CITY COUNCIL ACTION REPORT

September 25, 2015

TO: Honorable Mayor and Troy City Council Members

FROM Lori Grigg Bluhm, City Attorney
Allan T. Motzny, Assistant City Attorney

SUBJECT: Approval of Suburban Mobility Authority for Regional Transportation and City of Troy Pass Through Agreement for Troy Multi-Modal Transit Center

Attached is a proposed pass through agreement with Suburban Mobility Authority Transportation (SMART) in which SMART will facilitate the City's funding from a Federal Grant in exchange for the City's agreement to provide SMART access to the Transit Center. At the last minute, SMART told us that it is important an agreement must be approved by October 1, 2015 due to the possible government shutdown. The attached agreement has been presented to SMART for their consideration. It is the City Administration's recommendation that City Council approve the attached agreement and authorize the Mayor and City Clerk to execute the agreement on behalf of the City.

SUBURBAN MOBILITY AUTHORITY FOR REGIONAL TRANSPORATION AND CITY OF TROY PASS THROUGH AGREEMENT FOR TROY MULTI-MODAL TRANSIT CENTER

This Agreement is made and entered into this _____ day of _____, 2015, by and between the Suburban Mobility Authority for Regional Transportation (hereinafter SMART), an instrumentality of the State of Michigan established pursuant to 1967 PA 204, MCL 124.401 et. seq. (Act 204); whose address is 535 Griswold Street, Suite 600; Detroit, MI 48226 and the City of Troy (hereinafter CITY), a Michigan municipal corporation whose address is 500 W. Big Beaver Road, Troy, MI 48084. SMART and CITY are collectively referred to as PARTIES.

RECITALS

WHEREAS, SMART, pursuant to Act 204, has been vested with the authority to acquire, plan, construct, operate and maintain transportation systems and facilities within its jurisdiction; and

WHEREAS, State, Local, and Federal authorities have designated SMART as the Federal Transit Administration's (hereinafter FTA) direct grant recipient within SMART's jurisdiction; and

WHEREAS, the Parties, along with the Michigan Department of Transportation (hereinafter MDOT) identified a need to upgrade and replace the existing Amtrak station, and construct a new Multi Modal Transit Center (hereinafter TRANSIT CENTER), in order to increase the station's passenger utilization and to bring local surface transit modes together into a common passenger transfer facility; and

WHEREAS, on October 11, 2011, CITY entered into a contract with MDOT for the construction of TRANSIT CENTER, using federal funding pursuant to the Federal Railroad Administration's High-Speed Intercity Passenger Rail program in the amount of $8,485,212 through the American Recovery and Reinvestment Act of 2009 (ARRA). TRANSIT CENTER is now completed; and

WHEREAS, as a result of an adverse ruling at the Michigan Court of Appeals, CITY was required to initiate condemnation proceedings to re-acquire ownership of the land on which TRANSIT CENTER was situated, as well as an access easement over Doyle Drive; and

WHEREAS, CITY is within SMART's jurisdiction and has obtained preliminary approval of Federal Grand number MI-04-0084 in the amount of $1,300,000, administered by the FTA, which was matched by $325,000 in State of Michigan funds, as administered by MDOT, for a total of $1,625,000 (hereinafter referred to as GRANT), which is intended

to be used for land acquisition purposes, including land costs, attorney fees, and other acquisition costs for TRANSIT CENTER; and

WHEREAS, in consideration of SMART's facilitation of CITY's funding from the Grant, CITY has agreed to provide SMART access to TRANSIT CENTER, including the drives, curb cuts, shelters and other amenities for the purposes of providing transportation services to the public, consistent with SMART's mission, including but not limited to fixed route service; and

WHEREAS, as a result of CITY's initiated condemnation action, legal title to the TRANSIT CENTER parcel vested with CITY as of July 10, 2014 after CITY's payment of the estimated just compensation for the property; and

WHEREAS, as a result of a mutual acceptance of a case evaluation award, the Court entered an order finalizing the condemnation action on September 14, 2015, after CITY's payment of the agreed upon just compensation for the property; and

WHEREAS, CITY seeks reimbursement from GRANT for the costs expended in order to re-acquire the TRANSIT CENTER parcel, and this Agreement will provide a mechanism for CITY to receive these funds as set forth in this Agreement, consistent with the requirements of FTA and MDOT.

NOW THEREFORE, in consideration of the mutual promises herein, the adequacy and sufficiency of which is hereby acknowledged, the PARTIES agree as follows:

1. PURPOSE

a. SMART will act as the Recipient of GRANT for use by CITY for the Transit Center Project. SMART will pass through to CITY this funding for use as described below to CITY. SMART does not guarantee the availability of any funding, and shall not be held liable for the unavailability of any such funding for any reason. SMART shall not be liable to CITY for any monies other than those which SMART actually receives as recipient of the GRANT for the TRANSIT CENTER project.

b. SMART is not and shall not be held liable for any funding delays and if any funding expected to be made available for the TRANSIT CENTER is later reduced or eliminated, SMART will, in its sole discretion, pass through the funding at the reduced level without any liability to CITY under this Agreement. Should it be determined that any funding provided by SMART to CITY under this Agreement shall be refunded to any funding source, CITY shall be liable for the entire refund amount, and shall repay SMART on demand so that SMART can repay the funding source in a timely manner.

c. CITY will use GRANT for three purposes only:

(i) For acquisition of unencumbered fee title to the real estate on which TRANSIT CENTER is located, which is located in the City of Troy, County of Oakland, State of Michigan, which is described in attached Exhibit 1.

(ii) For acquisition of a perpetual non-exclusive easement for ingress and egress on, over, through and across the main boulevard driveway connecting Coolidge Road and Maple Road, now known as Doyle Drive, as the same may be modified or relocated from time to time, which is more fully described in attached Exhibit 1.

(iii) To defray the cost of the land acquisition expenses which may be incurred by the CITY, including but not limited to reasonable and necessary attorney fees, court costs, and expert witness fees, provided that such expenses meet the criteria set forth in Office of Management and Budget Circular A-87, FTA Circular 4220.1F, FTA Circular 5010.1D, and any other applicable State and Federal Acquisition Regulations, each of which are incorporated herein by reference as if the same were repeated herein. It is further agreed that if any CITY expense fails to comport with the terms of the Grant application and GRANT, or with any applicable State or Federal law, regulation or requirement, then that expenses shall not be reimbursed from GRANT.

d. PARTIES agree that CITY's use of GRANT is contingent upon: the United States Department of Labor approving the repurposing of GRANT requested by the PARTIES in their joint letter to the FTA dated September 23, 2013; FTA concurrence with the Federal Railroad Administration (FRA) finding of "No Significant Impact" dated September 5, 2011 for the construction of the TRANSIT CENTER; and FTA's determination that the land acquisition activity requested by SMART under MI-04-0084 is a categorical exclusion under 23 CFR 771.118(c)(6) and that pre-award authority was established November 26, 2013 for SMART and CITY, as SMART's sub-recipient, to incur costs associated with the acquisition of real property for the purposes of completing the TRANSIT CENTER.

2. PROPERTY ACQUISITION AND REIMBURSEMENT

a. CITY agrees to pay any and all costs necessary to acquire unencumbered fee title to the Transit Center Property and a non-exclusive perpetual use of the Easement for use by the PARTIES. SMART agrees to reimburse the CITY's land acquisition expenses through contributions from the GRANT. All land acquisition expenses exceeding the amount of the GRANT will be borne by CITY.

b. SMART agrees to make reimbursement, as set forth above, based on invoices CITY submits to SMART, detailing actual costs by CITY and/or its

consultants, as well as evidence of payment and/or other supporting documentation. CITY will assure that it and all of its subcontractors have complied with all applicable State and Federal laws and regulations, including the provisions of FTA Circular 4220.1F, FTA Circular 5010.1D, 49 USC 5333, the Uniform Assistance and Real Property Relocation Act (49 CFR Part 24). Reimbursement for costs incurred by CITY is subject to review and approval by SMART and FTA.

c. CITY will submit along with each invoice, as set forth above, a PROJECT billing summary showing actual PROJECT costs to date. CITY agrees that the costs reported to SMART for this Agreement will represent only those items that are properly chargeable in accordance with this Agreement and the GRANT.

d. CITY agrees that SMART has no obligation to fund CITY's land acquisition expenses contemplated by this Agreement if for any reason the GRANT funds are not made available to SMART by FTA or MDOT.

3. BIRMINGHAM IMPROVEMENTS

a. FTA and MDOT and City have determined that $150,000 of federal finding will be used to construct access ways and amenities for the City of Birmingham to the Transit Center. SMART has no obligation to provide funding for the Birmingham amenities and access ways except as available from the GRANT. SMART shall make sure that at least $150,000 of GRANT funding is reserved until the Birmingham improvements are complete.

4. INSURANCE AND MAINTENANCE

a. CITY currently insures the TRANSIT CENTER Property against all losses and liability claims. CITY will continue such insurance coverage while this Agreement is operative.

b. CITY currently maintains and cares for the TRANSIT CENTER, including the structures on the Property and the developed and undeveloped lands. CITY shall continue all appropriate maintenance and care of the TRANSIT CENTER, Property, and Easement exclusive of any contribution from SMART, in a manner that preserves and enables the use of said premises as a Transit Center from the date of this Agreement and for the succeeding twenty (20) years thereafter.

5. **TRANSIT CENTER USE**

CITY warrants that in consideration of SMART facilitating CITY's use of GRANT, the Transit Center Facility shall continue to be used as a public transit center for the duration of this Agreement. After the termination of this Agreement, if the Property and Easement are no longer needed for transit purposes, CITY shall seek and obtain FTA concurrence in the disposal of the Property and Easement, as well as in the use of all sales proceeds generated from any FTA approved sale, and shall otherwise comply with the requirements of 49 CFR Part 24, Cir. 5010.1D and all applicable Federal laws. Further, so long as the Property is used as a Transit Center, the PARTIES agree that SMART shall be entitled to use the premises at no charge to provide transportation services to the public as is consistent with SMART's ongoing objectives and purposes. The PARTIES agree that SMART may operate fixed route services through the Transit Center as community demand and SMART policy may justify. Additionally, SMART will be permitted appropriate signage at the Transit Center, on the shelters, and the right of first refusal for advertising within the facility building. CITY may not use SMART logos, indicia, or other SMART material without the prior written approval of SMART.

6. **AUDIT AND RECORD RETENTION**

a. The PARTIES will establish and maintain accurate records of all expenses incurred for which payment is sought or made under this Agreement, in accordance with generally accepted government accounting principles.

b. The PARTIES will maintain all of its records for at least six (6) years from the date of final payment made to CITY by SMART under this Agreement. In the event of a dispute with regard to an allowable expense or any other issue under this Agreement, the PARTIES will continue to maintain records until the dispute has been finally decided and the time period for all available challenges or appeals of that decision have expired, or until the end of the six (6) year period, whichever is later.

c. SMART, MDOT, FTA, the U.S. Department of Transportation, and the Comptroller General of the United States, and their authorized representatives shall have access to and the right to inspect, copy, and/or audit the PARTIES' records at any reasonable time after giving reasonable notice. In connection with such audit and inspection activities, the PARTIES shall afford SMART, MDOT, FTA, the U.S. Department of Transportation or the Comptroller General of the United States, and their authorized representatives, access to all records and the opportunity to interview the PARTIES' employees concerning any matter relating this this Agreement, as

well as adequate and appropriate workspace at the location of the respective PARTY.

d. The PARTIES shall at all times comply with applicable Federal, State, and local laws and regulations without limitation, including those relative to audit requirements.

7. **THIRD PARTY BENEFICIARIES AND INDEMNITY**

a. This Agreement is by and between SMART and CITY. It does not, nor is it intended to create any rights to third parties or anyone not a signatory to this Agreement.

b. Notwithstanding any other provision in this Agreement, CITY shall indemnify, defend and hold harmless SMART, its officers, agents, employees and members of its Board of Directors from any and all claims, losses and damages, including costs and attorney fees occurring or resulting from any act, omission, or negligence of or chargeable to CITY, its officers, agents, employees, subcontractors, successors and/or assigns arising out of and pursuant to this Agreement. This provision is independent of any insurance requirements contained herein.

8. **NON-DISCRIMINATION**

a. By executing this Agreement, CITY agrees to comply with all of the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in the attached Exhibit 2 (Appendix A), dated August 1985. For purposes of Exhibit 2 (Appendix A), CITY and CONTRACTOR shall be interchangeable. CITY further covenants that it will comply with the Civil Rights Act of 1964, as amended, and the Regulations of the Department of Transportation (49 CFR Part 21), issued pursuant to said Act, including Exhibit 3 (Appendix B), dated June 2011, attached hereto and made a part hereof. CITY will require similar covenants on the part of any contractor or subcontractor employed in the performance of the PROJECT for which this Agreement is made.

b. CITY will comply with the applicable requirements of SMART's DBE program and in accordance with 1980 PA 278, MCL 423.321 et. seq.. CITY, in the performance of this Agreement, shall not enter into a contract with a subcontractor, manufacturer, or supplier listed in the register maintained by the State of Michigan and the Department of Labor of employers who have been found in contempt of court by a Federal Court of Appeals, on not less than three (3) occasions involving different violations during the preceding

seven (7) years for failure to correct an unfair labor practice, as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 USC 158.

9. **CHANGES**

All changes in the scope or character of the PROJECT or in the cost, terms of reimbursement, or terms of this Agreement will be by written amendment to this Agreement, signed by the duly authorized representatives of the PARTIES and subject to the approval of FTA.

10. **TERMINATION**

In the event CITY fails to complete any part of the PROJECT, or breaches any terms of this Agreement, then SMART may terminate this Agreement for cause. SMART will provide CITY with written notice of such termination, and will allow CITY fourteen (14) days to cure any defects identified in the written notice. If CITY fails to cure the noted defects within the allocated time period, then SMART will be entitled to pursue whatever remedy is available to it, including but not limited to withholding funds or off-setting funds owed to CITY under this Agreement, as well as any other existing or future Agreements between CITY and SMART. This provision does not limit SMART's ability to seek redress for all losses it may incur as a result of CITY's breach of this Agreement.

11. **SEVERABILITY**

If any part of this Agreement is determined to be invalid, illegal, or unenforceable, such determination will not affect the validity, legality, or enforceability of any other part of this Contract, and the remaining parts of this Contract will be enforced as if such invalid, illegal, or unenforceable part were not contained herein.

12. **TERM**

This Agreement will be in effect, starting on the date of its execution, and lasting for a term of 20 years.

13. **PROHIBITION AGAINST ASSIGNMENT, SALE, OR LEASE**

If and when the TRANSIT CENTER is no longer needed for a transit purpose, then CITY shall notify SMART and request disposition instructions from the FTA pursuant to FTA Circular 5010.1D. If CITY breaches the provisions of this paragraph, CITY shall assume all liability for and shall indemnify and hold SMART harmless from and

against all of its losses, including but not limited to repayment of all GRANT funds, penalties, interest and costs requested or required by FTA and MDOT, as well as payment of all of SMART's reasonable attorney fees and costs incurred as a result of CITY's breach.

14. APPLICATION OF FEDERAL LAW

a. As Sub-recipient, CITY shall comply with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement. The Master Agreement dated October 1, 2014 between FTA and SMART, and all future amendments thereto (hereinafter collectively referred to as MASTER AGREEMENT) are incorporated by reference and made a part of this Agreement. TROY agrees to be subject to the terms and conditions of MASTER AGREEMENT that are applicable to a Recipient. CITY shall be subject to 49 CFR Part 18 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), and all Certifications and Assurances for FTA grants and cooperative agreements, as updated annually.

b. CITY and SMART agree that federal requirements, including federal laws, regulations, policies, certifications and assurances, circulars and related administrative practices may change or be subject to amendment, and that the changed requirements will apply to the PROJECT and this Agreement, as necessary. CITY will include this provision in all subcontracts it finances with GRANT funds relating to the PROJECT.

15. ENTIRE CONTRACT

This Contract constitutes the entire agreement between the PARTIES with respect to the PROJECT, and is binding upon its execution by the duly authorized officials for the PARTIES. All prior contracts, agreements, and understandings between the PARTIES with respect to the PROJECT are subsumed within this Agreement. Except as otherwise provided in this Agreement, no change in, modification to, or amendment to this Agreement will be of any force or effect unless it is in writing, dated, and signed by the duly authorized representatives of the PARTIES.

CITY OF TROY

By: _____
Dane Slater, Mayor

By: _____
M. Aileen Dickson, City Clerk

SUBURBAN MOBILITY AUTHORITY FOR REGIONAL TRANSPORTATION

By: _____
John C. Hertel, General Manager

EXHIBIT 1

Legal Description

DESCRIPTION OF THE TRANSIT PARCEL:

PART OF THE NORTHEAST ¼ OF SECTION 31, T2N-R11E, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS BEGINNING AT A POINT DISTANT SOUTH 01 DEGREES 40 MINUTES 27 SECONDS WEST MEASURED 87.00 FEET ALONG THE EAST LINE OF SECTION 31 AND NORTH 88 DEGREES 09 MINUTES 00 SECONDS WEST 1413.07 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF MAPLE ROAD AND SOUTH 01 DEGREES 59 MINUTES 00 SECONDS WEST 1098.91 FEET FROM THE NORTHEAST CORNER OF SECTION 31; THENCE FROM SAID POINT OF BEGINNING SOUTH 88 DEGREES 20 MINUTES 27 SECONDS EAST 187.05 FEET; THENCE SOUTH 01 DEGREES 39 MINUTES 33 SECONDS WEST 452.74 FEET; THENCE SOUTH 88 DEGREES 20 MINUTES 27 SECONDS EAST 25.37 FEET; THENCE SOUTH 01 DEGREES 39 MINUTES 33 SECONDS WEST 192.17 FEET; THENCE NORTH 88 DEGREES 20 MINUTES 27 SECONDS WEST 114.27 FEET; THENCE ALONG A NON-TANGENTIAL CURVE TO THE LEFT ALSO BEING THE NORTHEASTERLY RIGHT-OF-WAY LINE OF GRAND TRUNK RAILROAD; RADIUS 22,961.83 FEET, CENTRAL ANGLE OF 00 DEGREES 29 MINUTES 26 SECONDS, AN ARC LENGTH 196.63 FEET; WHOSE CHORD BEARS NORTH 29 DEGREES 11 MINUTES 51 SECONDS WEST, 196.63 FEET; THENCE NORTH 01 DEGREES 59 MINUTES 00 SECONDS EAST 476.12 FEET TO THE POINT OF BEGINNING.

DESCRIPTION OF THE EASEMENT:

PART OF THE N.E. ¼ OF SECTION 31, T2N-R11E, CITY OF TROY, OAKLAND COUNTY MICHIGAN AND BEGINNING AT A POINT DISTANT NORTH 88 DEGREES 09 MINUTES 00 SECONDS WEST 1412.60 FEET ALONG THE NORTH LINE OF SECTION 31, SAID LINE ALSO BEING THE CENTERLINE OF MAPLE ROAD (87.00 FEET WIDE, ½ WIDTH) AND SOUTH 01 DEGREES 59 MINUTES 00 SECONDS WEST 87.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF MAPLE ROAD AND ALONG SAID RIGHT-OF-WAY LINE SOUTH 88 DEGREES 08 MINUTES 46 SECONDS EAST 17.05 FEET FROM THE N.E. CORNER OF SAID SECTION 31; THENCE FROM THE POINT OF BEGINNING OF SAID PUBLIC ACCESS EASEMENT SOUTH 88 DEGREES 08 MINUTES 46 SECONDS EAST 85.00 FEET; THENCE SOUTH 01 DEGREES 57 MINUTES 24 SECONDS WEST 255.36 FEET; THENCE SOUTH 01 DEGREES 57 MINUTES 24 SECONDS WEST 186.42 FEET; THENCE 52.99 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS 314.00 FEET, A CENTRAL ANGLE OF 09 DEGREES 40 MINUTES 12 SECONDS, A CHORD LENGTH OF 52.93 FEET, AND A CHORD BEARING OF SOUTH 06 DEGREES 47 MINUTES 29 SECONDS WEST; THENCE SOUTH 11 DEGREES 37 MINUTES 35 SECONDS WEST 187.11 FEET; THENCE 48.25 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF

286.00 FEET, A CENTRAL ANGLE OF 09 DEGREES 39 MINUTES 57 SECONDS, A CHORD LENGTH OF 48.19 FEET AND A CHORD BEARING SOUTH 06 DEGREES 47 MINUTES 37 SECONDS WEST; THENCE SOUTH 01 DEGREES 57 MINUTES 43 SECONDS WEST 739.10 FEET; THENCE 25.22 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 16.00 FEET, A CENTRAL ANGLE OF 90 DEGREES 19 MINUTES 42 SECONDS, A CHORD LENGTH OF 22.69 FEET AND A CHORD BEARING SOUTH 43 DEGREES 10 MINUTES 36 SECONDS EAST; THENCE SOUTH 88 DEGREES 20 MINUTES 27 SECONDS EAST 383.27 FEET; THENCE 30.94 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 159.00 FEET; A CENTRAL ANGLE OF 11 DEGREES 08 MINUTES 52 SECONDS, A CHORD LENGTH OF 30.89 FEET AND A CHORD BEARING OF NORTH 86 DEGREES 05 MINUTES 07 SECONDS EAST; THENCE SOUTH 88 DEGREES 20 MINUTES 27 SECONDS EAST 312.48 FEET; THENCE 179.03 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 545.50 FEET, A CENTRAL ANGLE OF 18 DEGREES 48 MINUTES 13 SECONDS, A CHORD LENGTH OF 178.22 FEET, AND A CHORD BEARING OF SOUTH 71 DEGREES 10 MINUTES 32 SECONDS EAST; THENCE SOUTH 61 DEGREES 46 MINUTES 25 SECONDS EAST 105.93 FEET; THENCE 204.48 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 440.99 FEET, A CENTRAL ANGLE OF 26 DEGREES 34 MINUTES 02 SECONDS, A CHORD LENGTH OF 202.65 FEET, AND A CHORD BEARING OF SOUTH 75 DEGREES 03 MINUTES 26 SECONDS EAST; THENCE SOUTH 88 DEGREES 20 MINUTES 27 SECONDS EAST 73.91 FEET; THENCE ALONG THE WEST RIGHT-OF-WAY LINE OF COOLIDGE ROAD (80.00 FEET WIDE, ½ WIDTH), SOUTH 01 DEGREES 39 MINUTES 33 SECONDS WEST 128.35 FEET; THENCE NORTH 81 DEGREES 51 MINUTES 26 SECONDS WEST 13.48 FEET; THENCE NORTH 76 DEGREES 24 MINUTES 33 SECONDS WEST 47.15 FEET; THENCE 262.33 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 1028.12 FEET, A CENTRAL ANGLE OF 14 DEGREES 37 MINUTES 09 SECONDS, A CHORD LENGTH OF 261.62 FEET AND A CHORD BEARING OF NORTH 69 DEGREES 04 MINUTES 59 SECONDS WEST; THENCE NORTH 61 DEGREES 46 MINUTES 25 SECONDS WEST 118.89 FEET; THENCE 215.85 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 465.50 FEET; A CENTRAL ANGLE OF 26 DEGREES 34 MINUTES 02 SECONDS, A CHORD LENGTH OF 213.92 FEET AND A CHORD BEARING OF NORTH 75 DEGREES 03 MINUTES 26 SECONDS WEST; THENCE NORTH 88 DEGREES 20 MINUTES 27 SECONDS WEST 198.08 FEET; THENCE 35.59 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 153.00 FEET, A CENTRAL ANGLE OF 13 DEGREES 19 MINUTES 41 SECONDS, A CHORD LENGTH OF 35.51 FEET, AND A CHORD BEARING OF NORTH 81 DEGREES 40 MINUTES 36 SECONDS WEST; THENCE NORTH 75 DEGREES 00 MINUTES 46 SECONDS WEST 34.18 FEET; THENCE NORTH 88 DEGREES 20 MINUTES 27 SECONDS WEST 375.01 FEET; THENCE 119.82 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 76.00 FEET, A CENTRAL ANGLE OF 90 DEGREES 19 MINUTES 42 SECONDS, A CHORD LENGTH OF 107.79 FEET AND A CHORD BEARING OF NORTH 43 DEGREES 10 MINUTES

36 SECONDS WEST; THENCE NORTH 01 DEGREES 59 MINUTES 15 SECONDS EAST 691.59 FEET; THENCE NORTH 04 DEGREES 22 MINUTES 17 SECONDS EAST 347.67 FEET; THENCE NORTH 01 DEGREES 57 MINUTES 24 SECONDS EAST 426.96 FEET TO THE POINT OF BEGINNING.

And as further described in the attached depictions.

Received for Filing Oakland County Clerk 2014 JUL 10 AM 11:15

EXHIBIT 2

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or in a matter directly or indirectly related to employment, because of race, color, religion; national origin; age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.

2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in paragraph 1 of this Appendix.

3. The contractor will take affirmative action to insure that applicants for employment are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or handicap that is unrelated to the individual's ability to perform the duties of a particular job or position.

5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.

6. The contractor will comply with all published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids of any individual state project.

7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each sub-contractor as well as the contractor himself, and said contractors will permit access to his books, records and accounts by the Michigan Civil Right Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.

9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

October, 2003

EXHIBIT 3

APPENDIX B
TITLE VI ASSURANCE

During the performance of this contract, the contractor, for itself, its assignees, and its successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

1. Compliance with Regulations: For all federally assisted programs, the contractor shall comply with the nondiscrimination regulations set fort in 49 CFR Part 21, as may be amended from time to time (hereinafter referred to as the Regulations). Such Regulations are incorporated herein by reference and made a part of this contract.

2. Nondiscrimination: The contractor, with regard to the work performed under the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection, retention, and treatment of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contracter covers a program set forth in Appendix B of the Regulations.

3. Solicitation for Subcontracts, Including Procurements of materials and Equipment:
All solicitations made by the contractor, either by competitive bidding or by negotiation for subcontract work, including procurement of materials or leases of equipment, must include a notification to each potential subcontractor or supplier of the contractor's obligations under the contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined to be pertinent by the Department or the United States Department of Transportation (USDOT) in order to ascertain compliance with such Regulations or directives. If required information concerning the contractor is in the exclusive possession of another who fails or refuses to furnish the required information, the contractor shall certify to the Department or the USDOT, as appropriate, and shall set forth the efforts that it made to obtain the information.

5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Department shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to, the following:

   a. Withholding payments to the contractor until the contractor complies; and/or
   b. Canceling, terminating, or suspending the contract, in whole or in part.

6. Incorporation of Provisions: The contractor shall include the provisions of Sections (1) through (6) in every subcontract, including procurement of material and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department or the USDOT may direct as a means of enforcing such provisions, including sanctions for non-compliance, provided, however, that in the event a contractor becomes involved in or is threatened with litigation from a subcontractor or supplier as a result of such direction, the contractor may request the Department to enter into such litigation to protect the interests of the state. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Revised June 2011