

SUMMARY REPORT TO CITY MANAGER
for City Council Meeting of June 13, 2005

SUBJECT: SIDEWALK CONSTRUCTION AGREEMENTS

INITIATED BY: Property Owners installing their own sidewalks

RESOLUTION SUMMARY: This resolution accepts a Sidewalk Construction Agreement prepared by the City Attorney which allows the property owner to construct their own sidewalk in the 2005 Sidewalk Improvement Program.

- ITEMS ATTACHED:**
- 1. Cover Letter
 - 2. Resolution
 - 3. Agreement

CITY COUNCIL ACTION: 3/5 vote required to adopt resolution

SUBMITTED BY: Bradd D. Maki, Assistant City Engineer *BDM*



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DATE: June 7, 2005

TO: Karl S. Tomion, City Manager

FROM: Bradd D. Maki, Assistant City Engineer *BDM*

RE: Sidewalk Construction Agreements

At their May 9, 2005 meeting (Hearing of Necessity), City Council authorized staff to prepare agreements for each property owner desiring to construct their own sidewalk as part of the 2005 Sidewalk Improvement Program. The City Attorney has prepared a Sidewalk Construction Agreement form. Said agreement states that the property owner will have the construction completed by not later than July 31, 2005 or the walk will be constructed by the City of Midland and financed by special assessments levied against the affected property.

Attached hereto and listed below is the only Sidewalk Construction Agreement received. This parcel is not included in the special assessment roll prepared by the City Assessor. The attached resolution accepts the agreement and authorizes the Mayor and the City Clerk to execute it on behalf of the City of Midland.

<u>Property Owner</u>	<u>Property Address</u>	<u>Parcel Code Number</u>
David C. Bradley	3928 Bay City Road	14-24-60-010

WLKAGT05.LTR
DHF



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BY COUNCILMAN

WHEREAS, on May 9, 2005, City Council granted property owners in the 2005 Sidewalk Improvement Program the option of installing their own sidewalks upon submission of a legal agreement acceptable to the City Attorney; and

WHEREAS, the City Attorney has prepared a Sidewalk Construction Agreement to be used for said purpose and which states that the sidewalk must be constructed by no later than July 31, 2005; and

WHEREAS, the City Engineering Department has received one (1) Sidewalk Construction Agreement from a property owner desiring to install their own walk which is listed below:

<u>PARCEL CODE</u>	<u>OWNER</u>
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14-24-60-010	DAVID C. BRADLEY
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; now therefore

RESOLVED, that the Mayor and City Clerk are authorized to sign the Sidewalk Construction Agreement prepared by the City Attorney for parcels in the 2005 Sidewalk Improvement Program.

YEAS:

NAYS:

ABSENT:

I, Selina Tisdale, City Clerk, City of Midland, Counties of Bay and Midland, State of Michigan, do hereby certify that the foregoing is a true and correct copy of a resolution adopted by a yeas vote of all the Councilmen present at a regular meeting of the City Council held Monday, June 13, 2005.

Selina Tisdale, City Clerk

WLKAGT05.RES
DHF

SIDEWALK CONSTRUCTION AGREEMENT

THIS AGREEMENT made and entered into this 1st day of JUNE, 2005, between the CITY OF MIDLAND, a Michigan municipal corporation, having its principal office located at 333 W. Ellsworth Street, Midland, Michigan 48641-1647, hereinafter referred to as the "City" and DAVID C. BRADLEY, of 3928 BAY CITY RD, Midland, Michigan 48642, hereinafter referred to as the "Property Owner";

WHEREAS, the City Council of the City of Midland, by a resolution adopted on May 9, 2005 designated the properties to be included in the 2005 sidewalk installation program; and

WHEREAS, the City Council, as a part of said program, gave each owner of property included in the program the option of constructing the required sidewalk if certain requirements were met; and

WHEREAS, the City Council, in said resolution, required all property owners wishing to install their own sidewalks to enter into a legally sufficient written agreement that must be submitted to the City Council for its approval at its June 13, 2005 meeting;

NOW, THEREFORE, in consideration of the foregoing, it is understood and agreed between the parties as follows:

1. The Property Owner agrees, before July 31, 2005 to install and have completed the sidewalk on the property located on 3928 BAY CITY Street, Midland, Michigan, and which sidewalk area (the "Property") is more particularly described as follows:

PARCEL CODE # 1A-24-60-010

2. The Property Owner agrees and understands that if the sidewalks are not installed and completed on the Property before July 31, 2005, the Property Owner is in breach of this Agreement and that the sidewalk shall be installed thereafter by the City. In the event that the sidewalk is installed by the City, the Property Owner agrees and understands that he/she/it shall be responsible for the total cost of the sidewalk. The Property Owner further agrees and understands that the City may, at its sole discretion, seek payment for the cost of the sidewalk through any legal means, including, but not limited to:

A. The submission of an invoice to the Property Owner for the total cost of the sidewalk, which shall be due in full and payable within 30 days of the date of said invoice. In the event the invoice is not paid in full within 30 days, interest shall accrue at the rate of 1% per month.

B. Amendment to the 2005 Sidewalk Improvement Special Assessment Roll (the "Roll") to add the property and to subsequently levy the special assessment against the property in accord with said resolution and the City of Midland Special Assessment Ordinance.

3. The Property Owner agrees that if the sidewalk is not installed and completed on the above described property before July 31, 2005, and if the City so chooses to amend the Roll to add the property, any and all rights to object to the special assessment levied against the property described above are waived. The Property Owner further agrees to accept the special assessment and to pay the same in the manner determined by the City.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

IN THE PRESENCE OF:

CITY OF MIDLAND

By: R. Drummond Black, Mayor

By: Selina Tisdale, City Clerk

PROPERTY OWNERS:

David C. Bradley

Prepared by: James O. Branson III, City Attorney