

Michigan Main Street Program Community Requirements and Expectations Agreement

Selected Level

THIS AGREEMENT is entered into and executed by the Michigan Economic Development Corporation ("MEDC"), whose address is 300 N. Washington Square, Lansing, MI 48913, and the Cheboygan Downtown Development Authority (DDA) on behalf of City of Cheboygan, County of Cheboygan, State of Michigan (the "Community") whose address is 403 North Huron, P.O. Box 39, Cheboygan, MI 49721, and its Local Program ("Local Program") whose address is 403 North Huron, P.O. Box 39, Cheboygan, MI 49721. The MEDC, the Community, and the Local Program are each a "Party" and collectively, are the "Parties" to this Agreement, for the purpose of implementing the MEDC/MMS Program in the Community.

WHEREAS, MEDC has entered into a contract with the National Trust for Historic Preservation, National Main Street Center, Washington, D.C. ("NTHP NMSC"), to provide technical expertise, training and services to designated Michigan communities;

WHEREAS, this Agreement is for the purpose of setting forth the MEDC/MMS Program requirements and expectations for the Community's Local Main Street Program, pursuant to its designation as a Selected Michigan Main Street Community ("MMS Community") and pursuant to contractual arrangements between NTHP NMSC and MEDC, so as to assist in the revitalization of the designated Local Program area of Cheboygan, Michigan;

NOW THEREFORE, in consideration of the foregoing mutual covenants and agreements contained herein, the parties have agreed to do as follows:

SECTION I. The Community and its Local Main Street Program agree to these Minimum Participation Standards:

1. Employ a full-time (no less than forty (40) hours per week) program director for the Local Program who will be responsible for the day-to-day administration of the Main Street program in the Community, and develop a job description to describe the duties for which the program director is responsible. During transition periods between program directors, the Local Program must make all efforts to hire a new director within a reasonable amount of time. Generally, an interim director should be in place two months after a program director leaves and a full-time director should be in place six months after a director leaves.
2. Develop and maintain an active Board of Directors and Committees, following the National Main Street Four-Point Approach™, to actively lead the Local Program by developing work plans, utilizing volunteers, and successfully completing all stated programmatic activities.

3. Fund the Local Program for the full term of this Agreement at a level allowing for the full operation of the program. Funding must contain both dedicated funds by public entities and private contributions through fundraising activities.
4. Participate in all scheduled MEDC/MMS Program services (outlined in Section II.1 of this Agreement). Travel expenses to any required sessions are the sole responsibility of the Local Program. If the Community is temporarily without a program director, or the program director is unable to attend, then a representative from the Community is required to attend in their place.
 - A. Absenteeism: An unexcused absence by the Local Program director, or a representative from the Community, will result in the suspension of all services. Once services are suspended, a written warning to the chair of the board and the program director will be issued requesting an explanation on why training sessions have not been attended. Services will be reinstated once training issues are resolved to the satisfaction of the MEDC.
 - B. Full-time equivalent (FTE): At minimum, one (1) individual from the Community must be present for the entirety of the provided service. It is acceptable for two (2) individuals to divide the time between them, as long as the Community is represented for the entirety of the provided service.
 - i. The Local Program director is specifically required, at minimum, to participate in Day 1 of the MEDC Quarterly Training.
 - ii. A representative from the Community is specifically required to participate in Day 2 of the MEDC Quarterly Training.
5. Submit complete and accurate monthly reports by the 10th of each month on the form provided by the MEDC/MMS Program.
6. Submit complete and accurate annual reports by the first Friday of August each year on the form provided by the MEDC/MMS Program.
7. Maintain a current membership in the National Main Street Center Network.
8. Achieve accreditation by meeting the Six Standards of Performance set by the NTHP NMSC during the period of this Agreement outlined in Attachment 1.
9. Utilize the MEDC/MMS Program name and logo with MEDC/MMS Program pre-approval. The use of the name and logo can be used for marketing materials, window signs, flags, letterhead, banners, pins, etc. The MEDC/MMS Program name and logo are trademark protected. Any MEDC/MMS Program road signs given to the Community by the MEDC/MMS Program are property of the MEDC/MMS Program and shall be returned if the Community is no longer an MEDC Community. See Section III, Number 3, of this Agreement.

10. Maintain the Local Program's boundaries and organization structure approved upon the Community's designation as an MMS Community. Changes to either of these require MEDC/MMS Program approval as it could affect the services provided to the Community.
11. Understand all requirements of this Agreement must be met regardless of changes within the Local Program, such as temporary displacement of program director. If requirements of this Agreement are not met to the satisfaction of the MEDC, MEDC/MMS Program services will be suspended, and a written warning to the Chair of the Board of Directors and program director will be issued requesting an explanation. Once requirements are met to the satisfaction of the MEDC, MEDC/MMS Program services will be reinstated. If requirements continue to not be met to the satisfaction of the MEDC, this Agreement will be terminated and the Community will no longer be an MMS Community. All rights associated with the Community's participation in the MEDC/MMS Program will be revoked, including the right to use the MEDC/MMS Program name and logo.
12. Assume full responsibility for all costs and expenses associated with the performance of the Local Program and the performance of its responsibilities under this Agreement. The Community and the Local Main Street Program further acknowledge that the MEDC/MMS Program is not responsible to the Community and/or the Local Main Street Program for any costs associated with this Agreement or the services provided under this Agreement, including but not limited to those costs or expenses incurred as a result of anticipated or actual participation in the MEDC/MMS Program, the NTHP NMSC Program or pursuant to the Community's selection or participation as an MMS Community.
13. Remain engaged and in good standing in the Redevelopment Ready Communities Program, as determined by the MEDC.
14. Acknowledge that third-party technical assistance is only available for eligible MEDC/MMS Program participants, as determined solely by the MEDC.

SECTION II. The MEDC/MMS Program agrees to provide these services:

1. Provide through the term of this Agreement customized program training and technical assistance to the Community and Local Program, including some of the following services, which may be modified by the MEDC/MMS Program, in its sole discretion, to meet programmatic needs:

Program Services Provided to Selected MEDC Communities:

- MEDC/MMS Orientation Training (L)
- Base-Line Assessment (C)*
- Manager Selection Assistance (C)*
- Board Training (C)*
- Business Recruitment
- Downtown Future Services
- Manager Training (C)*

- Committee/Taskforce Training (C)*
 - Design Services – (3) three per year for a total of fifteen
 - Volunteer Development Training (C)*
 - MEDC/MMS Trainings
 - Annual Program Evaluations (C)*
 - Accreditation with the National Main Street Center
 - MMS Listserv Opportunities
 - National MS Conference Registration – (1) one per year
 - MMS Road Signs – (2) two
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**(C) = Services provided within the Community*

2. Conduct MEDC/MMS Quarterly Training statewide for program directors and Local Main Street Program volunteers. Specific forum training topics will vary and be based on the combined needs of all MMS Communities. One forum will be held in each Selected MMS Community.
3. Conduct an Annual Program Evaluation for each Local Program. In order to receive this service, the Community and Local Program must be in compliance with the above Minimum Participation Standards (Section I)
4. Provide advice, information, and additional on-site assistance to the Community, Local Program, its staff, and its Board of Directors upon request by the Local Program and subject to MEDC/MMS Program schedule, program constraints, staff availability, and costs associated with the request. The MEDC/MMS Program may request the assistance of other State or Federal agencies.
5. Provide three (3) Main Street Building Basic workshops and Design Services for up to three (3) buildings per year for the term of this Agreement. Up to fifteen Design Services may be scheduled according to the Community's needs and may be used any time as long as the Local Program is in compliance with this Agreement. If the Community has any Design Services remaining at the end of this Agreement, the Community must continue its participation as a Master Michigan Main Street Community in order to receive the remaining services.
6. Provide two road signs utilizing the MEDC/MMS Program logo for placement at entryways into the Community.
7. Invite Community to attend training and technical assistance opportunities in the other Selected MMS Communities.
8. Accredite, on behalf of the NTHP NMSC, all eligible Michigan Main Street Communities that meet the above Minimum Participation Standards (Section I) and the NTHP NMSC Six Standards of Performance outlined in Attachment 1, as determined in the sole discretion of the MEDC.

SECTION III. The parties hereto otherwise agree as follows:

1. **TERM OF THE AGREEMENT.** This Agreement, beginning September 3, 2019 shall remain in effect until the earlier of December 31, 2024 or such time as the "Termination or Cancellation" provisions hereof are invoked. All procedures for termination and cancellation are outlined below in Section III.16.
2. **CONFIDENTIAL INFORMATION.** Except for information provided to MEDC at its request or as part of this Agreement, the Community, Local Program, and their employees, agents, and representatives shall not disclose, other than to the extent required by law, including without limitation, the Freedom of Information Act, any information or data, including but not limited to all materials furnished to the Community and/or Local Program by MEDC ("Confidential Information") without the written consent of MEDC. Confidential information does not include information that is already in the possession of, or is independently developed by, the Community and/or Local Program; becomes publicly available other than through breach of this Section; or is received by the Community and/or Local Program from a third party with authorization to make such disclosures or is released with MEDC's prior written consent.
3. **LICENSING OF CERTAIN MARKS.** MEDC grants to Local Program a license to utilize the MEDC/MMS Program trade names, trademarks, logo, and/or service marks ("MEDC Marks") for the express purpose of publicizing the Community's selection and involvement as a the MEDC/MMS Program Community. Local Program's use of the MEDC Marks shall be approved by MEDC in advance of use.
4. **INTELLECTUAL PROPERTY RIGHTS.** Local Program acknowledges that it is being granted a limited license during the term of this Agreement by MEDC hereunder to use the MEDC Marks in accordance with the terms and conditions of this Agreement, and that no further or greater rights are granted in or to the MEDC Marks. Local Program acknowledges that MEDC owns all rights, title and interest in and to the MEDC Marks and that it will do nothing inconsistent with MEDC's ownership of the Marks.
5. **INDEMNIFICATION AND LIABILITY INSURANCE.** The Community and its Local Program shall indemnify, defend, and hold harmless MEDC and its subsidiaries, agents, employees and contractors from any damages, liability, costs or expenses that it may sustain through the negligence or willful acts of the Community and/or its Local Program pertaining to the performance of this Agreement. The Community and its Local Program shall maintain such insurance as shall be necessary to protect MEDC from claims that may arise out of or as a result of the Community's and/or Local Program's operations pursuant to this Agreement. The Community and/or Local Program will provide and maintain its own property damage insurance (written at not less than full replacement cost), workers compensation insurance (written for not less than any limits of liability required by law), and liability insurance (maintained at not less than \$1 million per occurrence, and \$5 million in the aggregate). MEDC shall be listed as an additional named insured on all such insurance policies. The Community and Local Program shall provide to MEDC periodic certificates of

insurance to evidence the compliance with such insurance requirements, and, in any event, shall deliver such certificates to MEDC within 10 days after request by MEDC.

6. **TOTAL AGREEMENT.** This Agreement contains the entire agreement between the parties superseding any prior or concurrent agreements as to the services being provided, and no oral or written terms or conditions which are not contained in this Agreement shall be binding. This Agreement may not be changed except by mutual agreement of the parties, reduced to writing and signed.
7. **ASSIGNMENT/TRANSFER/SUBCONTRACTING.** Except as contemplated by the Agreement, the Community and its Local Program shall not assign, transfer, convey, subcontract, or otherwise dispose of any duties or rights under this Agreement without the prior specific written consent of MEDC. Any future successors of the Community and/or Local Program will be bound by the provisions of this Agreement unless MEDC otherwise agrees in a specific written consent.
8. **COMPLIANCE WITH LAWS.** The Community and Local Program shall comply with all applicable laws, ordinances, regulations, rules, orders, judgments, decrees or other requirements imposed by any governmental authority (collectively, "laws"). The Community and/or Local Program is not, and will not during the term of this Agreement, be in violation of any laws to which it is subject, and will not fail to obtain any licenses, permits or other governmental authorizations necessary to carry out its duties hereunder.
9. **WAIVER.** A failure or delay in exercising any right with respect to this Agreement will not operate as a waiver unless otherwise stated in this Agreement, and will not excuse subsequent failures or delays, and a single or partial exercise of any right will not be presumed to preclude any subsequent or further exercise of that right, or the exercise of any other right, and will not be construed as an automatic exercise of subsequent rights.
10. **NOTICES.** Any notice, approval, request, authorization, direction or other communication under this Agreement shall be given in writing and shall be deemed to have been delivered and given for all purposes (i) on the delivery date if delivered by electronic mail or by confirmed facsimile; (ii) on the delivery date if delivered personally to the Party to whom the same is directed; (iii) one (1) business day after deposit with a commercial overnight carrier, with written verification of receipt; or (iv) three (3) business days after the mailing date, whether or not actually received, if sent by U.S. mail, return receipt requested, postage and charges prepaid, or any other means of rapid mail delivery for which a receipt is available. The notice address for the Parties shall be the address as set forth in this Agreement, with the other relevant notice information, including the recipient for notice and, as applicable, such recipient's fax number or e-mail address, to be reasonably identified by notifying Party. MEDC, the Community and Local Program may, by notice given hereunder, designate any further or different addresses to which subsequent notices shall be sent.
11. **SEVERABILITY.** The invalidity or unenforceability of a particular provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, provided that the principal intent of this Agreement can be preserved.

12. **GOVERNING LAW AND JURISDICTION.** 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. The parties agree that any legal actions concerning this Agreement shall be brought in the Ingham County Circuit Court in Ingham County, Michigan, USA. The terms of this paragraph shall survive the termination of the cancellation of this Agreement.
13. **NO EMPLOYMENT, PARTNERSHIP OR AGENCY RELATIONSHIP.** the MEDC/MMS Program is limited to furnishing its technical services to the Community and its Local Program and thus nothing contained herein shall create any employer-employee relationship. Further, this Agreement does not create a partnership relationship.
14. **NO THIRD PARTY BENEFICIARIES.** There are no express or implied third party beneficiaries to this Agreement.
15. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts and by facsimile, each of which shall constitute an original, and all of which together shall constitute one and the same instrument.
16. **TERMINATION OR CANCELLATION.**
- A. This Agreement may be terminated by MEDC by providing written notice of default and termination to the Community and its Local Program ("Notice of Default and Intent to Terminate") upon the occurrence of any of the following events or conditions ("Event of Default"):
- (i) any representation or covenant made by the Community and/or its Local Program is determined by MEDC, in its reasonable judgment, to be incorrect at the time that such representation or covenant was made in any material respect, including, but not limited to, the Reports and compliance with laws as required under this Agreement;
 - (ii) The Community's and/or its Local Program's failure to comply with any of the requirements of this Agreement;
 - (iii) use of the program training, technical assistance, and resources provided pursuant to this Agreement for purposes other than as set forth in this Agreement.
- B. Notwithstanding the foregoing, the Community and its Local Program acknowledges that MEDC's performance of its obligations under this Agreement is dependent upon the continued approval of funding and/or the continued receipt of state funding. In the event that the State Legislature, the State Government or any State official, public body corporate, commission, authority, body or employees, or the federal government (a) takes any legislative or administrative action which fails to provide, terminates or reduces the funding or programmatic support necessary for this Agreement, or (b) takes any legislative or administrative action, which is unrelated to

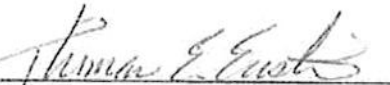
the source of funding or programmatic support for this Agreement, but which affects MEDC's ability to fund and administer the MEDC/MMS Program, then MEDC may cancel this Agreement by providing notice to the Community and its Local Program of cancellation. Cancellation may be made effective immediately, upon delivery of notice to the Community or its Local Program, or with such other time period as MEDC, in its sole discretion, deems reasonable.

- C. In addition to the above, either party may terminate its obligations under this Agreement, without cause, by giving the other party a 30-calendar day written notice of such termination.
 - D. In the event that this Agreement is terminated, neither MEDC nor the Community or its Local Program shall have any further obligation to perform under this Agreement. The Community and/or Local Program shall, unless otherwise directed by MEDC in writing, immediately take all reasonable steps to terminate operations under this Agreement.
 - E. In the event of termination or cancellation of this Agreement by the Local Program, the Local Program shall be obligated to reimburse MEDC for the cost of all third party services provided by MEDC to the Local Program pursuant to the terms of this Agreement. Such cost shall be determined solely by MEDC. The Local Program and the Community shall be jointly and severally liable for the payment of such reimbursement. Such reimbursement shall be made within thirty (30) days after delivery of an invoice therefor by MEDC.
17. **RESERVATIONS.** MEDC reserves the right to modify services provided to the Community and/or its Local Program as necessary.
18. **AUTHORITY TO EXECUTE THIS AGREEMENT.** The signatories below warrant that they are authorized to enter into this Agreement.
19. **Failure to sign and submit this agreement to MEDC on or before November 3, 2019 will result in the termination of the Community's participation in the MEDC/MMS Program.**

Execution Copy

IN WITNESS WHEREOF, the parties have executed this Agreement.

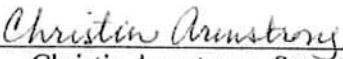
CITY OF CHEBOYGAN DOWNTOWN DEVELOPMENT AUTHORITY

BY: 
Tom Eustice, City Manager

CHEBOYGAN MAIN STREET

BY: 
Kristen Guenther, Executive Director

MICHIGAN ECONOMIC DEVELOPMENT CORPORATION

BY: 
Christin Armstrong, Secretary

National Trust for Historic Preservation / National Main Street Center

**Six Standards of Performance
for Accreditation**

1. Broad-based Community Commitment
2. Leadership & Organizational Capacity
3. Diverse and Sustainable Funding
4. Strategy-Driven Programming
5. Preservation-Based Economic Development
6. Demonstrated Impact & Result