

OWOSSO CITY COUNCIL

JANUARY 3, 2012

7:30 P.M.

- PRESIDING OFFICER:** MAYOR BENJAMIN R. FREDERICK
- OPENING PRAYER:** PASTOR RAY STRAWSER
MEMORIAL HEALTHCARE HOSPICE CHAPLAIN
- PLEDGE OF ALLEGIANCE:** HEATHER RIVARD
YALE CLASS OF 2011
- PRESENT:** Mayor Benjamin R. Frederick, Mayor Pro-Tem Cindy S. Popovitch, Councilpersons Loreen F. Bailey, Thomas B. Cook, Michael J. Erfourth, Christopher T. Eveleth and Burton D. Fox.
- ABSENT:** None.

APPROVE AGENDA

Motion by Councilperson Eveleth to approve the agenda, moving Consent Item 2. Resolution Authorizing the Execution of An Agreement for Professional Engineering Services with ERES International, Inc. d/b/a Engineering and Research International to Item of Business 2.

Motion supported by Councilperson Cook and concurred in by unanimous vote.

APPROVAL OF THE MINUTES OF REGULAR MEETING OF DECEMBER 19, 2011

Motion by Councilperson Cook to approve the Minutes of the Regular Meeting of December 19, 2011 as presented.

Motion supported by Councilperson Fox and concurred in by unanimous vote.

SPECIAL PRESENTATIONS

None.

PUBLIC HEARINGS

SPECIAL ASSESSMENT DISTRICT NO. 2011-01-HAZARDS AND NUISANCES

The public hearing was conducted to receive citizen comment regarding Resolution No. 2 for Special Assessment District No. 2011-01, Hazards and Nuisances as it relates to unpaid costs incurred by the city in altering, repairing, tearing down, abating or removing of hazards and nuisances.

The following person commented:

James Gutting, via email, disputed the charges against his property saying he was not the owner of the property at the time the charges were incurred.

Motion by Councilperson Fox to adopt Special Assessment Resolution No. 2 as follows:

RESOLUTION NO. 01-2012

WHEREAS, the City Council has met, after due and legal notice, and reviewed the Special Assessment Roll-Hazards and Nuisances prepared for the purpose of defraying the unpaid costs incurred in the altering, repairing, tearing down, abating or removing of hazards and nuisances of the following described property:

<u>PARCEL NUMBER</u>	<u>TYPE OF NUISANCE</u>	<u>BALANCE</u>
050-602-008-015-00	CLEAR ICE/SNOW	103.52
050-580-000-140-00	CLEAR ICE/SNOW	509.23
050-391-000-015-00	CLEAR ICE/SNOW	103.52
050-470-009-002-00	CLEAR ICE/SNOW	147.03
050-652-007-003-00	CLEAR ICE/SNOW	208.60
050-194-000-011-00	CLEAR ICE/SNOW	124.18
050-602-007-005-00	CLEAR ICE/SNOW	105.08
050-580-000-140-00	MOW TALL GRASS/WEEDS	577.81
050-602-014-008-00	MOW TALL GRASS/WEEDS	551.86
050-622-002-009-00	MOW TALL GRASS/WEEDS	614.91
050-690-006-002-00	MOW TALL GRASS/WEEDS	621.89
050-120-001-010-00	MOW TALL GRASS/WEEDS	219.67

<u>PARCEL NUMBER</u>	<u>TYPE OF NUISANCE</u>	<u>BALANCE</u>
050-390-004-012-00	MOW TALL GRASS/WEEDS	940.68
050-113-016-006-00	MOW TALL GRASS/WEEDS	122.27
050-113-016-008-00	MOW TALL GRASS/WEEDS	252.27
050-652-007-003-00	MOW TALL GRASS/WEEDS	225.11
050-601-000-002-00	MOW TALL GRASS/WEEDS	137.57
050-220-000-044-00	MOW TALL GRASS/WEEDS	485.11
050-720-000-008-00	MOW TALL GRASS/WEEDS	140.96
050-113-011-003-00	MOW TALL GRASS/WEEDS	271.71
050-111-001-030-00	MOW TALL GRASS/WEEDS	185.78
050-651-006-019-00	MOW TALL GRASS/WEEDS	131.34
050-060-001-004-00	MOW TALL GRASS/WEEDS	312.58
050-114-006-009-00	MOW TALL GRASS/WEEDS	544.18
050-420-007-009-00	MOW TALL GRASS/WEEDS	140.96
050-420-005-003-00	MOW TALL GRASS/WEEDS	140.96
050-111-005-008-00	MOW TALL GRASS/WEEDS	118.22
050-170-004-008-00	MOW TALL GRASS/WEEDS	325.78
050-130-000-023-00	MOW TALL GRASS/WEEDS	130.00
050-420-005-016-00	MOW TALL GRASS/WEEDS	130.00
050-602-004-013-00	MOW TALL GRASS/WEEDS	130.00
050-602-029-014-00	MOW TALL GRASS/WEEDS	140.00
050-580-000-007-00	MOW TALL GRASS/WEEDS	130.00
050-602-008-018-00	MOW TALL GRASS/WEEDS	420.00
050-470-009-005-00	MOW TALL GRASS/WEEDS	130.00
050-420-010-020-00	MOW TALL GRASS/WEEDS	260.00
050-580-000-007-00	MOW TALL GRASS/WEEDS	130.00
050-060-008-002-00	MOW TALL GRASS/WEEDS	130.00
050-450-000-021-00	MOW TALL GRASS/WEEDS	160.00
050-010-023-001-00	MOW TALL GRASS/WEEDS	140.00
050-010-023-002-00	MOW TALL GRASS/WEEDS	130.00
050-010-023-004-00	MOW TALL GRASS/WEEDS	130.00
050-220-000-040-00	MOW TALL GRASS/WEEDS	130.00
050-010-023-001-00	PROPERTY CLEAN UP	430.49
050-420-011-011-00	PROPERTY CLEAN UP	598.46
050-090-002-016-00	PROPERTY CLEAN UP	296.36
050-470-021-015-00	PROPERTY CLEAN UP	131.78
050-420-010-020-00	PROPERTY CLEAN UP	622.95
050-113-016-006-00	PROPERTY CLEAN UP	355.78
050-113-010-004-00	PROPERTY CLEAN UP	944.67
050-602-008-012-00	PROPERTY CLEAN UP	222.00
050-060-009-008-00	PROPERTY CLEAN UP	168.94
050-390-001-006-00	PROPERTY CLEAN UP	544.44
050-170-004-008-00	TEMP FENCE/POOL	92.54
		15,191.19

Motion supported by Councilperson Cook.

Roll Call Vote.

AYES: Councilpersons Eveleth, Cook, Erfourth, Mayor Pro-Tem Popovitch, Bailey, Fox and Mayor Frederick.

NAYS: None.

VOLUNTARY SPECIAL ASSESSMENT DISTRICT NO. 2012-01–HAZARDS AND NUISANCES

A public hearing was conducted to receive citizen comment regarding Resolution No. 3 for Voluntary Special Assessment District No. 2012-01, Hazards and Nuisances, as it relates to unpaid costs incurred in the altering, repairing, tearing down, abating or removing of hazards and nuisances located at 117 South Shiawassee Street. The property owner consented to the \$7,759.60 assessment and was notified of the hearing.

There were no citizen comments.

Motion by Councilperson Eveleth to adopt Special Assessment Resolution No. 2 as follows:

RESOLUTION NO. 02-2012

WHEREAS, the City Council has met, after due and legal notice, and reviewed the Special Assessment Roll-Hazards and Nuisances prepared for the purpose of defraying the unpaid costs incurred in the altering, repairing, tearing down, abating or removing of hazards and nuisances of the following described property:

<u>PARCEL NUMBER</u>	<u>TYPE OF NUISANCE</u>	<u>BALANCE</u>
050-700-001-013-00	DEMOLITION	\$7,759.60

Motion supported by Councilperson Bailey.

Roll Call Vote.

AYES: Councilpersons Bailey, Fox, Erfourth, Eveleth, Cook, Mayor Pro-Tem Popovitch and Mayor Frederick.

NAYS: None.

CITIZEN COMMENTS AND QUESTIONS

Jerry Meyer, representing the Shiawassee Homebuilders Association, expressed his concern with the recently enacted ordinance requiring the registration and inspection of vacant and abandoned homes. He said he felt the ordinance had unintended consequences that were costing sales. He asked that Council consider making changes to the ordinance that would allow it to meet their intent while removing the negative consequences.

Jeff McIntyre, president of the Shiawassee Association of Realtors, said he understood the intent of the ordinance but felt there were unintended consequences that were harming real estate sales. He asked that Council consider speaking with local realtors and lenders to gain insight into the situation.

Jane Settingington, Shiawassee Association of Realtors member, said she felt the ordinance was enacted without thinking it through. She felt that a detailed implementation process should have been developed prior to enactment.

Roger Snyder, local realtor, said he felt the new ordinance would cause owners on the edge of losing their homes to walk away. He felt the ordinance was not needed and would drive away property investors.

Eddie Urban, 601 Glenwood Avenue, announced a \$100 donation for the restoration of the fire truck memorial from the local Disabled American Veterans chapter.

City Manager Crawford attempted to dispel some of the misconceptions about the new vacant/abandoned property registration ordinance saying it targets vacant and abandoned homes and not specifically foreclosed homes. The intent is to try to ensure the City has contact information for each property so the property does not fall into disrepair while empty and does not leave the City responsible for such maintenance. He said he felt the fear of the inspection portion of the ordinance was unnecessary, that it was simply to ensure buyers were aware of what they were purchasing.

Councilperson Erfourth noted that the Council and the realtors share the goal of improving the housing stock in the City. He suggested a meeting to discuss just how the City's ordinance dovetails with current federal programs and regulations regarding house sales.

Council asked that staff organize a meeting with the representatives present today to discuss potential changes to the ordinance that would remove its unintended negative consequences.

CITY MANAGER REPORT

City Manager Crawford detailed the project status report.

Mayor Frederick indicated the Council needed to determine whether they would appoint a staff member or a Council member to represent the City on the Aerotropolis board.

There was a lengthy discussion regarding progress on the wayfinding system, next steps, funding sources and the leadership of the project. Council asked for a breakdown of costs for the proposed system and a list of potential funding sources.

There was further discussion regarding the implementation of a new community policing program, code enforcement standards, and progress on the BMX track.

CONSENT AGENDA

Motion by Councilperson Eveleth to approve the Consent Agenda as follows:

Resolution Amending Resolution No. 175-2011 Adopting Parks and Recreation Plan. Consider approving the amendment changing the wording in Resolution No. 175-2011, originally adopted November 21, 2011, to reference the plan as a "new" plan and not as an "amended" plan as follows:

**AMENDED
RESOLUTION NO. 175-2011**

**RESOLUTION AMENDING RESOLUTION NO. 175-2011
ADOPTING PARKS AND RECREATION PLAN**

WHEREAS, the City of Owosso must review its parks and recreation plan every five years in accordance with parts 19, 703 and 716 of Act 451, P.A. 1994 of the State of Michigan, as amended; and

WHEREAS, the city council has appointed a parks and recreation commission to oversee the plan; and

WHEREAS, the parks and recreation commission reviewed the 2006 plan this summer by holding workshops and meetings on August 22, September 13 and September 26 in order to get public participation and input for a potential update; and

WHEREAS, updates and amendments to the plan were made in accordance with public, commissioner, and staff input; and

WHEREAS, the plan was approved by the Owosso parks and recreation commission for distribution and review by the city council on September 26, 2011; and

WHEREAS, a public hearing is required by the Owosso city council to be held no less than 30 days after distribution in accordance with the above statute and DNR guidelines in order to validate the plan and where this hearing was held on November 21, 2011.

BE IT RESOLVED THAT City of Owosso City Council, County of Shiawassee, State of Michigan, hereby approves the **new** 2011 Owosso Parks and Recreation Plan.

BE IT FURTHER RESOLVED THAT the council hereby directs staff to distribute the plan to the plan to the city clerk's office, the County of Shiawassee Planning Commission, the City of Corunna, the Region V Planning Commission, Caledonia Charter Township, Owosso Charter Township, SATA, and the city website.

Resolution Authorizing Payment to Motorola Solutions, Inc. for an In-car Police Computer.
Consider approving the resolution authorizing payment to Motorola Solutions, Inc. in the amount of \$6,159.00 for the previously authorized purchase of one in-car police computer as follows:

RESOLUTION NO. 03-2012

**RESOLUTION AUTHORIZING PAYMENT TO MOTOROLA SOLUTIONS, INC.
FOR AN IN-CAR POLICE COMPUTER**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, has a police department requiring the use of in car police computers; and

WHEREAS, the city council on August 1, 2011 awarded a bid in the amount of \$6,159.00 to Blumerich Communications for one Motorola in-car police computer; and

WHEREAS, the City has been invoiced for this purchase directly from Motorola Solutions, Inc.;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Owosso, Shiawassee County, Michigan that:

- FIRST: Payment be authorized to Motorola Solutions, Inc. in the amount of \$6,159.00.
- SECOND: The above expenses shall be paid from the Police Division Capital Outlay fund 101-300-978.000.

Warrant No. 434. Accept Warrant No. 434 as follows:

Vendor	Description	Fund	Amount
Michigan Municipal Risk Management Authority	Building and Property Insurance-3 rd Installment	General	\$69,107.00

Motion supported by Councilperson Cook.

Roll Call Vote.

AYES: Councilpersons Erfourth, Cook, Eveleth, Bailey, Mayor Pro-Tem Popovitch, Councilperson Fox and Mayor Frederick.

NAYS: None.

ITEMS OF BUSINESS

RESOLUTION ACCEPTING AND PLACING ON FILE THE CITY OF OWOSSO, MICHIGAN FINANCIAL REPORT WITH ADDITIONAL INFORMATION FOR THE FISCAL YEAR ENDED JUNE 30, 2011

This item was postponed from the meeting of December 19, 2011 because the document presented was marked draft. The final draft of the audit report was distributed to Council.

Motion by Councilperson Eveleth to authorize the resolution accepting the *City of Owosso, Michigan Financial Report with Additional Information for the Fiscal Year Ended June 30, 2011*, commonly called the audit, prepared by Rehmann Accounting LLC as follows:

RESOLUTION NO. 04-2012

**RESOLUTION ACCEPTING AND PLACING ON FILE
THE CITY OF OWOSSO, MICHIGAN FINANCIAL REPORT
WITH ADDITIONAL INFORMATION
FOR THE FISCAL YEAR ENDED JUNE 30, 2011**

WHEREAS, the city of Owosso is required by the laws of the state of Michigan to annually have an independent audit performed in accordance with generally accepted auditing standards, and

WHEREAS, the city of Owosso employed of Rehmann Accounting LLC certified public accountants, to audit the financial records of the city of Owosso and such audit has been completed and is presented this date to the city council;

NOW THEREFORE BE IT RESOLVED by the city council of the city of Owosso, Shiawassee County, Michigan that:

FIRST: The *City of Owosso, Michigan Financial Report with Additional Information for the Fiscal Year Ended June 30, 2011*, attached hereto and made a part hereof as Exhibit A and the same is hereby accepted and placed on file.

SECOND: A copy of the *City of Owosso, Michigan Financial Report with Additional Information for the Fiscal Year Ended June 30, 2011* will be maintained on file in the office of the city clerk for public examination, a copy will be placed in the Shiawassee District Library Owosso Branch for public examination, and copies will be sent to those required by law and agreement.

Motion supported by Mayor Pro-Tem Popovitch.

Roll Call Vote.

AYES: Councilperson Eveleth, Mayor Pro-Tem Popovitch, Councilpersons Cook, Bailey, Fox, Erfourth and Mayor Frederick.

NAYS: None.

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES WITH ERES INTERNATIONAL, INC. D/B/A ENGINEERING AND RESEARCH INTERNATIONAL

City Manager Crawford explained the services that would be provided and how the information that would be gathered could be used for the benefit of the City, saying the technology that would be employed would enable a scan of all city streets to get a better idea as to their condition and to plan reconstruction projects using a more scientific approach. Further, he explained the information would be placed into a database for future reference.

Motion by Councilperson Fox to authorize the resolution approving a contract with ERES International, Inc. for engineering services, including an automated pavement condition survey and the development of a pavement management system, in an amount not to exceed \$50,000.00 for the work specified in the agreement, noting changes to the contract amending paragraph A of Exhibit A to require the company have insurance valid in the State of Michigan, as well as amending the Project Scope of Work to indicate all work must be completed by June 30, 2012, and finally paragraph 1.2.10 should indicate the City will hold the Engineer harmless for any claims, damages and expenses that are attributable to the City, as follows:

RESOLUTION NO. 05-2012

**RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT
FOR PROFESSIONAL ENGINEERING SERVICES
WITH ERES INTERNATIONAL, INC. D/B/A ENGINEERING AND RESEARCH
INTERNATIONAL**

WHEREAS, the city of Owosso, Michigan, has determined that it is advisable, necessary and in

the public interest to provide professional engineering services in connection with a pavement management evaluation and pavement management system; and

WHEREAS, it is necessary to obtain professional engineering assistance and it is hereby determined that the firm of ERES International, Inc. d/b/a Engineering and Research International is qualified to provide such services;

NOW THEREFORE BE IT RESOLVED by the city of Owosso, county of Shiawassee, state of Michigan:

- FIRST: that the city of Owosso has heretofore determined that it is advisable, necessary and in the public interest to employ the firm of ERES International, Inc. d/b/a Engineering and Research International to provide professional engineering services for a pavement management evaluation and pavement management system;
- SECOND: that the city manager of the city of Owosso is hereby instructed and authorized to sign the document attached as Exhibit A, Agreement for Professional Engineering Services with ERES International, Inc. d/b/a Engineering and Research International, Inc., on behalf of the city of Owosso; and
- THIRD: that the payment for the services shall come from the Street Improvement Bond Fund in an amount to not exceed \$50,000.

**EXHIBIT A TO RESOLUTION NO. 05-2012
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES WITH
ERES INTERNATIONAL, INC. D/B/A
ENGINEERING AND RESEARCH INTERNATIONAL, INC.**

THIS IS AN AGREEMENT made on January 3, 2012 between the city of Owosso, hereinafter referred to as the "owner," and ERES International, Inc. d/b/a Engineering and Research International, Inc. with its principal place of business in Savoy, Illinois, hereinafter referred to as the "engineer."

WHEREAS, the owner intends to accomplish a pavement management evaluation and pavement management system project, hereinafter referred to as the "project"; and

WHEREAS, the engineer has the necessary personnel and facilities to provide the professional services described; and

WHEREAS, the engineer desires to contract with the owner for rendering professional services for the project;

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the owner and the engineer do hereby covenant and agree as follows:

SECTION I - DESCRIPTION OF SERVICES

1.1 General

1.1.1 The engineer agrees to provide all professional services within a reasonable period of time following the date of authorization to proceed by the owner. A detailed description of services will be specifically set forth by addenda to this agreement.

1.2 Pertaining to the Engineer's Services

1.2.1 The engineer agrees to perform all services in a thorough and professional manner and to hold the owner harmless from any liens for materials and labor furnished by the engineer in connection with the engineer's work.

1.2.2 The engineer agrees to maintain insurance as specified in EXHIBIT A -- INSURANCE COVERAGES.

1.2.3 The engineer intends to render services under this agreement in accordance with generally accepted professional practices for the intended use of the project and makes no warranty either express or implied.

1.2.4 The engineer reserves the right to enter into agreements with other design professionals for portions of the work included under this agreement. Where this subagreement would represent a major portion of the design work, the engineer shall receive approval of the owner for this subagreement.

1.2.5 All documents, including drawings and specifications, furnished by the engineer pursuant to this agreement are the instruments of the engineer's services in respect to the project. The

engineer grants to the owner a nonexclusive license for the owner's use of the documents on the project. They are not intended or represented to be suitable for reuse by others on extensions of the project or on any other project. Any reuse without the specific written verification or adaptation by the engineer will be at the owner's sole risk, and without liability or legal exposure to the engineer from all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting therefrom.

1.2.6 All work product shall become the product of the owner and shall not be made available to any third party by the engineer without the consent of the owner. The engineer shall provide copies of all work product in printed format and computerized format.

1.2.7 Original documents, notes and the like, except those furnished to the engineer by the owner, represent the engineer's cumulative knowledge and are, and shall remain, the property of the engineer and shall not constitute the work product of this agreement. The owner shall have access to these materials and the engineer shall provide a copy upon written request at cost for reproduction.

1.2.8 Whenever the owner elects to enter into any contract or agreement with any person or entity other than the engineer for the performance of services on the project, the engineer will not be responsible for the acts or omissions of said persons or entity at the site or otherwise performing such services. This includes those parties for whom the engineer is providing coordination. Neither the engineer's authority to act under the contract documents or under this agreement, nor any decision made by the engineer in good faith either to exercise or not exercise such authority, shall give rise to any duty or responsibility of the engineer to the above, or any of their agents, or employees, or any other person performing any services for the owner.

1.2.9 The engineer has not been retained or compensated to provide design and construction review services relating to safety precautions, or to means, methods, techniques, sequences, or procedures, all as may be required for any person or entity other than the engineer to perform their work, including but not limited to shoring, scaffolding, underpinning, temporary retainment of excavations, and any erection methods or temporary bracing methods.

1.2.10 The engineer in no way undertakes to be responsible for any personal injury or property damage occurring to any person or entity arising out of the construction or subsequent operation of this project by any person or entity unless same shall be found to be the result of a design error. If any claims shall be brought against the engineer of that nature, the owner agrees to defend, indemnify and hold harmless the engineer from all claims, damages and expenses including attorneys' fees arising out of any claims, damages and expenses that are the result or attributable to the acts or omissions in whole or in part of the owner.

In spite of this, if any claims shall be brought against the engineer of that nature, the owner agrees to defend, indemnify and hold harmless the engineer from all claims, damages and expenses including attorneys' fees arising out of such claim, which claim, damages and expenses are the result or attributable to the acts or omissions in whole or in part of any person or entity other than the engineer.

1.2.11 The engineer and the owner hereby agree that the engineer services under this contract do not include the investigation, detection, abatement, materials, or processes containing asbestos. All responsibility with asbestos detection and abatement shall remain with the owner.

The engineer and the owner also agree that the engineer's services under this contract do not include responsibility for mine subsidence, ground water contamination or legal proceedings related to loss of real estate values.

1.3 Pertaining to the Owner

1.3.1 The owner shall provide at the owner's expense (unless the engineer has specifically included them in addenda to this agreement), and in such manner that the engineer may rely upon them in the performance of services under this agreement, all criteria, design, and construction standards including full information as to the owner's requirements for the project insofar as such documents are available to the owner, or in the owner's possession. Such information may include but not be limited to:

- a. a complete survey of the project site, which shall include but not be limited to easements, rights-of-way, encroachments, zoning and deed restrictions, existing buildings and improvements, roads and streets;
- b. soils data, laboratory tests, reports and inspections of samples, materials or other items, with appropriate professional interpretations;
- c. legal, accounting, financial and insurance counseling services necessary for the project, including legal review of the construction contract documents; and
- d. permits and approvals from any authorities having jurisdiction over the project.

1.3.2 The owner shall designate a person authorized to act as the owner's representative. The owner or the owner's representative shall receive and examine documents submitted by the engineer, and shall be empowered to interpret and define the owner's policies and render decisions and authorizations in writing promptly to prevent unreasonable delay in the progress of the engineer's services.

1.3.3 The owner shall guarantee full and free access for the engineer to enter upon all property required for the performance of the engineer's services under this agreement.

1.3.4 The owner shall give prompt written notice to the engineer whenever the owner observes or otherwise becomes aware of any defect in the project or other event which may substantially affect the engineer's performance of services under this agreement.

SECTION II - COMPENSATION FOR SERVICES

2.1 General

2.1.1 The owner shall compensate the engineer for services rendered under this agreement. The method of compensation for said services shall be as set forth in addenda to this agreement.

2.1.2 Payments for services are due 30 days after their invoiced date, based on actual engineering services furnished, unless another schedule of payments is agreed upon by addenda.

2.1.3 Where the owner disputes some portion of the charges contained in the engineer's bill for services, it shall make payment of that portion of the bill which is undisputed and shall notify the engineer in writing of the reason for the dispute. In no case may the owner elect to withhold payment to the engineer of the entire amount due. This would constitute a failure to make payment.

3.1 General

3.1.1 This agreement is the result of final negotiations between the owner and the engineer and represents the entire and integrated agreement between the owner and the engineer for the project and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written instrument signed by both the owner and the engineer.

3.1.2 Neither party shall hold the other responsible for damages or delay in performance by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's agents. However, when these delays require additional work to be performed by the engineer, the engineer shall be entitled to additional compensation at the prevailing per diem rates or as otherwise agreed to between the owner and the engineer.

3.1.3 This agreement may be terminated by either party if the other party substantially fails to fulfill its obligations under this agreement through no fault of the terminating party. No such termination may be effected unless the other party is given not less than ten (10) calendar days written notice of intent to terminate and an opportunity for correcting the default, and for consultation with the terminating party before termination. In addition, the owner may terminate this agreement, in whole or in part, for cause (such as for legal or financial reasons, or major changes in the work or program requirements), and the engineer is given not less than ten (10) calendar days written notice and an opportunity for consultation before termination. If the owner terminates as a result of the engineer's default, any payment due the engineer at the time of termination may be adjusted to the extent of any additional cost the owner incurs due to the engineer's default. If the engineer terminates as a result of the owner's default or the owner terminates for cause, the engineer shall be paid for services performed to the termination date, including reimbursable expenses due. Upon receipt of the terminating action, the engineer shall promptly discontinue all services unless the notice directs otherwise, and upon receipt of final compensation make available to the owner all appropriate documents prepared under the agreement, whether completed or in process.

3.1.4 Unless otherwise specified within this agreement, this agreement shall be governed by the laws the state of Michigan.

3.1.5 In the event any provisions of this agreement or any subsequent Addendum shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

EXHIBIT A INSURANCE COVERAGES

A. The engineer shall purchase from and maintain in a company or companies lawfully authorized to do business in the state of Michigan such insurance as will protect the owner, its officers,

directors, employees, agents, consultants, and volunteers from claims involving the engineer's contractual obligations under this agreement including, but not limited to, the following hold-harmless agreement:

The engineer herein agrees to indemnify, defend and hold harmless the owner, its officers, directors, employees, agents, consultants and volunteers from all losses, claims, liabilities, injuries, damages and expenses, including attorneys' fees, that the owner, its officers, directors, employees, agents, consultants and volunteers may incur by reason of any injury or damage sustained to any person or property (including loss of use) arising out of or occurring in connection with the negligent performance by the engineer of engineer's duties and obligations.

B. The engineer shall obtain and maintain, at the engineer's own expense, engineer's professional liability insurance in the amount of one million dollars (\$1,000,000.00) (including a broad form contractual liability coverage with all coverage retroactive to the earlier date of this agreement or the commencement of the engineer's services in relation to the project) covering personal injury, bodily injury and property damages, said coverage to be maintained for three (3) years after the date of final payment hereunder.

C. The engineer shall maintain at the engineer's own expense comprehensive general liability insurance (including broad-form contractual liability and completed operations, explosions, collapse and underground hazards) in the amount of one million dollars (\$1,000,000.00) covering personal injury, bodily injury and property damage.

D. The engineer shall maintain at the engineer's own expense comprehensive automobile liability insurance, including hired and non-owned vehicles, if any, in the amount of one million dollars (\$1,000,000.00) covering personal injury, bodily injury and property damage.

E. The engineer shall maintain at the engineer's own expense workers' compensation insurance in the amount of the statutory maximum with an employer's liability coverage of at least five hundred thousand dollars (\$500,000.00).

F. The owner and its officers and employees shall be named as additional insured on the engineer's comprehensive general liability and automobile insurance policies.

G. A11 insurance required by the engineer shall be maintained at the engineer's own expense, from a company or companies lawfully authorized to do business in Illinois and rated at least A by Best's Key Rating Guide. All insurance obtained by the engineer shall incorporate a provision requiring the giving of written notice to the owner at least thirty (30) days prior to the cancellation, renewal or material modification of any such policies by return receipt of United States certified mail. All insurance required by the engineer shall also state that the coverage afforded under the policy or policies shall be primary insurance. Any insurance carried independently by the owner shall be secondary insurance which operates on only an excess or contingent basis.

H. All insurance required of the engineer shall provide that any failure to comply with reporting provisions of the policy shall not affect coverage provided to the owner, its directors, officials, employees, agents, consultants or volunteers.

I. The engineer shall submit valid certificates in form and substance satisfactory to the owner evidencing the effectiveness of the foregoing insurance policies and the required amendatory requirements to each such policy to the owner for the owner's approval before the engineer commences the rendition of any services hereunder.

J. Under no circumstances shall the owner be deemed to have waived any of the insurance requirements of this contract by any action or omission, including but not limited to:

- (1) allowing any work to commence by the engineer before receipt of certificates of insurance;
- (2) failing to review any certificates of insurance received from the engineer; or
- (3) failing to advise the engineer that any certificate of insurance fails to contain all the required insurance provisions, or is otherwise deficient in any manner.

The engineer agrees that the obligation to provide the insurance required by these documents is solely the engineer's responsibility and that this is a requirement which cannot be waived by any conduct, action, inaction or omission by the owner.

K. Nothing contained in this contract is to be construed as limiting the liability of the engineer. The owner does not, in any way, represent that the coverages or limits of insurance specified is sufficient or adequate in each addendum for specific projects to protect the owner, or the engineer, but are merely minimums. The obligations of the engineer to purchase insurance shall not, in any way, limit its obligations to the owner in the event that the owner should suffer an injury or loss in excess of the amount recoverable through insurance, or any loss or portion of a loss which is not covered by the engineer's insurance.

L. In the event the engineer fails to furnish and maintain the insurance required by this contract, the owner may purchase such insurance on behalf of the engineer, and the engineer shall pay

the cost thereof to the owner upon demand or shall have such cost deducted from any payments due the engineer. The engineer agrees to furnish to the owner the information needed to obtain such insurance.

**ADDENDUM 1
TO AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES WITH
ERES INTERNATIONAL, INC. D/B/A
ENGINEERING AND RESEARCH INTERNATIONAL, INC.**

This addendum is attached and made part of the agreement for professional engineering services dated January 3, 2012 between the city of Owosso, Michigan (owner) and ERES International, Inc. d/b/a Engineering and Research International, Inc. (Engineer) providing for professional services.

**PAVEMENT EVALUATION AND PAVEMENT MANAGEMENT SYSTEM STUDY
PROJECT SCOPE OF WORK**

The project scope of work is attached as Section 1: Technical proposal pavement condition survey (excluding Tasks 6, 7 and 8).

SCHEDULE

The schedule for the project is to begin by February 1, 2012 and be completed by June 30, 2012.

COMPENSATION

The cost proposal of the engineer for the project is attached as Schedule 2: Cost Proposal which totals \$48,586.00. The engineer shall submit for payment based on monthly progress of the work.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and

SECTION 1: TECHNICAL PROPOSAL

A. Project Background

The City of Owosso is currently responsible for 72 lane miles of streets. The City does not currently have a Pavement Management System (PMS).

B. Project Objectives

The City is requesting Pavement Condition Survey (PCI) and condition analysis be conducted to assess maintenance needs, evaluate rehabilitation strategies and treatment, establish estimated costs for repairs and recommend the order of priority for phasing work to create a comprehensive program for road maintenance management.

C. Project Approach

To achieve the objectives of this study, ERI has developed a comprehensive project approach for the City of Owosso Pavement Management Study. This project approach will be modified with the help of City staff before the start of the project. The project approach includes the following tasks:

Task 1: Project Development

The project scope and the work plan to complete the various project tasks will be discussed with the City for approval. The project development task will also include the following activities:

- Project management
- Development of Project Schedule

Task 2: Background Data Collection

A significant amount of basic pavement data is incorporated into establishing and updating a PMS database. The following items will be collected from the City:

- Copies of previous distress survey
- City's road pavement network inventory and pavement classification
- City's existing PMS database, if available
- City's existing GIS interfaces, GIS Maps and Shapefiles
- The City's current maintenance and rehabilitation design policies (if available)
- Construction and maintenance history data for the City streets (if available)
- Traffic data (if available)
- Recent maintenance and rehabilitation (M & R) cost data based on local practices (if available)
- Any other pertaining data.

Task 3: Records Review

The data collected under Task 2 (Background Data Collection) will be reviewed by ERI staff. After a thorough review of records, any additional data required will be obtained from the City.

Task 4: Uniform Pavement Sections

The uniform pavement sections form the foundation for subsequent pavement inspections and the development of effective maintenance and rehabilitation (M & R) programs. The existing pavement network will be divided into uniform pavement sections based on pavement type, construction date, usage and traffic history data obtained from Task 2.

Task 5: Automated Pavement Condition Survey

ERI owns and operates an Automated Distress Survey (ADS) unit that simultaneously collects pavement condition, GPS, and digital image data streams. ERI will use ADS vehicle to collect the surface condition, roughness, rutting, and GPS data. The ADS vehicle can also be used to collect a high-resolution, digital imagery inventory (Right of Way Imaging) of the City's road network for the subsequent asset inventory and extraction process, if needed.

ERI will collect the pavement images utilizing International Cybernetics Corporation's pavement imaging system which is designed for pavement distress data collection.

The subsystem collects the highest quality images (minimum resolution 4071x3981 dpi) of any system in the market today. These high-resolution images are captured and taken back to the office for rating via removable hard drives,

ERI's Imaging Workstation as shown in Figure 3 was designed specifically for pavement surface distress analysis using digital image data collected by the ADS vehicle. The Imaging Workstation provides an efficient means of managing and maintaining distress rating data, and allows users to synchronize images from multiple cameras. ERI has six (6) such Imaging Workstation setups which are network ready in ERI office in Savoy, IL.

Our proposal involves 100% field survey through digital imaging and data reduction for 25% of the collected images.

Task 6: Nondestructive Deflection Testing (Optional)

This is an optional task that can be very helpful in identifying the uniform pavement sections and in the development of pavement performance prediction models.

The maximum deflection (DO) obtained from nondestructive deflection testing (NDT) data is a good indicator of the overall roadway condition, and is a function of the foundation support, the upper pavement layer thicknesses and the strength, and the applied loads. In general, for any given thickness, higher DO values indicate a weaker pavement, and variability of the pavement structure can be observed by viewing the longitudinal profile of the maximum deflections along the length of a pavement section.

Therefore, NDT could be used to help in identifying uniform pavement sections, classifying pavements by relative strength for prediction models, and identifying maintenance and rehabilitation needs based on the structural analysis of the pavement sections.

Task 7: Ground Penetrating Radar (GPR) Testing (Optional)

This is an optional task that can be very helpful in verifying / supplementing the pavement layer thickness information obtained from the City's records.

GPR data can be used to identify the uniform pavement sections, and determine the pavement layer thickness information within each uniform pavement section.

Task 8: Destructive Testing (Optional)

This is an optional task that can be very helpful in verifying / supplementing the pavement layer thickness information obtained from the City's records and GPR data (if collected). The limited destructive testing can be conducted by taking cores from the existing pavements.

Task 9: Micro PAVER Database

MicroPAVER is a pavement management system program developed by the U.S. Army Corps of Engineers. The pavement condition distress data collected will be transferred to the MicroPAVER pavement inventory program. The PC1 will be calculated for each surveyed sample unit within the defined uniform pavement section.

Task 10: Pavement Maintenance Policies

Pavement maintenance policies that address localized preventive, localized safety and global

preventive maintenance and rehabilitation (M & R) requirements will be developed. The localized preventive maintenance policy is applied to pavement sections in sound condition. The localized safety policy is applied to deteriorated pavement sections. The global preventive maintenance policy is applied to pavement sections showing no sign of structural distress or to pavement sections having insignificant fatigue damage over the design period. These maintenance policies will be entered into the City's Micro PAVER database.

Task 11: Pavement Condition Prediction Models

Knowledge about the future condition of the pavement is required for inspection scheduling, life cycle costing, benefit analysis and budget optimization. Pavement condition prediction models will be developed based on PCI, NDT (if conducted), pavement structure and construction history data. These prediction models will be entered into Micro PAVER.

Task 12: PC1 vs. M & R Cost Relationships

The relationships between PC1 vs. localized preventive maintenance cost and PC1 vs. M & R cost will be developed based on the local M & R cost data. These relationships will be entered into Micro PAVER.

Task 13: Road Maintenance Management Program

The objectives of the road maintenance management program is to assess maintenance needs, evaluate rehabilitation strategies and treatments, establish estimated costs for maintenance and repair and recommend the order of priority for phasing work.

The road maintenance management program will be designed to maintain the pavement network in a good to excellent condition at the minimum cost. Field experience and research have clearly shown that the most cost-effective M & R strategy is to maintain pavements in good condition.

The road maintenance management program will be developed based on pavement condition inspections, pavement maintenance policies particularly developed for the City, pavement condition prediction models and PC1 vs M&R cost relationships. The project location maps will be prepared based on the order of priority for phasing work.

Task 14: Geographic Information System (GIS)

The road maintenance program will be displayed using Arc View GIS. Using GIS, the City Staff will be able to see the information contained in the PMS database graphically.

SECTION 2: COST PROPOSAL

Table 1: Cost Estimate for Automated Pavement Condition Survey And Development of PMS (For approximately 72 Lane Miles) For The City of Owosso, MI

Project Element	Employee Classification		Senior Engineer \$90.00	Project Engineer \$75.00	Survey Technician \$50.00	Total Hours	Total Salary Cost	Description of Reimbursable Expenses		Total Reimbursable Expenses	Total Cost
	Project Manager \$170.00	Salary Rate						Unit	Rate		
1 Task 1: Project Development											
Mobilization (cost includes air ticket, hotel, per diem, car rental and gas)	8		4	16	4	32	\$3,120.00	2	\$1,000.00	\$2,000.00	\$5,120.00
2 Task 2: Background Data Collection											
3 Task 3: Records Review	4		8	8	0	20	\$2,000.00				\$2,000.00
4 Task 4: Uniform Pavement Sections	8		8	16	4	36	\$3,480.00				\$3,480.00
Hours	32		28	62	8	112					
Salary	\$4,080.00		\$2,720.00	\$2,900.00	\$400.00		\$10,100.00				\$12,900.00
Total Cost											\$12,900.00
5 Task 5: Automated Condition Survey											
Pavement Condition Survey Using Automated Vehicle (72 lane miles @ \$115/mile)								72	\$115.00	\$8,280.00	\$8,280.00
Mobilization (362 miles one way)								724	\$5.00	\$3,620.00	\$3,620.00
Data Reduction	8		8	32	100	148	\$9,480.00				\$9,480.00
Image Data Delivery, if needed								1	\$200.00	\$200.00	\$200.00
Hours	8		8	32	100	148					
Salary	\$1,360.00		\$720.00	\$2,400.00	\$5,000.00		\$9,480.00				\$9,480.00
Total Cost											\$21,580.00
Task 6, 7 & 8: Supplemental Services											
RTD, GPR and Coring Testing	0		0	0	0	0	\$0.00				\$0.00
Hours	0		0	0	0	0					
Salary	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00				\$0.00
Total Cost											\$0.00
9 Task 9: MicroPAVER Database											
Creation of MicroPAVER Database, GIS and Data Transfer, Distress data processing and PCI Calculation	24		16	24	10	74	\$7,820.00				\$7,820.00
Hours	24		16	24	10	74					
Salary	\$4,080.00		\$1,440.00	\$1,800.00	\$500.00		\$7,820.00				\$7,820.00
Total Cost											\$7,820.00
10 Task 10: Pavement Maintenance Policies											
4			8	4	0	16	\$1,700.00				\$1,700.00
11 Task 11: Pavement Condition Prediction Models											
4			8	8	0	20	\$2,000.00				\$2,000.00
12 Task 12: PC1 vs. M&R Cost Relationships											
4			8	8	0	20	\$2,000.00				\$2,000.00
13 Task 13: Road Maintenance Management Program											
12			16	24	0	52	\$5,280.00				\$5,280.00
14 Task 14: Geographic Information Systems (GIS)											
8			8	24	0	40	\$3,880.00				\$3,880.00
Hours	32		48	88	0	148					
Salary	\$5,440.00		\$4,720.00	\$5,100.00	\$0.00		\$14,860.00				\$14,860.00
Total Cost											\$14,860.00
GRAND TOTALS											
TOTAL HOURS	88		100	178	118	482					
TOTAL SALARIES	\$14,860.00		\$9,000.00	\$13,200.00	\$5,000.00		\$42,060.00				\$42,060.00
TOTAL COST											\$14,100.00

It is assumed that the City will provide all traffic control when necessary.
 It is assumed that the City will provide all necessary clearances to perform the work.
 The actual quantities will be reviewed with the City and adjusted as needed. The quantities (and resulting costs) may therefore be adjusted to fit the actual needs for the City's PMS.
 All costs are based on an assumed quantity of approximately 72 lane miles of pavement.

Motion supported by Councilperson Cook.

Roll Call Vote.

AYES: Councilpersons Fox, Bailey, Mayor Pro-Tem Popovitch, Councilpersons Cook, Eveleth, Erfourth and Mayor Frederick.

NAYS: None.

COMMUNICATIONS

Downtown Historic District Commission. Minutes of December 21, 2011.

CITIZEN COMMENTS AND QUESTIONS

Jeff McIntyre, president of the Shiawassee Association of Realtors, said he was looking forward to participating in the meeting between realtors, builders and the City regarding the vacant property registration ordinance, saying his group wants to be a good resource for the City.

Jerry Meyer, representing the Shiawassee Homebuilders Association, explained that over the course of the last several years real estate representatives have helped to reduce the number of blighted homes in the area. He asked that the City be careful not to halt that progress in an effort to manage vacant homes.

Jane Settingington, Shiawassee Association of Realtors member, asked that the requested meeting take place soon so the issue can be resolved quickly.

Michael Tillotson, 1299 South Shiawassee Street, asked whom he could call when he comes across a property that has not been shoveled after a snow storm. It was noted he could call City Hall.

Kim Omer, local realtor, asked for a moratorium on the vacant property registration ordinance until such time as things are clarified.

Eddie Urban, 601 Glenwood Avenue, noted the open house at the Owosso VFW on January 14th at 10:00 am with the traveling Vietnam Memorial.

John Bielfus, local realtor, asked that the ordinance be suspended until it is clarified.

There was discussion regarding implementing a moratorium until the ordinance can be clarified. City Attorney William C. Brown said it could be done but he would advise against it. Frustration was expressed on the part of Council as no one commented when the ordinance was originally being examined for adoption, but waited until after it was effective to come forward.

Motion by Mayor Pro-Tem Popovitch for a 30-day moratorium on the inspection provisions of Ordinance No. 724.

Motion supported by Councilperson Cook.

Roll Call Vote.

AYES: Councilpersons Fox, Bailey, Mayor Pro-Tem Popovitch, Councilpersons Cook, Eveleth, Erfourth and Mayor Frederick.

NAYS: None.

The 30-day period will be used to discuss any unintended negative ramifications of the ordinance with local realty leaders and determine if an amendment to the ordinance is needed.

NEXT MEETING

Tuesday, January 17, 2012

BOARDS AND COMMISSIONS OPENINGS

Planning Commission, term expiring June 30, 2012
Zoning Board of Appeals – Alternate, term expiring June 30, 2013

ADJOURNMENT

Motion by Councilperson Eveleth for adjournment at 9:22 p.m.

Motion supported by Councilperson Erfourth and concurred in by unanimous vote.

Benjamin R. Frederick, Mayor

Amy K. Kirkland, City Clerk