jingle Bell Jam, 7pm - ?  
Eagles Club, 55 Division Street, Manistee

Santa's Headquarters Open, 7:30pm

Irving Berlin's White Christmas, 7:30pm  
Ramsdell Theatre mainstage

## Sunday, December 9, 2012

Men's Club Breakfast, 8:30am - 1:30pm  
St. Joseph Parish Hall, 249 6th Street Manistee

Victorian Church Service, 10am  
First Congregational Church, 4th & Oak Streets Manistee

Festival of Trees, 10am - 2pm  
Ramsdell Theatre Ballroom

Christmas in Wartime, 10am - 5pm  
Manistee Historical Museum

Craft Sale, 10am - 4pm  
Manistee Inn & Marina

Photos with Santa Paws, 1pm - 4pm  
Parkdale Animal Hospital, 420 Parkdale Avenue (US31)

Visions of Sugar Plums Student Art Show, 1pm - 5pm

Santa's Headquarters, 2pm - 5pm

Irving Berlin's White Christmas, 2pm  
Ramsdell Theatre mainstage

A Service of Lessons and Carols, 3pm  
Trinity Lutheran Church, 320 Oak Street Manistee

PAST EVENT PHOTO GALLERY:



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