

**INTERGOVERNMENTAL AGREEMENT
TO RETAIN ENGINEERING SERVICES FOR
THE WILEY TO M-89 SECTION OF THE BLUE STAR TRAIL**

This INTERLOCAL AGREEMENT is entered into pursuant to Act 7 of PA 1967 (hereinafter defined), by and among Saugatuck Township, 3461 Blue Star Hwy. P.O. Box 100, Saugatuck, MI 49453 and the City of the Village of Douglas, PO Box 757, 86 W. Center St., Douglas MI 49406-0757 (the "Municipalities"), each of them a "public agency" as defined in Act 7.

RECITALS

WHEREAS, the Friends of the Blue Star Trail (FOTBST) is a 501(c)(3) non-profit organization incorporated in the State of Michigan for the charitable purpose of advocating for the development and continuance of the Blue Star Trail from South Haven to Saugatuck ("Trail"); and

WHEREAS the Urban Cooperation Act of 1967, Act No. 7 of the Public Acts of Michigan, 1967, Ex. Sess., MCL 124.501 et seq. ("Act 7"), permits a public agency to exercise jointly with any other public agency any power, privilege or authority which such public agencies share in common and which each might exercise separately; and

WHEREAS the Municipalities have supported the Trail and in 2019-20 each passed a Joint Resolution that reaffirmed their support for the Trail and for pursuing construction of the Trail through their territories (the "Project"), including creation of a Joint Tri-community Study Committee ("TCC"); and

WHEREAS the Municipalities desire to enter into an interlocal agreement, pursuant to Act 7, to jointly pursue the Project through the authority granted by Act 7.

WHEREAS each Municipality has the power, privilege and authority to perform various economic development and recreational activities and administrative functions supportive of economic development and recreational activities, and to enter into this Agreement.

WHEREAS the Municipalities have determined that it is necessary to retain the services of a professional engineering firm to advise it as to how best to proceed with the Project; and

WHEREAS the Municipalities have identified a number of qualified engineering firms, obtained proposals from two firms, selected two finalists, checked their references, conducted interviews of the firms, selected Prein&Newhof. ("PN"), and arranged for legal counsel to negotiate the form of a proposed contract with that firm; and

WHEREAS the FOTBST has agreed to pay the reasonable fees of PN related to engineering expenses of the Project; and

WHEREAS the Municipalities have agreed to pay the reasonable fees of PN related to applications to the Natural Resource Trust Fund and Transportation Alternative Programs; and

WHEREAS the Municipalities and the FOTBST desire to retain PN to begin working on the Project while they negotiate a broader interlocal agreement for the other aspects of the construction and maintenance of the Project; and

WHEREAS each Municipality, pursuant to resolution of its governing body, is authorized to execute and deliver this Agreement.

CORE TERMS

NOW, THEREFORE, the parties agree as follows:

1. The Municipalities will all execute the approved contract, attached as Exhibit A, at the next meeting of their respective governing body.
2. To minimize costs and the risk of miscommunication, the parties hereby designate Daniel DeFranco, Saugatuck Township Manager, as their liaison for the project (the "Project Liaison"). The Project Liaison shall be principal contact for the engineering firm. The Project Liaison shall provide regular status reports on the project to the Municipalities. Further, the Project Liaison shall consult with the Douglas City Manager before making any material decisions regarding the design of a trail segment located in that municipality.
3. Any changes in the scope of work to be provided by PN under this contract must be approved in writing by the Project Liaison, in consultation with the Douglas City Manager to the extent the affected portion of the trail is located in the City of Douglas. Further, each municipality is free to retain PN or another individual or entity to render additional services to it under a separate agreement.
4. The goal is for the Municipalities not to incur any expense for engineering fees under this contract (except for fees relating to grant applications), but rather for the FOTBST to pay such reasonable fees. To accomplish this goal:
 - a. PN will break down its work into appropriate phases.
 - b. Prior to beginning work on the next phase, PN will provide a not-to-exceed estimate of its fee to the Project Liaison and to the FOTBST.
 - c. The Project Liaison will authorize PN to commence work on the next phase absent an objection by a Municipality. Municipalities shall have 10 working days to object/challenge the scope of work/estimate prior to the start of each phase.
 - d. PN will issue monthly invoices according to the terms of its contract.
 - e. Upon approval by the Project Liaison and the FOTBST, the FOTBST will authorize the ACCF to pay the invoice from the FOTBST's account or from a new account to be set up dedicated to the Project.
 - f. Subject to the terms of the contract with PN, the Project Liaison, in consultation with the Municipalities, may determine to suspend or halt

the work of PN at any time.

MISCELLANEOUS

5. Entire Agreement. This Agreement sets forth the entire agreement between the Parties and supersedes any and all prior agreements or understandings between them in any way related to the subject matter hereof. It is further understood and agreed that the terms and conditions herein are contractual and are not a mere recital and that there are no other agreements, understandings, contracts, or representations between the Parties in any way related to the subject matter hereof, except as expressly stated herein.
6. No Presumption. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the Party causing this Agreement to be drafted.
7. Severability of Provisions. If any provision of this Agreement, or its application to any Person or circumstance, is invalid or unenforceable, the remainder of this Agreement and the application of that provision to other Persons or circumstances is not affected but will be enforced to the extent permitted by law.
8. Governing Law. This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan without regard to the doctrine of conflict of laws. The language of all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.
9. Captions. The captions, headings, and titles in this Agreement are intended for the convenience of the reader and not intended to have any substantive meaning and are not to be interpreted as part of this Agreement. They are solely for convenience of reference and do not affect this Agreement's interpretation.
10. Terminology. All terms and words used in this Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and any other gender as the context may require.
11. Cross-References. References in this Agreement to any Article include all Sections, subsections, and paragraphs in the Article; references in this Agreement to any Section include all subsections and paragraphs in the Section.
12. Jurisdiction and Venue. All claims, disputes, and other matters in question between the parties arising out of or relating to this Agreement or breach thereof first shall be submitted for nonbinding mediation to any one of the following, as agreed to by the parties: American Arbitration Association, American Intermediation Service, Americord, Dispute Resolution, Inc., Endispute, or Judicate. Any party hereto may initiate mediation within the time allowed for filing per State law and the parties hereto agree to fully cooperate and participate in good faith to resolve dispute(s). The cost of mediation shall be shared equally by the parties involved. If medication fails to resolve the claim or dispute, the matter shall be submitted to a court of competent jurisdiction.

13. Amendment. The Agreement may be amended or an alternative form of the Agreement adopted only upon written agreement of all Parties. In the event that an amendment to this Agreement or alternative form of Agreement is approved by less than all Parties, any Party which has not approved of the amendment or alternative form of Agreement may withdraw from the Agreement.

14. Execution of Agreement; Counterparts. Each Party shall duly execute three (3) counterparts of this Agreement, each of which (taken together) is an original but all of which constitute one instrument.

IN WITNESS WHEREOF, this Agreement is executed by each Party on the date hereafter set forth.

CITY OF THE VILLAGE OF DOUGLAS

WITNESS:

BY:

Its: _____

BY:

Its: _____

DATE: _____

SAUGATUCK TOWNSHIP

WITNESS:

BY:

Its: _____

BY:

Its: _____

DATE: _____