



**2020 TRI-COMMUNITY
NON-MOTORIZED TRAIL COMMITTEE AGENDA SPECIAL MEETING
FRIDAY, APRIL 9, 2020 – 2: 00 P.M.**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF AGENDA**
- 4. APPROVAL OF MINUTES**
- 5. PUBLIC COMMENTS/TODAY’S AGENDA TOPICS ONLY (LIMIT 3 MINUTES)** Use the “raise hand” button in the participant’s screen found in the Zoom interface or enter *9 if calling in by phone to raise hand.
- 6. SAUGATUCK CITY MANAGER MEMO**
- 7. ENGINEERING AGREEMENT**
- 8. INTERLOCAL AGREEMENT**
- 9. FOBST AGREEMENT**
- 10. COMMITTEE DISCUSSION**
- 11. REVIEW NEXT STEPS**
- 12. PUBLIC COMMENTS (LIMIT 3 MINUTES)** Use the “raise hand” button in the participant’s screen found in the Zoom interface or enter *9 if calling in by phone to raise hand.
- 13. MEMBER CLOSING COMMENTS**
- 14. ADJOURN**

NOTICE:

This public meeting will be held using Zoom video /audio conference technology due to the COVID-19 restrictions currently in place.

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<https://us02web.zoom.us/j/2698572603>

Join by phone by dialing:

**(312) 626-6799 –or–
(646) 518-9805**

Then enter “Meeting ID”:

2698572603

Please send questions or comments regarding meeting agenda items prior to meeting to: hleo@saugatuckcity.com

Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact Saugatuck City Clerk at 269-857-2603 or erin@saugatuckcity.com for further information.

Tri-Community Trail Committee (TCC)

Minutes: March 5, 2021 Meeting

Meeting commenced at 2:00 PM.

Present: Brenda Marcy, Cindy Osman , Jerry Donovan, Kathy Mooradian(Slightly late), Ken Trester, Holly Leo, John Adams, Richard Donovan. **Also attending:** Craig Atwood , Allegan Road Commission and Greg Janik, SDFD Chief. Ryan Heise, City manager of Saugatuck

Motion to approve agenda made by R.Donovan, seconded by Trester. Motion passed. Motion to approve minutes from 2/26/21 made by Adams, seconded by Trester Motion passed. Motion to approve 3/5/21 minutes with Trester added as an attendee made by Marcy, seconded by R. Donovan

Public comments. None

Leo introduced what was to come and shared that references had been done and were part of our packet. These were done on both Engineering firms being interviewed by this committee on this day. Many thanks to FOBST for their attention to creating reference questions that reflected the criteria this committee felt to be critical in making any decision. Holly stated the groups feeling that both companies are well qualified with great references.

New Business : C2AE was the first to be interviewed, Wightman the second and last. Each firm was given 10 minutes to present why they felt they should be selected. They were given questions ahead to address that were pertinent to our making the final choice. After that time period, the company would have another 20 minutes to answer questions from the committee.

C2AE: Larry Fox, Principal Engineer, started with an overview of the company, then each team member present introduced themselves and what their role would be for our project. They spoke to each question given ahead in a methodical way during their 10 minutes.

Misc. questions from the committee were then handled: R. Donovan asked to compare our project to other projects they have done. Holly asked Emily Myerson about how communications to public, committee and others would be handled . Craig Atwood gave some comments about past projects and his staffing concerns. Wanted more role clarification. work. Larry Fox spoke to Craig's concerns. Donovan asked Emily about the grant process. Heis asked if they ever were the lead on getting TAP grants. Adams asked them about how they would handle the work already completed by other firms on this project. Trester asked about bridge configuration and satisfying constituents. Cory Davis outlined steps they would take. Marcy asked about how they resolve issues. Rusti Owens discussed the landscape design as it relates

to this sort of project. Shared how they work with others like the civil engineers. Myerson talked about interlocal agreements experience and how critical they are. Larry Fox said that he thought our timelines were realistic.

Wightman: Micky Bittner gave an overview of Wightman starting about 2:45 PM. Introduced team members. Suzannah Deneau will be a key engineer on the project. Ben Baker will be the Project Manager and presented by going through the questions we sent ahead. Craig Atwood asked for discussion on the same concerns/questions he had asked of C2AE. Overall, the same questions were asked that were asked of C2AE such as:

What project compares to ours; What innovative things has Wightman done (answered by team member Suzannah Deneau), grants experience, bridge issues they have had, experience with MDOT, how they would build off engineering work already done and more.

Baker spoke of his experience during the construction phase and gave examples of working with work already completed. Mooradian asked about costs and where they are on the scale of typically low to high. She also asked how they handle change requests and thing that shape costs during a project. Bittner spoke of their good record in catching problems before trouble happens and the roles his team plays with MDOT. Expressed how creative they are. They spoke of their communication process and having one person on point approach.

Interviews were both done by 3:23 PM. *FOR MORE DETAIL on the answers to questions please refer to the recording of this meeting. These minutes are an overview.*

Committee Discussion and vote: Floor opened for comments. Holly asked Craig Atwood if he had a preference. He knew Wightman better from the past but comfortable with both. Janik was also okay with either of them and complimented them and the committee. Each committee member asked to give first choice and second. C2AE won unanimously but all said it was super close and difficult to make the choice. Some gave their reasons. Leo made motion to have R Donovan negotiate the terms of a contract and Marcy seconded. All approved.

Note: Once negotiated, it is still subject to be approved by each of the 3 municipalities.

Next Steps: Ryan Heis said an Interlocal Agreement draft being worked on now by the three managers would be available soon. It would start be for the engineering/design phase but their will be others coming over time that will cover longer term issues.

Public Comments: Bob Edar from the Township thanked people and said 'keep in moving', get it done.

Member comments: R Donovan mentioned the need for a point person

Motion to adjourn by Trester, seconded by Mooradian. Meeting ended at 2:57

Minutes submitted by Kathy Mooradian with a thanks to Brenda Marcy who took notes when Zoom kept Kathy out for a few minutes.



FROM: Ryan Heise, City Manager

MEETING DATE: April 9, 2021

SUBJECT: Tri Community Committee for the Blue Star Trail (TCC) --
Recommendation on Agreements for Engineering

DESCRIPTION:

At tomorrow's meeting we will discuss the contractual arrangements for proceeding with C2AE as engineers and hopefully agree to recommend that the three agreements be presented to your respective Board and Councils in April for approval.

The agreements are: 1) Interlocal among the municipalities; 2) Engineering contract with C2AE that three municipalities enter jointly; and 3) Agreement with FOTBST that commits to funding the engineering. Note that this interlocal agreement only relates to the engineering work and so is not the broader interlocal agreement that the TCC has been tasked with developing.

The basic concept to move this project forward is as follows:

- 1) The engineering is broken out into phases. This allows the FOTBST to not overcommit financially, and for any municipality that may not want to proceed with additional phases to bail out.
- 2) There are three main engineering phases: A) Conceptual design and grant application, B) Final design, C) Construction Management.
- 3) The FOTBST will commit to funding the engineering work and remaining capital cost after grants are applied for and received by the municipalities (the local match). FOTBST will use its existing relationship with the Allegan County Community Foundation (ACCF) to demonstrate that the funds for each phase are in place prior to the start of work.
- 4) C2AE will send monthly invoices to a liaison of the Committee and the FOTBST for review, and FOTBST will then authorize payment by the ACCF.

Drafts of the three agreements were sent to the FOTBST and to the City and Township Managers and by them to their respective counsel. I have transmitted the comments of City counsel and Township Counsel to C2AE.

Holly and I suggest that we try not to get into legal minutiae but stick to the substantive points, which should include the following:

1. What should be the role and authority of the TCC liaison;
2. What should be the role of the FOTBST?
3. We have proposed to C2AE that it agree that under no circumstances will the municipalities be obligated to pay its fees. But if C2AE will not agree to that, will the municipalities be willing to sign the contract and rely on the agreement with the FOTBST to pay?
4. Does the proposed procedure for proceeding in phases make sense?
5. Should the C2AE contract be limited to the conceptual design and grant applications phase, or also include final design and construction management?

COMMITTEE/COMMISSION REVIEW:

April 9, 2021

BUDGET ACTION REQUIRED:

None


LEGAL REVIEW:

Each municipality has legal counsel reviewing the three agreements.

POSSIBLE MOTION:

Recommend the draft interlocal agreement, draft engineering agreement and draft Friends of The Blue Star Trail be sent to City Council's and Township Board for their review and approval.


LEGEND

 EXISTING BLUE STAR TRAIL:

(A) Connecting Saugatuck City to Saugatuck Twp. and the Beeline Trail to Holland

(B) North St. to Old Allegan Rd.

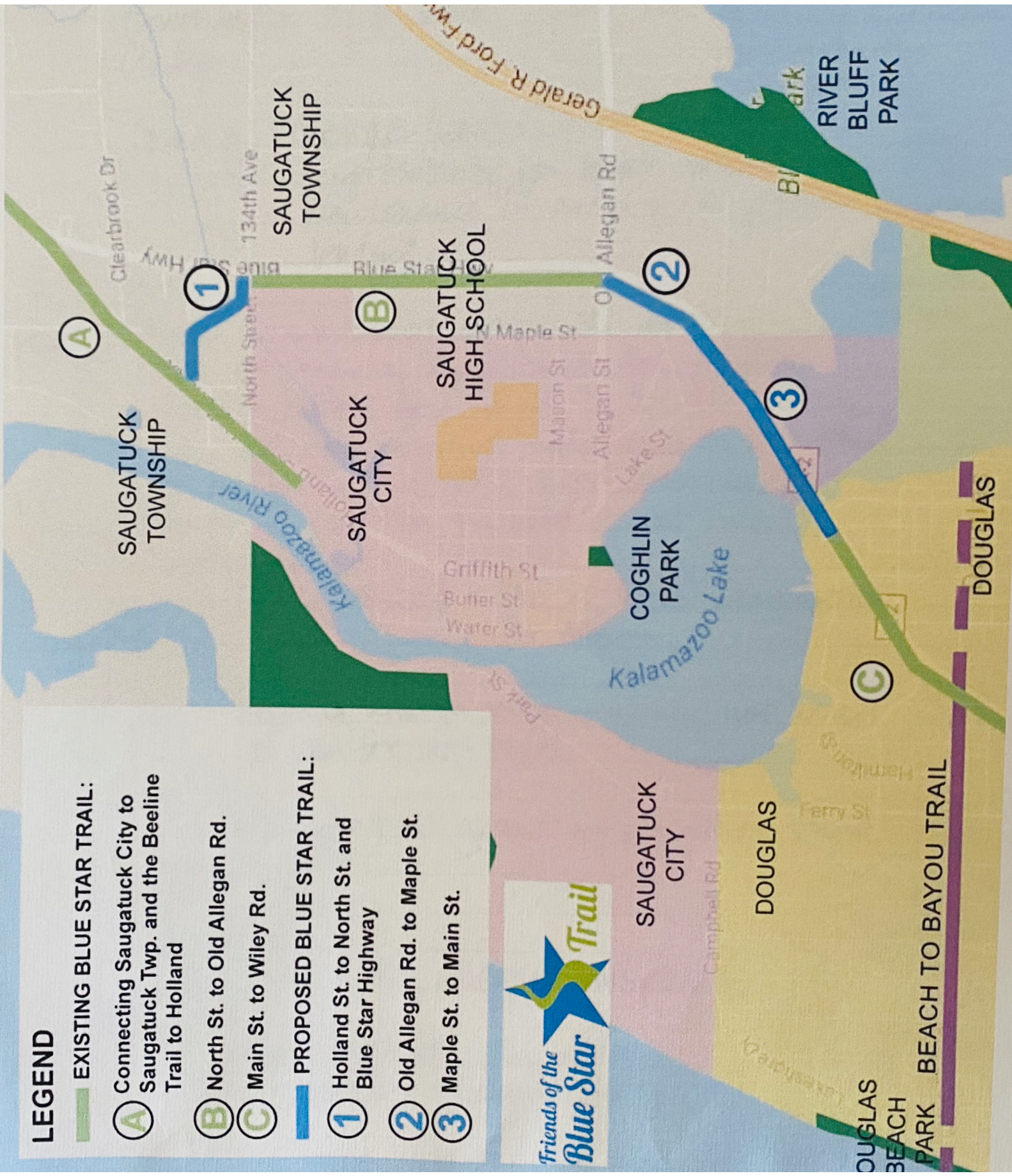
(C) Main St. to Wiley Rd.

 PROPOSED BLUE STAR TRAIL:

1 Holland St. to North St. and Blue Star Highway

2 Old Allegan Rd. to Maple St.

3 Maple St. to Main St.





March 18, 2021

City of Saugatuck
102 Butler Street
Saugatuck, MI 49453

City of the Village of Douglas
86 W. Center Street
Douglas, MI 49406

Saugatuck Township
3461 Blue Star Hwy
Saugatuck, MI 49453

Re: PROPOSAL FOR ENGINEERING SERVICES BLUE STAR TRAIL – NORTH SECTION

Dear Members of the Tri-Community Joint Study Committee for the Blue Star Trail (TCC):

C2AE is excited to partner with TCC and its’ member communities to provide professional services for the Blue Star Trail. We look forward to building a lasting relationship with the Committee—including its members from Saugatuck Township, the City of Saugatuck, the City of the Village of Douglas, and the Friends—as we move forward with the completion of a 4.5-mile section of trail from Douglas, over the bridge, through the City of Saugatuck, and into Saugatuck Township.

Our Time and Materials Not-to-Exceed (T&M NTE) fee of \$39,400, as listed in this proposal, covers conceptual design and grant application services. The final design engineering and construction engineering phase fees will be determined at the end of the conceptual design phase and added to this contract via amendment.

Thank you once again for this opportunity to leverage our experience and share our talents to advance the Blue Star Trail and leverage the economic opportunity in each of the three communities and across the entire region.

Sincerely,
C2AE

Accepted by:

Larry Fox, PE
Project Manager

Date:

Mr. Ryan Heise, City Manager
City of Saugatuck

Date:

Cory Davis, PE
Assistant Project Manager

Mr. Rich LaBombard, City Manager
City of the Village of Douglas

Date:

Mr. Joe Frey, Township Manager
Saugatuck Township

TEAM ORGANIZATION



WORK PLAN

The Tri-Community Joint Study Committee (TCC), consisting of members from Saugatuck Township, the City of Saugatuck, the City of the Village of Douglas, and the Friend of the Blue Star Trail (FOBST), desires to submit funding applications to the Michigan Department of Transportation – Transportation Alternatives Program (TAP) and the Michigan Natural Resources Trust Fund (MNRTF).

The current project will include the planning, design, and construction of three new sections of trail to complete the 4.5-mile north section of the Blue Star Trail. The TAP application is anticipated to be submitted in October, 2021 and the MNRTF application in April of 2022. The desire is for construction to take place in 2023.

Previous preliminary planning and routing analysis work has been completed for these sections of trail, which we plan to utilize in the early phases of planning and design. The trail crossing design over the Kalamazoo River will be a key component to gain consensus and buy-in early in the project from the multiple stakeholders.

Our initial review of the past trail crossing configuration alternatives on the bridge revealed the following aspects that need further evaluation during the schematic design phase:

- Storm water drainage and potential ponding (spread) in the 1-foot buffer areas; scupper capacities
- Impact to existing bridge expansion joints from modifications to incorporate the trail
- Consideration of other options that include widening the existing sidewalk on the west side to a 14-foot trail; possible cantilevering on the outside of the bridge to gain more width

- Staging of construction to minimize impact for emergency vehicles and the motoring public

Our firm implemented a similar bridge modification project for the City of Lansing on Aurelius Road that converted a 4-lane bridge to a 3-lane section to incorporate a 10-foot non-motorized path/trail.

Based on C2AE's understanding of the project, we propose the following general work plan, which can be modified and adjusted as needed throughout the project.

Planning

C2AE will develop and implement an action plan for planning and design engineering of the currently defined trail corridor. The plan will identify an overall project timeline, communication engagement strategy or strategies, funding sources, roles and responsibilities, and a phasing plan with estimated timelines and costs for design, construction, and trail maintenance. We recognize that the keys dates currently identified by the committee include the October 2021 TAP Grant application and the April 2022 MNRTF Application. We have included examples of the action planning components are in the additional information section.

Timeline

C2AE will create a project timeline at the outset of the project for use in tracking and monitoring the project progress. Timeline dates will be updated on a monthly basis as part of our progress reporting process. Monthly progress reports will be provided by C2AE to provide updates for all current project activities.

Timeline will include, but not be limited to, the following key milestone dates:

- Project team meetings

- Local units of government/public meetings
- Duration of schematic design phase with deliverable dates (funding applications)
- Duration of final design phase with deliverable dates
- Permit submittal dates
- Duration for bidding
- Duration of construction
- Regional events
- Any other key milestones

Public Outreach

Communicating effectively along the way, we will meet project goals with a comprehensive design that integrates:

- Thorough review and vetting of previous work to date
- Proactive project scoping
- Sound data collection
- Site and context analysis and synthesis
- Comprehensive mapping
- Creative alternatives
- Environmentally compatible, sustainable, and cost-effective solutions
- Realistic opinions of probable construction and maintenance costs
- Detailed, implementable action plans with workable phasing

These elements are to be conducted by a multi-disciplined team with professional experience and expertise in non-motorized trail access development, natural resource systems, accessibility requirements/guidelines, context-sensitive design solutions, aesthetics, and other

relevant functional needs. C2AE will lead this effort, providing:

- Project Management led by seasoned C2AE principal Larry Fox and aided by experienced assistant project manager Cory Davis
- Trail Routing, Public Involvement, and Inter-agency Coordination led by Rusti Owens
- Civil Engineering including conceptual layout and design led by Tyler Ruel

In addition, our specialized team partners include Meyerson Consulting for funding and public engagement expertise, Cardno for environmental and natural features assessments, Carter & Associates for traffic signal work, and Driesenga Associates for surveying, geotechnical engineering, and easement acquisition

Funding Evaluation/Applications

We will review the existing list of funding sources for each trail segment and determine if there are other opportunities available. Requirements for each funding agency will be documented. In general, C2AE will be responsible for the development of the majority of the funding application, with input, review, and submittal of funding applications by the applicable governmental agencies. C2AE will generate exhibits, cost opinions, and other supporting documentation as needed. Private fundraising activities will be conducted by the project team and supported by C2AE.

Roles and Responsibilities

At the kickoff meeting, we will document the roles and responsibilities of each stakeholder or entity involved in the project. Throughout the project, C2AE will coordinate and track the progress of key assignments to ensure the overall project, as well as each trail segment, remains clearly assigned and

on schedule. This effort will include monitoring the assignments of the subconsultant firms involved. We will communicate consistently and clearly with the committee or assigned project/community stakeholder teams regarding the project status and commitments.

Trail Maintenance Plan

C2AE will use our extensive experience with trail projects and the trail calculators already created to estimate costs associated with trail maintenance, operations, and replacement. We will also assist in the identification of solutions for trail maintenance approaches along the corridor, which can vary from simple cooperation between units of government to a formal establishment of a recreational authority. Maintenance will play a key role in achieving the expected service life of the trail system and ensure viability for generations to come.

DESIGN & CONSTRUCTION

C2AE proposes the following general scope of services for each trail segment that will meet AASHTO Guidelines, Americans with Disabilities Act and Accessibility Guidelines (ADAAG), and other current federal, state, and local codes and guidelines. MDOT Local Agency guidelines will also be met when state funding is involved.

Schematic Design

Initial Scoping Meeting

C2AE and the committee/project team are accountable for the proper stewardship of funds and time allocated to this project. C2AE's project management plan (PMP) document is designed to assist in this task by providing the detail needed to implement the contract requirements.

C2AE will convene a meeting of the project team personnel responsible for proper project administration (TCC). The meeting's purpose is to

review and confirm everyone's expectations regarding the project process.

Second to listening to the voices of the users, communities, and local agencies, schematic design based on sound comprehensive data is next most important to providing feasible and constructible alternatives.

Gather Existing Data

C2AE will collect available relevant secondary source information including, but not necessarily limited to:

- Existing schematic trail routes and alternatives
- Preliminary design alternatives for the Kalamazoo River crossing
- GIS and Lidar data, such as parcel mapping, topography, utilities, soil types, natural features, and other environmental conditions
- Federal, state, and local guidelines and requirements for trail development
- Local zoning or planning ordinances
- Historical features, such as protected archaeological sites, significant structures, etc.
- Habitats for endangered or threatened species of flora or fauna
- Planned utility work (broadband, sewer, etc.)

Using available secondary source information—such as aerial or USGS topographic mapping, community mapping, plat maps, and existing planning maps—together with information obtained during the initial scoping meeting, C2AE will develop base plans for use during development

of the site/constraints inventory analysis and alternative trail alignment options.

Conduct an Initial Visual Site Assessment

The C2AE team (including the project team as they desire) will conduct an initial site assessment of each segment to visually review and document any unique features of the proposed routing corridor(s) and define the envisioned limits and locations for programmed improvements.

At this time, we will collectively identify and confirm any known potential impacts to development as well as identify and address safety and security provisions as necessary. During the assessment we will also identify any visible potential environmental concerns and/or areas that may require detailed supplemental investigations.

Perform Site Analysis

We will add the existing available information and other insights gained from the site assessment. The enhanced drawing will be a backdrop for preparing a graphic site analysis of existing built and natural conditions that could have either a positive or negative impact on the project. Existing conditions will include at a minimum:

- Soils, topography, and vegetation
- Hydrology and drainage patterns, channels, and washes
- Unique biological characteristics
- Outstanding natural features
- Cultural and historic features
- Adjacent land uses
- Negative site features or hazards
- Directions, speed limits, and traffic flow volumes
- Emergency vehicle accessibility
- Logical points of site ingress and egress

- Existing structure locations or development

We will evaluate the trail crossing of the Goshorn Creek just north of 134th Avenue to determine permitting requirements and possible crossing locations. It is our understanding that multiple routes have been conceptually developed through Amalanchier Park or along 134th Avenue to connect the Blue Star Highway trail to the Beeline trail on Holland Street. Previous information will be utilized during our analysis to select the final trail location.

TCC Committee Meetings

C2AE will conduct two or three meetings with the TCC to review and discuss the opportunities and constraints associated with each alignment and a preliminary cost for development. During these meetings, the TCC and C2AE will select alignments determined to represent the most feasible and prudent options to present and carry forward for further development as practical alternatives. Following the initial TCC review meeting, we will refine each illustrative alternative, if necessary, based on comments obtained during the meeting. Since that initial meeting will essentially be more of a work session, further work will be required to refine each alternative into a final presentation format. Additional meetings with the TCC will refine alternatives into a final recommended plan for adoption by the member local units of government.

Gather Emergency Responder Input

During the review of alternatives (especially for the Blue Star Highway crossing of the Kalamazoo River), we plan to include local emergency responders to gain their perspective on the alternatives. This could happen as a part of one of the TCC meetings mentioned above. Support of the selected alternative by the local fire departments, police departments, and highway maintenance entity will be important in moving the plan forward.

MDOT LAP Review

As a local funding source, MDOT Local Agency Programs will be provided the opportunity for review and input on the alternatives under consideration.

Public Information Meeting

C2AE will plan, organize, coordinate, and conduct the final project public information meeting/public hearings through each local unit of government to review the final rendered preferred alternative, opportunities, and constraints, opinions of probable construction cost, trail phasing/segments, and associated planning elements. This information will form the basis for the funding applications.

Funding Applications

With the assistance of the TCC, C2AE will develop and prepare the MDOT TAP and MNRTF Funding applications for review and submittal by the applicable local agency.

FINAL DESIGN (FUTURE)

A detailed scope of services will be developed as part of the engineering services agreement. The Design Phase Services will generally include the following elements:

- Topographic survey
- Program application and other funding information (NEPA)
- State Historic Preservation Office (SHPO)

- Utility coordination
- Soil borings
- Easements
- Preliminary plans
- Preliminary quantities and opinion of probable Construction Cost
- Preliminary Special Provisions
- Grade Inspection/Review Meeting
- Permits
- Final Plans and Special Provisions
- Final Engineer's Opinion of Probable Construction Cost
- Grant Administration Assistance

Bidding

It is understood that the contract with the construction contractor may be held by a Local Unit of Government (LUG) depending on the funding involved. The exact scope of services may be adjusted based on the funding agency(ies).

Construction

- Construction Administration (exact scope of services may be adjusted based on the funding agencies)
- Construction Observation and Testing

FEE

As noted in the Request for Proposals, it is difficult to provide fee estimates for projects where all aspects of the project are not yet determined. Therefore, we are providing a detailed fee estimate for the Conceptual Design/Funding Application phase of the project. For future phases of the project, we have typically used percentage of construction estimates for fee determination for planning purposes, and have successfully integrated this fee planning concept into contracts for multi-phase/multi-year projects. We suggest the following fee breakdown for planning purposes, and unless it is a highly complicated project, our final fees are anticipated to be within the percentage ranges provided.

Conceptual Design & Grant Applications

For this phase of the project, C2AE proposes to complete the work a time and material basis, with a total not-to-exceed amount. Our detailed fee breakdown is as follows:

| | |
|-----------------------------------------------------------------------------------------|-----------------|
| Task 1 – Research and Analysis (includes 1 meeting with TCC) | \$9,400 |
| Task 2 – Alternatives Development (includes 3 meetings with TCC/stakeholders) | \$17,200 |
| Task 3 – Final Plan and Presentations (inc. meeting with each local unit of government) | \$7,800 |
| Task 4 – MDOT TAP and MNRTF Grant Applications | \$5,000 |
| <i>Total Not to Exceed Fee</i> | <i>\$39,400</i> |

Future Project Phases

Actual fees to be determined at a later date and added by amendment to this Agreement.

The anticipated range of fees are shown below:

| | |
|--------------------------|-------|
| Final Design Engineering | 4-6* |
| Construction Engineering | 8-10* |

* percent of the estimated construction cost

The parties to this agreement, Capital Consultants, Inc., a Michigan Corporation doing business as C2AE in the State of Michigan, hereinafter called the A|E CONSULTANT and the City of Saugatuck, City of the Village of Douglas and Saugatuck Township, collectively hereinafter called the OWNER, hereby agree to the following conditions:

- A. Limit of Scope: The services provided by the A|E CONSULTANT shall be limited to those described in the Scope of Services.
- B. Changed Conditions: If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to the A|E CONSULTANT are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, the A|E CONSULTANT may call for renegotiation of appropriate portions of this Agreement. The A|E CONSULTANT shall notify the OWNER of the changed conditions necessitating renegotiation, and the A|E CONSULTANT and the OWNER shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement.
- C. Additional Services: Additional services not specifically identified in the Scope of Services shall be paid for by the OWNER in addition to the fees previously stated, provided the OWNER authorizes such services in writing. Additional services will be billed monthly as work progresses and invoices are due upon receipt.
- D. Standard of Care: In providing services under this Agreement, the A|E CONSULTANT will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Upon notice to the A|E CONSULTANT and by mutual agreement between the parties, the A|E CONSULTANT will without additional compensation, correct those services not meeting such a standard.
- E. ADA Compliance: The Americans with Disabilities Act (ADA) provides that alterations to a facility must be made in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to persons with disabilities. The OWNER acknowledges that the requirement of the ADA will be subject to various and possibly contradictory interpretations. The A|E CONSULTANT, therefore, will use its reasonable professional efforts and judgment to interpret applicable ADA requirements and other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the project. The A|E CONSULTANT, however, cannot and does not warrant or guarantee that the OWNER's project will comply with all interpretations of the ADA requirements and/or the requirements of other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the project.
- F. Code Compliance: The A|E CONSULTANT shall put forth reasonable professional efforts to comply with applicable laws, codes and regulations in effect as of the date of submission to building authorities. Design changes made necessary by newly enacted laws, codes and regulations after this date shall entitle the A|E CONSULTANT to a reasonable adjustment in the schedule and additional compensation in accordance with the Additional Services provision of this Agreement.
- G. Permits and Approvals: The A|E CONSULTANT shall assist the OWNER in applying for those permits and approvals normally required by law for projects similar to the one for which the A|E CONSULTANT's services are being engaged. This assistance shall consist of completing and submitting forms to the appropriate regulatory agencies having jurisdiction over the construction documents, and other services normally provided by the A|E CONSULTANT and included in the scope of Basic Services of this Agreement.
- H. Opinions of Probable Construction Cost: In providing opinions of probable construction cost, the OWNER understands that the A|E CONSULTANT has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the A|E CONSULTANT's opinions of probable construction costs are made on the basis of the A|E CONSULTANT's professional judgment and experience. The A|E CONSULTANT makes no warranty, express or implied, that the bids or the negotiated cost of the work will not vary from the A|E CONSULTANT's opinion of probable construction cost.

- I. Schedule for Rendering Services: The A|E CONSULTANT shall prepare and submit for OWNER approval a schedule for the performance of the A|E CONSULTANT's services. This schedule shall include reasonable allowances for review and approval times required by the OWNER, performance of services by the OWNER's consultants, and review and approval times required by public authorities having jurisdiction over the project. This schedule shall be equitably adjusted as the project progresses, allowing for changes in scope, character or size of the project requested by the OWNER, or for delays or other causes beyond the A|E CONSULTANT's reasonable control.
- J. Ownership of Reports, Drawings and Other Materials: The OWNER agrees that all reports, drawings, letters, work sheets, plans, preliminary material tables, supportive data, documents and other materials produced by the A|E CONSULTANT in the course of and for the purpose of meeting this contract are the property of the A|E CONSULTANT, and shall remain in the possession of the A|E CONSULTANT. The OWNER shall have access to the above named material during normal business hours of the A|E CONSULTANT during and after completion of this contract. The OWNER may obtain copies of any of the above named material. Copies of electronic media may be obtained by the OWNER. (See Alteration and Reuse of CAD Information provision of this Agreement.)
- K. Alteration and Reuse of CAD Information: Because computer aided design/drafting (CAD) information stored in electronic form can be modified by other parties, intentionally or otherwise, without notice or indication of said modifications, the A|E CONSULTANT reserves the right to remove all indications of its ownership and/or involvement in the material from each electronic medium not held in its possession. The OWNER may retain copies of the work performed by the A|E CONSULTANT in CAD form. Copies shall be for information and used by the OWNER for the specific purpose for which the A|E CONSULTANT was engaged. Said material shall not be used by the OWNER, or transferred to any other party, for use in other projects, additions to the current project, or any other purpose for which the material was not strictly intended without the A|E CONSULTANT's express written permission. Any unauthorized modification or reuse of the materials shall be at the OWNER's sole risk, and the OWNER agrees to defend, indemnify, and hold the A|E CONSULTANT harmless, from all claims, injuries, damages, losses, expenses, and attorneys fees arising out of the unauthorized modification of these materials.
- L. Record Documents: Upon completion of the work, the A|E CONSULTANT shall compile for and deliver to the OWNER a reproducible set of Record Documents based upon the marked-up record drawings, addenda, change orders and other data furnished by the Contractor. These Record Documents will show significant changes made during construction. Because these Record Documents are based on unverified information provided by other parties, which the A|E CONSULTANT shall assume will be reliable, the A|E CONSULTANT cannot and does not warrant their accuracy.
- M. Payment Terms: Invoices will be submitted by the A|E CONSULTANT monthly, are due upon receipt and shall be considered past due if not paid within thirty (30) calendar days of the due date. If payment in full is not received by the A|E CONSULTANT within forty-five (45) calendar days of the due date, invoices shall bear interest at one-and-one-half (1.5) percent (or the maximum rate allowable by law, whichever is less) of the Past Due amount per month, which shall be calculated from the invoice due date. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal.

If the OWNER fails to make payments when due or otherwise is in breach of this Agreement, the A|E CONSULTANT may suspend performance of services upon five (5) calendar days' notice to the OWNER. The A|E CONSULTANT shall have no liability whatsoever to the OWNER for any costs or damages as a result of such suspension caused by any breach of this Agreement by the OWNER. Upon payment in full by the OWNER, the A|E CONSULTANT shall resume services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for the A|E CONSULTANT to resume performance.

- N. Disputed Invoices: If the OWNER objects to any portion of an invoice, the OWNER shall so notify the A|E CONSULTANT in writing within ten (10) calendar days of receipt of the invoice. The OWNER shall identify in writing the specific cause of the disagreement and the amount in dispute and shall pay that portion of the invoice not in dispute in accordance with other

payment terms of this Agreement. Any dispute over invoiced amounts due which cannot be resolved within ten (10) calendar days after receipt of invoice by direct negotiation between the parties shall be resolved within thirty (30) calendar days in accordance with the Dispute Resolution provision of this Agreement. Interest at one-and-one-half (1.5) percent (or the maximum rate allowable by law, whichever is less) shall be paid by the OWNER on all disputed invoice amounts that are subsequently resolved in the A|E CONSULTANT's favor and shall be calculated on the unpaid balance from the due date of the invoice.

- O. Abandonment of Work: If any work is abandoned or suspended, the A|E CONSULTANT shall be paid for services performed prior to receipt of written notice from the OWNER of abandonment or suspension.
- P. Errors and Omissions Insurance: The A|E CONSULTANT maintains an errors and omissions insurance policy as part of normal business practice. The OWNER agrees to limit the A|E CONSULTANT's liability to the OWNER and to all Construction Contractors and Subcontractors on the project due to the A|E CONSULTANT's negligent acts, errors, or omissions, such that the total aggregate liability of the A|E CONSULTANT to all those named shall not exceed \$250,000.
- Q. Betterment: If, due to the A|E CONSULTANT's negligence, a required item or component of the project is omitted from the A|E CONSULTANT's construction documents, the A|E CONSULTANT shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original construction documents. In no event will the A|E CONSULTANT be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the project.
- R. Indemnification: The A|E CONSULTANT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the OWNER, its officers, directors and employees (collectively, OWNER) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the A|E CONSULTANT's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the A|E CONSULTANT is legally liable.

The OWNER agrees, to the fullest extent permitted by law, to indemnify and hold harmless the A|E CONSULTANT, its officers, directors, employees and subconsultants (collectively, A|E CONSULTANT) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the OWNER's negligent acts in connection with the project and the acts of its contractors, subcontractors or consultants or anyone for whom the OWNER is legally liable.

Neither the OWNER nor the A|E CONSULTANT shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

- S. Consequential Damages: Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the OWNER nor the A|E CONSULTANT, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the OWNER and the A|E CONSULTANT shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.
- T. Full-Time Construction Observation: The A|E CONSULTANT will provide full-time project representation in order to observe the progress and quality of the work completed by the Contractor. Such observation is not intended to be an exhaustive check or a detailed inspection of the Contractor's work but rather is to allow the A|E CONSULTANT, as an experienced professional, to

become generally familiar with the work in progress and to determine, in general, if the work is proceeding in accordance with the Contract Documents.

The A|E CONSULTANT shall keep the OWNER informed about the progress of the work and shall endeavor to guard the OWNER against deficiencies in the work.

The A|E CONSULTANT shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the Contractor in accordance with the Contract Documents.

The A|E CONSULTANT shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the work, or any agents or employees of any of them. The A|E CONSULTANT does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

- U. Jobsite Safety: Neither the professional activities of the A|E CONSULTANT, nor the presence of the A|E CONSULTANT or its employees and subconsultants at a construction/project site, shall relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the work in accordance with the Contract Documents and any health or safety precautions required by any regulatory agencies. The A|E CONSULTANT and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The OWNER agrees that the General Contractor shall be solely responsible for jobsite safety, and warrants that this intent shall be carried out in the OWNER's contract with the General Contractor. The OWNER also agrees that the OWNER, the A|E CONSULTANT and the A|E CONSULTANT's subconsultants shall be indemnified by the General Contractor and shall be made additional insureds under the General Contractor's policies of general liability insurance.
- V. Hazardous Materials: As used in this Agreement, the term *hazardous materials* shall mean any substances, including but not limited to asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the project site.

Both parties acknowledge that the A|E CONSULTANT's Scope of Services does not include any services related to the presence of any hazardous or toxic materials. In the event the A|E CONSULTANT or any other party encounters any hazardous or toxic materials, or should it become known to the A|E CONSULTANT that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of the A|E CONSULTANT's services, the A|E CONSULTANT may, at its option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the OWNER retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.

The OWNER agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the A|E CONSULTANT, its officers, partners, employees and consultants (collectively, A|E CONSULTANT) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of the A|E CONSULTANT.

- W. Change Orders/Stop Work Orders: The A|E CONSULTANT and the OWNER agree that any construction contract change orders or stop work orders must be approved in writing by the OWNER.
- X. Agreement Not to Claim for Cost of Certain Change Orders: The OWNER recognizes and expects that certain Change Orders may be required to be issued as the result in whole or part of imprecision, incompleteness, errors, omissions, ambiguities, or inconsistencies in the Drawings, Specifications and other design documentation furnished by the A|E CONSULTANT or in the other professional services performed or furnished by the A|E CONSULTANT under this Agreement whether caused by professional negligence or by imperfections that are within professional standards (“Covered Change Orders”). Accordingly, the OWNER agrees not to sue and otherwise to make no claim directly or indirectly against the A|E CONSULTANT on the basis of professional negligence, breach of contract or otherwise with respect to the costs of approved Covered Change Orders unless the costs of such approved Covered Change Orders exceed 5% of Construction Cost, and then only for an amount in excess of such percentage. Any responsibility of the A|E CONSULTANT for the costs of Covered Change Orders in excess of such percentage will be determined on the basis of applicable contractual obligations and professional liability standards. For purposes of this paragraph, the cost of Covered Change Orders will not include any costs that the OWNER would have incurred if the Covered Change Order work had been included originally in the Contract Documents without any imprecision, incompleteness, error, omission, ambiguity, or inconsistency in the Drawings, Specifications and other design documents furnished by the A|E CONSULTANT or in the A|E CONSULTANT’s other professional services related thereto. Nothing in this provision creates a presumption that, or changes the professional liability standard for determining if, the A|E CONSULTANT is liable for the cost of Covered Change Orders in excess of the percentage of Construction Cost stated above or for any other Change Order.
- Y. Dispute Resolution: The OWNER agrees that 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 the dispute(s). The cost of mediation shall be shared equally by the parties hereto.

If mediation fails to resolve the claim or dispute, the matter shall be submitted to a court of competent jurisdiction.

**INTERGOVERNMENTAL AGREEMENT
TO RETAIN ENGINEERING SERVICES FOR
THE NORTH 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, the City of Saugatuck, 102 Butler St., 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 TCC has 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 TCC has identified a number of qualified engineering firms, obtained proposals from four firms, selected two finalists, checked their references, conducted interviews of the firms, selected C2AE, and arranged for legal counsel to negotiate the form of contract with that firm; and

WHEREAS the FOTBST has agreed to pay the reasonable fees of C2AE related to the Project; and

WHEREAS the Municipalities and the FOTBST desire to retain C2AE 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, all communications with the engineering firm (not including group meetings) will go through a designated liaison appointed by the TCC.
3. Any changes in the scope of work to be provided by C2AE under this contract must be approved in writing by the TCC, though each municipality is free to retain C2AE 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, but rather for the FOTBST to pay such reasonable fees. To accomplish this goal:
 - a. C2AE will break down its work into appropriate phases.
 - b. Prior to beginning work on the next phase, C2AE will provide a not-to-exceed estimate of its fee to the TCC liaison and to the FOTBST.
 - c. The Allegan County Community Foundation, as fiduciary to the FOTBST, will confirm in writing to the TCC liaison that it has sufficient funds on account to pay the fee for the next phase.
 - d. The TCC liaison will authorize C2AE to commence work on the next phase.
 - e. C2AE will issue monthly invoices according to the terms of its contract.
 - f. Upon approval by the TCC 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 TCC Project].
 - g. Subject to the terms of the contract with C2AE, the TCC, as representative of the municipalities, may determine to suspend or halt the work of C2AE 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. In the event of any dispute between the Parties over the meaning, interpretation or implementation of the terms, covenants or conditions of this Agreement, the matter under dispute, unless resolved between the parties, shall be submitted to the courts of the State of Michigan.
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: _____

CITY OF SAUGATUCK

WITNESS:

_____ BY: _____

Its: _____

_____ BY: _____

Its: _____

DATE: _____

SAUGATUCK TOWNSHIP

WITNESS:

_____ BY: _____

Its: _____

_____ BY: _____

Its: _____

DATE: _____

**AGREEMENT
FOR PAYMENT OF CERTAIN ENGINEERING SERVICES FOR
THE NORTH SECTION OF THE BLUE STAR TRAIL**

This AGREEMENT is entered into by and among Saugatuck Township, 3461 Blue Star Hwy. P.O. Box 100, Saugatuck, MI 49453, the City of Saugatuck, 102 Butler St., Saugatuck, MI 49453, the City of the Village of Douglas, PO Box 757, 86 W. Center St., Douglas, MI 49406-0757 (the “Municipalities”), and the Friends of the Blue Star Trail (“FOTBST”), a 501(c)(3) non-profit organization incorporated in the State of Michigan.

RECITALS

WHEREAS the mission of the FOTBST is the charitable purpose of advocating for the development and continuance of the Blue Star Trail from South Haven to Saugatuck (“Trail”); 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 have entered into an interlocal agreement, pursuant to Act 7, MCL 124.501 et seq., to jointly pursue the Project through the authority granted by Act 7; and

WHEREAS the TCC has selected the engineering firm of C2AE of Grand Rapids, MI, to perform the engineering work on the Project, and the Municipalities have negotiated a contract with C2AE for the Project, a copy of which has been provided to FOTBST; and

WHEREAS the FOTBST has agreed to pay the reasonable fees of C2AE related to the Project and the Municipalities desire to minimize or avoid any obligation to pay C2AE; 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. Upon execution by the Municipalities of their approved contract with C2AE, attached as Exhibit A, FOTBST agrees to pay the reasonable fees of C2AE for the scope of work described in that contract, according to the terms set forth herein.
2. Any changes in the scope of work to be provided by C2AE under its contract must be approved in writing by the TCC and, to be eligible for payment of fees for such additional work by FOTBST, by FOTBST.
3. The goal is for the Municipalities not to incur any expense for engineering fees under their contract with C2AE, but rather for the FOTBST to pay such reasonable fees. To accomplish this goal:
 - a. C2AE will break down its work into appropriate phases as agreed with TCC and FOTBST.
 - b. Prior to beginning work on the next phase, the firm will provide a not-to-exceed estimate of its fee to the TCC liaison and to the FOTBST. The estimate for the first phase, entitled "Conceptual Design and Grant Applications" on p. 43 in C2AE's proposal, is for a not-to-exceed cost of \$39,400. FOTBST represents that it has sufficient funds to pay this amount on account with the Allegan County Community Foundation ("ACCF").
 - c. The ACCF, as fiduciary to the FOTBST, will confirm in writing to the TCC liaison and to C2AE that it has sufficient funds on account to pay the fee for each next phase.
 - d. The TCC and FOTBST shall agree to authorize C2AE to commence work on each next phase.
 - e. C2AE will issue monthly invoices according to the terms of its contract.
 - f. Upon approval by the TCC [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 TCC Project].
 - g. Subject to the terms of the contract with C2AE, the TCC, as representative of the municipalities, may determine to suspend or halt the work of C2AE at any time.

MISCELLANEOUS

4. **Claims Against FOTBST.** To the fullest extent permitted by law, the Municipalities and their agents shall be responsible to defend and hold FOTBST, its employees, members, and agents harmless from any and all claims, damages and liabilities (including reasonable attorneys' fees and expenses) for injury to any person or damage to any real, personal or tangible property, to the extent arising from or relating to the negligent acts or omissions of the Municipalities, C2AE, or their agents, in the performance, nonperformance, or breach of its obligations under this Agreement. This obligation shall not include damages, liabilities, costs or expenses resulting from the negligent acts or omissions of FOTBST or anyone for whose acts or omissions FOTBST may be liable.

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.** In the event of any dispute between the Parties over the meaning, interpretation or implementation of the terms, covenants or conditions of this Agreement, the matter under dispute, unless resolved between the parties, shall be submitted to the courts of the State of Michigan.
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: _____

CITY OF SAUGATUCK

WITNESS:

_____ BY: _____

Its: _____

_____ BY: _____

Its: _____

DATE: _____

SAUGATUCK TOWNSHIP

WITNESS:

_____ BY: _____

Its: _____

_____ BY: _____

Its: _____

DATE: _____

FRIENDS OF THE BLUE STAR TRAIL

WITNESS:

_____ BY: _____

Its: _____

_____ BY: _____

Its: _____

DATE: _____