

**First Amendment to Remediation Agreement
and Covenant Not to Sue for Windiate Park**

This First Amendment to the Remediation Agreement and Covenant Not to Sue for Windiate park is executed on this date of 6-23, 1998 between the CITY OF FLINT (the "City") and the GENERAL MOTORS CORPORATION ("GM").

Background

A. GM and the City entered into a "Remediation Agreement and Covenant Not to Sue for Windiate Park" dated October 26, 1995 (the "Remediation Agreement"). This Amendment will refer to certain terms defined in the Remediation Agreement.

B. Under the Remediation Agreement, GM prepared and executed a RAP that included placement of a permanent soil cap over certain areas of Windiate Park (the "Park"). GM has completed placement of the soil cap and other remedial activity under the RAP.

C. Under the Remediation Agreement GM agreed to pay the reasonable costs for the renovation of a public recreation area. GM and the City desire to amend the Agreement to provide detail concerning implementation of the Public Park Renovation Plan (the "Plan") prepared by M. C. Smith and Associates, dated June 1997.

The Parties agree as follows:

Agreement

1. GM will pay the City \$675,000.00 to meet GM's obligation to pay the reasonable costs of implementing the park renovation pursuant to Section 3 of the Remediation Agreement. GM will pay the amount no later than twenty-one (21) days after the execution of this Agreement.

2. The City acknowledges that GM's payment satisfies GM's obligation to pay the reasonable costs for the Plan except as provided in paragraph 4. GM will retain review rights for implementation of the Plan design and construction to maintain the integrity of the Park soil cover system. GM will make its environmental consultant available to the City to provide technical assistance to the City on matters of design and construction to maintain the integrity of the Park cover system during the Park construction and will expeditiously notify the City of any environmental problems they may observe. GM will provide, at its expense, and assign a qualified contractor to the City's contractor who shall be responsible to excavate and dispose of impacted materials.

3. The City will follow the Plan as closely as is reasonably practical and as long as any changes do not detrimentally impact the general design of the Park soil cover system.

4. The City will manage and coordinate the construction pursuant to the Plan. The City and GM agree to share, on an equal basis, cost construction overruns that increase the costs

above \$600,000.00. Should the Plan be completed for less than \$600,000.00, then any unexpended funds shall be applied to the ongoing maintenance of the Park.

5. The City will complete construction, including landscaping, of the Plan as soon as reasonably practicable but no later than August 1, 1999.

6. Except as modified herein, the Agreement remains in full force and effect.

7. This Amendment may be executed in two or more counterparts. Each counterpart will be deemed an original.

THE CITY OF FLINT

By: Woodrow Stanley
Woodrow Stanley
Title: Mayor

GENERAL MOTIVES

By: William J. McFarland
Title: Manager Remediation Projects

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Shane Noreen

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Aug 07, 2009 17:22

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980 745

PRESENTED: JUN 22 1998

ADOPTED: JUN 22 1998

Resolution Authorizing First Amendment to Remediation Agreement and Covenant
with the City of Flint and General Motors Corporation for Windiate Park and
Establishment of a General Fund Project

BY THE MAYOR:

WHEREAS, on October 13, 1995 a resolution was adopted authorizing the appropriate City Officials to enter into a Remediation Agreement and Covenant Not to Sue for Windiate Park, and

WHEREAS, pursuant to the terms of the above stated Remediation Agreement, General Motors Corporation had certain obligations for the development of Windiate Park, including paying the reasonable costs associated with the implementation of the approved renovation project, and

WHEREAS, representatives of the City and GM have negotiated a proposed amendment to the Remediation Agreement whereby GM will pay the City \$600,000.00 to meet GM's obligation to pay the reasonable costs of implementing the park renovation project, and

WHEREAS, under the proposed amendment, the City and GM agree to share, on an equal basis, cost construction overruns that increase the implementation costs above \$600,000.00, and

WHEREAS, under the proposed amendment, should the construction costs be less than \$600,000.00, then any unexpended funds shall be applied to the ongoing maintenance of the Park,

WHEREAS, the City has received a fixed price not to exceed bid for construction of the Park for \$571,864.00.

NOW, THEREFORE, BE IT RESOLVED, that the appropriate City Officials be and are hereby authorized to enter into the First Amendment to the Remediation Agreement and Covenant Not to Sue for Windiate Park.

BE IT FURTHER RESOLVED, that a General Fund Project be set up with estimated revenues and appropriations of \$600,000.00.

APPROVED AS TO FORM:

Karen E. McDonald
Karen E. McDonald
Chief Legal Officer

JUN 22 1998

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Reviewed by Budget:

Matthew A. Grady III
Matthew A. Grady III
Date: 6/22/98

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(Purchasing No. 98000069)

PRESENTED: JUN 22 1998

ADOPTED: JUN 22 1998

BY THE MAYOR

RESOLUTION

WHEREAS, the Director of Purchases & Supplies has solicited bids for furnishing, installing and maintaining playground equipment for Windiate Park as requested by the Department of Public Works & Utilities, and

WHEREAS, Unity Construction, 3045 E. Hemphill Rd., Burton, Michigan, was the low bidder from thirteen solicitations for said requirements;

NOW, THEREFORE, BE IT RESOLVED, that the Proper City Officials are hereby authorized to enter into a contract with Unity Construction for furnishing, installing and maintaining playground equipment for Windiate Park, in no amount not to exceed \$571,864.00. (General Fund)

Approved-Purchasing Department

Thomas DM

Approved as to Funds

W. B. B. B.

Approved-Contract Compliance

[Signature]

060998 - KRN

Approved as to Form

APPROVED *[Signature]*
CITY COUNCIL

JUN 22 1998

[Signature]

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