AGENDA
Committee on Ways and Means
Thursday, March 22, 2018 @ 9:45 a.m.
Council Conference Room, City Hall

Councilmember Jody Washington, Chair
Councilmember Kathie Dunbar, Vice Chair
Councilmember Carol Wood, Member

1. **Call to Order**

2. **Minutes**
   - January 25, 2018
   - February 22, 2018

3. **Public Comment on Agenda Items**

4. **Discussion/Action:**

   A.) RESOLUITON – Grant; Michigan Economic Development Corporation Grant

   B.) RESOLUTION – MNRTF Ratification of the Notice of Consideration

   C.) RESOLUTION – Grant; Authorizing Michigan Natural Resources Trust Fund (MNRTF) Acquisition of Willard Avenue Parcel 33-01-01-27-426-001

   D.) RESOLUTON – Grant; Authorizing Michigan Natural Resources Trust Fund (MNRTF) for Acquisition of 4000 Hunter's Ridge Drive, Parcel 23-50-40-25-451-022

   E.) RESOLUTION – Grant; Authorizing Michigan Natural Resources Trust Fund (MNRTF) Grant Funding to develop the River Trail connection of Cambridge Road to Frances Park River Trail

   F.) RESOLUTION – Grant; Authorizing Michigan Natural Resources Trust Fund (MNRTF) Grant Funding to develop a one mile walking path within the Rudolph and Dorothy Wilson Park

   G.) RESOLUTION – Grant; Authorizing Michigan Natural Resources Trust Fund (MNRTF) Grant Funding to acquire Wise Road Parcel 33-01-05-06-202-021

PUBLIC COMMENT AND SIGN IN SHEET

COMMITTEE WAYS AND MEANS

DATE March 22, 2018

Please print

NAME	ADDRESS	Purpose for Attending	Email Address	PHONE
Judith M. Filice	1462 Cambridge LANSING	Frances Park		517 482 7325
Kathy Miles		RSL		
Sean Hammond	820 N Verlinden Ave Lansing 48915	Rudolph Dorothy Wilson Park	~~sean@environmentalcouncil~~ seannhammond@gmail.com	
LINDA SANCHEZ GAZELLA	CITY HALL	H/R	linda.sanchez-gazella@lansingmi.gov	483-4011
STEVE MALONEY		580 RETIREE	SGMALO@YAHOO.Com	517 580 8355
LYNNE MEADE	5800 Executive Dr.	580/243 Rep.	lmeade@teamsters243.org	517-819-4308
Teresa Frassetto		retiree 580		
Denise Estes		retiree 580		
Elaine Womboldt		agenda ISSUES	RSL	

H.) RESOLUTION – Grant; FY17 Technology Innovation for Public Safety (TIPS) Grant

I.) UPDATE – Teamsters 580 Retiree Healthcare Coverage; HR Director

5. Pending

- Report from Internal Auditor and City Attorney on Retiree Reimbursement

6. Other

7. Adjourn

MINUTES
Committee on Ways and Means
Thursday, January 25, 2018 @ 8:00 a.m.
10th Floor Conference Room, City Hall

CALL TO ORDER
The meeting was called to order at 8:00 a.m.

ROLL CALL
Council Member Jody Washington, Chair
Council Member Kathie Dunbar, Vice Chairperson - excused
Council Member Carol Wood, Member

OTHERS PRESENT
Sherrie Boak, Council Staff
Eric Brewer, Council Internal Auditor
Angie Bennett, Finance Director
Kathy Miles
Elaine Womboldt
Denise Estee
Steve Maloney
Ronda Oberlin, Office of Emergency Management
Chelsea Coffey, Mayors office
Greg Venker, Assistant City Attorney
Jim Smiertka, City Attorney
Teresa Frasetto
Suzanne Elms
Dean Brailey
Sarah Riggs

Minutes
MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE MINUTES FROM NOVEMBER 21, 2017 AS PRESENTED. MOTION CARRIED 2-0.

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE MINUTES FROM NOVEMBER 27, 2017 AS PRESENTED. MOTION CARRIED 2-0.

Public Comment
Public Comment will be made during each agenda item.

Discussion/Action

RESOLUTION – Special Assessment for Floodplain Mapping Project

Ms. Oberlin noted to the Committee that the current maps used are from 1978 studies and during some recent mapping evaluations; they found discrepancies in the flood plain area. By lowering the base flood elevations, there could be a lower average flood insurance rate. Thus project will cost $383,000. There are no qualifications to be involved, everyone pays the same rates, no matter what the risk is. If there is damage each one is looked upon case by case. Ms. Oberlin handed the Committee maps of the changes that will affect Urbandale and the Baker neighborhood. There will be an impact on the effected properties when they sell, because the price will have to be adjusted to accommodate for the flood insurance. Council Member Wood asked Mr. Smiertka if a case can be made in the tax tribunal if someone wanted to dispute it. Mr. Smiertka stated they could. Ms. Oberlin continued noting the area impacts 800 homes, and 600 will be impacted by the new mapping. The next handout represented further details on the property values. She added that the two hardest hit areas are already in the mapping area, and according to the maps she presented, Urbandale does not have any significant changes. Other areas that will now be affected include the Red Cedar, and currently there is no full understanding of the impact from the Grand River. Ms. Oberlin pointed out that this does not just affect Lansing, but will go into Meridian Township. When the study begins if they find there is no impact into Meridian Township, it will stop there and be a one phase project. If they find something, it will be a two phase project. They have already approached and confirmed participation with Ingham County and Michigan State University. The costs will be split between private and public resources, and the property owners will be affected with an average of $47 per home, which is based on $.10 per square foot.

Ms. Elms from Sycamore Park asked the Committee to look at other options including the "Lloyds of London" process. Ms. Oberlin stated that would not work in this area, and offered to meet with Ms. Elms after the meeting to provide her with the information and explain everything to her.

Ms. Womboldt asked if the resident affected by the clearing of trees at Ormond Park would be involved, and Ms. Oberlin stated they would not.

PENDING INFORMATION FROM LAW ON THE APPROPRIATE DATE. MOTION CARRIED 2-0.

Ms. Oberlin was asked to attend the public hearing and provide larger maps the night of the meeting.

Pending

Report from Internal Auditor and City Attorney on Retiree Reimbursement

Mr. Brewer stated he did not have a report yet, noting he had not gotten the information he needed. He was advised Law is making a determination on what benefits are and what aren't benefits. His role will be to understand the scope, and if there is merit to the benefits or not. Council Member Washington asked him to follow up with the new Administration on obtaining the information he needs.

Teamster 580 Retiree Healthcare Coverage
Council Member Washington asked Ms. Estee to provide Ms. Sanchez-Gazella a brief history on that the retirees want to see happen.

Ms. Estee went over her history of the situation which went back 8 years. It was noted she received a letter in March, 2010 from the City Finance Department that stated she was tied to active employees effective February 20, 2004. Her opinion was that that police was made and not negotiated with the union. She admitted she had approached the union, but was told they could not represent retirees. She outlined the information Ms. Sanchez-Gazella had in the binder provided by the Council, and even added that in November 2017 she filed a FOIA looking for the list of 2003 retirees and tie-bar, and the number from when the tie-bar took effect through 2007. She believes that at this time 11 Teamster Retirees receive 100% of their insurance paid for and the others lost that benefit with no explanation. She concludes by listing three (3) questions she is looking to find answers to: Where is the 2004 tie bar date? Why back track a policy 6 years? and Why did some retirees get to keep 100% of their benefits while others now have to pay. Council Member Washington asked her if those were the only questions and what income was she hoping to get. Ms. Estee stated the outcome she wanted was monetary, she wanted all their money back, and there needs to be accurate record keeping and no change of information. Council Member Washington then stated to Ms. Sanchez-Gazella that the Committee and retirees are seeking clear answers on why and how, and if the answers they get are not what they want they like, can they hire an attorney. If the answer is not what the retirees want to hear, they need to know clear answers and why it happened.
Lastly she added, the Committee has also asked and is asking again for the amount it would cost the City to make the retirees whole.

Council Member Wood briefly outlined the binders she had presented earlier to the Mayor's office and Ms. Sanchez-Gazella, noting the retirees need to know how things were determined and why. The Council needs to know if the City had options, if under option 1; starting today, if they find there were issues, and offered to start taking care of the retiree health care now what the cost would be; and option 2, if the City finds there was an issue, and goes back in time to the initial date, what is the cost and the number of employees affected.

Mr. Maloney stated to Ms. Sanchez-Gazella and the Committee that he does not believe that his issue with the 1% has been resolved yet and he has not been reimbursed. His questions related to having to the payments made on insurance based on the benefits.

Ms. Estee concluded by stated the issues impact the Teamsters from February 2004 until the summer of 2014. During 2004 – 2010 it was the "tie-bar" retirees, where they were vested 100% for benefits, and in 2010 the union negotiated a 1% cap with teamsters that stated the retirees would never pay more than 1% of their retirement towards benefits.

Council Member Washington asked Ms. Sanchez-Gazella how much time she would need. It was determined Ms. Sanchez-Gazella would report back on March 22, 2018.

OTHER
Mr. Smiertka noted to the Committee that the resolution that was earlier acted on will need to be amended to first authorize the special assessment, then authorization the preparation of the roll, and allow notices to be sent to those on the roll, 10 days before the hearing. The Committee determined they would meet on the new agenda at their February 8, 2018 meeting before it goes to Council February 12, 2018.

ADJOURN
Adjourn at 9:05 a.m.
Submitted by,
Sherrie Boak, Recording Secretary
Lansing City Council
Approved by the Committee on________________

MINUTES
Committee on Ways and Means
Thursday, February 22, 2018 @ 9:30 a.m.
10th Floor Conference Room, City Hall

CALL TO ORDER
The meeting was called to order at 9:44 a.m. by Vice-Chairperson Dunbar

ROLL CALL
Council Member Jody Washington, Chair- arrived after the ERS Retirement Board Meeting
Council Member Kathie Dunbar, Vice Chairperson
Council Member Carol Wood, Member

OTHERS PRESENT
LaSondra Crenshaw, Council Staff
Eric Brewer, Council Internal Auditor
Angie Bennett, Finance Director
Denis Prisk, LPD Budget Control Supervisor
Brett Kaschinske – Parks Director
Dan Danke – Public Service Department
Greg Venker, Assistant City Attorney
Jim Smeirtka, City Attorney

Minutes
MOTION BY COUNCILMEMBER WOOD TO APPROVE THE FEBRUARY 8, 2018 MINUTES AS PRESENTED. MOTION CARRIED 2 - 0

Public Comment
No public comment.

Discussion/Action

RESOLUTION – Amended Adult Baseball Fees

Mr. Kaschinske stated that the Adult League is open to ages eighteen and up. There are also two additional leagues thirty and up and forty and up. Council Member Wood asked what is rationale behind raising the prices. Mr. Kaschinske stated fees had not been raised for some time, and expenses have continued to increase. The closest league is in Battle Creek and Flint and the Department has done some rate comparison with those areas as well. Council Member Wood asked whether the leagues are required to mark fields. Mr. Kaschinske stated leagues do not do daily maintenance, Parks has volunteers and employees that do that. Council Member Wood asked whether Mr. Kaschinske informed the leagues of the potential of an increase in fees. He stated yes they were made aware and this is the league fee, not individual players. The leagues have sponsors and they usually pick-up the league cost. Also this increase is before the budget because of when the baseball season starts.

Mr. Venker stated the resolution should be consistent. Resolution will be updated to reflect the change.

MOTION BY COUNCILMEMBER WOOD TO APPROVE THE RESOLUTION TO AMEND ADULT BASEBALL FEES MOTION CARRIED 2 - 0

Council Member Washington enters

RESOLUTION – Grant; Baseball Tomorrow Fund

Mr. Kaschinske explained that grant was $60,000. He advised that the City match was lowered because they will not need as much to complete the infield work. The $23,000 is coming from the mileage funds for the match. The pitch on the infield is not correct and needs to be improved because it is holding a great deal of water. They would also add dirt and fencing to contain play for pitching league for children eight and nine year olds.

Council Member Dunbar asked why the resolution has different numbers on front and back. Mr. Kaschinske advised we will get $69,391 from “Baseball Tomorrow”. The amount of $176,666 should be $141,414 and would replace total fund amount on page one. Council Member Dunbar asked if the outfield fences would be on the southeast and southwest of park. Mr. Kaschinske indicated yes that was the location, and it would be a 4ft high fence with safety cap on top.

Council Member Wood asked according to the grant sheet there is in kind, what is it. Mr. Kaschinske advised that would include labor, landscape, and architects time; along with the ball field maintenance crew. . Council Member Wood asked if maintenance on the fence would be additional work done to maintain. Mr. Kaschinske advised that yes and different ways to combat weeds is with chemical spray on fence edges and weed whip would be needed. There will be gates for mowing crew to mow. Council Member Wood asked what is being done as far as the dugouts. Mr. Kaschinske advised that fencing will be there, to add separation between fans and coaches/players. This will allow coach to address the team and provides protection from the crowds. Construction will begin August 1, 2018 and the ribbon cutting will take place spring of 2019.

MOTION BY COUNCILMEMBER DUNBAR TO APPROVE THE RESOLUTION FOR THE BASEBALL TOMORROW FUND GRANT MOTION CARRIED 3 - 0

RESOLUTION – Local Bridge Program Funding; Michigan Department of Transportation

This is grant the City of Lansing applies for each year and it is submitted to the State. Anywhere from three to none could be funded. Council Member Dunbar asked where is Aurelius over Pawlowski Creek located? Mr. Danke advised that Pawlowski Creek is a County drain and it goes under Aurelius road, south of the campgrounds on Aurelius.

MOTION BY COUNCILMEMBER WOOD TO APPROVE THE RESOLUTION FOR THE MICHIGAN DEPARTMENT OF TRANSPORTATION LOCAL BRIDGE PROGRAM FUNDING APPROVED 3 - 0.

RESOLUTION – Grant Acceptance; Michigan Commission on Law Enforcement

Mr. Prisk explained that the grant was received last year and fell off the radar. Training was already done and was very successful, it was four one day-training sessions. The training discussed the need to master verbal conflict management skills. The September/October 2017 semi competitive grant pays for 65% of cost for the speaker fees and travel fees. The remaining balance of $2940.00 the LPD agreed to pay 50%. Council Member Dunbar asked if the grant is normally a multiyear grant. Mr. Prisk advised that no it is not, that was an error on the grant form this is a one year grant.

Council Member Dunbar then asked how the children were chosen to participate. Mr. Prisk advised the students were not children but individuals from other agencies. Information was sent out and they also had to pay for the training to help offset the cost to LPD.

Council Member Wood asked who was the facilitator. Mr. Prisk advised it was Harry P. Dolan a retired police chief of Raleigh Police Department.

MOTION BY COUNCILMEMBER WOOD TO APROVE THE RESOLUTION FOR MICHIGAN COMMISSION ON LAW ENFORCEMENT GRANT APPROVED 3 - 0

City Council FY 2018/2019 Budget Recommendations

Mr. Brewer went over the Budget Recommendations for the City Council FY 2018/2019. He advised there were some increases but most remained the same. The changes were due to increases in staff paid and other adjustments. Council Member Wood advised that part of the financial changes were salary increases that our staff was entitled to due to us following the Teamsters 214. She also informed the group that Ms. Bennett also provided dollar figures for benefits and that type of information. Mr. Brewer advised that there were three adjustments made for new Council Members, Teamsters 214, and carryovers. And that Item five FY 2017 is actual expenditures. And FY 2018 is a projection. Council Member Wood stated since the utilities for City Hall year end were projected at $33,000.00 but we budgeted for $50,000.00 as well as telephone. These numbers you just plugged in. Mr. Brewer stated yes City Council is normally under budget. And we would rather be under budget than over budget.

MOTION BY COUNCILMEMBER WOOD TO MOVE BUDGET FORWARD APPROVED 3 - 0.

Pending
Report from Internal Auditor and City Attorney on Retiree Reimbursement Remains pending.
Teamster 580 Retiree Healthcare Coverage Remains pending

ADJOURN
Adjourn at 10:20 a.m.
Submitted by,
LaSondra Crenshaw, Administrative Assistant
Lansing City Council
Approved by the Committee on March 5, 2018

LANSING CITY COUNCIL

GRANT INFORMATION FORM

(Required for all grant applications and acceptances)

REFERRAL DATE: 3-12-18

GRANT NAME: MEDC Grant

DEPARTMENT: Downtown Lansing Inc.

CONTACT PERSON (INCLUDE EMAIL AND PHONE): Mindy Biladeau, Executive Director. mindy@downtownlansing.org and 517-485-3357

APPLIICATION DATE 3-16-18 AWARD DATE: 1-17-18

GRANT CYCLE: NA Check One: ___Annual _X__One-Time

FUND AMOUNT: $50,000 (Breakdown below should total this amount)

GOODS & SERVICES	$50,000
PERSONNEL	$0.00
CONSTRUCTION	$0.00
LAND	$0.00
OTHER (Training)	$0.00

CITY MATCH (IF APPLICABLE): $0.00

GRANT PAYS FOR: 9 pedestrian wayfinding kiosks

FUND ALLOCATIONS (Please describe the purpose of the grant and allowable uses):

Michigan Economic Development Corporation grant supports the fabrication and installation of nine new pedestrian kiosks, a portion of Phase II of our downtown wayfinding program implementation for this spring/summer.

BY THE COMMITTEE ON WAYS AND MEANS
RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING

WHEREAS, The City of Lansing was selected to receive a Michigan Economic Development Corporation grant to help support the fabrication and implementation of Phase II: Pedestrian Signage of our new downtown wayfinding system; and

WHEREAS, the Michigan Economic Development Corporation grant was the result of a competitive proposal process by Michigan Main Street communities, and a proposal was submitted by Downtown Lansing Inc. on June 15, 2017 and was approved on January 17, 2018; and

WHEREAS, the Michigan Economic Development grant supports the fabrication and installation of nine new pedestrian kiosks, a portion of Phase II of our downtown wayfinding program implementation for this spring/summer; and

WHEREAS, the Michigan Economic Development Corporation awarded $50,000 to Downtown Lasing Inc.; and

WHEREAS, the award of $50,000 does not require a local match; and

NOW, THEREFORE, BE IT RESOLVED, The Lansing City Council approves acceptance of the Michigan Economic Development Corporation Grant on behalf of Downtown Lansing Inc. in the total amount of $50,000 for the City of Lansing.

BE IT FINALLY RESOLVED, The Administration is authorized to make the necessary operating transfers for the expenditure.

BY THE COMMITTEE ON WAYS AND MEANS

RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING

WHEREAS, on March 12, 2018 the City Council Committee of the Whole referred to the Committee on Ways and Means five (5) draft resolutions regarding Michigan Natural Resources Trust Fund (MNRTF) applications for projects, more particularly described in this resolution; and

WHEREAS, the Committee on Ways and Means received and reviewed from the Department of Parks and Recreation informational reports and the Committee is recommending the Council approve appropriate resolutions to submit the 5 separate grant applications, including the expression of Council support for the projects and the identification and commitment for local matching funds ; and

WHEREAS, in anticipation of Council consideration and action on the 5 separate proposed resolutions on March 26, 2018, the City Clerk has caused to be published the "City of Lansing Notice of Consideration" for the 5 MNRTF projects, the form of which is attached to this resolution, and the Notice provides the public with notice and the invitation to discuss and comment on each project prior to Council taking action thereon; and

WHEREAS, the Notice of Consideration was also provided by the City Clerk to the public by the other means that are typically used by the City of Lansing to give notice of public hearings;

NOW, THEREFORE, BE IT RESOLVED that the Lansing City Council hereby approves and ratifies the Notice of Consideration, as attached and as given, to provide for public hearing on the following MNRTF application projects prior to Council taking separate action by resolution on each:

- Acquisition of Willard Avenue Parcel 33-01-01-27-426-001
- Acquisition of 4000 Hunter's Ridge Drive Parcel 23-50-40-25-451-022
- Acquisition of Wise Road Parcel 330-01-05-06-202-021
- Develop the River Trail connection from Cambridge Rd. to Frances Park River Trail
- Develop a One-mile Walking Path within the Rudolph and Dorothy Wilson Park

City of Lansing
Parks and Recreation Department

MICHIGAN DEPARTMENT OF
NATURAL RESOURCES

DNR Grant Project Proposals

Acquisition Grants

- Hunter Ridge Drive
- Willard Avenue
- Wise Road

Development Grants

- Cambridge to Frances River Trail Connection
- Rudolph & Dorothy Wilson Park Pathway

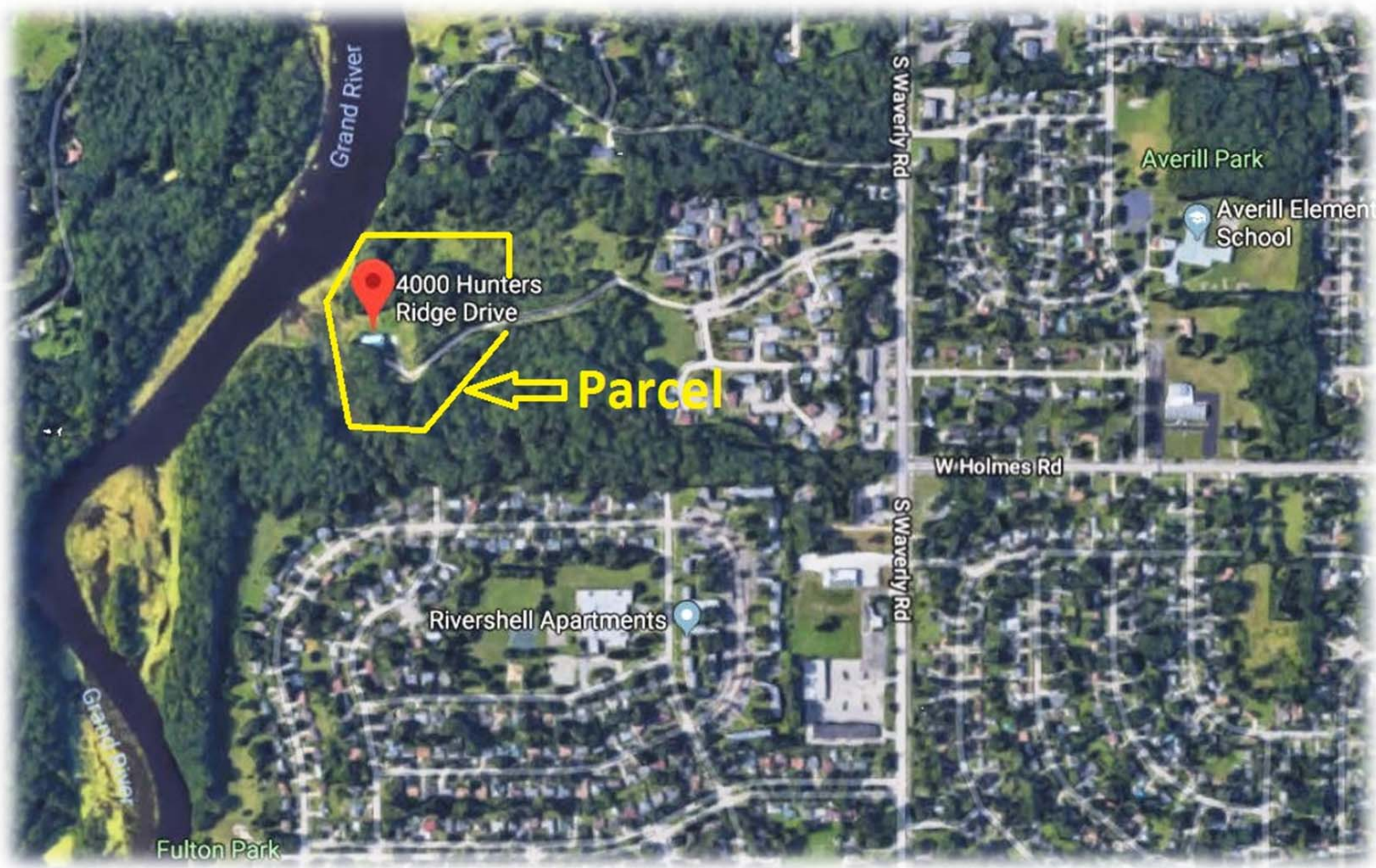
Andy Schor, Mayor

- **HUNTERS RIDGE DR PROPERTY ACQUISITION 1.6 acres**

TOTAL COST OF ACQUISITION = $121,900

GRANT AMOUNT REQUESTED = $91,425

CITY OF LANSING'S COST = $30,475

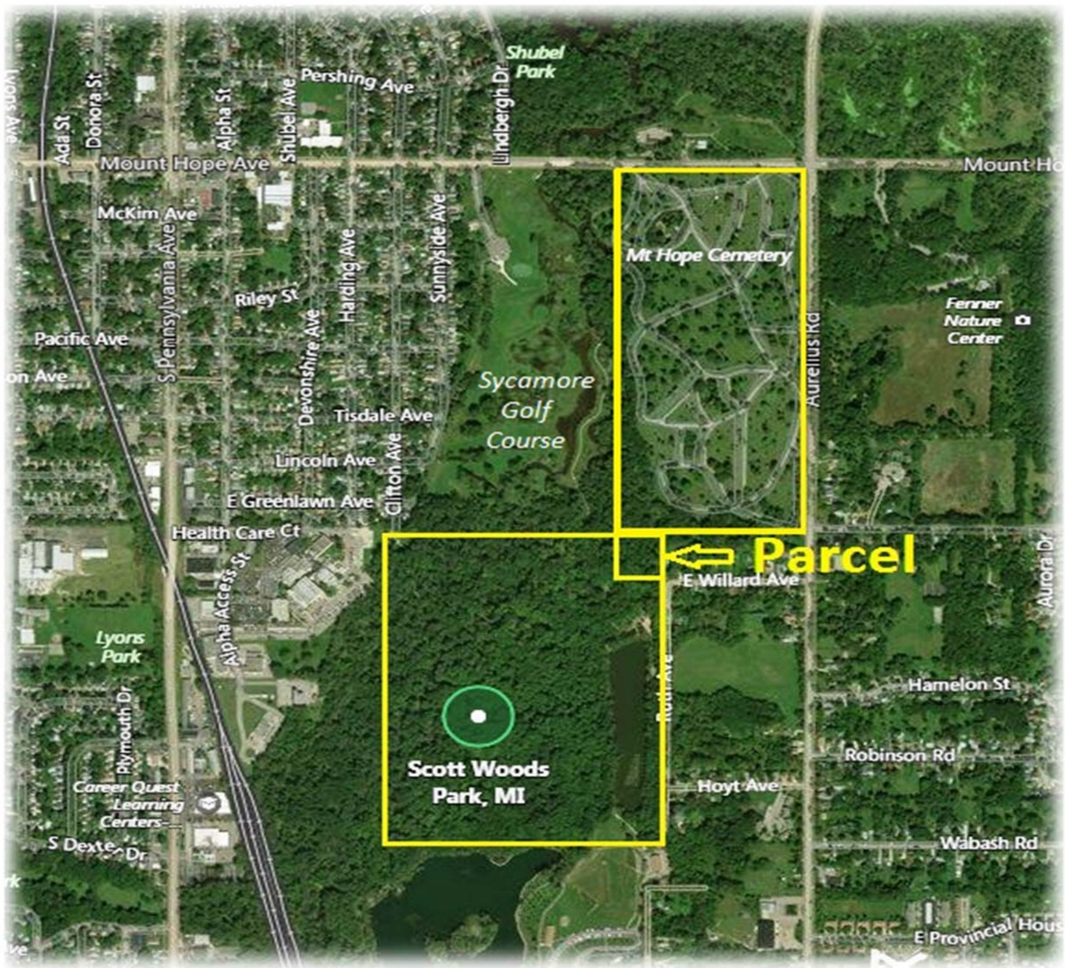


• **WILLARD AVE PROPERTY ACQUISITION 3.47 acres**

TOTAL COST OF ACQUISITION = $23,100

GRANT AMOUNT REQUESTED = $17,300

CITY OF LANSING'S COST = $5,800

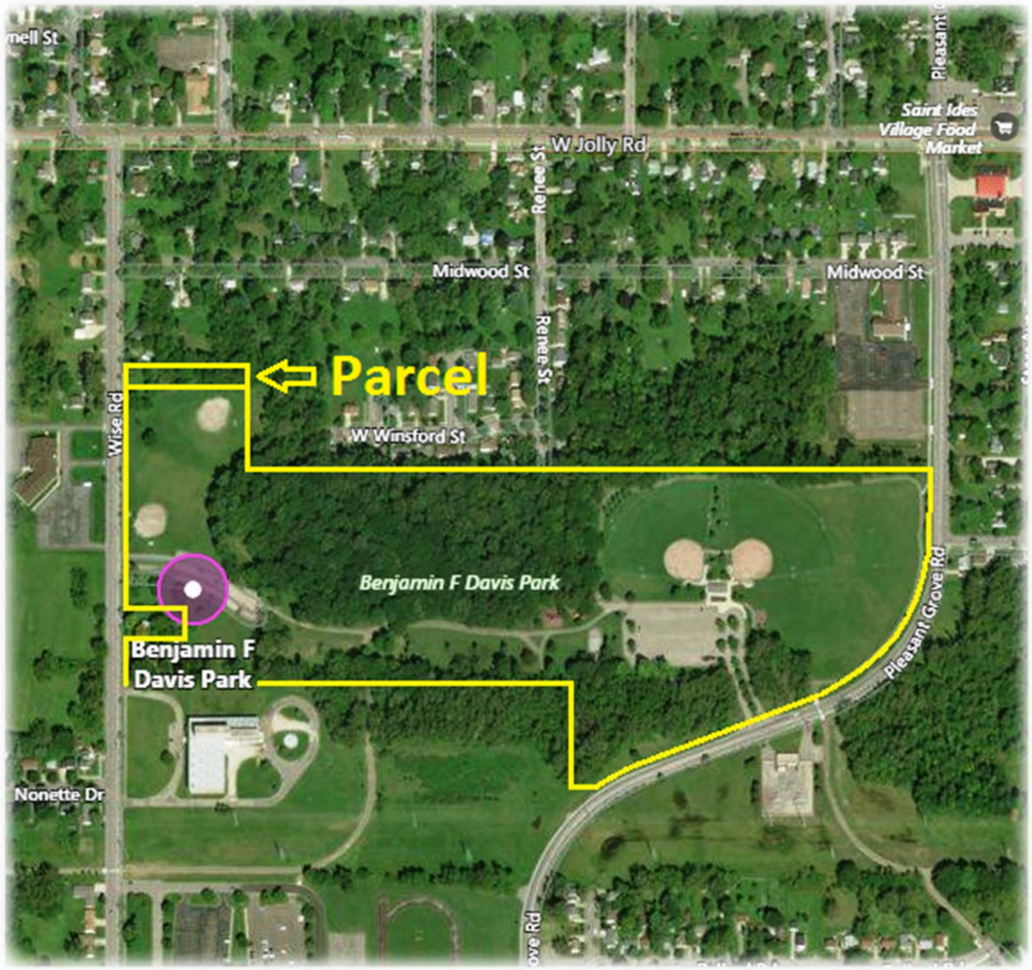


- **WISE ROAD PROPERTY ACQUISITION 0.59 acres**

TOTAL COST OF ACQUISITION = $27,400

GRANT AMOUNT REQUESTED = $20,500

CITY OF LANSING'S COST = $6,900



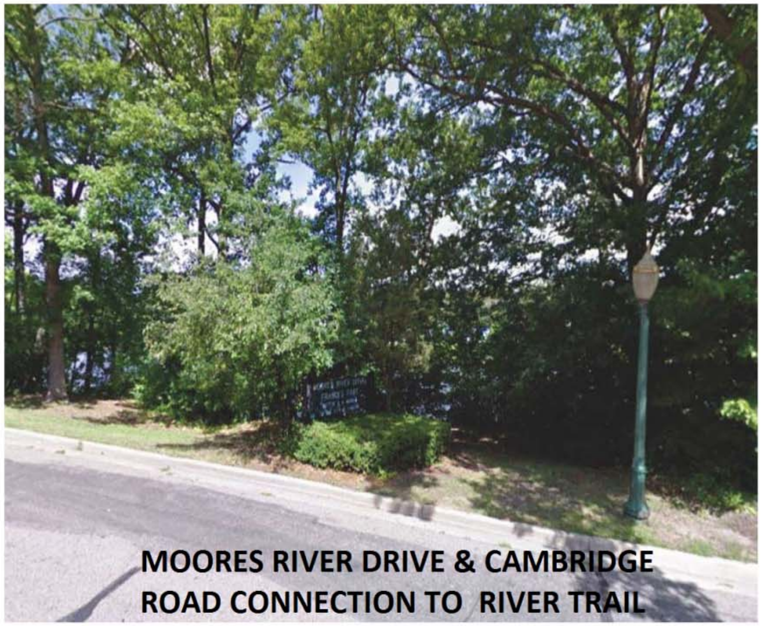
- **CAMBRIDGE TO FRANCES PARK TRAIL CONNECTION**

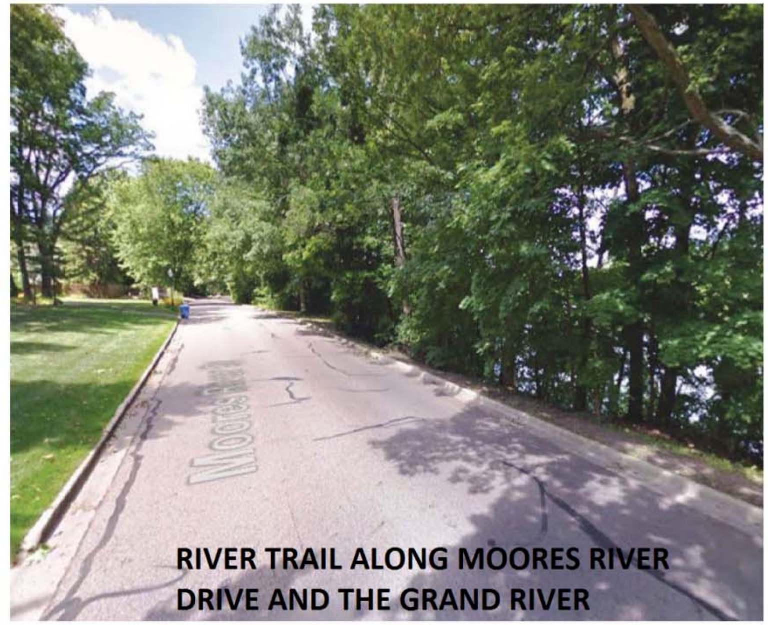
TOTAL COST OF PROJECT = $660,000

GRANT AMOUNT REQUESTED = $297,000

CITY OF LANSING'S COST = $363,000

- **CAMBRIDGE TO FRANCES PARK TRAIL CONNECTION**


MOORES RIVER DRIVE & CAMBRIDGE ROAD CONNECTION TO RIVER TRAIL


RIVER TRAIL ALONG MOORES RIVER DRIVE AND THE GRAND RIVER


RIVER TRAIL CONNECTION AT FRANCES PARK STREET CROSSING


MOORES RIVER DRIVE AND CAMBRIDGE ROAD CROSSING

- **RUDOLPH & DOROTHY WILSON PARK**

TOTAL COST OF PROJECT = $375,000

GRANT AMOUNT REQUESTED = $277,500

CITY OF LANSING'S COST = $97,500

LANSING CITY COUNCIL

GRANT INFORMATION FORM

(Required for all grant applications and acceptances)

REFERRAL DATE:

GRANT NAME: Michigan Natural Resources Trust Fund (MNRTF)

DEPARTMENT: Parks and Recreation

CONTACT PERSON (INCLUDE EMAIL AND PHONE): Brett Kaschinske; brett.kaschinske@lansingmi.gov

517-483-4042

APPLIICATION DATE: 4/1/18 AWARD DATE: November 2018

GRANT CYCLE: Check One: ___Annual _X__One-Time

FUND AMOUNT: $23,100 (Breakdown below should total this amount)

GOODS & SERVICES	0
PERSONNEL	0
CONSTRUCTION	$0
LAND	$17,300
OTHER (Training)	

CITY MATCH (IF APPLICABLE): $5,800

GRANT PAYS FOR: 75% of land acquisition for Willard Avenue Lot #33-01-01-27-426-001

FUND ALLOCATIONS (Please describe the purpose of the grant and allowable uses):

Purchase land locked parcel surrounded by existing park land.

RESOLUTION # ________

BY THE COMMITTEE ON

Authorizing Michigan Natural Resources Trust Fund (MNRTF)

Land Acquisition Grant

Acquisition of Parcel 33-01-01-27-426-001

WHEREAS, on March 23, 2015 the City Council adopted Resolution #2015-077 the City of Lansing Parks and Recreation Five Year Master Plan for 2015 - 2020 which states as a goal to identify current natural areas throughout the city for acquisition; and

WHEREAS, MNRTF will be accepting grant applications for the next grant cycle no later than April 1, 2018; and

WHEREAS, MNRTF requires a resolution from the governing body of the applicant supporting the application, acknowledging the required match and committing to the amount and source of match that are specified in the application; and

WHEREAS, the Parks and Recreation Director is recommending the City apply for grant funding to acquire parcel #33-01-01-27-426-001, currently owned by John G. Sutherland, for park purposes; and

WHEREAS, the amounts and sources of the project funding are as follows:

Total Project Cost	$23,100
Amount Requested from the MNRTF (75% grant)	$17,300
Amount Requested from local sources (25%)	$5,800

WHEREAS, sufficient funds for the local match are currently available in the Park Acquisition and Development account; and

NOW, THEREFORE BE IT RESOLVED, the Lansing City Council approves the submission of the grant to the Michigan Natural Resources Trust Fund (MNRTF)

BE IT FINALLY RESOLVED the City of Lansing, Michigan, will accept the terms of the grant as received from the MNRTF

Approved for Placement on
City Council Agenda:

City Attorney
Date:

LANSING CITY COUNCIL

GRANT INFORMATION FORM

(Required for all grant applications and acceptances)

REFERRAL DATE:

GRANT NAME: Michigan Natural Resources Trust Fund (MNRTF)

DEPARTMENT: Parks and Recreation

CONTACT PERSON (INCLUDE EMAIL AND PHONE): Brett Kaschinske; brett.kaschinske@lansingmi.gov

517-483-4042

APPLIICATION DATE: 4/1/18 AWARD DATE: November 2018

GRANT CYCLE: Check One: ___Annual _X__One-Time

FUND AMOUNT: $121,900 (Breakdown below should total this amount)

GOODS & SERVICES	0
PERSONNEL	0
CONSTRUCTION	$0
LAND	$91,425
OTHER (Training)	

CITY MATCH (IF APPLICABLE): $30,475

GRANT PAYS FOR: 75% of land acquisition for 4000 Hunter's Ridge #23-50-40-25-451-022

FUND ALLOCATIONS (Please describe the purpose of the grant and allowable uses):

Purchase remaining, privately owned riverfront property which will connect existing parks – Fulton, Fine, and Hunter's Ridge.

RESOLUTION # ________

BY THE COMMITTEE ON

Authorizing Michigan Natural Resources Trust Fund (MNRTF)

Land Acquisition Grant

Acquisition of Parcel 23-50-40-25-451-022

WHEREAS, on March 23, 2015 the City Council adopted Resolution #2015-077 the City of Lansing Parks and Recreation Five Year Master Plan for 2015 - 2020 which states as a goal to acquire land adjacent to and along the river; and

WHEREAS, MNRTF will be accepting grant applications for the next grant cycle no later than April 1, 2018; and

WHEREAS, MNRTF requires a resolution from the governing body of the applicant supporting the application, acknowledging the required match and committing to the amount and source of match that are specified in the application; and

WHEREAS, the Parks and Recreation Director is recommending the City apply for grant funding to acquire parcel #23-50-40-25-451-022, 4000 Hunter's Ridge Drive, Lansing, MI 48911 currently owned by Shawn Batt, for park purposes; and

WHEREAS, the amounts and sources of the project funding are as follows:

Total Project Cost	$121,900
Amount Requested from the MNRTF (75% grant)	$91,425
Amount Requested from local sources (25%)	$30,475

WHEREAS, sufficient funds for the local match are currently available in the Park Acquisition and Development account; and

NOW, THEREFORE BE IT RESOLVED, the Lansing City Council approves the submission of the grant application to the Michigan Natural Resources Trust Fund (MNRTF); and

BE IT FINALLY RESOLVED the City of Lansing, Michigan, will accept the terms of the grant as received from the MNRTF.

Approved for Placement on
City Council Agenda:

City Attorney

LANSING CITY COUNCIL

GRANT INFORMATION FORM

(Required for all grant applications and acceptances)

REFERRAL DATE:

GRANT NAME: Michigan Natural Resources Trust Fund (MNRTF)

DEPARTMENT: Parks and Recreation

CONTACT PERSON (INCLUDE EMAIL AND PHONE): Brett Kaschinske; brett.kaschinske@lansingmi.gov

517-483-4042

APPLIICATION DATE: 4/1/18 AWARD DATE: November 2018

GRANT CYCLE: Check One: ___Annual _X__One-Time

FUND AMOUNT: $660,000 (Breakdown below should total this amount)

GOODS & SERVICES	0
PERSONNEL	0
CONSTRUCTION	$297,000
LAND	$
OTHER (Training)	

CITY MATCH (IF APPLICABLE): $363,000

GRANT PAYS FOR: 45% of construction of trail connection

FUND ALLOCATIONS (Please describe the purpose of the grant and allowable uses):

Connect River Trail at Cambridge Road and establish a safer pedestrian crossing

RESOLUTION # ________

BY THE COMMITTEE ON

Authorizing Michigan Natural Resources Trust Fund (MNRTF) Grant Funding

WHEREAS, the Parks and Recreation Department is applying for grant funding through Michigan Natural Resources Trust Fund (MNRTF); and

WHEREAS, MNRTF will be accepting grant applications for the next grant cycle no later than April 1, 2018; and

WHEREAS, MNRTF requires a resolution from the governing body of the applicant supporting the application, acknowledging the required match and committing to the amount and source of match that are specified in the application; and

WHEREAS, the Parks and Recreation Director is recommending the City apply for grant funding to develop River Trail connection; and

WHEREAS, the Parks and Recreation Director is recommending the City apply for grant funding to develop the River Trail connection of Cambridge Road to Frances Park River Trail,

Total Project Cost	$660,000
Amount Requested from the MNRTF (45% grant)	$297,000
Amount Requested from local sources (55%)	$363,000

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the submission of a grant application to the Michigan Natural Resources Trust Fund for the above project; and

BE IT FINALLY RESOLVED that the City of Lansing, Michigan, does hereby accept the terms of the Agreement as received from the Michigan Department of Natural Resources and that the City of Lansing Parks and Recreation Department does hereby specifically agree, but not by way of limitation, as follows:

1. To appropriate all funds necessary to complete the project during the project period and to provide Three Hundred Sixty Three Thousand ($363,000.00) Dollars to match the grant authorized by the DEPARTMENT.

2. To maintain satisfactory financial accounts, documents, and records to make them available to the DEPARTMENT for auditing at reasonable times in perpetuity.

3. To regulate the use of the property acquired and reserved under this Agreement to assure the use thereof by the public on equal and reasonable terms.

4. To comply with any and all terms of said Agreement included all terms not specifically set forth in the foregoing portions of this Resolution.

Approved for Placement on

City Council Agenda:

City Attorney

Date:

LANSING CITY COUNCIL

GRANT INFORMATION FORM

(Required for all grant applications and acceptances)

REFERRAL DATE:

GRANT NAME: Michigan Natural Resources Trust Fund (MNRTF)

DEPARTMENT: Parks and Recreation

CONTACT PERSON (INCLUDE EMAIL AND PHONE): Brett Kaschinske; brett.kaschinske@lansingmi.gov

517-483-4042

APPLIICATION DATE: 4/1/18 AWARD DATE: November 2018

GRANT CYCLE: Check One: ___Annual _X__One-Time

FUND AMOUNT: $375,000 (Breakdown below should total this amount)

GOODS & SERVICES	0
PERSONNEL	0
CONSTRUCTION	$277,500
LAND	$
OTHER (Training)	

CITY MATCH (IF APPLICABLE): $97,500

GRANT PAYS FOR: 74% of construction of walking path

FUND ALLOCATIONS (Please describe the purpose of the grant and allowable uses):

Construct a one mile walking path within and around Rudy and Dorothy & Dunneback Parks

RESOLUTION # ________

XV A 2 h

BY THE COMMITTEE ON

Authorizing Michigan Natural Resources Trust Fund (MNRTF) Grant Funding

WHEREAS, the Parks and Recreation Department is applying for grant funding through Michigan Natural Resources Trust Fund (MNRTF); and

WHEREAS, MNRTF will be accepting grant applications for the next grant cycle no later than April 1, 2018; and

WHEREAS, MNRTF requires a resolution from the governing body of the applicant supporting the application, acknowledging the required match and committing to the amount and source of match that are specified in the application; and

WHEREAS, the Parks and Recreation Director is recommending the City apply for grant funding to develop a one mile walking path; and

WHEREAS, the Parks and Recreation Director is recommending the City apply for grant funding to develop a one mile walking path within the Rudolph and Dorothy Wilson Park,

Total Project Cost	$375,000
Amount Requested from the MNRTF (74% grant)	$277,500
Amount Requested from local sources (26%)	$ 97,500

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the submission of a grant application to the Michigan Natural Resources Trust Fund for the above project; and

BE IT FINALLY RESOLVED that the City of Lansing, Michigan, does hereby accept the terms of the Agreement as received from the Michigan Department of Natural Resources and that the City of Lansing Parks and Recreation Department does hereby specifically agree, but not by way of limitation, as follows:

1. To appropriate all funds necessary to complete the project during the project period and to provide Ninety Seven Thousand Five Hundred ($97,500.00) Dollars to match the grant authorized by the DEPARTMENT.

2. To maintain satisfactory financial accounts, documents, and records to make them available to the DEPARTMENT for auditing at reasonable times in perpetuity.

3. To regulate the use of the property acquired and reserved under this Agreement to assure the use thereof by the public on equal and reasonable terms.

4. To comply with any and all terms of said Agreement included all terms not specifically set forth in the foregoing portions of this Resolution.

Approved for Placement on

City Council Agenda:

City Attorney

Date:

LANSING CITY COUNCIL

GRANT INFORMATION FORM

(Required for all grant applications and acceptances)

REFERRAL DATE:

GRANT NAME: Michigan Natural Resources Trust Fund (MNRTF)

DEPARTMENT: Parks and Recreation

CONTACT PERSON (INCLUDE EMAIL AND PHONE): Brett Kaschinske; brett.kaschinske@lansingmi.gov

517-483-4042

APPLIICATION DATE: 4/1/18 AWARD DATE: November 2018

GRANT CYCLE: Check One: ___Annual _X__One-Time

FUND AMOUNT: $27,400 (Breakdown below should total this amount)

GOODS & SERVICES	0
PERSONNEL	0
CONSTRUCTION	$0
LAND	$20,500
OTHER (Training)	

CITY MATCH (IF APPLICABLE): $6,900

GRANT PAYS FOR: 75% of land acquisition for Wise Road Parcel #33-01-05-06-202-021

FUND ALLOCATIONS (Please describe the purpose of the grant and allowable uses):

Purchase parcel connected to existing park land

RESOLUTION # ________

BY THE COMMITTEE ON

Authorizing Michigan Natural Resources Trust Fund (MNRTF)

Acquisition of Parcel 33-01-05-06-202-021

WHEREAS, on March 23, 2015 the City Council adopted Resolution #2015-077 the City of Lansing Parks and Recreation Five Year Master Plan for 2015 - 2020 which states as a goal to identify current natural areas throughout the city for acquisition; and

WHEREAS, MNRTF will be accepting grant applications for the next grant cycle no later than April 1, 2018; and

WHEREAS, MNRTF requires a resolution from the governing body of the applicant supporting the application, acknowledging the required match and committing to the amount and source of match that are specified in the application; and

WHEREAS, the Parks and Recreation Director is recommending the City apply for grant funding to acquire parcel #33-01-05-06-202-021, currently owned by Frederick L. and Lola M. Harmon, for park purposes; and

WHEREAS, the amounts and sources of the project funding are as follows:

Total Project Cost	$27,400
Amount Requested from the MNRTF (75% grant)	$20,500
Amount Requested from local sources (25%)	$6,900

WHEREAS, sufficient funds for the local match are currently available in the Park Acquisition and Development account; and

NOW, THEREFORE BE IT RESOLVED, the Lansing City Council approves the submission of the grant to the Michigan Natural Resources Trust Fund (MNRTF)

BE IT FINALLY RESOLVED the City of Lansing, Michigan, will accept the terms of the grant as received from the MNRTF

Approved for Placement on
City Council Agenda:

City Attorney
Date:

LANSING CITY COUNCIL

GRANT INFORMATION FORM

(Required for all grant applications and acceptances)

REFERRAL DATE:

GRANT NAME: FY17 Technology Innovation for Public Safety (TIPS) Grant

DEPARTMENT: Police

CONTACT PERSON (INCLUDE EMAIL AND PHONE): Denis Prisk 483-4808

APPLIICATION DATE September 2017 AWARD DATE: 1 October 2017

GRANT CYCLE: 2 years Check One: ___Annual XX One-Time

FUND AMOUNT: $343,050 (Breakdown below should total this amount)

GOODS & SERVICES	$ 343,050
PERSONNEL	
CONSTRUCTION	
LAND	
OTHER (Training)	

CITY MATCH (IF APPLICABLE): No Match

GRANT PAYS FOR: NC4 Street Smart Program for 2 year period.

FUND ALLOCATIONS (Please describe the purpose of the grant and allowable uses):

This program will directly assist road patrol Officers in sharing real time intelligence with each other as well as offering an information hub where intelligence can be shared between the department's patrol officers and the investigating detectives.

The NC4 Street Smart Program can facilitate the transfer of intel and media to allow responding officers to request information from other officers regarding an identity of a suspect thru use of real time electronic bulletins

BY THE COMMITTEE ON WAYS AND MEANS
RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING

WHEREAS, the Lansing Police Department (LPD) applied for a FY17 Technology Innovation for Public Safety (TIPS) Grant, a limited competition grant program that will provide funding to improve functioning of the criminal justice system; and

WHEREAS, the United States Department of Justice, Office of Civil Rights, has awarded $ 343,050 to the City of Lansing with no required “match”; and

WHEREAS, this award will pay for the purchase and management of the NC4 Street Smart Program for a 2 year period from implementation date. This program will directly assist road patrol Officers in sharing real time intelligence with each other as well as offering an information hub where intelligence can be shared between the department’s patrol officers and the investigating detectives. The NC4 Street Smart Program can facilitate the transfer of intel and media to allow responding officers to request information from other officers regarding an identity of a suspect thru use of real time electronic bulletins; and

NOW, THEREFORE, BE IT RESOLVED, that he Lansing City Council approves acceptance BJA FY17 Technology Innovation for Public Safety (TIPS) grant in the amount of $343,050 for the grant period beginning October 1, 2017 and ending September 30, 2019; and

BE IT FINALLY RESOLVED, that the Administration is authorized to create appropriate accounts and to make the necessary operating transfers for the expenditure and control of the balance of the grant funds.

Intentionally Left Blank

Andy Schor
Mayor

City Hall - 9th Floor
124 W. Michigan Avenue
Lansing, MI 48933-1694
PH: 517.483.4141 – FAX: 517.483.6066
Lansing.Mayor@lansingmi.gov

OFFICE OF THE MAYOR

CITY OF LANSING, MICHIGAN

TO: Ways and Means Committee

FROM: Andy Schor, Mayor

DATE: March 15, 2018

SUBJECT: Teamsters 580/243 retiree Healthcare

I have been asked by the Ways and Means Committee to look into how the City's Finance Department handles retirement healthcare for former employees of the Teamsters 580 (now 243) union.

More specifically, I am told that the committee's impetus for requesting my review has been its investigation into claims made by a retiree, Ms. Denise Estee, and union concerns expressed in support of these and similar retirees' claims. I understand that Ms. Estee has made a number of claims over a number of years regarding how her Teamster 580 benefits are determined for retiree healthcare coverage, including calculations and contributions of her retiree share of health insurance. I also understand that prior to my taking office, these matters have been the subject of extensive review by the City Attorney and that Mr. Smiertka has provided written responses to both this committee and Ms. Estee.

Finally, I understand that the committee's request is for my "fresh look" at the issues and to see if I am willing to reverse prior City administrative responses and actions on them.
In preparation for this review, I have been briefed by the Finance Director on the contents of the Teamsters 580 CBA's retiree healthcare provisions from 2003 to the present. I have also been provided and reviewed correspondence to Ms. Estee and the committee and have discussed the matter at length with the Finance Director and the City Attorney. I have also met with union officials to hear their thoughts and perspectives. Additionally, I have sought the counsel and advice of my new Chief Labor Negotiator, Nicholas Tate.

As I understand the claims of both Ms. Estee and the union, they are focused on the meaning and interpretation of the 2003-2007 Teamsters 580 collective bargaining agreement (CBA) with the City. At its most basic level, Ms. Estee believes she obtained a specific vested healthcare benefit when she retired in 2005 and that the benefit would be the same that she had as an employee immediately before she retired, including insurance coverage and premium costs. It is also her position that she would retain this benefit and it would continue unchanged for her lifetime.

While I know there is a lot of background and CBA history that Ms. Estee has brought up, the City Attorney has provided information, via the July 31, 2017 letter to the Ways and Means

Committee, that the current state of the law regarding CBA's requires that "[w]hen the language of the contract is clear and unambiguous, interpretation is limited to the actual words used, and an unambiguous contract must be enforced according to its terms." I concur with this legal principle, which tells us how we are to read the language in the CBA concerning retiree healthcare. It requires that if the language expresses an understanding clearly and unambiguously, then that expression is to control and my inquiry is to proceed no further. Although I do not have personal knowledge of the contract negotiation that took place in reaching the 2003-2007 CBA, under this legal contract principle, if the CBA language is clear, such unwritten background is legally inappropriate for me to investigate or consider.

The statement of what the retiree healthcare benefits are to be under the 2003-2007 CBA appears to be stated clearly and unambiguously on its face, that is, the language is clear to me that retirees' healthcare benefits are to be the same ones that active Teamsters 580 employees receive and, as such, will change for the retirees if and when they change for the active employees.

In addition to my determination that the healthcare benefits in the CBA for retirees is clear, I am advised by my Chief Labor Negotiator, that healthcare promises in CBA's have very recently been the subject of significant decisions at the federal court level. The recent court decisions involving the 6th federal circuit court of appeals, of which Michigan is a part, and includes one United States Supreme Court case, decided February 20, 2018. The two 6th Circuit US Court of Appeals cases were decided September 1, 2017 and March 8, 2018. Mr. Tate advises me that the common thread in these cases is that promised benefits in CBA's all terminate at the end of the CBA's general duration clause unless there is clear specific language that unequivocally states the benefit was vested or will last longer than the term of the CBA. This was also the conclusion found by all parties, including labor, by the state Responsible Retirement Reform for Local Government Task Force which I served on and issued recommendations last year. Mr. Tate indicated to me that such a clear statement that Ms. Estee's claimed benefit levels are fixed in the CBA and will survive the duration of the CBA is nonexistent. Because such vesting language is lacking, the duration clause of the Teamsters 580 2003-2007 CBA controls. By analogy, the duration clause would also extinguish any claims Ms. Estee makes to extend certain benefit levels beyond the term of the CBA. Mr. Tate also advises me that the unambiguous text of the CBA's prohibit any contract interpretation that relies on outside extrinsic evidence on which Ms. Estee relies to support her arguments.

While I understand the claims of Ms. Estee and other similar Teamsters 580 retirees, and know they are not made in bad faith, I am bound by the law presented to me and the clear statements of the City's obligation contained in the CBA's. Therefore, I consider the proper and responsible course of action for my administration is to follow the opinions of the Finance Director, City Attorney and Chief Labor Negotiator on these issues. I therefore, will not recommend a change in practice regarding Teamster 580 healthcare administration.

I wish to thank the committee for the opportunity to review this important matter.

Sincerely,

Andy Schor
Mayor

Andy Schor, Mayor

City of Lansing
Finance Department

TO: Andy Schor, Mayor

FROM: Angela Bennett, Finance Director AB

DATE: February 2, 2018

SUBJECT: Teamster 580/243 Retiree Healthcare Questions

For some time now, questions have been raised in the Ways and Means committee meetings regarding administration of retiree healthcare for employees that retired under Teamster 580 (now Teamster 243) collective bargaining agreements (CBAs), most prominently by Ms. Denise Estee. Ms. Estee filed claims with the City Attorney's Office, the claims were subsequently denied, and City Attorney Jim Smiertka provided an explanation of the claims denials to the Ways & Means Committee in a memo dated July 31, 2017. As we have discussed, the Ways and Means Committee is seeking a review and explanation of the events and Ms. Estee's ultimate claim denial. Per your request, this memo serves to provide background on this issue.

Article 8, Section 7H of the 2003-2007 Teamster 580 collective bargaining agreement (CBA) included the following relevant language regarding retiree healthcare (relevant language underlined for reference only):

> <u>Eligible retirees</u> and eligible members of the City's Defined Contribution Money Purchase Plan (DCMPP) <u>shall be covered by the same insurance as active bargaining unit members</u>; However, Blue Cross/Blue Shield Traditional healthcare insurance will remain available as an option to eligible retirees and eligible members of the DCMPP. <u>Any additional costs for Traditional coverage in excess of the base plan will be paid by the retiree</u>.

Ms. Estee retired in 2005, while 2003-2007 CBA was in place.

In 2010, when subsequent healthcare changes were ratified in the subsequent collective bargaining process, it was discovered that the above-referenced provision for retiree healthcare coverage to follow active employee coverage had, by oversight, not been implemented by the City. In light of that information, retirees who had retired after February 20, 2004 were notified that their healthcare would be changed to that of active employees, and the healthcare changes were subsequently made in May, 2010.

As explained in an August 19, 2010 letter to Ms. Estee (attached), it appears the February 20, 2004 date was chosen because February 20, 2004 "began [the City's] new [healthcare] plan year at that time and this was the first February 20th that occurred after ratification of the 2003-2007 agreement."

In addition to some healthcare plan changes, the Teamster 580 agreement ratified in 2010 also included language that capped retiree premium sharing to the lesser of one percent (1%) of a retiree's annual pension benefit or $200/$500/$650 annually and was later changed to the lesser of 1% or $125/$225/$325 in the 2013-2016 agreement and which remains in the 2016-2019 agreement. In Ways & Means meetings, Ms. Estee and others have asserted that all healthcare payments by retirees should be limited by the one-percent (1%) cap. It is important to note, however, that the CBA language is specific in the application of the one percent (1%) cap:

> "...a person who is receiving retirement healthcare, shall pay the same premium share as the active employees by deduction from his or her pension payment, except that the payment shall be capped at one percent [or the lesser of...]"

The 1% cap language does not apply to a retiree's voluntary election of a higher-benefit/more expensive plan, as indicated by the above-stated sentence from the 2003-2007 CBA and continued through the 2016-2019 CBA:

"Any additional costs for Traditional coverage in excess of the base plan will be paid by the retiree."

The concept is further supported by language in the active employee healthcare section:

> Employees may elect to "buy-up" to their choice of certain optional City group insurance plans by selecting and enrolling in the chosen optional plan and paying at the employee's own expense the difference between the optional plan premium cost and the corresponding Option 1 Plan (BCBSM or PHP) City premium cost.

Complicating the issue, from 2010 to 2015, the amounts being used to determine premium sharing and/or buy-up amounts to higher-benefit plans were based on retiree healthcare plan rates. In the course of legal review, then-City Attorney/Interim Human Resources Director Janene McIntyre issued an opinion dated March 18, 2015 that due to the provision that retirees "shall be covered by the same insurance as active bargaining unit members," retiree premium sharing and buy-up amounts should be the same amounts as those charged to active employee (i.e. based on active employee healthcare rates, rather than retiree healthcare rates). Accordingly, those rates were changed in April, 2015, and reimbursements for the difference of costs up to that point were issued to Ms. Estee and other affected Teamster 243 retirees in September, 2015. That refund was for the rate differential only, and had nothing to do with the "one percent cap" provision.

As noted above and explained by City Attorney Smiertka's July 31, 2017 memo, Ms. Estee's claims have been reviewed by the City Attorney's Office and have all been denied. I hope this memo serves to answer questions about the various provisions and timeline of events as they relate to this matter.

CITY OF LANSING
DEPARTMENT OF HUMAN RESOURCES

124 W. Michigan Ave
4th Floor, City Hall
Lansing, Michigan 48933

Benefits/Classifications
Labor Relations/Recruitment
Safety/Selection/Training
Worker's Compensation

(517) 483-4004 (Voice/TDD)
(517) 483-4490 (Jobs Hotline)
(517) 483-6064 (General Fax)
www.lansingmi.gov (Website)

Virg Bernero, Mayor

August 19, 2010

Denise Estee
2923 Greenbriar Avenue
Lansing, MI 48912

Re: Teamster Local 580 Clerical, Technical, Professional Unit (Retiree Healthcare Benefits)

Dear Ms. Estee,

This letter is in response to your correspondence dated April 14, 2010 regarding your Teamster Local 580 Clerical, Technical, Professional Unit retiree healthcare benefits. I apologize for the delay in responding to your inquiry and trust that this letter is responsive to you inquiry after researching the issue. In your correspondence, you inquire why February 20, 2004 was selected as the date to make effective the provision that retirees follow active employees with healthcare benefit changes.

We selected retirees on or after February 20, 2004 as the date to go back to because the 20th of the month of February began our new plan year at that time and this was the first February 20th that occurred after ratification of the 2003 - 2007 agreement. This same agreement provided that no changes would be made to current retirees until February 20, 2006. However, the changes were not made due to an oversight.

Subsequently, negotiations for the 2007 – 2012 agreement resulted in changed in healthcare benefits and the changes that had inadvertently not been made previously were made at that time. So, we made them during the implementation of the changes resulting from negotiation of the most recent contract ratified in January 2010. The changes were effective May 1, 2010 because that was the soonest BCBSM could make the changes effective. Simply put, we selected February 20, 2004 as the date to implement all of these changes to retiree benefits because it was logical to select that date since other changes were required as well.

Thank you for your inquiry. If you have further questions or require additional information, please do not hesitate to contact me directly at (517) 483-4016.

Sincerely,

Susan C. Graham

Susan C. Graham
Labor Relations Manager

Cc: Jerry Ambrose
Terri Singleton
Mark Colby
Lisa Thelen
file ✓

"Equal Opportunity Employer"

City of Lansing

OFFICE OF THE CITY ATTORNEY

James D. Smiertka, City Attorney

TO: Ways and Means Committee

FROM: James D. Smiertka

DATE: July 31, 2017

SUBJECT: Denise Estee Claims

I have been asked to provide a written response to this committee regarding a series of claims made by Denise Estee about her retirement healthcare insurance premium payments. As I understand Ms. Estee's claims, they all have a common thread. It is her belief that pursuant to the Union (Teamsters 580) 2003-2007 collective bargaining agreement (CBA or the Contract), which was in place when she retired in 2005, that she vested for unalterable healthcare benefits. She also claims that her insurance premium cost in place in 2005, were frozen at the level in place when she retired. To support her claims, Ms. Estee says the City/Employer must look to historical background outside the CBA promises in the 2003-2007 contract.

In evaluating Ms. Estee's claim, the starting point is the actual contract itself. If the CBA language is clear, it controls the interpretation. It is Michigan contract law that a party may only look beyond a contract expressed terms if it is ambiguous.

> A contract must be interpreted according to its plain and ordinary meaning. When the language of the contract is clear and unambiguous, interpretation is limited to the actual words used, and an unambiguous contract must be enforced according to its terms. *Ajax Paving Indus,* 289 Mich App at 644 (internal citations omitted). Therefore, "[w]here a contract is to be construed by its terms alone, it is the duty of the court to interpret it ..." *Klapp v United Ins Group Agency, Inc,* 468 Mich 459, 469; 663 NW2d 447 (2003) (internal quotation marks and citation omitted).

These principles of contract law also apply to the CBA. "The foundational principle of our contract jurisprudence is that parties must be able to rely on their agreements, which applies no less strongly to collective bargaining agreements." *Macomb Co v. AFSCME Council* 25, 494 Mich. 65, 80; 833 NW2d 225 (2013).

Here, there is nothing in the CBA language that is unclear. The CBA states unequivocally "eligible retirees.... Shall be covered by the same insurance as active bargaining unit members..." This CBA language starts and ends the discussion. Had the parties to the CBA intended a different meaning –

the meaning Ms. Estee asserts – they could have easily expressed this by limiting the quoted CBA statement. They could have added at the end of the statement qualifying text, such as "under this CBA" or "at the time this contract is ratified" or some similar text that established the limited meaning Ms. Estee wants to advance. However, this is not the case.

Simply put, the clear and unambiguous meaning of "eligible retirees ... shall be covered by the same insurance as active bargaining members" is that retirees are to receive what the active members of the union receive for healthcare. Because the active union members will receive healthcare under current CBAs, the retirees' health care will change from time to time to match the current benefit. For Ms. Estee, this reserves in the contract the ability to change the healthcare she is entitled to receive. There is nothing in the 2003-2007 CBA that says a specific level of healthcare will forever be vested.

Since the ratification of the 2003-2007 CBA, there has been much litigation concerning retirement healthcare provision in collective bargaining agreements. This has resulted in further clarification of the law in this area. The clarification started when the United States Supreme Court decided *M&G Polymers USA, LLC v Tackett,* 574 US __; 135 S CT 926; 190 L Ed 2d 809 (2015).

Since *Tackett,* both Michigan and Federal Courts have cited it and applied its legal principles. In the Michigan case of *Harper Woods Retirees Ass'n v Harper Woods,* 312 Mich App 500 (2015), the court provided a synoptic review of the state of Michigan law. Because it is instructive, *Harper Woods* is quoted here at length:

> In *M&G Polymers USA, LLC v Tackett,* 574 US __; 135 S Ct 926; 190 L Ed 2d, 809 (2015) the United States Supreme Court rejected the Sixth Circuit's decision in *UAW v Yard-Man, Inc.* 716 F2d 1476 (CA 6, 1983), which held that in the absence of contrary extrinsic evidence, courts should presume that retiree benefits provided in a CBA are guaranteed for the lifetime of any employee who retires under the CBA. The *Yard-Man* court "inferred that parties would not leave retiree benefits to the contingencies of future negotiations, and that retiree benefits generally last as long as the recipient remains a retiree ... [which] 'outweigh[ed] any contrary implications derived from a routine duration clause terminating the agreement generally.'" *Tackett,* 574 US at __, quoting *Yard-Man,* 716 F2d at 1482-1483 (second alteration in original). Thus, although the *Yard-Man* court recognized that "traditional rules of contractual interpretation require a clear manifestation of intent before conferring a benefit or obligation," the duration of the conferred benefit was not subject to this conventional restraint. *Tackett,* 574 US at __ (citation and quotation marks omitted).
>
> In *Tackett,* the Supreme Court overruled *Yard-Man,* holding that a presumption of lifetime vesting of retirement benefits violates traditional rules of contract interpretation. The Supreme Court explained that under traditional contract interpretation principles, courts should not construe ambiguous writing to create lifetime promises and that generally, "'contractual obligations will cease, in the ordinary course, upon termination of the bargaining agreement.'" *Tackett,* 574 US at __, quoting *Litton Fin Printing Div, Litton Business Sys, Inc v NLRB,* 501 US 190, 207; 111 S Ct 2215 L Ed 2d 177

> (1991). The Supreme Court noted that traditional contract principles do not "prelude the conclusion that the parties intended to vest lifetime benefits for retirees" because "a collective-bargaining agreement [may] provid[e] in explicit terms that certain benefits continue after the agreement's expiration." *Tackett,* 574 US at __, (citation and quotation marks omitted; alterations in original). However, "when a contract is silent as to the duration of retiree benefits, a court may not infer that the parties intended those benefits to vest for life." *Id.* at __. We conclude that the Supreme Court's reasoning in *Tackett* is consistent with Michigan's contract jurisprudence regarding CBAs, which applies with equal force in both the public and private sectors in this regard.

Also, recently the Michigan Supreme Court had the opportunity to review and adopt principles announced in *Tackett,* albeit in a case involving coordination of workers comp. benefits with disability pension benefits involving postretirement changes made because of collective bargaining. In *Arbuckle v Gen Motors, LLC,* 499 Mich 521 (2016), the court chose to quote from *Tackett* and apply as governing its decision the following:

> Indeed, basic principles of contract interpretation instruct that "courts should not construe ambiguous writings to create lifetime promises." For "when a contract is silent as to the duration of retiree benefits, a court may not infer that the parties intended those benefits to vest for life."

The court also included within the footnote to the last sentence above, the following about what it takes to "vest" benefits:

> See also *Bland v Fiatallis North America, Inc,* 401 F3d 779, 784 (CA 7, 2005) ("Upon vesting, benefits become forever unalterable, and because employers are not legally required to vest benefits, the intention to vest must be found in 'clear and express language' in plan documents."), citing *Inter-Modal Rail Employees Ass'n v Atchinson, T & SF R Co,* 520 US 510, 515; 117 S Ct 1513; 137 L Ed 2d 763 (1997); *Vallone v CNA Fin Corp,* 375 F3d 623, 632, (CA 7, 2004) (stating that "a modification that purports to vest welfare benefits must be contained in the plan documents and must be stated in clear and express language"); *Sengpiel v BF Goodrich Co,* 156 F3d 660, 667 (CA 6, 1998) (stating that the intent to vest must be found in the plan documents and stated in clear and express language); *UAW v Skinner Engine Co,* 188 F2d 130, 139 (CA 3, 1999) (stating that an employer's commitment to vest welfare-plan benefits must not be inferred lightly and must be stated in clear and express language).

The principles announced by the courts above are directly applicable to Ms. Estee's claims. She seeks to interpret the CBA as establishing a certain level of retirement healthcare to which she would be entitled for life. She does so without any clear statement to that effect in the CBA language. The CBA text says nothing about any level being "vested" nor does the document state such a benefit level in clear expressed language. Her interpretation cannot be inferred. In fact, the clear expression in the CBA provides exactly the opposite conclusion.

The plain language of the CBA provides that retirees under the 2003-2007 contract will have their healthcare benefit adjusted based upon active bargaining unit employees benefits. The level of healthcare for retirees becomes that which active bargaining members receive. The CBA language explicitly has left the retiree benefits to the contingencies of future union negations and CBAs. [1] Ms. Estee's CBA claims are, therefore, without merit and are denied.

More recently, Ms. Estee has raised a second claim. She feels she has vested right to retirement healthcare because of a personnel rules pamphlet she received in 1971. This claim also fails for a number of reasons.

First, Ms. Estee did not retire under these rules. She continued in the City's employment and became a member of a union before she retired; thereafter, any claim she may have made to a contract right before union membership was relinquished unless incorporated clearly into the CBA. Nothing in the CBA governing union contracts benefits grandfathered the previously mentioned healthcare. The CBA rights to healthcare are those in place when she retired. Ms. Estee's contract rights are thus limited to those in the CBA in effect at that time. What those rights actually were is the discussion of Ms. Estee's first claim above.

Second, we are not aware that there is anything in the 1971 pamphlet that says it was intended to establish employee contract rights in the benefits described for someone who did not retire at that time. It says nothing about the benefit described being "vested" or that the pamphlet forms a relationship, such as a "contract" or a "covenant." See *Studier v Michigan Public Sch Employees Retirement Bd,* 472 Mich 642, 663-664 (2005). The pamphlet was not intended to create a contract nor did it create any contract rights.

Ms. Estee also raises a third claim that in some way a 1969 resolution describing healthcare benefits could never be altered or changed.

For the reason that Ms. Estee's pamphlet argument fails, her contention that the 1969 resolution provides an unalterable benefit must also fail. In Michigan, there is a strong presumption that statutes do not create contractual rights. *Studier,* 472 Mich at 661. As such, "in order for a statute to form the basis of a contract, the statutory language must be plain and susceptible of no other reasonable construction than that the legislature intended to be bound to a contract." *Id.* at 662.

The aforesaid principle applies equally to ordinances as it does to statutes. But here, Ms. Estee does not even point to an ordinance. Her claim is based on a resolution, which by its very nature is for a short-term purpose and not intended to be lasting. *McKane v City of Lansing,* No. 96-2228, 1998 WL 25002 (6th Cir Jan. 14, 1998).

Neither the pamphlet nor the resolution form a contract that provides a right to retirement healthcare for Ms. Estee.

For the reasons provided in this memo, all Ms. Estee's claims are once and for all denied.

1. The legal contract principles in light of *Tackett* and its progeny also supports the conclusion that the continuing thread of CBA benefits was allowed to be broken by the Union. The 2003-2007 CBA was terminated by the Union and not extended. This resulted in healthcare benefits for retirees being further limited by new CBA provisions.

City of Lansing
Office of the City Attorney
James D. Smiertka, City Attorney

December 12, 2016

Denise A. Estee
2923 Greenbriar Ave.
Lansing, MI 48912

Re: Claim filed June 16, 2016 related to retiree health care premiums - $4,278.29 as of June 30, 2016

Dear Ms. Estee,

We have reviewed your claim referenced above related to retiree health care premiums being deducted from your monthly pension. Your claim indicates that you retired in August 2005 under a collective bargaining agreement with the term of February 1, 2003 to January 31, 2007. You state in your claim that [the] "City did not reserve the right to change my level of benefits or premium cost to me."

In response to your claim, this office has conducted a thorough review of this matter including material supplied by you, the pertinent collective bargaining agreement and related documents, interviews with appropriate personnel, and legal case decisions.

This review has led us to the conclusion that the language in the applicable collective bargaining agreement is to be construed according to its plain sense and meaning and the City has the right to adjust your benefits in the manner it has; thus, your claim is denied.

Lastly, please find enclosed a copy of the severance/separation agreement and release you signed upon your exit from City Service. This document bars the claim you are asserting.

Sincerely and Best Wishes,

J D Smiertka

James D. Smiertka
City Attorney

Enclosure