1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Adoption of Agenda

5. Public Participation (five minutes maximum per speaker, or longer at the discretion of the Chairperson related only to issues contained on the agenda)

6. Correspondence from the Executive (none)

7. Consider Possible Confirmation of Corporation Counsel Nominee Gabe Orzame (attached)

8. RESOLUTIONS:
   a) Supporting the Human Services Board’s Management of the Martha T. Berry Medical Care Facility (offered by Board Chair) (attached)
   b) Resolution of Intent to Establish a Property Assessed Clean Energy (PACE) Program and Calling for a Public Hearing (offered by Mijac; recommended by Economic Development Committee meeting on 8-7-13) (attached)
9. **COMMITTEE REPORTS:**
   a) Government Operations, August 5 (page 15) (attached)
   b) Justice & Public Safety, August 6 (no report)
   c) Economic Development, August 7 (page 17) (attached)
   d) Finance, August 8 (page 49) (attached)

10. **PROCLAMATIONS:**
    a) Commending Dan Hoekenga – Retirement from the Michigan Education Association (MEA) (offered by Flynn; include Miller; recommended by Finance Committee on 8-8-13; previously provided at committee meeting)

11. New Business

12. Public Participation (five minutes maximum per speaker or longer at the discretion of the Chairperson)

13. Roll Call

14. Adjournment
TO:        David Flynn, Board Chair, and Members of the Commission
FROM:      Mark A. Hackel
DATE:      July 2, 2013
RE:        Corporation Counsel Appointment

I am pleased to inform you of my appointment of Gabriel Orzame, Jr. to the position of Corporation Counsel and I am asking you to confirm his appointment. A packet of information is attached regarding the position and the candidate. A few weeks ago we requested, and you provided, a list of potential areas which the Commission may consider in the confirmation process. The following is in response to those areas of interest.

**Steps in the Appointment Process**

*How the job posting was disseminated:* The position was posted on April 26, 2013. In addition to the normal posting and recruitment processes, the notice of vacancy was widely circulated to legal and professional organizations. For example, it was posted on Career Builder, advertised through the State Bar of Michigan, and entered into the Pure Michigan Talent Connect.

*Total number of applicants:* A total of 47 individuals had applied as of June 7, 2013 when preliminary screening began.

*Number deemed qualified:* All of these individuals were deemed qualified based on the educational and legal qualifications in the posting.

*Criteria used to determine qualified applicants:* The criteria listed in the position description (attached) were used to determine who was considered qualified for the position.

*Number selected for interviews:* Seven applicants were selected to receive interviews. They were selected because their education and experience was considered superior to the rest of the candidates.

*Interview processes involved:* Final interviews were conducted by a five-person panel, which included the Deputy County Executive Mark Deldin, Assistant County Executive Al Lorenzo, HRLR Director Eric Herppich, Sheriff Anthony Wickersham, and Chief Judge John Foster. The Sheriff was asked to serve both as a countywide elected official and because his office has a heavy reliance on the work of corporation counsel. In addition to being chief judge and
representing the courts, Judge Foster once served as corporation counsel and knows the requirements of the position very well. The panel made its recommendation to me and I made the final decision.

Aspects of the interview process: During the interview process, all candidates were asked identical questions that were prepared in advance of the interviews. A traditional interview process was utilized. Each applicant had a copy of the Charter in advance of the interview.

Criteria and ranking system: The interview questions and the ranking criteria were all based on the requirements contained in the position system. All responses were verbal and no written material was required. Since all of the candidates had been quantitatively screened for factors such as education and experience, the finalists’ responses were qualitatively evaluated and subsequently ranked by the panel.

Contingent upon confirmation: All candidates were informed at the end of the interview that the appointment was subject to confirmation by the Commission.

Areas of Specific Interest Regarding the Appointee

Education and Experience: Mr. Orzame meets or exceeds all of the posted qualifications of the position.

Previous municipal/governmental experience: Mr. Orzame has nearly 20 years of legal experience with 13 years of varied municipal/governmental experience, including work in Macomb and Oakland County government, as well as work at the federal level headquartered in Detroit.

Potential conflicts of interest: There is no evidence of any personal or professional conflict of interest related to him being employed in the position.

Professional grievances or misconduct: Mr. Orzame indicated that there have been no grievances or charges of misconduct filed against him. There is no record of any disciplinary action ever taken against him.

Advising two branches of government; Board reporting; maintaining attorney-client relationships; and reconciling differing BOC and OCE opinions: As mentioned above, all candidates had copies of the Macomb Charter prior to the interview. All were asked several questions regarding these topics by the interview panel and me. Mr. Orzame fully understands his Charter responsibilities, his professional obligations, and his civic duty. As the chief legal counsel to the county, he indicated his primary focus will be on determining the requirements of law whenever he is called upon to advise one of his clients.

Ideas for the use of technology: Mr. Orzame was by far the strongest of all of the candidates interviewed in this important category. His experience in Oakland County and the federal courts has given him considerable insight into the possibilities for Macomb. He stated technological currency as one of his primary goals if he were selected for the position.
Salary and Starting Date: Salary is currently being discussed with Mr. Orzame. The salary range for the position is $105,709 to $132,137 and he will be placed within that range. The starting date cannot be determined until the confirmation process is completed.

Summary: Both by Charter and in actual practice, the two primary roles of corporation counsel are to provide legal advice to the various units of county government and to oversee litigation. For the past 13 years Mr. Orzame has conducted in-depth legal research and provided counsel to three major court systems where he has been directly involved with litigation on a wide range of topics. In his most recent role as management analyst he has worked with all aspects of the legal system and he is familiar with the technology currently being used in the judicial process. I am confident that he will be an excellent addition to the Office of Corporation Counsel and a faithful public servant to the people of Macomb County.

Prior Commission Notification

The final point in your correspondence asked for prior notice to the Commission before making a public announcement. I have chosen instead to provide concurrent notification, since several of my recent communications to the Commission were sent to the media by the Board Office immediately after receipt. Because this is an Executive appointment, I felt my office should inform the media of my selection and the rationale contained in this memo.

As a reminder, we plan to provide an opportunity for Commissioners to meet informally with Mr. Orzame prior to the formal confirmation meeting. Since Mr. Brumbaugh is retiring on July 12, and Mr. Orzame will have to provide sufficient notice to his current employer, we hope the Commission will take these factors into consideration when setting the schedule for confirmation.

As always, please contact me if you have any questions.
MACOMB COUNTY

CLASSIFICATION/POSITION DESCRIPTION

CLASSIFICATION TITLE: Corporation Counsel

DEPARTMENT: Office of Corporation Counsel

F.L.S.A. STATUS: Exempt

APPOINTING AUTHORITY: County Executive

CONFIRMING AUTHORITY: Board of Commissioners

GENERAL RESPONSIBILITIES

As chief legal counsel to the County, Corporation Counsel provides advice and counsel to County officials and staff concerning legal matters; directs and supervises the Office of Corporation Counsel; represents the County, the Executive, the Commission, Department Heads, and agencies in civil legal matters affecting the County; represents the Countywide Elected Officials in the manner provided in Article VI of the County Charter; directs managerial, professional and support staff; performs related duties as assigned.

ESSENTIAL FUNCTIONS:

Advises department heads and other staff on matters pertaining to programs, contracts and legal questions.

Plans, directs and administers the Office of Corporation Counsel on planning, budgeting and operations including the development of goals, objectives and performance measures.

Acts as the Legal Advisor to the Retirement Commission.

Reviews and oversees litigation involving the County.

Assists in the development and presentation of legal updates and information to the County Executive.

Reviews and recommends approval of contracts affecting Macomb County Government operations.

Represents the County at various meetings of local government units, State agencies or legislative committees.

Facilitates the accomplishment of tasks for the County Executive, Countywide Elected Officials, Commissioners and Department Heads.

Directs and supervises the work activities of Corporation Counsel staff.
ESSENTIAL FUNCTIONS (continued):

Operates an automobile while performing assigned job duties.

ADDITIONAL FUNCTIONS:

The statements contained in this position description are intended to describe the general nature and level of work being performed by individuals assigned to this position. They are not to be construed as an exhaustive list of all job duties performed.

EDUCATION, TRAINING AND EXPERIENCE:

Possession of a Juris Doctorate Degree from an accredited college or university.

Current membership in the State Bar of Michigan.

A minimum of eight (8) years of experience in civil law practice.

Previous background and experience in governmental/municipal law preferred.

Be physically able to perform the essential functions of the position, with or without reasonable accommodation.

ADDITIONAL QUALIFICATIONS:

Comprehensive knowledge of government law, particularly as it applies to county government operations, including Macomb County Charter.

Comprehensive knowledge of contracts, labor laws and election laws.

Comprehensive knowledge of parliamentary procedures.

Ability to present legal findings in a clear and concise manner.

Ability to direct, manage and organize the work of professional and support staff.

Effective written and verbal communication skills including the ability to conduct meetings and make group presentations.

Ability to establish and maintain effective working relationships with elected officials, administrators, department heads, staff, external organizations, community groups and the public.

Possession of a valid Michigan driver's license and an operable insured automobile for authorized travel.

Ability to conduct oneself with tact and courtesy.
HUMAN RESOURCES AND LABOR RELATIONS DEPARTMENT APPROVAL:

NAME: Eric Herppich SIGNATURE: 

TITLE: Director, Human Resources and Labor Relations DATE: April 26, 2013
GABRIEL ORZAME JR.
4068 Wentworth Dr.
Troy, Michigan 48098
(248) 458-1524
E-mail: gorza@wowway.com

CAREER OBJECTIVE
To continue my career in public service by obtaining the position of corporation counsel where I can use my legal, interpersonal communication and administrative skills in advising and representing Macomb County government.

EMPLOYMENT

Management Analyst (2009 – Present) – U.S. District Court, Court Administrator’s Office, Detroit, Michigan

- Reviewing, researching, developing, recommending and implementing the court’s internal and external policies.
- Conducting research and rendering advice on administrative, procedural or legal issues raised by judges, court administrative staff and other court departments.
- Representing the interests of several departments, including the Clerk’s Office, Court Operations, Court Services, Finance, Information Technology, Jury, Pretrial Services and Probation.
- Acting as a liaison for the court in meetings or contacts with Congressional members and other elected officials, federal agencies, bar associations, attorneys, litigants, the media and the general public.
- Participating in several judicial committee meetings and facilitating the implementation of meeting action items.
- Directing and administering action item tasks to relevant departments and overseeing the progress of those tasks.
- Analyzing new and proposed legislation, changes in federal rules, Judicial Conference mandates and Administrative Office plans, policies and directives to identify necessary changes to local rules, policies or procedures.
- Reviewing, drafting and recommending approval of proposed local rules, administrative orders, general orders, court plans and press releases.
- Working on special projects as directed.

Judicial Staff Attorney (2005 – 2009) – Oakland County Circuit Court Administration, Pontiac, Michigan

- Assisted in coordinating court operations to ensure compliance with statutes, case law, court rules, administrative orders and chief judge directives.
• Assessed and analyzed complex legal issues and performed legal research.
• Rendered legal advice to the court administrator, division administrators and judges regarding changes in, and the interpretation of, civil, criminal, domestic, juvenile and probate laws.
• Drafted proposed judicial opinions and orders and local administrative orders.
• Acted as a liaison between the court and litigants, attorneys, court personnel, elected officials and the general public.
• Conducted early disposition conferences.
• Prosecuted show cause motions regarding case evaluation sanctions and the collection of court fines, costs and fees.
• Supervised work of summer law clerks.
• Projects included implementing and operating programs related to district court felony pleas, collections and court teleconferencing.
• Also worked on projects involving the court’s e-filing system, drug court programs and prisoner re-entry initiatives.


• Provided verbal and written legal advice to the entire bench.
• Reviewed legal briefs and researched applicable civil, criminal, domestic, juvenile and probate laws.
• Drafted proposed opinions and orders and legal memoranda in a deadline-intensive environment.
• Attended court proceedings and assisted with rulings.
• Conducted early disposition conferences and settlement conferences.
• Supervised work of summer law clerks.


• Civil litigation, real estate, contract, construction, labor and corporate claims. Managed cases from complaint through trial.
• Transactional experience included reviewing and drafting real estate purchase agreements, stock purchase agreements, shareholder agreements and corporate by-laws.
• Areas of practice included personal injury, products liability, medical malpractice, employment discrimination, and criminal matters.
• Considerable experience in taking depositions and arguing motions.
• Extensive courtroom practice in state and federal courts, including jury trials in both state and federal courts.
• Clients included Wal-Mart Stores, Inc., Toys-R-Us, CITGO, Bally’s Vic Tanny, Union Oil Company of California, Anheuser-Busch and United Artists Theatres.
Law Clerk in Private Practice (1994 – 1997) - Sachs, Waldman, O’Hare, Helveston, Bogas & McIntosh, P.C., Detroit, Michigan; Chambers Steiner, P.C., Detroit, Michigan

- General negligence, employment, labor and plaintiff’s personal injury claims.
- Met with clients to determine the merits of their claims.
- Drafted complaints, motions, response motions, mediation summaries, notices of intent to file, interrogatories and answers to interrogatories.
- Corresponded with opposing counsel and court clerks regarding cases.

EDUCATION

University of Detroit Mercy School of Law - Detroit, Michigan

International law studies completed April 1994.

University of Michigan - Ann Arbor, Michigan
Bachelor of Arts in English awarded May 1991.
  - Cum Laude graduate
  - Honors Convocations member, 1991

OTHER QUALIFICATIONS

- Proficient use of computers, hardware, software and Internet
- Adept use of CM/ECF, Lexis-Nexis and Westlaw databases
- Excellent document preparation and process management skills
- Languages including limited Spanish, Tagalog and German

BAR ADMISSIONS

State of Michigan
State of Illinois
United States District Court, Eastern District of Michigan
United States District Court, Western District of Michigan

REFERENCES AND WRITING SAMPLES AVAILABLE UPON REQUEST
June 21, 2013

TO: Mark Deldin, Deputy County Executive; Al Lorenzo, Assistant County Executive

FROM: Dave Flynn, Board Chair

RE: Corporation Counsel Selection

Following the receipt of your response, (received 06-14-13 via email), to my memo from 06-06-13, the Board has compiled a list of potential areas which commissioners may consider to be important relative to a nominee for the Corporation Counsel position.

As stated in my previous memo, due to the uniqueness and critical function of the Corporation Counsel position, the Board will approach the confirmation of a nominee with particular scrutiny. Commissioners should be informed of all steps to the appointment process including, but not limited to:

- how the job posting was disseminated including specific websites, publications, organizations used, etc.;
- the total number of applicants;
- the number of applicants that were deemed qualified;
- the criteria used to determine the qualified from unqualified;
- how many were selected for interviews and why these were selected;
- what the interview process involved and what aspects of it were verbal or written;
- the criteria and ranking system for selection; and,
- if the candidate has agreed to accept the employment offer contingent upon confirmation by the Board.

Areas of specific interest regarding a candidate that commissioners may be interested in include, but are not limited to:

- education and experience;
- previous municipal and government work experience;
- potential conflicts of interest – professional or personal;
- disclosure of professional grievances or attorney misconduct;
- candidate’s view on advising two branches of government;
- willingness to report to the Board;
- thoughts on outside attorney referrals and the process for selection and/or rotation;
- maintaining attorney-client relationship and confidentiality with the Board;
- how applicant will approach differing opinion between BOC and OCE; and
- ideas for use of technology in the Office of Corporation Counsel.

The Board requests notification of the appointment prior to it being publicly announced.

We appreciate the opportunity to work collaboratively to move forward with this endeavor in an efficient manner. We look forward to receiving information and status updates.

MACOMB COUNTY BOARD OF COMMISSIONERS

David J. Flynn – Board Chair
District 4

Kathy Tocco – Vice Chair
District 11

Mike Boyle – Sergeant-At-Arms
District 10

Toni Moceri – District 1

Marvin Sauger – District 2

Veronica Klinefelt – District 3

Robert Mijac – District 5

Don Brown – District 7

Kathy Vesburg – District 8

Fred Miller – District 9

Bob Smith – District 12

James Carabelli – District 6

Joe Sabatini – District 13
BOARD OF COMMISSIONERS  
MACOMB COUNTY, MICHIGAN  

Resolution No. 13-___  

A Resolution Supporting the Human Services Board’s Management of the Martha T. Berry Medical Care Facility

Whereas, the Macomb County Human Services Board is authorized pursuant to subsections 55(c) and 58(1) of the Social Welfare Act, 1939 PA 280, to supervise and manage the Martha T. Berry County Medical Care Facility; and

Whereas, Since 2009, the Human Services Board has managed Martha T. Berry pursuant to the terms of the Joint Operating Agreement dated January 22, 2009, among the Commission, the Human Services Board, and the several labor unions representing the employees of Martha T. Berry; and

Whereas, Charter section 11.4 provides that “all existing County offices, boards, commissions, and departments existing on the date this Charter becomes effective shall continue and perform their duties unless reorganized or discontinued by an Organization Plan;” and

Whereas, the Executive’s County Organization Plan provides that the Human Services Board will exercise its full statutory operating authority over Martha T. Berry, and that Organization Plan has never been amended and cannot be amended without Commission approval; and

Whereas, on July 9, 2013, the Office of the County Executive sent a memorandum to the Human Services Board indicating that Office of the County Executive would assume control over Martha T. Berry and directed other County departments to cease payments to outside legal counsel for the Human Services Board, including those for complex Medicaid reimbursement appeals; and

Whereas, on July 26, 2013, the Office of the County Executive issued an executive directive taking over operation and supervision responsibilities over the Martha T. Berry Medical Care Facility; and

Whereas, under section 3.5(a) of the Charter, the County Executive’s authority to control and manage County facilities is limited by state law and is subject to the terms of the Executive’s Organization Plan; and

Whereas, the Commission believes that the Human Services Board is best suited to continue to manage and oversee Martha T. Berry because of its experience with and knowledge of complicated Medicare and Medicaid regulations, and wishes to ensure that the patients and families that rely on the service provided by Martha T. Berry continue to receive the best possible medical care available in the most efficient manner.

Therefore, it is resolved that:
1. The Commission fully supports the Human Services Board in its efforts to retain its management responsibilities over Martha T. Berry Medical Care Facility as is provided in state law, the Joint Operating Agreement, and the County Organization Plan.

2. A copy of this Resolution shall be transmitted to the Human Services Board.

David Flynn, Chair  
Macomb County Board of Commissioners

Carmella Sabaugh  
Macomb County Clerk
BOARD OF COMMISSIONERS
MACOMB COUNTY, MICHIGAN

A Resolution Of Intent To Establish A Property Assessed Clean Energy Program And Calling Public Hearing

Whereas, the Macomb County Board of Commissioners intends to authorize the establishment of a property assessed clean energy program (“PACE Program”) and create a PACE district pursuant to Act No. 270, Public Acts of Michigan, 2010 (“Act 270”), for the purpose of promoting the use of renewable energy systems and energy efficiency improvements by owners of certain real property; and

Whereas, the Board of Commissioners intends to find that financing energy projects is a valid public purpose because it reduces energy costs, reduces greenhouse gas emissions, stimulates economic development, improves property values and increases employment in the County; and

Whereas, the types of energy projects, either energy efficiency improvements or renewable energy systems, that may be financed under the PACE Program include, but are not limited to: insulation in walls, roofs, foundations, or heating and cooling distribution systems; storm windows and doors; multi-glazed windows and doors; heat-absorbing or heat-reflective glazed and coated window and door systems; and additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption; automated energy control systems; heating, ventilating, or air-conditioning and distribution system modifications or replacements; caulking, weather-stripping, and air sealing; replacement or modification of lighting fixtures to reduce the energy use of the lighting system; energy recovery systems; day lighting systems; installation or upgrade of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity; measures to reduce the usage of water or increase the efficiency of water usage; any other installation or modification of equipment, devices, or materials approved as a utility cost-savings measure by the Board of Commissioners; a fixture, product, device, or interacting group of fixtures, products, or devices on the customer's side of the meter that use one or more renewable energy resources to generate electricity. Renewable energy resources include, but are not limited to: biomass (includes a biomass stove but does not include an incinerator or digester); solar and solar thermal energy; wind energy; geothermal energy and methane gas captured from a landfill; and

Whereas, the Board of Commissioners intends to create a PACE district having the same boundaries as the County’s jurisdictional boundaries; and

Whereas, the Board of Commissioners intends to join Lean & Green Michigan™; and

Whereas, the report referenced in Section 9(1) of Act 270 (the “PACE Report”) shall be available on the County’s website, and shall be available for viewing at the office of the Board of Commissioners, 1 S. Main Street, 9th Floor, Mt. Clemens, MI, 48043.
Therefore, be it resolved that:
1. The Board of Commissioners, being fully apprised of the PACE Program, finds that financing energy projects is a valid public purpose because it reduces energy costs, reduces greenhouse gas emissions, stimulates economic development, improves property values and increases employment in the County.

2. The Board of Commissioners, by adoption of this Resolution, formally states its intention to establish a PACE district having the same boundaries as the County’s jurisdictional boundaries and a PACE Program as described in and for the reasons set forth in this Resolution.

3. The Board of Commissioners formally states its intention to provide a property owner based method of financing and funds for energy projects, including from the sale of bonds or notes which shall not be a general obligation of the County, amounts advanced by the County from any other source permitted by law, or from owner-arranged financing from a commercial lender, which funds and financing shall be secured and repaid by assessments on the property benefited, with the agreement of the record owners, such that no County moneys, general County taxes or County credit of any kind whatsoever shall be pledged, committed or used in connection with any project as required by and subject to Act 270.

4. The Board of Commissioners, by adoption of this Resolution, formally states its intention to join Lean & Green Michigan™.

5. The Board of Commissioners hereby sets a public hearing for Wednesday, September 11, 2013, at 9 a.m., at the Economic Development Committee meeting, in the Macomb County Administration Building, One South Main Street, 9th Floor, Mount Clemens, Michigan, 48043 to receive comments on the proposed PACE Program, including the PACE Report.

6. The County Clerk is authorized and directed to publish a notice of intent to establish a PACE district and a PACE Program, and a notice of the public hearing set by this Resolution in a newspaper of general circulation in the County as a display advertisement prominent in size. The County Clerk shall maintain on file for public review a copy of the PACE Report and shall cause the PACE Report to be available on the County’s website in accordance with the requirements of Act 270.

7. All resolutions and parts of resolutions inconsistent with this Resolution are repealed to the extent of such inconsistency.

__________________________  ______________________________
David Flynn, Chair  Carmella Sabaugh
Macomb County Board of Commissioners  Macomb County Clerk

Adopted: _________________, 2013
August 5, 2013

TO: BOARD OF COMMISSIONERS

FROM: KATHY TOCCO, CHAIR
GOVERNMENT OPERATIONS COMMITTEE

RE: RECOMMENDATION FROM GOVERNMENT OPERATIONS COMMITTEE MEETING OF AUGUST 5, 2013

At a meeting of the Government Operations Committee, held Monday, August 5, 2013, the following recommendation was made and is being forwarded to the August 8, 2013 Full Board meeting for approval:

1. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)

A motion was made by Carabelli, supported by Miller, to recommend that the Board of Commissioners approve the County Executive’s appointment of Katherine Benford as the Director of the Macomb County Office of Senior Services; Further, a copy of this Board of Commissioners’ action is directed to be delivered forthwith to the Office of the County Executive.

THE MOTION CARRIED.

A MOTION TO ADOPT THE COMMITTEE REPORT WAS MADE BY CHAIR TOCCO, SUPPORTED BY VICE-CHAIR FLYNN.
RESOLUTION NO. _____________  FULL BOARD MEETING DATE:__________________

AGENDA ITEM:______________________________

MACOMB COUNTY, MICHIGAN

RESOLUTION TO ___________ approve or reject the County Executive’s appointment of Katherine Benford as the Director of the Macomb County Office of Senior Services

INTRODUCED BY: ___________ Kathy Tocco, Chair, Government Operations Committee

COMMITTEE/MEETING DATE
Government Operations  8-5-13
Full Board  8-8-13
August 7, 2013

TO: BOARD OF COMMISSIONERS

FROM: ROBERT MIJAC, CHAIR
ECONOMIC DEVELOPMENT COMMITTEE

RE: RECOMMENDATION FROM ECONOMIC DEVELOPMENT COMMITTEE MEETING OF AUGUST 7, 2013

At a meeting of the Economic Development Committee, held Wednesday, August 7, 2013, the following recommendation was made and is being forwarded to the August 8, 2013 Full Board meeting for approval:

1. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)

A motion was made by Smith, supported by Carabelli, to recommend that the Board of Commissioners approve the Brownfield Plan for 9 Mile and Kelly Roads in Eastpointe; Further, a copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

A MOTION TO ADOPT THE COMMITTEE REPORT WAS MADE BY CHAIR MIJAC, SUPPORTED BY VICE-CHAIR CARABELLI.

MACOMB COUNTY BOARD OF COMMISSIONERS

David J. Flynn – Board Chair
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James Carabelli – District 6

Don Brown – District 7

Kathy Yosburg – District 8

Fred Miller – District 9

Bob Smith – District 12

Joe Sabatini – District 13
MACOMB COUNTY, MICHIGAN

RESOLUTION TO **See below

INTRODUCED BY: Robert Mijac, Chair, Economic Development Committee

**At the 8-7-13 Economic Development Committee meeting, the following action was taken:

COMMITTEE RECOMMENDATION – MOTION

A motion was made by Smith, supported by Carabelli, to recommend that the Board of Commissioners approve the Brownfield Plan for 9 Mile and Kelly Roads in Eastpointe; Further, a copy of this Board of Commissioners’ action is directed to be delivered forthwith to the Office of the County Executive. THE MOTION CARRIED.
July 7, 2013

Office of County Executive
County of Macomb
One South Main, 8th Floor
Mount Clemens, MI 48043

Planning & Economic Development Department
REQUEST APPROVAL / ADOPTION OF
East 9 Mile & Kelly Roads in Eastpointe Brownfield Plan

SUBJECT:
East 9 Mile & Kelly Roads in Eastpointe Brownfield Plan

IT IS RECOMMENDED THAT THE EXECUTIVE SUBMIT TO THE BOARD:
Forward the Brownfield Plan for the SW Corner of East 9 Mile & Kelly Roads in Eastpointe to the Economic Development Committee and request the Full Board schedule a public Hearing on the plan prior to the August 7, 2013 Economic Development Committee meeting.

PURPOSE / JUSTIFICATION:
The City of Eastpointe is working with a developer to redevelop a contaminated site at 9 Mile and Kelly Roads. The developer submitted a redevelopment plan to the Macomb County Brownfield Redevelopment Authority which was approved on June 28, 2013. The next step in the process is to have a public hearing and then consideration for approval by the Macomb County Board of Commissioners. The developer and City will be reimbursed for eligible clean-up costs through the capture of additional taxes generated by the increased value of the property. The Eastpointe City Council approved the plan unanimously at their June 18, 2013 meeting.

FISCAL IMPACT / FINANCING:
The approval of the Brownfield Plan by the Brownfield Redevelopment Authority and the Board of Commissioners does not obligate Macomb County financially in this project. The County only serves as a pass through for the tax revenues collected on the property.
FACTS AND PROVISION / LEGAL REQUIREMENTS:

| CONTRACTING PROCESS: |
|IMPACT ON CURRENT SERVICES (PROJECTS):| No impact on current services. |

Respectfully submitted,

Signature

Planning & Economic Development Department
BROWNFIELD PLAN
SWC of East 9 Mile and Kelly Roads, Eastpointe, Michigan 48021

PREPARED BY
Macomb County Brownfield Redevelopment Authority
1 South Main Street, 7th Floor
Mount Clemens, Michigan 48043
Contact Person: Stephen N. Cassin, AICP
Email: cassin@macombgov.org
Phone: 586-469-5285

AKT Peerless
22725 Orchard Lake Road
Farmington, Michigan 48336
Contact Person: Anne Jamieson-Urena
Email: jamiesona@aktpeerless.com
Phone: 248-615-1333

PROJECT # 7949F-9-25

REVISION DATE June 14, 2013

BRA APPROVAL

CITY/COUNTY APPROVAL
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   • Table 1 – MDEQ and MSF Eligible Activities
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PROJECT SUMMARY

PROJECT NAME
Redevelopment and Reuse of Properties located at the SWC of East 9 Mile and Kelly Roads, Eastpointe, Michigan

DEVELOPER
TVC Eastpointe Co., L.L.C.
5757 West Maple Road, Suite 800
West Bloomfield, Michigan 48322
John Baumann
248-539-7997

ELIGIBLE PROPERTY LOCATION
The Eligible Property is located at the SWC of East 9 Mile and Kelly Roads, Eastpointe, Michigan. The Developer is in the process of converting the Property from six parcels into two parcels (East and West Parcels). The former Parcel ID Numbers are as follows: 14-32-230-005, 14-32-230-016, 14-32-230-017, 14-32-230-015, 14-32-230-014, and 14-32-230-013.

TYPE OF ELIGIBLE PROPERTY
Facility and Adjacent and Contiguous

PROJECT DESCRIPTION
The project (Project) consists of the redevelopment of the Property, which is located at the SWC of East 9 Mile and Kelly Roads in Eastpointe, Michigan. The Project includes demolition of all of the existing buildings, removal of former foundations, completion of due care activities and additional response activities, and construction of two new single-story retail buildings and associated parking areas.

In addition to the economic benefits of this development to the City of Eastpointe and the surrounding traditional commercial corridor, environmental activities are anticipated that would provide a safer and healthier downtown to the public and environment alike.

The Project is seeking approval of Tax Increment Financing (TIF). Construction is expected to begin in October 2013.
**ELIGIBLE ACTIVITIES**

Baseline Environmental Assessment (BEA) Activities (Phase I Environmental Site Assessment (ESA), Phase II ESAs, and BEA), Due Care Activities, Additional Response Activities, Demolition, Asbestos Survey and Abatement, and Development and Preparation of a Brownfield Plan and/or Act 381 Work Plan.

**REIMBURSABLE COSTS**

$1,157,460 (Est. Eligible Activities, Contingency, and Administrative fees)

**DURATION OF PLAN**

Brownfield Plan expires at the end of 2037

**ESTIMATED TOTAL CAPITAL INVESTMENT**

$5.6 million

**BASE TAXABLE VALUE**

$150,000
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>BEA</td>
<td>Baseline Environmental Assessment (Michigan process to provide new property owners and/or operators with exemptions from environmental liability)</td>
</tr>
<tr>
<td>BFP OR PLAN DEVELOPER</td>
<td>Brownfield Plan The Velmeir Companies</td>
</tr>
<tr>
<td>ELIGIBLE PROPERTY</td>
<td>Property for which eligible activities are identified under a Brownfield Plan.</td>
</tr>
<tr>
<td>ESA</td>
<td>Environmental Site Assessment</td>
</tr>
<tr>
<td>MCBRA</td>
<td>Macomb County Brownfield Redevelopment Authority</td>
</tr>
<tr>
<td>LSRRF</td>
<td>Local Site Remediation Revolving Fund</td>
</tr>
<tr>
<td>MDEQ</td>
<td>Michigan Department of Environmental Quality</td>
</tr>
<tr>
<td>MEDC</td>
<td>Michigan Economic Development Corporation</td>
</tr>
<tr>
<td>MSF</td>
<td>Michigan Strategic Fund (agency that approves use of school tax revenue to support non-environmental Brownfield activities)</td>
</tr>
<tr>
<td>PHASE I ESA</td>
<td>An environmental historical review and site inspection (no soil and/or groundwater sampling and analysis)</td>
</tr>
<tr>
<td>PHASE II ESA</td>
<td>Environmental subsurface investigation (includes soil and/or groundwater sampling and analysis)</td>
</tr>
<tr>
<td>RCC</td>
<td>Residential Cleanup Criteria</td>
</tr>
<tr>
<td>TIF</td>
<td>Tax Increment Financing (TIF describes the process of using TIR—i.e., TIF is the use of TIR to provide financial support to a project)</td>
</tr>
<tr>
<td>TIR</td>
<td>Tax Increment Revenue (new property tax revenue, usually due to redevelopment and improvement that is generated by a property after approval of a Brownfield Plan)</td>
</tr>
</tbody>
</table>
1.0 Introduction

Macomb County, Michigan (the “County”), established the Macomb County Brownfield Redevelopment Authority (MCBRA, the “Authority”) on June 21, 2001, pursuant to Michigan Public Act 381 of 1996, as amended (“Act 381”). The primary purpose of Act 381 is to encourage the redevelopment of eligible property by providing economic incentives through tax increment financing for certain eligible activities.

The main purpose of this Brownfield Plan (“Plan”) is to promote the redevelopment of and investment in this “Brownfield” property within the County. Inclusion of Property within this Plan will facilitate financing of environmental response and other eligible activities at eligible properties, and will also provide tax incentives to eligible taxpayers willing to invest in revitalization of the eligible property, commonly referred to as a “Brownfield.” By facilitating redevelopment of this Brownfield property, this Plan is intended to promote economic growth for the benefit of the residents of the County and all taxing units located within and benefited by the Authority.

The identification or designation of a developer or proposed use for the Eligible Property that is the subject of this Plan shall not be integral to the effectiveness or validity of this Plan. This Plan is intended to apply to the Eligible Property identified in this Plan and, if tax increment revenues are proposed to be captured from that Eligible Property, to identify and authorize the eligible activities to be funded by such tax increment revenues. Any change in the proposed developer or proposed use of the Eligible Property shall not necessitate an amendment to this Plan, affect the application of this Plan to the Eligible Property, or impair the rights available to the Authority under this Plan.

This Plan is intended to be a living document, which may be modified or amended in accordance with the requirements of Act 381, as necessary to achieve the purposes of Act 381. The applicable sections of Act 381 are noted throughout the Plan for reference purposes.

This Plan contains information required by Section 13(1) of Act 381.

2.0 General Provisions

The following sections detail information required by Act 381.

2.1 Description of Eligible Property (Section 13 (l) (h))

The Eligible Property (“Property”) is located at the southwest corner (SWC) of East 9 Mile and Kelly Roads, in the northern ½ of Section 32 (Township 1 North /Range 13 East) in Eastpointe, Macomb County, Michigan. The Property is situated southwest of the intersection of East 9 Mile and Kelly Roads. The Developer is in the process of converting the Property from six parcels into two parcels (East and West Parcels). The former Parcel ID Numbers are as follows: 14-32-230-005, 14-32-230-016, 14-32-230-017, 14-32-230-015, 14-32-230-014, and 14-32-230-013. The Property consists of approximately 2.03 acres. The Property is located in an area of the Eastpointe (“City”) that is characterized by commercial
The Property is abutted by surface roadways, municipal water, sanitary and storm sewer services and electrical and gas utilities.

As indicated above, the Developer is in the process of converting the Property from six parcels into two parcels (East and West Parcels). The following table provides current Property Information. See Attachment A, Figure 2 – Eligible Property Boundary Map and Attachment B for Legal Descriptions.

<table>
<thead>
<tr>
<th>Address</th>
<th>Tax Identification Number</th>
<th>Basis of Brownfield Eligibility</th>
<th>Approximate Acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>18592 East 9 Mile Road</td>
<td>14-32-230-005</td>
<td>Facility/Adjacent &amp; Contiguous</td>
<td>0.73</td>
</tr>
<tr>
<td>18640 East 9 Mile Road</td>
<td>14-32-230-016</td>
<td>Facility</td>
<td>0.36</td>
</tr>
<tr>
<td>None identified</td>
<td>14-32-230-017</td>
<td>Facility</td>
<td>0.50</td>
</tr>
<tr>
<td>None identified</td>
<td>14-32-230-015</td>
<td>Facility/Adjacent &amp; Contiguous</td>
<td>0.20</td>
</tr>
<tr>
<td>18575 Holland Avenue</td>
<td>14-32-230-014</td>
<td>Adjacent &amp; Contiguous</td>
<td>0.12</td>
</tr>
<tr>
<td>18567 Holland Avenue</td>
<td>14-32-230-013</td>
<td>Adjacent &amp; Contiguous</td>
<td>0.12</td>
</tr>
</tbody>
</table>

The Property is zoned B-1, B-3 and P-1. It currently contains several buildings including an unoccupied fruit market, restaurant, two-story warehouse building, and a storage building. Exterior portions of the Property include paved and landscaped areas.

The Project includes demolition of all of the existing buildings, removal of former foundations, completion of due care activities and additional response activities, and construction of two new single-story retail buildings and associated parking areas. The Development Team anticipates commencing demolition and cleanup on the site starting in October 2013.

In addition to the economic benefits of this development for the City of Eastpointe and Macomb County, environmental activities that are anticipated that would provide a safer and healthier traditional commercial corridor to the public and environment alike.

The Project is seeking approval of Tax Increment Financing (TIF). Construction is expected to begin in October 2013.

Attachment A includes site maps of the Eligible Property, refer to: Figure 1, Scaled Property Location Map, Figure 2, Eligible Property Boundary Map (which includes lot dimensions). The legal descriptions of the parcel(s) included in the Eligible Property are presented in Attachment B.

The parcel and all tangible real and personal property located thereon will comprise the Eligible Property and is referred to herein as the “Property.”
2.2 Basis of Eligibility (Section 13 (1) (h), Section 2 (m), Section 2(r))

The Property is considered “Eligible Property” as defined by Act 381, Section 2 because: (a) the Property was previously utilized as a commercial property (fruit market, warehouse, restaurant, and gasoline station); (b) it is located within the city of Eastpointe, a qualified local governmental unit, or “Core Community” under Act 381; and (c) the Property has been determined to be a “facility” or adjacent and contiguous based on the conversion of the parcels from six into two parcels (East and West Parcels).

Historical use of the property consists of the following as identified by former Parcel ID Numbers:

14-32-230-005
- Potential nursery: mid 1950s
- Nursery: early 1960s to late 1960s
- Fruit market: late 1960s to late 2000s
- Storage: late 2000s to present

14-32-230-016
- Gasoline fueling and service station: mid 1950s to early 1980s
- Warehousing: early 1980s to present

14-32-230-017
- Parking lot: at least the early 1960s to present

14-32-230-015
- Commercial storage garage: early 1960s to present

14-32-230-014
- Residential: mid 1950s to mid 1960s
- Parking lot: mid 1960s to present

14-32-230-013
- Residential: mid 1950s to mid 1960s
- Parking lot: mid 1960s to present

In November 2012, AKT Peerless prepared a Phase I Environmental Site Assessment (ESA) of the Property on behalf of CVS and Velmeir. The purpose of the Phase I ESA was to identify recognized environmental conditions (RECs) associated with the Property. The following RECs were identified: gasoline fueling and service station (former 14-32-230-016) and nearby gasoline station.

On November 26, 2012, AKT Peerless completed a geophysical survey in the area of the former gasoline filling station identified during AKT Peerless’ November 2012 Phase I ESA. The geophysical survey conducted at the Property did not identify anomalies indicative of buried USTs in the area the former gasoline filling station. However, the geophysical survey did identify ground disturbances in the area of the tank cavity and former dispenser islands.

To further investigate RECs identified in AKT Peerless’ November 2012 Phase I ESA, AKT Peerless conducted soil and groundwater sampling in areas most likely to be impacted by contaminants based on
the historical use of Property. The results of the investigation indicate the presence of metals (e.g., lead, total chromium, etc.), petroleum constituents including polynuclear aromatic hydrocarbons (PNAs) (e.g., benzo (a) pyrene), and volatile organic compounds (VOCs) (e.g., benzene, ethylbenzene, xylenes, trimethylbenzene isomers [TMBs], etc.) were detected in soil and/or groundwater on the Property at concentrations exceeding Michigan Department of Environmental Quality (MDEQ) Residential Cleanup Criteria (RCC).

In addition, AKT Peerless completed a Supplemental Phase II ESA in March 2013 to further investigate chromium contamination, the VOC soil excavation area, the area of the sewer relocation, soil gas, and analysis of soil to be disposed. The results of the investigation indicate the following:

**Chromium Evaluation**

AKT Peerless submitted three soil samples for total chromium and chromium VI analysis. According to the MDEQ, it is assumed that hexavalent chromium (chromium VI) and trivalent chromium (chromium III) are the only forms of chromium found in the environment, and concentrations of chromium III can be calculated by subtracting chromium VI results from total chromium results. The laboratory analytical results indicated that the chromium present at the Property is in the form of chromium III. Chromium III concentrations were detected below MDEQ RCC.

**VOC Soil Excavation Area**

AKT Peerless collected additional soil samples from the area surrounding AKT-5 to delineate the area of soil exhibiting concentrations of VOCs above MDEQ Part 201 Residential and Non-Residential Cleanup Criteria (NRCC) for the Soil Volatile to Indoor Air Inhalation (SVIAI) pathway.

The laboratory analytical results from soil samples collected indicate that the excavation area is horizontally and vertically defined to the north, west, and south to concentrations below SVIAI criterion. However, soil sample AKT-SANW, exhibits concentrations of VOCs above Residential and Non-Residential SVIAI Cleanup Criteria for TMBs and xylenes.

**Sewer Relocation**

AKT Peerless evaluated soils in the area of the new sewer relocation and old sewer abandonment that is proposed for the Property. The objective of AKT Peerless' sampling was to determine if impact is present in soil horizons that may be removed from the Property as part of redevelopment activities.

AKT Peerless collected 17 soil samples (AKT-10 through AKT-14) from the new and existing sewer locations and various depths throughout the proposed excavation areas. AKT Peerless submitted these soil samples for laboratory analysis of VOCs, PNAs, and Michigan 10 Metals (arsenic, barium, cadmium, chromium, copper, lead, mercury, selenium, silver, and zinc). Soil samples collected from the area of the new sewer relocation and old sewer abandonment that is proposed for the Property exhibited concentrations of metals (e.g., arsenic, selenium, and silver), PNAs (e.g., fluoranthene, phenanthrene, etc.), and VOCs (e.g., naphthalene) at concentrations exceeding MDEQ RCC and NRCC.

**Soil Gas Elevation**

AKT Peerless collected three soil gas samples from the Property to screen for potential vapor intrusion concerns with the proposed redevelopment of the Property.
AKT Peerless submitted soil gas samples for laboratory analysis of VOCs. The results of the laboratory analyses of these samples indicate concentrations of VOCs were detected above method detection limits but below the MDEQ Draft Indoor Air, Soil Gas, Groundwater, Soil, and Sump Screening Values for the Vapor Intrusion Pathway for Residential Land Use.

*Soil Disposal Analysis*

AKT Peerless collected three composite samples from the Property for waste disposal analysis. AKT Peerless collected two composite samples from the sewer relocation areas and one from the VOC soil excavation area for laboratory analysis of Toxicity Characteristic Leaching Procedure (TCLP) lead. Laboratory analytical results of the waste characterization samples indicated the soils had non-hazardous characteristics.

Based on laboratory analytical the East Parcel of the Property (as indicated on Table 2-A in the text above, Attachment A, Figure 2 – Eligible Property Boundary Map, and Attachment B – Legal Descriptions) meets the definition of a facility, as defined in Part 201 of the NREPA, Michigan Public Act 451, 1994, as amended.

Further, the West Parcel of the Property as indicated on Table 2-A in the text above and as illustrated on Figure 2 – Eligible Property Boundary Map, is adjacent or contiguous to a facility (East Parcel). The development of this adjacent and contiguous parcel will increase the captured taxable value of the facility (East Parcel). Therefore, the Property is considered “Eligible Property” since it has been deemed a “facility,” is adjacent or contiguous to qualifying parcel, and it is located in a qualified local governmental unit.

2.3 Summary of Eligible Activities and Description of Costs (Section 13 (1) (a), (b))

The “eligible activities” that are intended to be carried out at the Property are considered “eligible activities” as defined by Sec 2 of Act 381, because they include BEA Activities (Phase I ESA, Phase II ESAs, and BEA), Due Care Activities, Additional Response Activities, Demolition and Asbestos Survey and Abatement, Site Preparation, Infrastructure Improvements, Development and Preparation of a Brownfield Plan and/or Act 381 Work Plan (see Attachment C-Table 1).

A summary of the eligible activities and the estimated cost of each eligible activity intended to be paid for with Tax Increment Revenues from the Property are shown in the table below.

<table>
<thead>
<tr>
<th>Description of Eligible Activities</th>
<th>Estimated Cost*</th>
</tr>
</thead>
<tbody>
<tr>
<td>BEA Activities</td>
<td>$ 49,450</td>
</tr>
<tr>
<td>Due Care Activities</td>
<td>$ 15,000</td>
</tr>
<tr>
<td>Additional Response Activities</td>
<td>$ 632,630</td>
</tr>
<tr>
<td>Demolition</td>
<td>$ 211,246</td>
</tr>
<tr>
<td>Lead &amp; Asbestos Survey and Abatement</td>
<td>$ 32,500</td>
</tr>
</tbody>
</table>
### Description of Eligible Activities

<table>
<thead>
<tr>
<th>Description of Eligible Activities</th>
<th>Estimated Cost*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subtotal</td>
<td>$ 965,626</td>
</tr>
<tr>
<td>15% Contingency**</td>
<td>$ 144,844</td>
</tr>
<tr>
<td>Preparation of a Brownfield Plan</td>
<td>$ 10,000</td>
</tr>
<tr>
<td>Preparation of Act 381 Work Plan</td>
<td>$ 10,000</td>
</tr>
<tr>
<td>Meetings Coordination</td>
<td>$ 4,800</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>$ 1,110,470</td>
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<tr>
<td>MCBRA Administrative Costs</td>
<td>$ 28,800</td>
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<tr>
<td>City of Eastpointe MDEQ Loan Administration Fees</td>
<td>$ 18,190</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 1,157,460*</td>
</tr>
</tbody>
</table>

*Certain estimated costs are subject to approval by MDEQ, as necessary under Act 381. Any costs subject to approval by MDEQ and not approved by the MDEQ will not be reimbursed by local only dollars.*  
**The contingency is applied to the Subtotal, excepting the BEA Activities, which have already been performed.

A detailed breakout of the eligible activities and the estimated cost of each eligible activity intended to be paid for with Tax Increment Revenues from the Property are shown in Attachment C, Table 1. It is currently anticipated that construction will begin in October 2013 and be completed in 2014.

The Developer desires to be reimbursed for the costs of eligible activities. Tax increment revenue generated by the Property will be captured by the Authority and used to reimburse the cost of the eligible activities completed on the Property after approval of this Plan and an associated Reimbursement Agreement.

Tax Increment Revenues will first be used to repay the MDEQ Loan, and second to reimburse the Developer for the amount advanced privately on the Eligible Activities not associated with the Loan.

The amount of school tax revenues, which will be used to reimburse the costs of implementing eligible activities at this site, will be limited to the cost of eligible activities approved by the MDEQ. In the event that the use of school tax revenues to reimburse specific eligible activities is not approved by the MDEQ, the Developer will forgo the reimbursement of the eligible activities denied by the MDEQ. No local only taxes will be captured to reimburse Eligible Activities denied by MDEQ.

The costs listed in the table above are estimated costs and may increase or decrease depending on the nature and extent of environmental contamination and other unknown conditions encountered on the Property. The actual cost of those eligible activities encompassed by this Plan that will qualify for reimbursement from tax increment revenues of the Authority from the Property shall be governed by the terms of a Reimbursement Agreement with the Authority (the “Reimbursement Agreement”). No costs of eligible activities will be qualified for reimbursement except to the extent permitted in accordance with the terms and conditions of the Reimbursement Agreement.
2.4 Estimate of Captured Taxable Value and Tax Increment Revenues (Section 13(1)(c)); Impact of Tax Increment Financing On Taxing Jurisdictions (Section 13(1)(g), Section 2(ee))

This Plan anticipates the capture of tax increment revenues to reimburse the Developer for the costs of eligible activities under this Plan in accordance with the Reimbursement Agreement. A table of estimated tax increment revenues to be captured is attached to this Plan as Attachment C, Table 2. Tax increment revenue capture is expected to begin in 2014.

The total estimated cost of the eligible activities and other costs (including administrative fees, contingency, and interest) to be reimbursed through the capture of tax increment revenue are projected to be $1,157,460. As allowed in Act 381 Section 125.2652, and as provided by this Plan, the initial taxable value shall be established by the taxable value for 2014, the next assessment roll for which equalization will be completed following the date the resolution adding the Property in the Plan is adopted. The prospective initial taxable value is anticipated to be $150,000. Redevelopment of the Property is expected to initially generate incremental taxable value in 2014 with the first significant increase in taxable value of approximately $831,400 beginning in 2014.

It is estimated that the Authority will capture the 2014 through 2037 tax increment revenues to reimburse the cost of the eligible activities and pay Authority administrative fees (Authority administrative fees may be paid only out of local tax increment revenue captured by the Authority).

The captured incremental taxable value and associated tax increment revenue will be based on the actual increased taxable value from all taxable improvements on the Property and the actual millage rates levied by the various taxing jurisdictions during each year of the plan are shown in Attachment C, Table 2. The actual tax increment captured will be based on taxable value set through the property assessment process by the local unit of government and equalized by the County and the millage rates set each year by the taxing jurisdictions.

2.5 Plan of Financing (Section 13(1) (d)); Maximum Amount of Indebtedness (Section 13(1) (e))

The City of Eastpointe on behalf of the Developer has been invited by the MDEQ to apply for a MDEQ Loan in the amount of ~$624,537 to assist with the cleanup on the Property. The remaining MDEQ Eligible activities, not covered by the MDEQ Loan, will be funded solely by the Developer (see Attachment C-Table 1).

The Developer will enter into an agreement with the City of Eastpointe to repay the MDEQ Loan. The terms of the MDEQ Loan assume a 15 year loan period, the first 5 years being interest and principal payment free. In year 6, principal and interest payments become due. It is the intent of the Developer to utilize Tax Increment Revenues generated from the improvements on the Property to pay back the MDEQ Loan. Based on the revenue projections calculated within the Tax Increment Financing Table (see Attachment C – Table 2), the MDEQ Loan will be repaid within 14 years after Tax Increment Revenues start being generated by the Property.

The Tax Increment Revenues generated from the Property shall be transferred to the Authority. Once Tax Increment Revenues become available the Authority shall reimburse the Developer for the MDEQ Eligible Activities. Tax Increment Revenues shall be used first to repay the MDEQ Loan Proceeds used to pay for MDEQ Eligible Activities conducted by the Developer. After the MDEQ Loan Proceeds are repaid (including City of Eastpointe Loan Administration fees) the Developer shall be reimbursed for all other MDEQ Eligible Activity Costs as stated in the Act 381 Work Plan.
All reimbursements authorized under this Plan shall be governed by the Reimbursement Agreement. The Authority shall not incur any note or bonded indebtedness to finance the purposes of this Plan. The inclusion of eligible activities and estimates of costs to be reimbursed in this Plan is intended to: (1) authorize the Authority to fund such reimbursements; and (2) does not obligate the Authority, County or the City to fund any reimbursement or to enter into the Reimbursement Agreement providing for the reimbursement of any costs for which tax increment revenues may be captured under this Plan, or which are permitted to be reimbursed under this Plan. The amount and source of any tax increment revenues that will be used for purposes authorized by this Plan, and the terms and conditions for such use and upon any reimbursement of the expenses permitted by the Plan, will be provided solely under the Reimbursement Agreement contemplated by this Plan.

2.6 Duration of Plan (Section 13(1) (f))
In no event shall the duration of the Plan exceed 35 years following the date of the resolution approving the Plan, nor shall the duration of the tax capture exceed the lesser of the period authorized under subsection (4) and (5) of Section 13 of Act 381 or 30 years. Further, in no event shall the beginning date of the capture of tax increment revenues be later than five years after the date of the resolution approving the Plan.

2.7 Effective Date of Inclusion in Brownfield Plan
The Property will become a part of this Plan on the date this Plan is approved by the Macomb County Board of Commissioners. The date of tax capture shall commence during the year construction begins or the immediate following year—as increment revenue becomes available, but the beginning date of tax capture shall not exceed five years beyond the date of the governing body resolution approving the Plan amendment.

2.8 Displacement/Relocation of Individuals on Eligible Property (Section 13(1) (I-I))
There are no persons or businesses residing on the Eligible Property, and no occupied residences will be acquired or cleared; therefore there will be no displacement or relocation of persons or businesses under this Plan.

2.9 Local Site Remediation Revolving Fund (“LSRRF”) (Section 8, Section 13(1) (m))
The Authority has not established a Local Site Remediation Revolving Fund (LSRRF) and therefore, no LSRRF dollars will be captured under this plan.

2.10 Other Information
The tax capture breakdown of tax increment revenues anticipated to become available for use in this Plan is summarized below.

There are 57.9098 non-homestead mills available for capture, with school millage equaling 24.0000 mills (41%) and local millage equaling 33.9098 mills (59%). None of the project will include homestead residential property, with those properties including the State Education Tax and local ISD taxes. The requested tax capture for MSF and MDEQ eligible activities breaks down as follows:
### Table 2-C Tax Capture

<table>
<thead>
<tr>
<th>State to Local Tax Capture</th>
<th>Eligible Activities, Interest, Contingency</th>
</tr>
</thead>
<tbody>
<tr>
<td>MDEQ School tax capture (41%)</td>
<td>$467,759</td>
</tr>
<tr>
<td>MDEQ Local tax capture (59%)</td>
<td>$660,901</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,128,660</strong></td>
</tr>
</tbody>
</table>

The total above does not include the $28,800 in projected Authority Administrative payments, which will be paid solely from Local Tax Revenue.
Attachments
Attachment A

Site Maps
GROSSE POINTE QUADRANGLE
MICHIGAN - MACOMB COUNTY
7.5 MINUTE SERIES (TOPOGRAPHIC)

T.1 N. - R.13 E.

IMAGE TAKEN FROM 1968 U.S.G.S. TOPOGRAPHIC MAP
PHOTOREVISED 1973

SCALED PROPERTY LOCATION MAP
CVS STORE #08170
SWC OF EAST 9 MILE & KELLY ROADS
EASTPOINTE, MICHIGAN
PROJECT NUMBER: 7949F-9-25

DRAWN BY: JWB
DATE: 6/6/2013

FIGURE 1
ELIGIBLE PROPERTY BOUNDARY MAP

CVS STORE #08170

SWC OF EAST 9 MILE & KELLY ROADS

EASTPOINTE, MICHIGAN

PROJECT NUMBER: 7949F-9-25

LEGEND

- - - - = ELIGIBLE PROPERTY BOUNDARY LINE

DRAWN BY: JWB

DATE: 6/7/2013

SCALE: AS SHOWN

FIGURE 2
Attachment B

Legal Description(s)
EXHIBIT D: EAST PARCEL

Part of Lots 40 and 59 and all of Lots 41 through 58, and all of the vacated 20 foot alley lying adjacent to Lots 46 through 52, both inclusive, and all of the proposed vacated 20 foot wide alley lying adjacent to Lots 40 through 46 and Lot 59, and the proposed vacated 20 foot wide alley adjacent to Lots 53 through 59, Kelly Halfway Subdivision, according to the plat thereof as recorded in Liber 7, page 76 of Plate, Macomb County Records, being more particularly described as:

BEGINNING at the Northeast corner of Lot 48, said point being the Intersection of the Southerly right of way line of Nine Mile Road (86 feet wide) and the Northwesterly right of way line of Kelly Road (164 feet wide); thence South 36°34'15" West 295.91 feet along the Northwesterly right of way line of said Kelly Road to the Southeast corner of Lot 58; said point being at the Intersection of the Northwesterly right of way line of said Kelly Road and the Northerly right of way line of Holland Avenue (80 feet wide); thence South 88°49'15" West 143.25 feet along the North right of way line of Holland Avenue to a point 7.33 feet North 88°49'15" East of the Southeast corner of Lot 59; thence North 01°10'45" West 45.25 feet; thence North 19°58'14" West 76.76 feet; thence North 01°10'45" West 116.05 feet to a point 5.02 feet North 88°49'15" East of the Northwest corner of Lot 40, said point being on the Southerly right of way line of Nine Mile Road; thence North 88°49'15" East 349.15 feet along said Southerly right of way line to the place of beginning.

Containing 58,480 Square Feet (1.34 acres), more or less.

Subject to any easements of record.

NOTE: The above description has been prepared assuming that the City of Eastpointe grants the request to vacate the 20 foot wide public alley lying adjacent to Lots 33 through 46 and Lots 59 through 61 and the East 8.00 feet of Lot 62, and the 20 foot wide public alley lying adjacent to Lots 53 through 59, inclusive, Kelly Halfway Subdivision.
EXHIBIT E: WEST PARCEL

Part of Lots 40 and 59 and all of Lots 33 through 39, Lots 60 and 61, and the East 8 feet of Lot 62, and all of the proposed vacated 20 foot wide alley lying adjacent to Lots 34 through 40 and Lots 59 through 62, Kelly Halfway Subdivision, according to the plat thereof as recorded in Liber 7, page 76 of Plats, Macomb County Records, being more particularly described as:

Commencing at the Northeast corner of Lot 48, said point being the intersection of the Southerly right of way line of Nine Mile Road (86 feet wide) and the Northwesterly right of way line of Kelly Road (164 feet wide); thence South 36°34'15" West 285.91 feet along the Northwesterly right of way line of said Kelly Road to the Southeast corner of Lot 58; said point being at the Intersection of the Northwesterly right of way line of said Kelly Road and the Northerly right of way line of Holland Avenue (60 feet wide); thence South 88°49'15" West 143.25 feet along the North right of way line of Holland Avenue to a point 7.33 feet North 88°49'15" East of the Southeast corner of Lot 59 for THE PLACE OF BEGINNING OF THIS DESCRIPTION; thence South 88°49'15" West 141.74 feet along the North right of way line of Holland Avenue to the West line of the East 8.00 feet of Lot 62; thence North 00°12'02" West 134.00 feet to a point on the Northerly line of a 20 foot wide alley; thence South 88°49'15" West 32.34 feet to the Southwest corner of Lot 33; thence North 00°12'02" West 100.00 feet along the West line of said Lot 33 to the Northwest corner of Lot 33, said point being on the Southerly right of way line of Nine Mile Road; thence North 88°49'15" East 145.35 feet along said Southerly right of way line to a point 5.02 feet North 88°49'15" East of the Northwest corner of Lot 40; thence South 01°10'45" East 116.05 feet; thence South 19°58'14" East 76.76 feet; thence South 01°10'45" East 45.25 feet to the place of beginning.

Containing 32,161 Square Feet (0.74 acres). more or less.

Subject to any easements of record.

NOTE: The above description has been prepared assuming that the City of Eastpointe grants the request to vacate the 20 foot wide public alley lying adjacent to Lots 34 through 46 and Lots 59 through 61 and the East 8.00 feet of Lot 62, and the 20 foot wide public alley lying adjacent to Lots 53 through 59, inclusive, Kelly Halfway Subdivision.
Attachment C

Tables
Eligible Activities means 1 or more of the following: 1) Baseline environmental assessment activities (Phase I, Phase II, BEA), 2) Due Care Activities (Due Care Plan and its associated activities), 3) Additional response activities (activities beyond what is minimally required under the law), 4) Infrastructure improvements that directly benefit the property, 5) demolition of structures that is not a response activity (including interior demolition), 6) Lead or asbestos abatement (including assessment), 7) Site preparation that is not a response activity (removal of fill, site grading/grubbing, etc), 8) relocation of public buildings or operations for econ dev purposes, 9) costs of preparing a brownfield plan or workplan, 9) costs of environmental insurance.

### Table 1 - Eligible Activities

<table>
<thead>
<tr>
<th>Item/Activity</th>
<th>Total Estimated Cost</th>
<th>School/Local MDEQ Act funded by Developer</th>
<th>School/Local MDEQ Act Eligible Activities funded by MDEQ Loan</th>
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<td><strong>BEA Environmental Assessment Activities - No prior MDEQ or MSF work plan approval necessary if costs are included in the Plan (even if incurred before Brownfield Plan approval)</strong></td>
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<td><strong>Additional Response Activities (Contaminated soil and groundwater removal, due care activities, etc.</strong></td>
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<td>Land Surveys and Preliminary Reports</td>
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<td>Hot Spot Contaminated Soil Removal (includes excavation, transportation, disposal, and backfill and compaction)</td>
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<td>Site Demolition - includes removal of 27&quot; Combined Sewer</td>
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Total Estimated Cost: $1,157,460.30

School/Local MDEQ Act 381 Eligible Activities Funded by MDEQ Loan: $504,729.25

6/14/2013
### Table 2

**Tax Increment Financing Estimator**

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<td><strong>Camus, Tax Increment Value (Increase of 2%)</strong></td>
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<td><strong>Total Non-School Yearly Incremental Taxes Available for Capture</strong></td>
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<td>School Yearly Incremental Taxes</td>
<td>Total Yearly Incremental Taxes</td>
<td>Total Yearly Incremental Taxes Available for Capture</td>
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<td>Total Loan-Funded MDEQ Environmental Expenses</td>
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* Land and Real Property Taxable Value Estimate is used to calculate the Non-School Yearly Incremental Taxes and the School Yearly Incremental Taxes. The Total Yearly Incremental Taxes are the sum of the Non-School Yearly Incremental Taxes and the School Yearly Incremental Taxes. The Total Yearly Incremental Taxes Available for Capture is calculated after subtracting the Administrative Fee Captured by BRA. The Total Loan-Funded MDEQ Environmental Expenses and Other MDEQ Environmental Expenses are calculated based on the available funds from the Total Yearly Incremental Taxes Available for Capture. The Unreimbursed Loan-Funded Other Environmental Expenses are the remaining funds after accounting for all other expenses.
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**Total Local Taxes**

**Total Millages**

**Total Millages (capable of capture)**

**Total Millages (not capable of capture)**

**Total School Yearly Incremental Taxes**

**Total Non-School Yearly Incremental Taxes**

**Animal Cumulative Tax Capture**

**State Matching Fund Disposal**

**State Tax**

**Total School Yearly Incremental Taxes Available for Capture**

**Administrative Fee Captured by RRA**

**Total Local Yearly Incremental Taxes Available for Capture**

**Total Combined Yearly Incremental Taxes Available for Capture**

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**Loan-Funded MEQ Environmental Expenses**

*School Taxes*

*Local Taxes*

**Reimbursement**

*School Taxes*

*Local Taxes*

**Unreimbursed Other Environmental Expenses**
August 8, 2013

TO: BOARD OF COMMISSIONERS

FROM: FRED MILLER, CHAIR
FINANCE COMMITTEE

RE: RECOMMENDATIONS FROM FINANCE COMMITTEE MEETING OF AUGUST 8, 2013

At a meeting of the Finance Committee, held Thursday, August 8, 2013, the following recommendations were made and are being forwarded to the August 8, 2013 Full Board meeting for approval:

1. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)

A motion was made by Mijac, supported by Vosburg, to recommend that the Board of Commissioners approve the transfer of $15,000 from the 2013 Circuit Court budget to the 2013 County Clerk budget to provide funding for Clerk staff overtime for court-related work; Further, this budget action addresses budgetary issues only. It does not constitute the Commission’s approval of any County contract. If a contract requires Commission approval under the County’s Contracting Policy or the County’s Procurement Ordinance, such approval must be sought separately; Further, a copy of this Board of Commissioners’ action is directed to be delivered forthwith to the Office of the County Executive. THE MOTION CARRIED.

2. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)

A motion was made by Vosburg, supported by Boyle, to recommend that the Board of Commissioners approve a three year contract renewal to Quad-Tran to provide data processing services to the 42-1 and 42-2 District Courts; the cost of this contract for the three year period is a total of $72,000; additional costs associated with Quad-Tran are as follows: unlimited terminal access, unlimited LEIN access, postage, forms/notices, mail processing and UPS; the Court’s total average costs for three years are 42-1 $133,000 and 42-2 $149,000; Further, a copy of this Board of Commissioners’ action is directed to be delivered forthwith to the Office of the County Executive. THE MOTION CARRIED.

MACOMB COUNTY BOARD OF COMMISSIONERS

David J. Flynn – Board Chair
District 4
Kathy Tocco – Vice Chair
District 11
Mike Boyle – Sergeant-At-Arms
District 10

Toni Moceri – District 1
Marvin Sauger – District 2
Veronica Klinefelt – District 3
Robert Mijac - District 5
James Carabelli – District 6

Don Brown – District 7
Kathy Vosburg – District 8
Fred Miller – District 9
Bob Smith – District 12
Joe Sabatini – District 13
3. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)

A motion was made by Carabelli, supported by Vosburg, to recommend that the Board of Commissioners approve the appointments of the following law firms:

- Garan Lucow to represent the County in the litigation entitled Jeremy Benjamin Proffitt vs County of Macomb, et al, which is pending in Macomb County Circuit Court and

- McConaghy & Nyovich, PLLC to represent the County of Macomb and the Macomb County Sheriff in the litigation entitled Police Officers Association of Michigan and Jacqueline Felix v County of Macomb, et al.

Further, a copy of this Board of Commissioners’ action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

A MOTION TO ADOPT THE COMMITTEE REPORT WAS MADE BY CHAIR MILLER, SUPPORTED BY COMMISSIONER BOYLE.
Resolution Number:  

Full Board Meeting Date:  

MACOMB COUNTY, MICHIGAN

RESOLUTION

Resolution to:
Transfer $15,000 from the 2013 Circuit Court Budget to the 2013 County Clerk Budget to provide funding for clerk staff overtime for court-related work.

*SEE BELOW

Introduced By:
Jennifer Phillips, Court Administrator
Kathy Tocco, Chair, Government Operations Committee

Additional Background Information (If Needed):
This will reduce the Circuit Court Budget Special Project line item by $15,000 and increase the County Clerk Personnel Overtime Salary and Fringe line items by $15,000.

This transfer will allow for approximately 411 hours of overtime spread among 26 different Clerk court section employees.

*Further, this budget action addresses budgetary issues only. It does not constitute the Commission's approval of any County contract. If a contract requires Commission approval under the County's Contracting Policy or the County's Procurement Ordinance, such approval must be sought separately.

FORWARD TO THE FINANCE COMMITTEE.
*(This language was added by Government Operations Committee Chair Tocco.)

<table>
<thead>
<tr>
<th>Committee</th>
<th>Meeting Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government Operations</td>
<td>8-5-13</td>
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<tr>
<td>Finance</td>
<td>8-8-13</td>
</tr>
<tr>
<td>Full Board</td>
<td>8-8-13</td>
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</table>
Resolution

Resolution to:

Approve a three year contract renewal to Quad-Tran to provide data processing services to the 42-1 and 42-2 District Courts. The cost of this contract for the three year period is a total of $72,000.00. Additional costs associated with Quad-Tran are as follows:
- Unlimited terminal access,
- Unlimited LEIN access,
- Postage,
- Forms/notices,
- Mail processing,
- UPS.

The Courts total average costs for three years are:
- 42-1 $133,000.00
- 42-2 $149,000.00

Introduced By:

42nd District Court, Divisions 1 and 2  Kathy Vosburg, Chair, JPS Committee

Additional Background Information (If Needed):
RESOLUTION NO.

FULL BOARD MEETING DATE: ____________
AGENDA ITEM: __________________________

MACOMB COUNTY, MICHIGAN

RESOLUTION TO: CONCUR IN THE APPOINTMENT OF THE LAW FIRM OF
GARAN LUCOW TO REPRESENT THE COUNTY IN THE LITIGATION ENTITLED
JEREMY BENJAMIN PROFFITT VS COUNTY OF MACOMB, ET AL WHICH IS PENDING
IN MACOMB COUNTY CIRCUIT COURT

INTRODUCED BY: CHAIRPERSON FRED MILLER, FINANCE COMMITTEE

Pursuant to the provisions of the Charter, this office is asking the Board to concur in the
appointment of the law firm of Garan Lucow to represent the County in the above
lawsuit pending in Macomb County Circuit Court.

Plaintiff in this case was an inmate at the Macomb County Jail in October of 2010. While an inmate at the jail, he was in an altercation with another inmate and was injured. The Plaintiff has filed a lawsuit in the Macomb County Circuit Court alleging that the County and our Correction Officers were grossly negligent in allowing him to engage in recreational basketball which resulting him getting into a fight with the other inmate. The Plaintiff has asked for more than $25,000 in damages.

The law firm of Garan Lucow, and in particular Ms. Jami Leach, has represented the Sheriff’s Department and officers in the past and has particular expertise in the area of corrections law.

It is asked that the Board concur in the appointment of the law firm of Garan Lucow to represent the County Defendants in this pending litigation.

COMMITTEE/MEETING DATE

FINANCE COMMITTEE – 8/8/13
Full Board 8-8-13
RESOLUTION NO.

FULL BOARD MEETING DATE: ___________

AGENDA ITEM: _______________________

MACOMB COUNTY, MICHIGAN

RESOLUTION TO: CONCUR IN THE APPOINTMENT OF THE LAW FIRM OF McCONAGHY & NYOVICH, PLLC TO REPRESENT THE COUNTY OF MACOMB AND THE MACOMB COUNTY SHERIFF IN THE LITIGATION ENTITLED POLICE OFFICERS ASSOCIATION OF MICHIGAN AND JACQUELINE FELIX V COUNTY OF MACOMB, ET AL

INTRODUCED BY: CHAIRPERSON FRED MILLER, FINANCE COMMITTEE

The POAM is the union which represents various command officers in the Sheriff’s Department. Ms. Felix was a sergeant in the Sheriff’s Office when she left County employment.

After leaving County employment, she filed for disability retirement. This is in violation of the regulations of the Retirement Commission and thus her disability retirement was denied.

She filed a grievance arbitration regarding her dates of employment and won a partial victory which extended her time during which she would be considered a County employee but that time did not extend to the time when she filed for the disability retirement. The union and Ms. Felix have filed this lawsuit asking that the court order the Sheriff enforce their interpretation of an arbitration award by ordering that Ms. Felix be reinstated as a deputy sheriff so she can apply for disability retirement.

The law firm of McConaghy & Nyovich, PLLC and in particular, Mr. McConaghy, is familiar with this case and handled the arbitration. Thus, he understands the issues involved and with his experience as an attorney representing management has the requisite information and skills to properly defend the County and Sheriff Wickersham.

It is asked that the Board concur in the appointment of the law firm of McConaghy & Nyovich, PLLC to represent the County in this pending litigation.

COMMITTEE/MEETING DATE

FINANCE COMMITTEE – 8/8/13
Full Board 8-8-13