CITY OF MUSKEGON

CITY COMMISSION MEETING

NOVEMBER 12, 2019 @ 5:30 P.M.

MUSKEGON CITY COMMISSION CHAMBERS

933 TERRACE STREET, MUSKEGON, MI 49440

AGENDA

- □ **CALL TO ORDER:**
- □ **PRAYER:**
- □ **PLEDGE OF ALLEGIANCE:**
- □ **ROLL CALL:**
- □ **HONORS AND AWARDS:**
- □ **PUBLIC COMMENT ON AGENDA ITEMS:**
- □ **CONSENT AGENDA:**
  - **A. Approval of Minutes** City Clerk
  - **B. Resolution Establishing Authorized Signatories for MERS** Finance
  - **C. Management Agreement Fisherman's Landing** Finance
  - **D. Approval of Building Contract: 567 Leonard** Community & Neighborhood Services
  - **E. Sewer & Water Engineering Assistance** Public Works
  - **F. Electrical System Upgrades** Public Works - Filtration
- □ **PUBLIC HEARINGS:**
  - **A. Public Hearing on the Brownfield Plan for 1208 Eighth** Economic Development
- □ **UNFINISHED BUSINESS:**
- □ **NEW BUSINESS:**
  - **A. Convention Center Brownfield Grant** City Manager
- □ **ANY OTHER BUSINESS:**
- □ **PUBLIC COMMENT ON NON-AGENDA ITEMS:**

► **Reminder: Individuals who would like to address the City Commission shall do the following:**
► Fill out a request to speak form attached to the agenda or located in the back of the room.
► Submit the form to the City Clerk.
► Be recognized by the Chair.
► Step forward to the microphone.
► State name and address.

► Limit of 3 minutes to address the Commission.
► (Speaker representing a group may be allowed 10 minutes if previously registered with City Clerk.)

□ CLOSED SESSION:

□ ADJOURNMENT:

ADA POLICY: THE CITY OF MUSKEGON WILL PROVIDE NECESSARY AUXILIARY AIDS AND SERVICES TO INDIVIDUALS WHO WANT TO ATTEND THE MEETING UPON TWENTY-FOUR HOUR NOTICE TO THE CITY OF MUSKEGON. PLEASE CONTACT ANN MARIE MEISCH, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TTY/TDD DIAL 7-1-1-22 TO REQUEST A REPRESENTATIVE TO DIAL (231) 724-6705.

Memorandum

To: Mayor and Commissioners

From: Frank Peterson

Re: City Commission Meeting

Date: November 7, 2019

Regular Session:

1. Under the Consent Agenda, we are asking the Commission to consider the following:
    a. Approval of meeting minutes from the most-recent City Commission meeting.
    b. Approval of a resolution authorizing signatories for MERS-related business.
    c. Approval of an extension to the management agreement for Fisherman's Landing.
    d. Approval of a building contract for a CNS project located at 567 Leonard.
    e. Approval to enter into a contract for engineering assistance for sewer and water projects associated with our recent State Revolving Fund loan/grant awards.
    f. Approval of the lowest qualified bidder for electrical systems upgrades at the Water Filtration Plant.
2. Public Hearings:
    a. We will conduct a public hearing on the redevelopment plan for 1208 8^{th} Street. The redevelopment will include a Brownfield Plan for the reimbursement of certain qualified expenses.
3. New Business
    a. Approval of the Convention Center Brownfield Grant and related expenses for dewatering and water treatment.

Let me know if you have any questions/comments/concerns

Frank

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: November 12, 2019	Title: Approval of Minutes
Submitted By: Ann Marie Meisch, MMC	Department: City Clerk
Brief Summary: To approve the minutes of the October 22, 2019 Regular meeting and the October 29, 2019 Special Meeting.	
Detailed Summary: N/A	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: To approve the minutes.	
For City Clerk Use Only: Commission Action:	

CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 22, 2019 @ 5:30 P.M.

MUSKEGON CITY COMMISSION CHAMBERS
933 TERRACE STREET, MUSKEGON, MI 49440

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, October 22, 2019, Pastor Jeremy Lenertz, Muskegon First Wesleyan, opened the meeting with prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen J. Gawron, Vice Mayor Eric Hood, Commissioners Byron Turnquist, Ken Johnson, Debra Warren, Dan Rinsema-Sybenga, and Willie German, Jr., Acting City Manager/Finance Director Elizabeth Lewis, City Attorney John Schrier, and City Clerk Ann Meisch.

Commissioner German left at 6:35 p.m.

PUBLIC COMMENT ON AGENDA ITEMS: Public comments were received.

2019-83 CONSENT AGENDA:

A. <u>Approval of Minutes</u> City Clerk

SUMMARY OF REQUEST: To approve the minutes of the October 7, 2019 Worksession meeting and the October 8, 2019 Regular Meeting.

STAFF RECOMMENDATION: To approve the minutes.

B. <u>SRF & DWRF Project Implementation</u> Public Works

SUMMARY OF REQUEST: Staff is requesting commission approval to shortlist and begin priced proposal negotiations with the top three scoring firms to respond to the Request for Qualification to provide engineering services for future State Revolving Fund and Drinking Water Revolving Fund Projects. The top three scoring firms are Prien & Newhof, Fleis & VandenBrink and Abonmarche.

Staff solicited proposals from interested Engineering firms to provide assistance for the next five years of SRF and DWRF projects within the City. Staff (Leo Evans, Dave Baker, and Sanjeev Mungarwadi) scored the proposals and are recommending that the top three scoring firms be shortlisted for future consideration. Firms on the short list will be contacted to negotiate priced proposals for specific projects as they are identified and the priced proposals with engineering service agreements will be returned to the city commission for review and consideration once finalized by staff.

STAFF RECOMMENDATION: Approve the short list of firms recommended by staff and authorize staff to begin priced proposal negotiation with the short-listed firms on specific projects.

C. Scrap Tire Grant Public Works

SUMMARY OF REQUEST: Staff is requesting permission to partner with Michigan Technological University on a Scrap Tire Market Development Grant application through the Michigan Department of Environment, Great Lakes, and Energy. (MDEGLE)

Michigan Technological University has approached city staff to partner on a FY20 grant application to MDEGLE as part of their Scrap Tire market Development Program. Applications are due by November 1st, 2019. The proposed project is for the concrete reconstruction of portions of Franklin Street and Michigan Avenue in the Nims Neighborhood. Staff was planning to propose this project as a FY20-21 Capital Improvement project with a total project cost preliminarily estimated at $1.15 million; divided between the following budgets: Major Street ($800,000), Sewer ($300,000), and Water ($50,000). The potential grant amount is estimated at not to exceed $500,000, which would be used to offset a portion of the Major Street contribution.

STAFF RECOMMENDATION: Authorize staff to partner with Michigan Technological University on the Scrap Tire Market Development Grant Application.

D. Mower and Mower Cab Purchases Public Works

SUMMARY OF REQUEST: The Parks Department is requesting to purchase two Toro Groundsmaster 3280 4-wheel drive riding mowers for $42,022.52 ($47,022.52 minus $5,000 for used mower trade-ins) and one cab for $8,433.37, from Spartan Distributors. These new mowers will be replacing some of the older models which we will be trading in and the cab purchase is for one mower for winter maintenance duties.

STAFF RECOMMENDATION: Authorize staff to purchase two Toro riding mowers and one cab for one of the riding mowers, from Spartan Distributors.

E. Community Officer Agreement Public Safety

SUMMARY OF REQUEST: This agreement provides Muskegon High School with a Community Officer during the nine months school is in session. Muskegon Public Schools agrees to pay the City of Muskegon $2,609.54 each month, from September 2019 through May 2020, totaling $23,485.82.

STAFF RECOMMENDATION: Approve the 2019-2020 school year MHS Community Officer Agreement.

F. <u>1208 Eighth Street Brownfield Public Hearing</u> Economic Development

SUMMARY OF REQUEST: The Brownfield Redevelopment Authority recommended approval of Brownfield Plan Amendment for 1208 Eighth Street and now the city commission must schedule a public hearing on that plan for November 12, 2019.

Core Development submitted a Brownfield Plan Amendment for 1208 Eighth Street to the Brownfield Redevelopment Authority, which approved it on October 8, 2019. The city commission must set a public hearing on the plan for November 12, 2019.

STAFF RECOMMENDATION: To approve the resolution setting a public hearing for November 12, 2019 on the 1208 Eighth Street Brownfield Plan Amendment and notify the appropriate taxing units.

Motion by Commissioner German, second by Commissioner Johnson, to accept the consent agenda, as presented.

ROLL VOTE: Ayes: Warren, German, Rinsema-Sybenga, Turnquist, Johnson, Gawron, and Hood

Nays: None

MOTION PASSES

2019-84 NEW BUSINESS:

A. <u>Concurrence with the Housing Board of Appeals Notice and Order to Demolish</u> Public Safety

240 Mason Street

1770 6th Street

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures are unsafe, substandard, a public nuisance and that they be demolished within thirty days or infraction tickets may be issued. It is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute contracts for demolition with the lowest responsible bidder or staff may issue infraction tickets to the owner, agent or responsible party if they do not demolish the structures

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish 240 Mason Street and 1770 6th Street.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to concur with the Housing Board of Appeals decision to demolish 240 Mason Street and 1770 6th Street.

ROLL VOTE: Ayes: German, Rinsema-Sybenga, Turnquist, Johnson, Gawron,

Hood, and Warren

Nays: None

MOTION PASSES

B. <u>Application for Marihuana Facility</u> Planning & Economic Development

SUMMARY OF REQUEST: Request to review the amended Marihuana Facilities Application.

STAFF RECOMMENDATION: To approve the amended Marihuana Facilities Application.

Motion by Commissioner Warren, second by Commissioner German, to approve the amended Marihuana Facilities Application.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Turnquist, to table the item until December 9, 2019 – the next Worksession meeting.

ROLL VOTE: Ayes: Turnquist, Gawron, Hood, and Rinsema-Sybenga

Nays: Johnson and Warren

MOTION PASSES

ANY OTHER BUSINESS: Commissioner Rinsema-Sybenga informed the commission that there would be a Community Relations Committee acknowledgement function on December 2, 2019.

PUBLIC COMMENT ON NON-AGENDA ITEMS: Public comments were received.

ADJOURNMENT: The City Commission meeting adjourned at 7:03 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk

CITY OF MUSKEGON
SPECIAL CITY COMMISSION MEETING

Tuesday, October 29, 2019
5:30 p.m. @
Muskegon City Hall
933 Terrace Street
Muskegon, MI 49440
In the Commission Chambers, Room 107

MINUTES

Present: Commissioners Turnquist, Warren, Johnson, German, Rinsema-Sybenga, and Gawron

Absent: Hood

2019-85

Establishment of Plant Rehabilitation District – Public Hearing

Pursuant to Public Act 198 of 1974, as amended, American Chemical Solutions, LLC has requested the establishment of a Plant Rehabilitation District at 2406 Roberts Street. This new company will be moving into the former chemical plant on Roberts Street and will need to make significant upgrades to the facility. In order to apply for a Plant Rehabilitation IFT, they must be located in a Plant Rehabilitation District.

Public Hearing Commenced:

Todd Zaan, CEO of and Joe Haak, CFO 2406 Roberts Street provided an overview of their business.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson, to close the public hearing and to approve the Plant Rehabilitation District at 2406 Roberts Street.

ROLL VOTE: **Ayes: Gawron, Warren, German, Rinsema-Sybenga, Turnquist, and Johnson**

Nays: None

MOTION PASSES

2019-86

<u>Issuance of an Industrial Facilities Tax Exemption Certificate – American Chemical Solutions, LLC – Public Hearing</u>

Pursuant to Public Act 198 of 1974, as amended, American Chemical Solutions, LLC has requested the issuance of an Industrial Facilities Tax (IFT) Exemption Certificate in order to rehabilitate the vacant chemical plant at 2406 Roberts Street. The company is eligible for a 6-year abatement on the real property improvements.

Public Hearing Commenced: No public comments were received.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to close the public hearing and to approve the IFT Certificate for 6 years with no extensions.

ROLL VOTE: **Ayes: Warren, German, Rinsema-Sybenga, Turnquist, Johnson, and Gawron**

Nays: None

MOTION PASSES

2019-87

Motion by Commissioner Johnson, second by Commissioner Warren, to take from the table, the Marihuana Application, for further discussion.

ROLL VOTE: **Ayes: German, Johnson, and Warren**

Nays: Rinsema-Sybenga, Turnquist, and Gawron

MOTION DEFEATED

Adjourned: The Special Meeting of the City Commission adjourned at 6:12 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: November 12, 2019	Title: Resolution Establishing Authorized Signatories for MERS
Submitted By: Beth Lewis	Department: Finance

Brief Summary: To approve a Resolution establishing authorized signatories for MERS Contracts and Service Credit purchase approvals.

Detailed Summary: To approve a resolution establishing the following positions as authorized signatories for MERS contracts and service credit purchases:

Finance Director

Assistant Finance Director

City Manager

Amount Requested: n/a	Amount Budgeted: n/a
Fund(s) or Account(s): n/a	Fund(s) or Account(s): n/a

Recommended Motion: To approve the Resolution establishing authorized signatories for MERS Contracts and Service Credit purchase approvals.

Check if the following Departments need to approve the item first:

Police Dept. ☐

Fire Dept. ☐

IT Dept. ☐

For City Clerk Use Only:

Commission Action:

Resolution Establishing Authorized Signatories for MERS Contracts and Service Credit Purchase Approvals

MERS® Municipal Employees' Retirement System

1134 Municipal Way Lansing, MI 48917 | 800.767.MERS (6377) | Fax 517.703.9711 www.mersofmich.com

This Resolution is entered into under the provisions of 1996 PA 220 and the Municipal Employees' Retirement System of Michigan ("MERS") Plan Document, as each may be amended.

This resolution applies to reporting unit(s) # 6116 of the participating municipality listed below.

WHEREAS, City of Muskegon ("Employer") is a participating municipality with the Municipal Employees' Retirement System of Michigan ("MERS") and has adopted one or more retirement, insurance, investment or other post-employment benefit products administered by MERS;

WHEREAS, MERS requires signatures of an authorized representative of the Employer to execute contracts with MERS, the entry of which is authorized by the governing body and permitted under the applicable MERS Plan Document(s);

WHEREAS, the Employer wishes to designate certain job position(s), the holder(s) of which may sign MERS' contracts relating to the adoption, amendment and termination of MERS' products, and defined benefit service credit purchase approvals on behalf of Employer to implement decisions and actions of the governing body;

WHEREAS, this Resolution is not intended to apply to MERS forms or any other MERS document except as specifically mentioned herein,

Therefore, the Governing Body resolves:

The holders of the following job position(s) are hereby authorized to sign: (1) MERS Adoption Agreements, Participation Agreements, Administrative Services Agreements, Withdrawal Agreements and any other contracts between MERS and the Employer with respect to Employer's participation in any MERS-administered product and any amendments and addendums thereto, and (2) MERS Defined Benefit service credit purchase approvals:

1. Finance Director

Optional additional job positions:

2. Asst. Finance Director
3. City Manager

This Resolution may be revoked in writing or amended by the Governing Body at any time, provided that it will not be effective until such writing or amended Resolution is received by MERS. The Governing Body agrees that MERS may rely upon this Resolution as conferring signing authority upon the holders of the above job position(s) to bind Employer with respect to MERS.

Adopted at a regular/special meeting of the Governing Body on ______________________, 20______.

Authorized signatory: ______________________________

Name: ______________________________

Title: ______________________________

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: Nov 12, 2019	Title: Management Agreement Fisherman's Landing
Submitted By: Beth Lewis	Department: Finance
Brief Summary: To approve the First Amendment to the Management Agreement for Fisherman's Landing and the Letter of Understanding between the City and Fisherman's Landing Management.	
Detailed Summary: The current Management Agreement with Fisherman's Landing expires at the end of this year. The Amendment will extend the term to December 31, 2021. Additionally we have put together a Letter of Understanding between the City and the Fisherman's Landing Management regarding some concerns the Management has had over the last several years. The Letter of Understanding gives the Manager access to the daily Launch Ramp deposits, provides Fisherman's landing with more of a police presence to enforce parking violations and allows for unlimited sales of annual permits.	
Amount Requested: n/a	Amount Budgeted: n/a
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the First Amendment to the Management Agreement and the Letter of Understanding with Fisherman's Landing.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

MANAGEMENT AGREEMENT

This Agreement is made this 27 day of JAN., 2015, by and between the **CITY OF MUSKEGON**, a Michigan municipal corporation, whose offices are located at 933 Terrace Street, Muskegon, Michigan 49443-0536 ("City") and **FISHERMAN'S LANDING, INC.**, a Michigan non-profit corporation, whose address is 501 E. Western Avenue, Muskegon, Michigan 49440 ("Manager"),

Background

A. Fisherman's Landing (Giddings Street Launch Ramp) is a park within the park system of the City, and is located at 501 E. Western Avenue.

B. Fisherman's Landing is designated to furnish camping and boating facilities to the general public.

C. The City is authorized by the State of Michigan to own and operate Fisherman's Landing and is authorized to delegate its operation to Manager.

D. Manager is willing on the terms and conditions hereinafter set forth to operate Fisherman's Landing during the term of this agreement.

E. City, in consideration thereof, will assume and perform certain duties and obtain certain benefits as hereafter itemized.

NOW THEREFORE, IT IS AGREED:

1. **Covenants of Manager.** Manager shall, during the term of this agreement on an annual basis, do and perform the following:

(a) Operate the campground facility in an efficient and competent manner for as many hours of the day as are necessary, and collect campground fees from the users. The fees collected shall be accounted for to the City and placed in the fund set forth below in paragraph l(d). The campground shall be open, at a minimum, from May 15th to September 15th on an annual basis.

(b) Keep clean and maintain in an acceptable manner the restroom and shower facilities, fish cleaning station, shelter, and office buildings.

(c) Maintain the grounds in an acceptable manner, including grass mowing and litter pick-up. Should the Manager's equipment be temporarily inoperable, City agrees to mow the grounds on a temporary basis, not exceeding fourteen days and charge the costs to Manager.

(d) Retain any excess of income over expenses derived from Manager's operation of Fisherman's Landing in a separate fund which Manager shall devote to assisting the City in the funding of capital improvements at Fisherman's Landing, or other projects mutually agreed annually upon by the parties.

(e) Provide to the City on an annual basis, and no later than January 30, a financial report for the previous calendar year showing all expenses incurred and revenues received as a result of Manager's operation of Fisherman's Landing. The report shall be prepared using QuickBooks financial software, or a similar commercially-available financial software product. Subject to City auditor review and approval, the report may be prepared on an Excel spreadsheet which details itemized monthly revenue and expenses.

(f) Supply cleaning supplies and paper products as necessary for the maintenance and operation of the restroom and shower facilities.

(g) Secure any and all required licenses and permits for the operation of Fisherman's Landing.

(h) Provide City with reports of all fishing tournaments held at Fisherman's Landing, providing as much detail as possible using current procedures. Work to develop and implement procedures which would detail revenue generated, number of participants, etc.

(i) Reimburse the City for the full cost of electric service provided during the months of May, June, July, August, and September. Reimbursement shall be paid to the City no later than December 1 of each year for services provided in that year. The City agrees to provide copies of all utility bills for the facility to the manager on a monthly basis.

(j) Fisherman's Landing agrees that, at least annually, it will meet with City staff to review the status of and any proposed changes to the site plan.

(k) Provide the general public access to the channel area up to the fence line.

2. **Improvements.** It is understood that any improvement made to the site will become the property of the City.

3. **Covenants of the City.** City shall, at its own cost on an annual basis, during the term of this agreement, do and perform the following:

(a) Maintain in an acceptable state of repair the launch ramp, launch ramp docks, roadways, parking lots, signs, outdoor lighting in the non - campground areas, playground, sprinklers in the non-campground area, and all utilities.

(b) Pay all utility bills for Fisherman's Landing.

(c) Provide for the premises a dumpster for the collection of trash.

(d) Manager will be supplied permits as needed and all revenue from any permits sold shall be split with 50% to Manager and 50% to City. City shall receive an itemized listing of all permits sold.

(e) Supply 2 portable bathrooms (1 being handicap-accessible) for Fisherman's Landing.

(f) Help identify state or federal grants that may be available for the facility and work with the Fisherman's Landing Inc. to secure grant funding to finance improvements at the facility.

4. **Launch Ramp Permits.** -The City and Manager agree to cooperatively develop and implement cost-effective strategies for surveillance and enforcement of the City's launch ramp permit requirements. Strategies to be considered include, but are not limited to, sharing of costs for a park ranger position and/or sharing fine revenue generated at the Fisherman's Landing site. Achieving this goal may require mutually agreed to modifications to the terms and processes outlined in this agreement. Such modifications may be made through a letter of understanding signed by the City Manager and the Chairman of Fisherman's Landing Inc.

5. **Facility to Become Self-Sufficient.** - The parties recognize that the City currently pays utility and certain other costs (including those outlined above) necessary for operation of the Fisherman's Landing facility. The parties agree that a shared goal is to achieve and/or maintain financial self-sufficiency for Fisherman's Landing during the term of this agreement. Achieving this goal may require mutually agreed to modifications to the terms and processes outlined in this agreement. Such modifications may be made through a letter of understanding signed by the City Manager and the Chairman of Fisherman's Landing Inc.

6. **Term.** Subject to the termination provision of this agreement, it shall commence the 27th day of January, 2015, and terminate at the end of the 2019 year season, but no later than December 31, 2019. The parties may mutually agree to renewals of this agreement, the terms and provisions thereof to be negotiated.

7. **Insurance.** The Manager shall, at its cost, procure and maintain during the term of this agreement the following insurance policies, naming the City as an additional insured, and maintaining policies which provide that the City shall receive at least thirty (30) days' notice prior to cancellation:

(a) Comprehensive general public liability insurance single limit in the minimum amount of $1,000,000.

(b) Motor vehicle liability in the minimum amount of $1,000,000 (this insurance requirement shall not be effective until such time as Manager purchases a vehicle for use at Fisherman's Landing, or Manager obtains uses of City-owned vehicles.)

(c) Worker's Compensation Insurance covering all persons deemed to be employees of Manager by law.

(d) All policies of insurance shall be evidenced by certificates and shall be placed with insurance companies acceptable to the City and licensed to do business in the State of Michigan. Said insurance shall be kept in force and new certificates supplied for substituted or renewed insurance.

8. **Compliance With Laws.** Manager shall promptly comply with all ordinances of the City of Muskegon and statutes of the State of Michigan with respect to the use of said premises, any construction upon said premises, and further agrees to fully comply with all regulations imposed upon the City by the State of Michigan's Department of Environmental Quality insofar as such regulations pertain to any of the promises or undertakings of Manager set forth in this agreement.

9. **Termination.** This agreement may be terminated by City or Manager upon furnishing the non-terminating party written notice of termination not less than thirty (30) days prior to the effective date of termination.

10. **Notices.** Any notice required to be given in writing under the provisions of this agreement shall be deemed to be delivered if given personally to the party entitled to such notice or if deposited in the U.S. mail to such party at the address set forth in the introduction of this agreement with postage thereon fully prepaid.

11. **Other Agreements.** Manager and City acknowledge the existence of a Development and Reimbursement Agreement dated March 22, 2005, which remains in full force and effect. Nothing in this Agreement is intended to alter the obligations of the parties in the Development and Reimbursement Agreement. Other than the Development and Reimbursement Agreement, as amended in January 2008, any other agreements between the parties shall be null and void.

The parties have caused this agreement to be executed on the date first above written.

CITY – CITY OF MUSKEGON

By ______________________________
Stephen Gawron, Mayor

And ______________________________
Ann Cummings, MMC, Clerk

MANAGER -FISHERMAN'S
LANDING, INC., a Michigan non-profit corporation

By Jack Harrington
Jack Harrington
Its PRESIDENT

Letter of Understanding between Fisherman's Landing Inc. and the City of Muskegon

Effective: January 2020

Annual Launch Ramp Permits

Fisherman's Landing Inc will receive 400 permits at the start of each year and will receive additional permits as needed. There will be no limit to the number of permits Fisherman's Landing Inc can get and sell each year. Per the Management Agreement the revenue will be split 50% to the Manager and 50% to the City. Additional the City shall receive an itemized listing of permits sold.

Launch Ramp Daily Revenues

The Manager will be provided access to deposits for daily launch ramp permits at Fisherman's Landing. The Manager will keep the money in a secured location. At the beginning of each year the Manager and DPW staff will meet to agree upon procedures and schedule pickup's for the deposits of the daily launch ramp revenues for the coming year.

Parking Enforcement at Fisherman's Landing

The City agrees to have the Police department patrol Fisherman's Landing between April 15th and October 15th each year. In addition the Manager will be given a contact at the Muskegon Police Department to call with parking concerns. In March each year the City and the Manager will meet to review procedures for parking enforcement at Fisherman's Landing.

_______________________________________ _______________________________________

Manager – Fisherman's Landing Manager – City of Muskegon

_______________________________________ _______________________________________

Date Date

FIRST AMENDMENT TO MANAGEMENT AGREEMENT

This **First AMENDMENT TO MANAGEMENT AGREEMENT** relating to the management of the Fisherman's Landing (Giddings Street Launch Ramp) is made this ______ day of _______________, 2019 (the "**First Amendment**"), by and between the **City of Muskegon**, ("City"), and **Fisherman's Landing, Inc.**, ("Manager") and jointly referred to as "Parties".

RECITALS

WHEREAS, City and Manager are Parties to a Management Agreement relating to the management of Fisherman's Landing (Giddings Street Launch Ramp) dated January 27, 2015 ("Management Agreement"); and

WHEREAS, City and Manager wish to amend the Management Agreement on the terms and conditions set forth in this First Amendment ("First Amendment").

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **INCORPORATION OF RECITALS AND DEFINED TERMS**. The above recitals are hereby incorporated into this First Amendment as if fully set forth herein. Except as modified by the First Amendment, the Management Agreement shall remain in full force and effect.

2. Paragraph 6 shall be revised to read as follows:

Term. Subject to the termination provision of this agreement, it shall commence the 27^{th} day of January, 2015, and terminate at the end of the 2021 year season, but no later than December 31, 2021. The parties may mutually agree to renewals of this agreement the terms and provisions thereof to be negotiated.

THIS FIRST AMENDMENT IS HEREBY EFFECTIVE ON THE DATE IDENTIFIED ABOVE.

The remainder of this page is left intentionally blank.

CITY OF MUSKEGON

Dated: ___________________, 2019 By:_____________________________________

Stephen Gawron, its Mayor

Dated: ___________________, 2019 By:_____________________________________

Ann Marie Meisch, its Clerk

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date:11/12/19	Title: Approval of Abatement Contract:567 Leonard
Submitted By: Oneata Bailey	Department: CNS

Brief Summary: To award the Building Contract for the lead abatement of 567 Leonard to Badgerows Building and Remodeling for the City of Muskegon's Homebuyers Program through CNS.

Detailed Summary:

Lead Abatement Contract for 567 Leonard has been bid twice with no bidders. Since the property has been owned by the City for 10 months, CNS sought out Lead Abatement contractors from the Medicaid CHIP Grant and only 1 contractor was available to provide a bid based on their current work assignments.

*The only bid received was from an ineligible contractor.

Amount Requested:	Amount Budgeted:
Fund(s) or Account(s): HOME 2018	Fund(s) or Account(s):

Recommended Motion: To award Badgerows Building and Remodeling the lead abatement contract for 567 Leonard; in the amount of $ 39,230.00, for the Community and Neighborhood Services Office.

Check if the following Departments need to approve the item first:

Police Dept. ☐

Fire Dept. ☐

IT Dept. ☐

For City Clerk Use Only:

Commission Action:

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 11/12/2019	Title: Sewer & Water Engineering Assistance
Submitted By: Leo Evans	Department: Public Works

Brief Summary: Staff is requesting commission approval to enter into Professional Service Agreements with three (3) engineering firms to provide engineering assistance on a variety of water and sewer projects planned for construction in 2020 and 2021.

Detailed Summary: Staff negotiated with the three (3) shortlisted engineering firms and brings forward the following recommendations:

Prein & Newhof ($386,600.00)

Peck Street Trunk Sewer

Lead Water Service Replacements

Fleis & VandenBrink ($561,000.00)

Amity Avenue Trunk Sewer

Abonmarche ($106,100.00)

Harvey Booster Station Repairs

Filtration Plant Structural Repairs

All three proposals have been reviewed by staff and found to be acceptable. All three professional service agreements have been submitted for legal counsel review. The first three projects are proposed for funding within the State Revolving Fund and Drinking Water Revolving Fund programs which will provide for some principal forgiveness on the projects.

These projects were not included in the original 19-20 budget as we were not sure that we would be eligible for principal forgiveness again. Based on preliminary responses from MDEGLE we will be able to receive principal forgiveness and are recommending we proceed with these projects and will include the requested amounts in a future reforecast.

Amount Requested: $1,053,700.00	Amount Budgeted: $200,000

Fund(s) or Account(s):	Fund(s) or Account(s):
590 = $250,000 (19-20) / $303,700 (20-21)	590 = $100,000
591 = $250,000 (19-20) / $250,000 (20-21)	591 = $100,000

Recommended Motion:

Authorize staff to sign the professional service agreements with Prein & Newhof, Fleis & VandenBrink, and Abonmarche for the 2020 and 2021 water and sewer infrastructure projects.

Check if the following Departments need to approve the item first:

Police Dept. ☐

Fire Dept. ☐

IT Dept. ☐

For City Clerk Use Only:

Commission Action:

November 1, 2019

Mr. Leo Evans, P.E.
City of Muskegon
Department of Public Works
1350 Keating Avenue
Muskegon, MI 49442

Re: Proposal for Professional Engineering Services for SRF/DWRF Implementation

Dear Mr. Evans:

We are submitting this proposal to provide professional engineering services to assist you with your SRF/DWRF project for Fiscal 2021. The specific projects include the following:

- Peck Street Sanitary Sewer and Water Main Replacement (Laketon to Merrill)

We have reviewed the projects and have developed the following scope of services based on the project descriptions in the Project Plan. We assume that project documents will be completed and ready for bidding by early May 2020 to meet the SRF/DWRF milestone schedule, and construction will occur through the 2021 construction season.

Scope of Services

Design Phase (Peck Street)

- Gather and review record plans, private utility information and any available records pertinent to the proposed project areas;
- Complete topographic survey of all projects including aerial photography;
- Complete approximately one soil boring per 500 feet of project length;
- Complete design of proposed sanitary sewer, water main, service laterals, water services and road reconstruction as detailed in the SRF and DWRF Project Plans;
- Assist City in tracking and developing easement documents for replacement of water services on private property;
- Attend three design review meetings;
- Prepare and submit permit applications (City to pay any permit fees);
- Prepare opinion of probable cost based on final design;
- Prepare AJE;
- Prepare project specifications including specific SRF/DWRF requirements;
- Assist City with preparation of bidding package and contract documents;
- Assist City with advertising for bids, providing responses to questions, preparing addendums;
- Attend pre-bid meeting and prepare minutes;
- Review bids and prepare bid tabulation and provide recommendations;
- Prepare Notice of Award and Notice to Proceed; and
- Assist City with preparation of final contracts for signing by Contractor

Construction Phase (Peck Street)

- Schedule and attend preconstruction meeting and prepare minutes;
- Track and review shop drawings;
- Provide construction staking;
- Provide density testing;
- Provide construction observation all utility work and reconstruction of Peck Street assuming 18 weeks of construction, this will require two Construction Observers at certain times (1,010 hours);
- Schedule and attend monthly progress meetings and prepare minutes for each;
- Respond to RFIs, prepare payment applications and change orders;
- Complete record plans and property iron replacement following completion.

Fee

Based on the scope of work described above, we propose to complete the work for a not to exceed cost of $386,600. Our estimated time/work level of effort is attached. Our hourly rates are adjusted each January. We have included an increase of 3% in hourly rates in 2020 and 2021. Once the construction contracts are awarded and construction schedule is provided, we will review the hours allocated for the construction phase services with you to determine whether adjustments need to be made.

Thank you for the opportunity to provide this proposal. Please contact us if you have any questions

Sincerely,

Prein&Newhof

Barbara E. Marczak

Barbara E. Marczak, P.E.
Enclosures: Estimate work effort/fee, Professional Services Agreement

Prein&Newhof
Engineers ▪ Surveyors ▪ Environmental ▪ Laboratory

Project No.

Professional Services Agreement

This Professional Services Agreement is made this 5th day of November, 2019 ("Agreement") by and between Prein & Newhof, Inc. ("P&N"), of 3355 Evergreen Drive, NE, Grand Rapids, MI 49525, and City of Muskegon ("Client"), of 933 Terrace Street, Muskegon, MI 49443.

WHEREAS Client intends to:

Replace the existing sanitary sewer and water main in Peck Street from Laketon Avenue to Merrill Street. Work will include full road reconstruction, full utility replacement and water service replacements 18 inches into the building.

NOW THEREFORE, for and in consideration of the terms and conditions contained herein, the parties agree as follows:

ARTICLE 1 – DESIGNATED REPRESENTATIVES

Client and P&N each designate the following individuals as their representatives with respect to the Project.

For Client	For P&N
Name: Leo Evans, P.E.	Name: Barbara Marczak, P.E.
Title: Director of Public Works	Title: Team Leader
Phone Number: 231-724-6920	Phone Number: 231-798-0101
Facsimile Number: 231-727-6904	Facsimile Number: 231-798-0337
E-Mail Address: leo.evans@shorelinecity.com	E-Mail Address: bmarczak@preinnewhof.com

ARTICLE 2 – GENERAL CONDITIONS

This Agreement consists of this Professional Services Agreement and the following documents which by this reference are incorporated into and made a part of this Agreement.

☒ P&N Standard Terms and Conditions for Professional Services

☒ P&N Proposal dated November 1, 2019

☐ P&N Standard Rate Schedule

☐ P&N Supplemental Terms and Conditions

☐ Other:

ARTICLE 3 – ENGINEERING SERVICES PROVIDED UNDER THIS AGREEMENT:

Client hereby requests, and P&N hereby agrees to provide, the following services:

☒ P&N Scope of Services per Proposal dated November 1,2019
☐ Scope of Services defined as follows:

NA

ARTICLE 4 – COMPENSATION:

☐ Lump Sum for Services Described in Article 3 above - $.
Additional services to be billed per P&N's Standard Rate Schedule in effect on the date the additional service are performed.

☐ Hourly Billing Rates plus Reimbursable Expenses per P&N's Standard Rate Schedule in effect on the date services are performed.

☒ Other: Hourly rates and expenses as described in November 1, 2019 proposal. Maximum not to exceed $386,600 without City of Muskegon authorization.

ARTICLE 5 – ADDITIONAL TERMS (If any)

None

This Agreement constitutes the entire Agreement between P&N and Client and supersedes all prior written or oral understandings. This Agreement may not be altered, modified or amended, except in writing properly executed by authorized representatives of P&N and Client.

Accepted for:	**Accepted for:**
Prein&Newhof, Inc.	**City of Muskegon**
By:	By:
Printed Name: Jason Washler, P.E.	Printed Name: Leo Evans, P.E.
Title: Vice President	Title: Director of Public Works
Date: November 1, 2019	Date:

Standard Terms & Conditions

A. General - As used in this Prein&Newhof Standard Terms and Conditions for Professional Services (hereinafter "Terms and Conditions"), unless the context otherwise indicates: the term "Agreement" means the Professional Services Agreement inclusive of all documents incorporated by reference including but not limited to this P&N Standard Terms and Conditions for Professional Services; the term "Engineer" refers to Prein & Newhof, Inc.; and the term "Client" refers to the other party to the Professional Services Agreement.

These Terms and Conditions shall be governed in all respects by the laws of the United States of America and by the laws of the State of Michigan.

B. Standard of Care - The standard of care for all professional and related services performed or furnished by Engineer under the Agreement will be the care and skill ordinarily used by members of Engineer's profession of ordinary learning, judgment or skill practicing under the same or similar circumstances in the same or similar community, at the time the services are provided.

C. Disclaimer of Warranties - Engineer makes no warranties, expressed or implied, under the Agreement or otherwise.

D. Construction/Field Observation - If Client elects to have Engineer provide construction/field observation, client understands that construction/field observation is conducted to reduce, not eliminate the risk of problems arising during construction, and that provision of the service does not create a warranty or guarantee of any type. In all cases, the contractors, subcontractors, and/or any other persons performing any of the construction work, shall retain responsibility for the quality and completeness of the construction work and for adhering to the plans, specifications and other contract documents.

E. Construction Means and Methods - Engineer shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for any safety precautions and programs in connection with the construction work, for the acts or omissions of the Contractor, Subcontractors, or any other persons performing any of the construction work, or for the failure of any of them to carry out the construction work in accordance with the plans, specifications or other contract documents.

F. Opinions of Probable Costs – Client acknowledges that Engineer has no control over market or contracting conditions and that Engineer's opinions of costs are based on experience, judgment, and information available at a specific period of time. Client agrees that Engineer makes no guarantees or warranties, express or implied, that costs will not vary from such opinions.

G. Client Responsibilities

1. Client shall provide all criteria, Client Standards, and full information as to the requirements necessary for Engineer to provide the professional services. Client shall designate in writing a person with authority to act on Client's behalf on all matters related to the Engineer's services. Client shall assume all responsibility for interpretation of contract documents and construction observation/field observation during times when Engineer has not been contracted to provide such services and shall waive any and all claims against Engineer that may be connected thereto.
2. In the event the project site is not owned by the Client, the Client must obtain all necessary permission for Engineer to enter and conduct investigations on the project site. It is assumed that the Client possesses all necessary permits and licenses required for conducting the scope of services. Access negotiations may be performed at additional costs. Engineer will take reasonable precaution to minimize damage to land and structures with field equipment. Client assumes responsibility for all costs associated with protection and restoration of project site to conditions existing prior to Engineer's performance of services.
3. The Client, on behalf of all owners of the subject project site, hereby grants permission to the Engineer to utilize a small unmanned aerial system (sUAS) for purposes of aerial mapping data acquisition. The Client is responsible to provide required notifications to the property owners of the subject project site and affected properties where the sUAS services will be performed. The Engineer will operate the sUAS in accordance with applicable State and Federal Laws.

H. Hazardous or Contaminated Materials/Conditions

1. Client will advise Engineer, in writing and prior to the commencement of its services, of all known or suspected Hazardous or Contaminated Materials/Conditions present at the site.

2. Engineer and Client agree that the discovery of unknown or unconfirmed Hazardous or Contaminated Materials/Conditions constitutes a changed condition that may require Engineer to renegotiate the scope of or terminate its services. Engineer and Client also agree that the discovery of said Materials/Conditions may make it necessary for Engineer to take immediate measures to protect health, safety, and welfare of those performing Engineer's services. Client agrees to compensate Engineer for any costs incident to the discovery of said Materials/Conditions.

3. Client acknowledges that Engineer cannot guarantee that contaminants do not exist at a project site. Similarly, a site which is in fact unaffected by contaminants at the time of Engineer's surface or subsurface exploration may later, due to natural phenomena or human intervention, become contaminated. The Client waives any claim against Engineer, and agrees to defend, indemnify and hold Engineer harmless from any claims or liability for injury or loss in the event that Engineer does not detect the presence of contaminants through techniques commonly employed.
4. The Client recognizes that although Engineer is required by the nature of the services to have an understanding of the laws pertaining to environmental issues, Engineer cannot offer legal advice to the Client. Engineer urges that the Client seek legal assistance from a qualified attorney when such assistance is required. Furthermore, the Client is cautioned to not construe or assume that any representations made by Engineer in written or conversational settings constitute a legal representation of environmental law or practice.
5. Unless otherwise agreed to in writing, the scope of services does not include the analysis, characterization or disposal of wastes generated during investigation procedures. Should such wastes be generated during this investigation, the Client will contract directly with a qualified waste hauler and disposal facility.

I. Underground Utilities – To the extent that the Engineer, in performing its services, may impact underground utilities, Engineer shall make a reasonable effort to contact the owners of identified underground utilities that may be affected by the services for which Engineer has been contracted, including contacting the appropriate underground utility locating entities and reviewing utility drawings provided by others. Engineer will take reasonable precautions to avoid damage or injury to **underground** utilities and other underground structures. Client agrees to hold Engineer harmless for any damages to below ground utilities and structures not brought to Engineers attention and/or accurately shown or described on documents provided to Engineer.

J. Insurance

1. Engineer will maintain insurance for professional liability, general liability, worker's compensation, auto liability, and property damage in the amounts deemed appropriate by Engineer. Client will maintain insurance for general liability, worker's compensation, auto liability, and property damage in the amounts deemed appropriate by Client. Upon request, Client and Engineer shall each deliver certificates of insurance to the other evidencing their coverages.
2. Client shall require Contractors to purchase and maintain commercial general liability insurance and other insurance as specified in project contract documents. Client shall cause Engineer, Engineer's consultants, employees, and agents to be listed as additional insureds with respect to any Client or Contractor insurances related to projects for which Engineer provides services. Client agrees and must have Contractors agree to have their insurers endorse these policies to reflect that, in the event of payment of any loss or damages, subrogation rights under these Terms and Conditions are hereby waived by the insurer with respect to claims against Engineer.

K. Limitation of Liability - The total liability, in the aggregate, of Engineer and Engineer's officers, directors, partners, employees, agents, and consultants, whether jointly, severally or individually, to Client and anyone claiming by, through, or under Client, for any and all injuries, losses, damages and expenses, whatsoever, arising out of, resulting from, or in any way related to the Project or the Agreement, including but not limited to the performance of services under the Agreement, from any cause or causes whatsoever, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract or warranty, expressed or implied, of Engineer or Engineer's officers, directors, partners, employees, agents, consultants, or any of them, shall not exceed the amount of the compensation paid to Engineer under this Agreement, or the sum of fifty thousand dollars and no cents ($50,000.00), whichever is less. Recoverable damages shall be limited to those that are direct damages. Engineer shall not be responsible for or held liable for special, indirect or consequential losses or damages, including but not limited to loss of use of equipment or facility, and loss of profits or revenue.

Client acknowledges that Engineer is a corporation and agrees that any claim made by Client arising out of any act or omission of any director, officer, or employee of Engineer, in the execution or performance of the Agreement, shall be made against Engineer and not against such director, officer, or employee.

L. Documents and Data

1. All documents prepared or furnished by Engineer under the Agreement are Engineer's instruments of service, and are and shall remain the property of Engineer.
2. Hard copies of any documents provided by Engineer shall control over documents furnished in electronic format. Client recognizes that data provided in electronic format can be corrupted or modified by the Client or others, unintentionally or otherwise. Consequently, the use of any data, conclusions or information obtained or derived from electronic media provided by Engineer will be at the Client's sole risk and without any liability, risk or legal exposure to Engineer, its employees, officers or consultants.

3. Any extrapolations, conclusions or assumptions derived by the Client or others from the data provided to the Client, either in hard copy or electronic format, will be at the Client's sole risk and full legal responsibility.

M. Differing Site Conditions - Client recognizes that actual site conditions may vary from the assumed site conditions or test locations used by Engineer as the basis of its design. Consequently, Engineer does not guarantee or warrant that actual site conditions will not vary from those used as the basis of Engineer's design, interpretations and recommendations. Engineer is not responsible for any costs or delays attributable to differing site conditions..

N. Terms of Payment - Unless alternate terms are included in the Agreement, Client will be invoiced on a monthly basis until the completion of the **Project**. All monthly invoices are payable within 30 days of the date of the invoice. Should full payment of any invoice not be received within 30 days, the amount due shall bear a service charge of 1.5 percent per month or 18 percent per year plus the cost of collection, including reasonable attorney's fees. If Client has any objections to any invoice submitted by Engineer, Client must so advise Engineer in writing within fourteen (14) days of receipt of the invoice. Unless otherwise agreed, Engineer shall invoice Client based on hourly billing rates and direct costs current at the time of service performance. Outside costs such as, but not limited to, equipment, meals, lodging, fees, and subconsultants shall be actual costs plus 10 percent. In addition to any other remedies Engineer may have, Engineer shall have the absolute right to cease performing any services in the event payment has not been made on a current basis.

O. Termination - Either party may terminate services, either in part or in whole, by providing 10 calendar days written notice thereof to the other party. In such an event, Client shall pay Engineer for all services performed prior to receipt of such notice of **termination**, including reimbursable expenses, and for any shut–down costs incurred. Shut–down costs may, at Engineer's discretion, include expenses incurred for completion of analysis and records necessary to document Engineer's files and to protect its professional reputation.

P. Severability and Waiver of Provisions - Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Client and P&N, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable **provision** that comes as close as possible to expressing the intention of the stricken provision. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of the Agreement.

Q. Dispute Resolution - If a dispute arises between the parties relating to the Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:

1. Prior to commencing a lawsuit, the parties must attempt mediation to resolve any dispute. The parties will jointly appoint a mutually acceptable person not affiliated with either of the parties to act as mediator. If the parties are unable to agree on the mediator within twenty (20) calendar days, they shall seek assistance in such regard from the Circuit Court of the State and County wherein the Project is located, who shall appoint a mediator. Each party shall be responsible for paying all costs and expenses incurred by it, but shall split equally the fees and expenses of the mediator. The mediation shall proceed in accordance with the procedures established by the mediator.
2. The parties shall pursue mediation in good faith and in a timely manner. In the event the mediation does not result in resolution of the dispute within thirty (30) calendar days, then, upon seven (7) calendar days' written notice to the other party, either party may pursue any other available remedy.
3. In the event of any litigation arising from the Agreement, including without limitation any action to enforce or interpret any terms or conditions or performance of services under the Agreement, Engineer and Client agree that such action will be brought in the District or Circuit Court for the County of Kent, State of Michigan (or, if the federal courts have exclusive jurisdiction over the subject matter of the dispute, in the U.S. District Court for the Western District of Michigan), and the parties hereby submit to the exclusive jurisdiction of said court.

R. Force Majeure - Engineer shall not be liable for any loss or damage due to failure or delay in rendering any services called for under the Agreement resulting from any cause beyond Engineer's reasonable control.

S. Assignment - Neither party shall assign its rights, interests or obligations under this Agreement without the express written consent of the other party.

T. Modification - The Agreement may not be modified except in writing signed by the party against whom a modification is sought to be enforced.

U. Survival - All express representations, indemnifications, or limitations of liability included in the Agreement shall survive its completion or termination for any reason.

V. Third-Party Beneficiary – Client and Engineer agree that it is not intended that any provision of this Agreement establishes a third party beneficiary giving or allowing any claim or right of action whatsoever by a third party.

Professional Fees Worksheet

City of Muskegon - SRF/DWRF Implementation

2019 Hourly Billing Rate	$150	$150	$150	$110	$137	$125	$95	$110	$125	$95	$80	$125	$184	$80	1.1		$0.60	Total Cost
Staff Member	Sen. PM	Sen. PM	Sen. PM	Sen. Eng.	Sen. PM	PM	Eng.	Sen. Eng.	CADD/GIS	Sen. Obs.	Observer	Geotech	Survey	Tech I	Expense		Mileage	
	Marczak	Prein	Cru./Prein	Hulst	Smith	Brink/Verhuel	Staff	Tezak	Staff	Couture	TBD	J. Cruick	Staff	Van Kuik	Item	Cost		
Design (2019-2020)																		
Preliminary Design (2019)																		
Kickoff Meeting	4			4			4										35	$1,400
Preliminary Engineering	30			30			34			10								$12,000
Water Service Planning	1			5			50											$5,500
Soil Borings (Peck)			2	1								20			Soils&Str.	$5,000		$8,400
Topo Survey and Aerial Mapping (Peck)				1									105		Mapping	$3,500		$23,300
Review Meeting	4			4			4										35	$1,400
Design (2020)																		
Easements (water services)				4			6											$1,000
Peck Design	4			40			180		244									$52,600
Staging, Phasing, MOT Design				5			5	36	10									$6,200
SESC Permit Application				1			5								Printing	$200		$800
EGLE Water and Sewer Permit Application				1			3							10	Printing	$200		$1,400
Specifications for Peck				5			25							20				$4,500
Meeting w/ Client (3)	9			9			10										15	$3,300
Opinion of Probable Cost	2			12			24											$3,900
QA/QC	5	5		5	6				5	5								$4,000
Project Management	8			10														$2,300
Bid Phase (2020)																		
Advertise and Issue Bid Package				2			2							30				$2,800
Bidder Questions & Pre-Bid Meeting	6			6		3	6											$2,500
Addenda				3		3	7							2				$1,500
Attend Bid	4			1													20	$700
Review Bids/Recommend Award	3			5		1	5							4				$1,900
2019 Rates (+3.0%)																		$2,700
Design Subtotal	**80**	**5**	**2**	**154**	**6**	**7**	**370**	**36**	**259**	**15**	**0**	**20**	**105**	**66**		**$8,900**	**105**	**$144,100**

Professional Fees Worksheet

City of Muskegon - SRF/DWRF Implementation

2019 Hourly Billing Rate	$150	$150	$150	$110	$137	$125	$95	$110	$125	$95	$80	$125	$184	$80		1.1	$0.60	Total Cost
Staff Member	Sen. PM	Sen. PM	Sen. PM	Sen. Eng.	Sen. PM	PM	Eng.	Sen. Eng.	CADD/GIS	Sen. Obs.	Observer	Geotech	Survey	Tech I	Expense		Mileage	
	Marczak	Prein	Cru./Prein	Hulst	Smith	Brink/Verhuel	Staff	Tezak	Staff	Couture	TBD	J. Cruick	Staff	Van Kuik	Item	Cost		
Construction Engineering Services (2021)																		
Preconstruction Meeting and Minutes	6			6			12										60	$2,700
Preconstruction Video (2 hours)										6							70	$600
Construction Staking Peck													235					$43,200
Peck CO (25 weeks)				15			75			125	1250				Misc. Test.	$10,000	1,538	$132,600
Project Administration	20																	$3,000
Respond to RFIs				5		5	10											$2,100
Change Orders (3 per contract)				15			30											$4,500
Pay Apps (7)				20			32											$5,200
Progress Meetings (monthly per contract)	15			27			32										300	$8,400
Punch List Visits (2 per contract)				10			20				80						105	$9,500
Record Plans/Closeout				30			50		40		40							$16,300
Iron Replacement (Included in survey)									4									$500
2021 Rates (+3.0% each year)																		$13,900
Construction Engineering Subtotals	**41**	**0**	**0**	**128**	**0**	**5**	**261**	**0**	**44**	**131**	**1370**	**0**	**235**	**0**		**$10,000**	**2,073**	**$242,500**
Project Grand Total	**121**	**5**	**2**	**282**	**6**	**12**	**631**	**36**	**303**	**146**	**1,370**	**20**	**340**	**66**		**$18,900**	**$2,178**	**$386,600**

FLEIS&VANDENBRINK
DESIGN. BUILD. OPERATE.

October 24, 2019

Leo Evans, City Engineer
City of Muskegon
Department of Public Works
1350 Keating Ave.
Muskegon, MI 49442

RE: SRF & DWRF FY 2020 Project Implementation for the Amity Avenue Projects

Dear Leo:

Thank you for selecting us to assist with the Amity Avenue trunk sewer and watermain replacement projects for SRF & DWRF fiscal year 2020. We have again assembled a qualified team comprised of professionals with years of experience in their chosen fields.

PROJECT APPROACH

We understand the project will consist of watermain and sewer replacement along Amity Avenue from Getty Street to Fork Street and north 1 block on Fork Street to Orchard Avenue then southwest 1 block on Myrtle Avenue and northwest 1 block on Murphy Street to Walton Avenue. The total project length is approximately 4,400 feet.

F&V is familiar with the scope of the project. We have reviewed both the SRF and DWRF project plans as well as driven the project area and reviewed the documents provided by the City. Below are some additional details on how we will approach this project.

Kick-off Meeting

- Kick-off meeting with City officials to discuss the schedule, needs and concerns on the project.

Information Gathering

- Gather information from City such as plat copies, recorded surveys, existing utility plans, etc.

F&V Team Review

- Meet with the F&V project team to plan and discuss the following:
  - Scope of work and extent of survey.
  - Quality Control.
  - Communications.

QA/QC:

- QA/QC is an integral part of every phase of the project from surveying to design to construction. Every phase has a QA/QC procedure that is followed to provide a project that is designed and constructed to meet industry standards.

316 Morris Avenue, Suite 230
Muskegon, MI 49440
P: 231.726.1000
F: 231.726.2200
www.fveng.com

Field Survey
- Initialize horizontal and vertical control survey using GPS technology.
- Establish vertical datum based on NGVD 88 or preferred City datum.
- Set benchmarks at 600-foot intervals.
- Perform Radial survey to locate all topography within the project area.
- Perform survey of all underground utilities to provide size and invert information.
- Witness all control points for future use in construction.

Soil Borings
- Stake soil boring locations.
- Schedule Soils & Structures, Inc. and work with them to obtain soil borings.

Design
- Prepare AutoCad drawings.
- Establish property lines and right-of-ways based on the field survey.
- Produce design drawings of road, watermain & sanitary sewer improvements.
- Review plans, specifications and cost estimate with City.

SRF & DWRF Financing
- Assist City with submitting the required paperwork and meeting the project milestone schedule for 2020 4th Quarter financing.

Permits
- Prepare EGLE sewer & water permit applications.

Bidding
- Submit final drawings, specifications and cost estimate to City for bidding.
- Assist during the bidding period by answering questions and providing supplemental drawings and specifications, if necessary.
- Tabulate bids and provide recommendation of award to City.

Construction
- Schedule and attend Preconstruction meeting.
- Provide project administration and engineering consultation throughout the construction period in accordance with MDOT procedures, including:
  - Schedule and attend progress meetings with the contractor and City Staff. Prepare and distribute meeting minutes.
  - Prepare contractor pay applications and submit to City for payment.
  - Prepare change orders, if necessary, and submit to City for authorization.
- Provide full time inspection of the construction.
- Provide materials testing in accordance with MDOT requirements.
- Provide construction staking for the project.

Post Construction
- Prepare punch list of items for contractor to complete.
- Prepare final pay request to contractor after completion of punch list items.
- Prepare record drawings of constructed project.

We understand the City will work with the residents to procure the “right of entry” for installation of the water services into each home. We can assist the City with any sketches or details requested to aid the work.

PROFESSIONAL SERVICES FEE

We propose to complete the work described on a Not-to-Exceed basis in accordance with the attached budget. We estimate the fee to be as follows:

Project Title	Not-To-Exceed Fee
Amity Avenue – SRF Trunk Sewer Replacement	
Design Engineering	$106,000
Construction Engineering	$228,000
SRF Total:	**$334,000**
Amity Avenue – DWRF Watermain Replacement	
Design Engineering	$73,000
Construction Engineering	$154,000
DWRF Total:	**$227,000**

All of our team members are committed to excellence in business. We are a local firm in Muskegon and can respond quickly to any questions or concerns that may arise during these projects.

Please feel free to contact us with any questions.

Sincerely,

FLEIS & VANDENBRINK

Don DeVries, PE
Project Manager

Enclosure

City of Muskegon
Amity Avenue Trunk Sewer & Watermain
Design & Construction Engineering Budget

No.	Task	QA/QC	Project Manager	Project Engineer	Drafting	Survey Crew	Admin.	Sub-Consultant	Expense
Preliminary Design									
1	Start-up Mtg. w/ City		8	8			2		$50
2	Request Utilities		2	4			4		
3	Topo Survey		8	4	16	130	2		$3,500
4	Drawing Cleanup, Cut Sheets		4	2	32		2		$100
5	Soil Borings		2	6			2	$6,000	$100
6	Preliminary Design & Specifications	6	100	240	120		24		$300
7	Preliminary Cost Estimate		4	16			2		
8	Review Preliminary Design w/ City		8	16					$50
9	SRF Draft Plan Submittal		8	8	6		6		$50
Final Design									
10	Final Design & Specification / QA	8	80	150	100		24		$400
11	Finalize Cost Estimate		4	16			2		
12	Permits		12	32	12		8		$100
13	Review Final Drawings w/ City		8	16					$50
14	SRF Final Plan Submittal		8	8	8		6		$100
Bidding									
15	Assist City w/ Bidding		16	12	6		8		$100

Totals	**14**	**272**	**538**	**300**	**130**	**92**	**$6,000**	**$4,900**
Hourly Rate	$172	$172	$126	$95	$115	$78		
Labor Services	$2,408	$46,784	$67,788	$28,500	$14,950	$7,176		
Total Labor Services	$167,606							
Sub-Consultants	$6,000		Total Hours:	1346				
Expenses plus 10%	$5,390							
Proposed NTE Design Fee	***$179,000***							

No.	Task	Project Manager	Resident Inspector	Field Manager	Drafting	Survey Crew	Admin.	Sub-Consultant	Expense
Construction - (44 weeks Full Time Inspection)									
1	Pre-Construction Mtg.	8	8				4		$100
2	Construction Administration	220					110		$500
3	Progress Meetings (Bi-weekly)	132					60		$900
4	Construction Staking	12			12	120	8		$2,500
5	RPR & Testing (44wks x 50/wk = 2200 hrs)		2200					$6,000	$9,600
6	Final Walkthrough / Punchlist	8	16				4		$100
7	Post Construction, Record Drawings	16	24		40		4		$100

Totals	**396**	**2248**	**0**	**52**	**120**	**190**	**$6,000**	**$13,800**
Hourly Rate	$182	$113	$85	$95	$115	$78		
Labor Services	$72,199	$254,968	$0	$4,961	$13,800	$14,904		
Total Labor Services	$360,831							
Sub-Consultant	$6,000		Total Hours:	3006				
Expenses plus 10%	$15,180							
Proposed NTE Construction Fee	***$382,000***							

PROFESSIONAL SERVICES AGREEMENT

FLEIS & VANDENBRINK ENGINEERING, INC.
316 Morris Avenue, Suite 230, Muskegon, Michigan 49440
P: 231.726.1000   F: 231.726.2200

This Professional Services Agreement ("PSA") is entered into between **Fleis & VandenBrink Engineering, Inc.** ("Engineer") and **City of Muskegon**, whose address is **933 Terrace Street, Muskegon, MI 49443** ("Owner") where Engineer agrees to provide services for Owner and Owner agrees to pay Engineer, all in accordance with the terms of this PSA.

DESCRIPTION OF PROJECT AND SCOPE OF SERVICES: The description of the Project ("Project") and the scope of services ("Services") provided under this PSA is as follows: comprehensive engineering services for **SRF & DWRF FY 2020 Project Implementation for the Amity Avenue Project.**

AGREEMENT DOCUMENTS: All obligations covered under this PSA are governed by the Agreement Documents, which specifically include this PSA and all of the following documents, which are all incorporated herein by reference: Engineer's proposal dated **October 24, 2019.**

COMPENSATION OF ENGINEER: This contract is an Hourly Fee contract plus reimbursable expenses with a Not to Exceed Fee for the following projects:
- **Amity Avenue - SRF Trunk Sewer Replacement: $334,000**
- **Amity Avenue - DWRF Watermain Replacement: $227,000**

Authorized additional services will be provided on an hourly basis plus reimbursable expenses unless otherwise negotiated.

Owner shall Pay Engineer for all Services and reimbursable expenses on a monthly basis or as otherwise stated herein which shall be due and payable within fifteen (15) calendar days of presentation of the invoice. Invoices shall be past due fifteen (15) calendar days after presentation, and shall then incur interest at the rate of **7%** per annum, or the highest rate permitted by law, whichever is lower. Reimbursable expenses include the cost of subconsultants.

PAYMENT. If Owner fails to make any payment when due, Engineer may suspend performance of Services hereunder until all past due amounts and accrued interest are paid. Engineer shall have no liability of any type as a result of suspension of services caused by Owner's failure to pay. The suspension of Services shall not limit any other remedy available to Engineer.

If Owner objects to any portion of an invoice, Owner shall notify Engineer in writing within seven (7) calendar days of presentation. Owner shall identify the disputed charges and shall pay when due that portion of the invoice not in dispute. If the disputed amount of the invoice is resolved in Engineer's favor and not paid by the invoice due date, interest as stated in the agreement shall be paid by Owner on the disputed amount from the original due date.

The Owner's Payment of Engineer's invoices shall not be subject to any right of setoff, and payment shall be due regardless of suspension or termination of this Agreement by either party. If any payment obligation is not paid when due, Owner agrees to pay all costs of the collection, including actual attorney's fees through all levels of appeal, whether or not a legal proceeding for collection is commenced as part of the collection process.

OWNER REPRESENTATIVE. The Owner's representative for this Project shall be the **City Engineer** who shall have complete actual authority on behalf of the Owner and its governing body to make all decisions in connection with the PSA.

OWNER RESPONSIBILITIES. The Owner shall timely furnish, at the Owner's expense, all information, requirements, reports, data, surveys and instructions required by this Agreement. The Engineer may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. The Engineer shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the Owner and/or the Owner's Engineers and contractors.

CHANGES. For all services that were completed due to changes to the Description of the Project and/or the Scope of Services, Engineer shall be paid by Owner on an hourly basis at Engineer's customary hourly rates, plus reimbursable expenses, unless otherwise negotiated. If the construction period extends beyond the contracted period in the Scope of Services or the contracted completion date, all services of Engineer thereafter shall continue to be performed and shall be paid by Owner on an hourly basis plus reimbursable expenses. Owner understands and accepts that field techniques and analytical capabilities are evolving and that the standards and regulations are subject to rapid change such that currently acceptable investigative approaches and techniques may become superseded after the time of the signing of this PSA. Such changes will constitute changed conditions requiring adjustment in the Services and Engineer's Compensation.

DELAYS. Engineer shall not be responsible to Owner for any delay of any type or kind unless caused in whole by Engineer.

CONSULTANTS. Engineer may engage Consultants and subcontractors to perform, in its sole discretion, all or any portion of the Services.

COST ESTIMATES. Engineer has no control over the costs of labor and material for construction or over competitive bidding and market conditions. All cost estimates provided by Engineer are based on Engineer's experience and are considered opinions of probable cost. Engineer does not warrant the accuracy of any cost estimate. If project costs exceed the Owner's expectations and the Owner decides to re-design or re-bid any or all portions of the Work, all re-design, re-bid or other services provided by Engineer shall be paid by Owner on an hourly basis at Engineer's customary hourly rates, plus reimbursable expenses.

PERFORMANCE STANDARDS. The Engineer shall perform its services consistent with the professional skill and care ordinarily provided by other engineers performing similar services in the same or similar locality under the same or similar circumstances. The Engineer shall perform its services as expeditiously as is consistent with such skill and care and the orderly progress of the Project.

MUNICIPAL ADVISOR. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.

LIMITATION OF LIABILITY. Engineer shall not be liable for any claim, damage, cost, expense or other liability not directly caused by negligent acts, errors or omissions of Engineer. The total liability of Engineer under any legal theory whatsoever, in the aggregate, as well as any claimed liability of Engineer's officers, directors, employees, or agents or consultants, for any claims arising out of the PSA, shall not exceed the total amount of available insurance proceeds in response to Owner's claim. Engineer currently maintains an annual per claim Liability policy in the amount of $4.0 million dollars and an aggregate insurance policy for Professional Errors and Omissions in the amount of $5.0 million dollars.

Engineer makes no warranties, express or implied, with respect to the Services under the PSA, and disclaims any liability for implied warranties of any type or kind, including but not limited to implied warranties of fitness or merchantability, and disclaims any liability for special or consequential damages of any type or kind. Within these limitations, Engineer shall not be liable in any way for errors, omissions or negligence unless caused by the negligence of Engineer. To the extent that Engineer may be found liable under the terms of this paragraph, and only to such extent, Engineer's liability shall not exceed the percentage share of Engineer's responsibility.

INSURANCE. Upon Owner's request, Engineer will furnish Owner with a written statement of insurance coverage. No oral representations regarding insurance shall be binding.

SITE ACCESS. Owner shall be solely responsible for obtaining all site access, easements, and permission from third party property owners for Engineer to access the site to perform the Services herein. Owner is solely responsible for any claims arising from the disturbance of surface or subsurface soil or water conditions caused by the performance of Engineer's Services, excepting damages caused by the sole negligence of Engineer. Engineer will take reasonable precautions to avoid damage to underground structures and utilities. Owner indemnifies Engineer from any damage caused by or to underground structures and utilities not called to Engineer's attention, all in accordance with the indemnity provisions herein. Owner shall provide Engineer with a list of all known hazardous substances on site and a list of protective measures in case of exposure, all in compliance with the current Federal, State and Local Right to Know laws and Federal Hazard Communication Standards.

SHOP DRAWINGS AND SUBMITTALS. Engineer will review the shop drawings and submittals only for conformance with the design concept of the project and compliance with the Contract Documents.

REJECTION OF WORK. In the event that the Scope of Services includes construction phase services in the form of site observation, then Engineer shall have the authority to reject any work which is not, in the judgment of the Engineer, in conformance with the Contract Documents, Plans and Specifications. Neither this authority nor Engineer's good faith judgment to reject or not reject any work shall subject Engineer to any liability or cause of action to any contractor, subcontractor, supplier, or Owner on the Project.

SPREAD OF CONTAMINATION. Owner understands and agrees that Engineer shall not be responsible for any claims or damages which may arise as a result of or from the spread of contamination caused by drilling, sampling or any other activity unless such spread or contamination is substantially caused by the negligence of Engineer. To the extent that Engineer may be found liable under the terms of this Paragraph, and only to such extent, Engineer's liability shall not exceed the percentage share of Engineer's responsibility.

FAILURE TO ENCOUNTER HAZARDOUS MATERIALS. Owner understands that the failure to discover hazardous materials does not guarantee that; (1) hazardous materials do not exist at the project site, and/or (2) that a non-contaminated site may later become contaminated. Although Engineer will use reasonable care and a level of skill ordinarily exercised by members of the profession currently practicing in the city, municipality or political subdivision where the Project is located under similar conditions, Owner agrees that Engineer shall not be responsible for the failure to detect the presence of hazardous materials through techniques and practices commonly used for those purposes.

PERMITS AND APPROVALS. Unless otherwise specifically stated in the Scope of Services, obtaining permits and approvals for the Project is the responsibility of the Owner. For an additional fee, Engineer may assist the Owner provided the assistance shall consist of completing and submitting forms as to the results of certain work included in the Scope of Services and the assistance does not include special studies, special research, attendance at meetings with public authorities, special testing or special documentation not normally required for similar projects. If Engineer participates in any way with any permitting process, Engineer provides no guaranty or warranty that any permits or approvals will be provided. Owner shall pay Engineer for all fees and reimbursable expenses under this PSA regardless of the outcome of approval or denial of permits or other approvals.

ADA AND CODE 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 accessible to persons with disabilities. The Owner acknowledges that the requirements of the ADA will be subject to various and possibly contradictory interpretations. To the extent applicable, the Engineer 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 may apply to the Project. The Engineer does not warrant or guarantee that the Project will comply with all interpretations of the ADA requirements and/or the requirements of other federal, state and local codes, rules, laws, ordinances and regulations as they may apply to the Project. Owner shall pay Engineer its customary hourly fees plus reimbursable expenses for any design changes made necessary by newly enacted laws, codes and regulations, or changes to any existing laws, codes or regulations after the date that this PSA is last signed by the parties.

WAIVER. No delay on the part of any party hereto in the exercise of any right or remedy shall operate as a waiver of such right or remedy and a waiver on any one (1) occasion shall not be construed as a bar to or a waiver of any subsequent breach of the same or any other provision of the agreement on a future occasion. No waiver by Engineer of any breach by Owner of a provision of this PSA shall be deemed a waiver of any other provision hereof or of any subsequent breach by Owner of such provision.

ENFORCEABILITY. This agreement shall be binding upon the parties hereto and their respective successors and assigns.

SEVERABILITY. In the event that any one (1) or more provisions contained in the agreement shall be declared invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the agreement shall not be affected or impaired.

OWNERSHIP OF INSTRUMENTS OF SERVICE. Engineer's documents prepared pursuant to this PSA, including those in electronic format, are instruments of service. All reports, plans, specifications, computer files, field data, notes and other documents prepared by Engineer as instruments of service shall remain the property of Engineer. Engineer grants City full use of the instruments of service. Engineer shall retain all common law, statutory and other reserved rights, including the copyright thereto and all other intellectual property rights. Owner fully indemnifies Engineer against any and all claims for third party use.

TERMINATION: This PSA may be terminated by either party upon seven (7) calendar days' written notice. Upon termination, Engineer shall be paid by Owner for all Services performed up to the notice of termination, as well as all costs necessary to demobilize from the site.

DISPUTE RESOLUTION: In the event of a dispute arising out of or relating to this Agreement or the services to be rendered hereunder, the Owner and the Engineer agree to attempt to resolve such disputes in the following manner: First, the parties agree to attempt to resolve such disputes through direct negotiations between the appropriate representatives of each party. Second, if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining dispute through mediation using a mediator agreed upon between both parties. Owner and Engineer agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then the parties may (1) mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction. The venue for a court resolution will be Muskegon County, Michigan.

NO THIRD PARTY BENEFICIARIES. There are no third party beneficiaries to this PSA and the Services provided herein are exclusively for the direct benefit of the Owner indicated above. Owner shall ensure that all other agreements relating to this project reflect that there are no third party beneficiaries to this PSA.

ASSIGNMENT. This is a professional services contract and is non-assignable without the express written consent of Engineer.

MISCELLANEOUS. No additional or contrary terms, whether contained in an order, acknowledgment, or other document from Owner, shall be binding upon Engineer unless agreed to in writing signed by an authorized representative of Engineer, and Engineer expressly rejects all such additional or contrary terms as may be contained in Owner's documents. The terms in this PSA will have precedence over any other terms expressed by the Owner's authorization process such as a purchase order. Engineer's performance is conditioned on Owner's unmodified consent exclusively to this PSA. Engineer shall have the right to correct any errors, whether clerical or mathematical, which are contained in this PSA. Unless otherwise specifically indicated in writing or otherwise required by law and paid for by Owner, there are no Performance or Payment bonds required on this Project. This PSA shall be binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns. This PSA shall be governed by the laws of the State of Michigan. This contract sets forth the entire agreement between Engineer and Owner. This is a fully integrated contract.

ELECTRONIC/FACSIMILE SIGNATURES. The signatures on this PSA shall be deemed to be original signatures when transmitted electronically or by facsimile machine or by any other medium. No party shall be required to produce a PSA with an original signature in order to enforce any provision of this PSA.

IN WITNESS WHEREOF, the parties hereto have made and entered into this PSA. To be valid, this PSA must be signed by an authorized representative of Fleis & VandenBrink Engineering, Inc.

OWNER: **CITY OF MUSKEGON**		ENGINEER: **FLEIS & VANDENBRINK ENGINEERING, INC.**	
By:		By:	Don DeVries
			Don DeVries, P.E.
Title:		Title:	**Muskegon Office Manager**
By:		By:	
Title:		Title:	
Date:		Date:	**November 5, 2019**

ADDITIONAL PROVISIONS - CONSTRUCTION OBSERVATION

1. **DEFINITIONS.**

   1.1. Contract Documents shall mean construction agreement(s) between Owner and Contractor(s), including plans, specifications, addenda and change orders.

   1.2. Contractor shall mean the person or entity providing construction services to Owner, as defined in the Contract Documents.

2. **SITE OBSERVATION.**

   2.1. The Engineer shall visit the site as defined in the Scope of Services to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Engineer shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Engineer shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed. Engineer will not be responsible for the means, methods, techniques, and procedures of construction observed during such visits. Engineer will not be responsible for the Contractor's failure to perform the work in accordance with the Contract Documents.

   2.2. Based solely on Engineer's on-site observations and Engineer's review of the Contractor's applications for payment, Engineer will recommend in writing to Owner payment to the Contractor. Such recommendations of payment to constitute a representation to Owner, based solely on such observation, review and the data comprising such applications, that to the Engineer's knowledge, information and belief, the work has progressed to the point indicated and that to the Engineer's knowledge, information and belief the quality of the work is generally in accordance with the Contract Documents.

   2.3. Engineer will conduct, in company with Owner, a final review of the Project for conformance with the design concept of the Project, and compliance with the information given by the Contract Documents, and recommend, in writing, payment to the Contractor, on the same basis as set forth above.

3. **OWNER RESPONSIBILITIES.** Owner will:

   3.1. Provide full information as to his requirements for the Project. Assist Engineer by placing at Engineer's disposal all available information pertinent to the Project, including previous site reports and any other data relative to the design or construction of the Project.

4. **SITE SAFETY PROGRAMS AND PRECAUTIONS.**

   4.1. Owner acknowledges that the Contractor, not Engineer, is responsible for initiating, maintaining and supervising all safety programs and all safety precautions in connection with the work.

   4.2. Engineer shall neither have control over, nor be responsible for, safety programs and precautions in connection with the work, since these are solely the responsibility of the Contractor.

   4.3. Neither the professional activities of the Engineer, nor the presence of the Engineer or its employees at the site, shall impose any duty on the Engineer, nor relieve the Contractor of its responsibility for jobsite safety.

October 31, 2019

Leo Evans, PE
Director of Public Works
City of Muskegon
1315 Keating Avenue
Muskegon, Michigan 49442

RE: Harvey Booster Station

Dear Mr. Evans:

Abonmarche is pleased to present this proposal for architectural and engineering services for the planned improvements at the City of Muskegon's Harvey Booster Station.

We appreciate the opportunity to submit our proposal and look forward to working with you on this project.

If you have any questions regarding the proposal, please do not hesitate to contact our offices at (269) 926-4545 or by email at eleduc@abonmarche.com.

Sincerely

Evan LeDuc
Project Manager Architecture

Christopher J. Cook, PE
President/CEO

WORK PLAN

Project Description

It is our understanding that the proposed project consists of the replacement of roofing on the building and replacement of the membrane roof over the existing underground reservoir tanks as well as provide new fencing at the Harvey Booster Station.

Scope of Work

We have tailored our scope of work on our understanding of the services generally necessary to complete similar projects. We are in receipt of the reference materials provided by the city on October 22, 2019. This proposal covers architectural construction plans and specifications for the described project.

Our services are outlined in tasks as follows:

Architectural Services – Design Phase

Task #1- Design Development

This task includes providing architectural services for the conceptual design as follows:

1. Facilitate project kick-off meeting with city staff to discuss project objectives, key issues, approach and schedules
2. Conduct field inspection to document existing conditions
3. Prepare preliminary design documents and cost estimates
4. Meet with city staff to review design, further examine opportunities and possible additional solutions, assess necessary changes and compare to cost parameters
5. Provide required documents for city review and approval to move to construction documents

Task #2 Construction Documents and Permitting

This task includes developing construction drawings for the project. These plans are generally detailed in nature and include construction details and specifications. These services will include the following:

1. Perform preliminary code review and structural analysis (impact of energy code)
2. Prepare construction drawings and specifications
3. Submit documents for review and approval at 50% and 90%
4. Prepare and submit documents for necessary state and local plan review and approval (fees by client)

Task #3: Bidding and Negotiations

This task shall include the following:

1. Distribute documents to area plan rooms
2. Solicit Bids from area contractors
3. Conduct pre bid meeting with interested contractors
4. Answer bidder questions
5. Investigate requested substitutions
6. Develop and issue addendums
7. Review bids and bidder qualifications
8. Recommend contract award

Architectural Services – Construction Phase

Task #4: Construction Administration (billed in accordance with our hourly rates)

1. Preparation of AIA contract between owner and contractor
2. Respond to questions from contractor(s) and owner
3. Review submittals/shop drawings
4. Conduct site visits and provide summary reports two (2) times a month
5. Perform punch list review
6. Perform final walk-through with client and contractor

Schedule of Fees

Abonmarche shall receive as payment for the work performed under this contract the amounts listed below. Abonmarche will be paid for the work performed within the agreement on a Lump Sum Basis in accordance with the following:

Description		Amount
Task #1	Design Development Phase	$ 18,500
Task #2	Project Specifications and Documentation	$ 19,700
Task #43	Bidding Phase	$ 6,000
Task #4	Inspection and Oversight Allowance	$ 13,200
Total		$ 57,400

Project Schedule

Design	3 weeks Fall/Winter 2019
Construction Documents	3 weeks Winter 2020
Bidding and Negotiations	4 Weeks Spring 2020
Construction	6/8 weeks Spring/Summer 2020

October 31, 2019

Leo Evans, PE
Director of Public Works
City of Muskegon
1315 Keating Avenue
Muskegon, Michigan 49442

RE: Filtration Plant Structural Repairs

Dear Mr. Evans:

Abonmarche is pleased to present this proposal for architectural and engineering services for the planned improvements at the City of Muskegon Filtration Plant.

We appreciate the opportunity to submit our proposal and look forward to working with you on this project.

If you have any questions regarding the proposal, please do not hesitate to contact our offices at (269) 926-4545 or by email at eleduc@abonmarche.com.

Sincerely

Evan LeDuc
Project Manager Architecture

Christopher J. Cook, PE
President/CEO

WORK PLAN

Project Description

It is our understanding that the proposed project consists of the replacement of roofing on two sections (3 and 11) of the filtration plant as well as the replacement of windows.

Scope of Work

We have tailored our scope of work on our understanding of the services generally necessary to complete similar projects. We are in receipt of reference materials provided by the city on October 22, 2019. This proposal covers architectural construction plans and specifications for the described project.

Our services are outlined in tasks as follows:

Architectural Services – Design Phase

Task #1- Design Development

This task includes providing architectural services for the design as follows:

1. Facilitate project kick-off meeting with city staff to discuss project objectives, key issues, approach and schedules
2. Conduct field inspection to document existing conditions
3. Prepare preliminary design documents and cost estimates
4. Meet with city staff to review design, further examine opportunities and possible additional solutions, assess necessary changes and compare to cost parameters
5. Provide required documents for review and approval to move to construction documents

Task #2 Construction Documents and Permitting

This task includes developing construction drawings for the project. These plans are generally detailed in nature and include construction details and specifications. These services will include the following:

1. Perform preliminary code review and structural analysis (impact of energy code)
2. Prepare construction drawings and specifications
3. Submit documents for review and approval at 50% and 90%
4. Prepare and submit documents for necessary state and local plan review and approval (fees by client)

Task #3: Bidding and Negotiations

This task shall include the following:

1. Distribute documents to area plan rooms
2. Solicit Bids from area contractors
3. Conduct pre bid meeting with interested contractors
4. Answer bidder questions
5. Investigate requested substitutions
6. Develop and issue addendums
7. Review bids and bidder qualifications
8. Recommend contract award

Architectural Services – Construction Phase

Task #4: Construction Administration (billed in accordance with our hourly rates)

1. Preparation of AIA contract between owner and contractor
2. Respond to questions from contractor(s) and owner
3. Review submittals/shop drawings
4. Conduct site visits and provide summary reports two (2) times a month
5. Perform punch list review
6. Perform final walk-through with client and contractor

Schedule of Fees

Abonmarche shall receive as payment for the work performed under this contract the amounts listed below. Abonmarche will be paid for the work performed within the agreement on a Lump Sum Basis in accordance with the following:

Description		Amount
Task #1	Design Development Phase	$ 13,500
Task #2	Project Specifications and Documentation	$ 14,700
Task #43	Bidding Phase	$ 6,000
Task #4	Inspection and Oversight Allowance	$ 12,500
Total		$ 48,700

Project Schedule

Design	2 weeks Fall/Winter 2019
Construction Documents	4 weeks Winter 2020
Bidding and Negotiations	4 Weeks Spring 2020
Construction	6/8 weeks Spring/Summer 2020

Professional Services Agreement

Abonmarche Project Number: ______________

AGREEMENT between (Client name), ______________________________ (Date) ______________

(Client address) ______________________________ (Phone) ______________

(Cell) ______________ (Fax) ______________ (Email) ______________ hereinafter referred to as the Client, and Abonmarche Consultants, Inc., referred to as Abonmarche, of 95 West Main Street, PO Box 1088, Benton Harbor, MI 49023.

The Client contracts with Abonmarche to perform professional services with regard to the Client's project generally referred to as:

(Project Name) ______________________________ (Location) ______________

The professional services to be provided by Abonmarche, collectively referred to as the Work Plan, are as follows:

(Scope of work) ______________________________

____

(Project schedule) ______________________________

(Special Provisions) ______________________________

Abonmarche's proposal/work plan, dated ______________ is incorporated into this Agreement by reference, and is limited to the services described therein.

The Client agrees to promptly pay for services provided by Abonmarche for the Scope of Work according to the following:

(fee $) ______________________________

Prior to commencement of services, the Client will specify any and all documentation that the Client requires for submission with the invoice for services provided by Abonmarche. Absent any special request from the Client, Abonmarche will send its standard form of invoice.

If, after receipt of an invoice from Abonmarche, the Client has any questions, or if there are any discrepancies in the invoice, the Client shall identify the issue in writing within ten (10) days of its receipt. If no written objection is made within the ten (10) day period, any such objection shall be deemed waived.

Abonmarche invoices are due upon receipt. The parties agree that interest of 1.5% per month will be added to any unpaid balance after 30 days.

The Client has designated ______________________________ as its Representative. The Representative shall have the authority to execute any documents pertaining to this Agreement or amendments thereto, and for the approval of all change orders, addenda, and additional services to be performed by Abonmarche. The representative shall be the contact person for submission of all documents, invoices or communications.

Authorization to Proceed and Guarantee of Payment: By signing this Agreement the Client authorizes Abonmarche to provide services described above, and that the Client is the responsible party for making payment to Abonmarche. *By signing below, I acknowledge that I have received and agree to the Terms and Conditions on Page 2 of this Agreement, and I understand that the Terms and Conditions take precedence over all prior oral and written understandings.* These Terms and Conditions can only be amended, supplemented, modified, or canceled by a written instrument signed by both parties. Any notice or other communications shall be in writing and shall be considered to have been duly given when personally delivered or upon the third day after being deposited into first class certified mail, postage prepaid, return receipt requested.

Authorized Client Representative	If Individual	Authorized Abonmarche Representative
Client: ______	**Signature:** ______	**Signature:** ______
Signature: ______	Printed Name: ______	Printed Name: ______
Printed Name: ______	Date of Birth: ______	Title: ______
Date Signed: ______	Driver's License #: ______	Originating Office: Abonmarche Consultants, Inc. 95 W. Main Street PO Box 1088 Benton Harbor, MI 49023 T 269.927.2295 F 269.927.1017
Federal Tax ID: ______	Employed by: ______	
	Address: ______	
	City/State ______	Date Signed: ______
	Date Signed: ______	

TERMS AND CONDITIONS OF PROFESSIONAL SERVICES AGREEMENT

1. **Agreement.** These Terms and Conditions shall be incorporated by reference and shall prevail as the basis of the Client's Agreement to Abonmarche. Any Client document or communication in addition to or in conflict with these Terms and Conditions shall be subordinate and subject to these provisions.
2. **Execution.** Abonmarche has the option to render this Agreement null and void, if it is not executed within thirty (30) days of delivery.
3. **Client Responsibilities.** The Client will provide all criteria and information concerning the requirements of the Project. The Client will assume responsibility for interpretation of contract documents and for construction observation and will waive all claims against Abonmarche that may be in any way connected, unless Abonmarche's services under this Agreement include full-time construction observation or review of contractor's performance.
4. **Performance.** The standard of care for services performed by or provided by Abonmarche will be the care and skill ordinarily used by Abonmarche's profession practicing under similar circumstances at the same time and in the same locality. Abonmarche makes no warranty, expressed or implied, with respect to any services provided by Abonmarche. Abonmarche will not be liable for any claim, damages, cost, or expense (including attorney's fees) or other liability or loss not directly and solely caused by the negligent acts, errors, or omissions of Abonmarche.
5. **Hourly Billing Rates.** If payment is on an hourly rate, Client will pay Abonmarche at the current hourly billing rates. The hourly rates are adjusted annually or as deemed appropriate.
6. **Reimbursable Expenses.** Reimbursable expenses, the actual costs incurred directly or indirectly for the Client's Project, will be charged at Abonmarche's current rates. Examples of reimbursable expenses include, but are not limited to: mileage, tests and analyses, special equipment services, postage and delivery charges, telephone and telefax charges, copying, printing, and binding charges, commercial transportation, meals, lodging, special fees, licenses, and permits. Subconsultant and outside technical or professional services will be charged on the basis of the actual costs times a factor of 1.15.
7. **Additional Services.** Additional services that may be provided pursuant to the Agreement or any subsequent modification of the Agreement will be authorized, when possible, by written amendment signed on behalf of the Client and Abonmarche. Additional services, performed by Abonmarche are subject to all Terms and Conditions and the Client will be responsible for payment. Should the Client, regulatory agency, or any public body or inspector direct modification or addition to services covered by this Agreement, including costs relating to the relationship between the Client and a third party i.e. punch lists, change orders, and disputes, the cost will be added to the agreed price. Requests for extra services should be made in writing via a change order, but none the less, Abonmarche is entitled to be paid for extra services provided whether or not it is in writing.
8. **Underground Structures or Buried Utilities.** The Client is responsible for identification and location of all public and private buried structures on the Client's property and the Project site, such as, but not limited to, storage tanks and lines, or gas, water, sewer, electrical, phone, cable, or any other public or private utilities. It is agreed that Abonmarche is not responsible for accidental damage to utilities or underground structures, whether known, unknown or improperly located. The client shall be responsible for design fees if changes are necessary. Utility locating or marking services provided by Abonmarche are not substitutes for complying with the utility owner notification requirements or the locating services (811 systems) required prior to an excavation. Utilities shown as located by ground penetrating radar are approximate only. No excavation took place to verify the positions shown or to verify the type of utility (except as noted). Careful excavation is required for verification of the buried utility. The owner or customer assumes the risk of error and the actual location of the underground utility. Abonmarche is not providing any certification or guarantee regarding the exact location of any underground utility.
9. **Underground Conditions.** Abonmarche shall have no responsibility for the identification of existing or unforeseen/differing underground conditions. The Contractor shall have sole responsibility for determining the nature of underground conditions and the means and methods of dealing with those conditions. Abonmarche is entitled to rely upon the information provided by geotechnical consultants and shall have no responsibility for the accuracy or correctness of the data contained in the geotechnical reports.
10. **Site Access and Security.** With the exception of access rights that land surveyors are afforded by law, the Client will provide Abonmarche access to the Project site and the Client will be responsible for obtaining any necessary permission from any affected third party property owners for use of their lands. The Client is solely responsible for site security.
11. **Consultants.** Abonmarche may engage Consultants at the request of the Client to perform services which are typically the Client's responsibility, such as surveys, geotechnical and environmental assessments. The Client agrees that Abonmarche will not be responsible for, or in any manner guarantee, the performance of services by the Consultants. The Client agrees that Abonmarche will not be liable for any claim, liability, or defense cost for injury or loss sustained by any party allegedly caused by the Consultants' negligence or willful misconduct.
12. **Opinions of Cost.** Any opinions of probable construction cost and/or total project cost provided by Abonmarche will be on the basis of experience and judgment, but these are only estimates. Abonmarche does not warrant that bids or ultimate construction or total project costs will not vary from such estimates.
13. **Ownership of Work Product.** Abonmarche will remain the owner of all original drawings, reports, and other materials provided to the Client, whether in hard copy or magnetic media form. The Client is authorized to use the copies provided by Abonmarche only in connection with the Project. Any other use or reuse by the Client for any purposes whatever will be at the Client's risk and full legal responsibility, without liability to Abonmarche and the Client will defend, indemnify, and hold Abonmarche harmless from all claims, damages, losses, and expenses, including attorney fees arising out of or resulting there from.
14. **Electronic Media.** Copies of data, reports, drawings, specifications, and other materials furnished by Abonmarche that may be relied upon by the Client are limited to the printed copies (also known as hard copies) that are delivered to the Client pursuant to the services under this Agreement. Computer files of text, data, graphics, or of other types of electronic media are the sole possession of Abonmarche, unless specifically stated otherwise in an amendment to this Agreement. Any electronic media provided under this Agreement to the Client are only for the convenience of the Client. Any conclusions or information obtained or derived from such electronic files will be at the user's sole risk.
15. **Bonds and Permits.** The Client will be responsible for the adoption of any site access or right of way bonds that may be initiated on their behalf. At completion of Abonmarche's services, the Client will take responsibility and pay any ongoing bond or permit costs for any bonded or permitted services.
16. **Insurance.** The Client will cause Abonmarche and Abonmarche's employees to be listed as additional insured on all general liability and property insurance policies carried by the Client that are applicable to the Project. Upon request, the Client and Abonmarche will each deliver to the other certificates of insurance evidencing their coverage. The Client will require the Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause Abonmarche and Abonmarche's employees to be listed as additional insured with respect to such liability and other insurance purchased and maintained by the Contractor for the Project.
17. **Third party Invoicing.** If the Client directs Abonmarche to invoice third party payers, Abonmarche will do so, but the Client agrees to be ultimately responsible for Abonmarche's compensation until the Client provides Abonmarche with the third party's written acceptance of all terms of this Agreement and until Abonmarche agrees to the substitution.
18. **Third Party Beneficiaries.** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or Abonmarche. Abonmarche's services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against Abonmarche because of this Agreement or performance or nonperformance of services hereunder. The Client and Abonmarche agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.
19. **Suspension of Services.** In the event of non-payment by Client, Abonmarche will have the absolute right to cease performance of any services.
20. **Contractor's Work:** Abonmarche shall have no authority to direct or control the Work of the Contractor or to stop the Work of the Contractor. Abonmarche shall not be liable to any party for the failure of the Contractor to perform the Work consistent with the Plans and Specifications and applicable Codes and Regulations. Abonmarche shall have no responsibility or be liable for safety procedures of the Contractor or its subcontractors.
21. **Notice of Lien Rights.** Abonmarche hereby notifies, and the Client acknowledges that Abonmarche has lien rights on the Client's land and property when Abonmarche provides labor and materials for Projects on the Client's land and the Client does not pay for those services.
22. **Legal Expenses.** If Abonmarche brings a lawsuit against the Client to collect invoiced fees and expenses, the Client shall be legally liable to pay Abonmarche's expenses, including its actual attorney fees and costs.
23. **Liability Limitation.** Client and persons claiming through Client agree to limit the liability of Abonmarche, its agents and employees, for all claims arising out of, in connection with, or resulting from, the performance of the services under this agreement to an amount of $25,000 or the fee paid to us for professional services on this project, whichever is greater. Client acknowledges that Abonmarche is a corporation and agrees that any claim made by Client arising out of any act or mission of any director, officer, or employee of Abonmarche, in execution or performance of this Agreement, shall be made against Abonmarche and not against such director, officer, or employee.
24. **Consequential Damages.** The Client and Abonmarche waive consequential damages for claims, disputes, or other matters in question relating to services provided as a part of this Agreement, including for example, but not limited to, loss of business.
25. **Governing Law.** This Agreement will be deemed to have been made in Berrien County, Michigan and shall be governed by and construed in accordance with the laws of the State of Michigan.
26. **Exclusive choice of forum**. Each party irrevocably and unconditionally agrees that it will not bring any action, litigation, or proceeding against any other party in any way arising from or relating to this Agreement in any forum other than the courts of the state of Michigan sitting in Berrien and any applicable Michigan appellate court. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of those courts and agrees to bring any such action, litigation, or proceeding only in those courts. Each party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.
27. **Considerations.** The successors, executors, administrators, and legal representatives of the Client and Abonmarche are hereby bound onto the other with respect to the covenants, Agreements, and obligations of this Agreement.
28. **Acts of God.** Neither the Client nor Abonmarche will have any liability for nonperformance caused in whole or in part by causes beyond Abonmarche's reasonable control. Such causes include, but are not limited to, Acts of God, civil unrest and war, labor unrest and strikes, acts of authorities, and events that could not be reasonably anticipated.
29. **Termination.** Either the Client or Abonmarche may terminate this Agreement by giving ten (10) days written notice to the other party. In such an event, the Client will pay Abonmarche in full for all services previously authorized and performed prior to the effective date of the termination, plus (at the discretion of Abonmarche) a termination charge to cover finalization of services necessary to bring ongoing services to a logical conclusion. Such charge will not exceed thirty (30) percent of all charges previously incurred. Upon receipt of such payment, Abonmarche will return to the Client all documents and information that are the property of the Client.
30. **Entire Agreement.** This Agreement contains the entire agreement between the parties and there are no agreements, representations, statements, or understandings which have been relied on by the parties which are not stated in this Agreement.

End of Agreement.

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 11/12/2019	Title: Electrical System Upgrades
Submitted By: Sanjeev Mungarwadi/Leo Evans	Department: Public Works - Filtration

Brief Summary: Authorize staff to enter into construction agreement with Parkway Electric and Communications since they submitted the lowest responsible bid of $118,582.

Detailed Summary: Tetratech completed design for the electrical upgrades to tie the two existing generators at the Filtration Plant and solicited proposals from four electrical contractors to complete the construction. Three bids were received and Parkway Electric and Communications Services submitted the lowest responsible and acceptable bid for $118,582. The project is budgeted in the CIP for $100,000 and $13,000 were expended on design services. The difference of $32,000 required will be addressed in the next budget reforecasting session.

Amount Requested: $132,000	Amount Budgeted: $100,000
Fund(s) or Account(s): 591-60558-5400	Fund(s) or Account(s): 591-60558-5400

Recommended Motion:

Authorize staff to enter into an agreement with Parkway Electric and Communications for a cost of $118,582.

Check if the following Departments need to approve the item first:

Police Dept. ☐

Fire Dept. ☐

IT Dept. ☐

For City Clerk Use Only:

Commission Action:

CITY OF MUSKEGON

BID TABULATION

PROJECT: **WATER FILTRATION PLANT- ELECTRICAL UPGRADES - GENERATORS TIE-IN**

DATE: 12-Nov-19 REQUISTION

		NAME OF BIDDER		NAME OF BIDDER		NAME OF BIDDER		NAME OF BIDDER	
	VENDOR	**Buist Electric**		**Feyen Zylstra**		**Parkway Electric**		**Newkirk Electric**	
		Byron Center, MI		**Traverse City, MI**		**Holland, MI**		**Muskegon, MI**	
	TELEPHONE	**269-343-9191**		**231-486-8850**		**616-820-1119**			
	QUOTED BY	**Joel Blount**		**Jeremie Garno**		**Greg Fowler**			
QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
	Base Price		$ 159,000.00		$ 145,059.00		$ 110,790.00		No BID
	Option A		$ 9,880.00		$ 10,057.00		$ 7,792.00		No BID
TOTAL			**$ 168,880.00**		**$ 155,116.00**		**$ 118,582.00**		**$ -**

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 11-12-2019	Title: Public Hearing on the Brownfield Plan for 1208 Eighth
Submitted By: Dave Alexander	Department: Economic Development
Brief Summary: To hold a public hearing on the request for a Brownfield Plan Amendment for 1208 Eighth for Core Development and to consider the attached resolution.	
Detailed Summary: Core Development submitted a Brownfield Plan Amendment for 1208 Eighth Street to the Brownfield Redevelopment Authority, which approved It on Oct. 8, 2019. The Muskegon City Commission on Oct. 22, 2019 adopted a resolution setting a public hearing for Nov. 12, 2019. The amendment is intended to identify eligible activities proposed for the brownfield site owned by Core Development. With an estimated investment of $700,000 for redevelopment of a commercial building at 1208 Eighth, the plan anticipates eligible expenses of $145,129 to be paid through the capture of tax increments through 2054. As part of the reimbursements, the city will receive a $1,000 annual fee for its expenses. After all eligible costs incurred by the various parties are reimbursed, the BRA may, as the capture term provides, continue to capture local taxes for five more years for deposit into a Local Brownfield Revolving Fund.	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To close the public hearing and approve the Brownfield Plan Amendment for 1208 Eighth for Core Development with the attached resolution.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

RESOLUTION APPROVING THE BROWNFIELD PLAN AMENDMENT

1208 8th Street Redevelopment Project

City of Muskegon

County of Muskegon, Michigan

Minutes of a Regular Meeting of the City Commission of the City of Muskegon, County of Muskegon, Michigan (the “City”), held in the City Commission Chambers on the 12th day of November, 2019 at 5:30 p.m., prevailing Eastern Time.

PRESENT:

ABSENT:

The following preamble and resolution were offered by Commissioner ____________________ and supported by Commissioner ___________________.

WHEREAS, in accordance with the provisions of Act 381, Public Acts of Michigan, 1996, as amended (“Act 381”), the City of Muskegon Brownfield Redevelopment Authority (the “Authority”) has prepared and approved a Brownfield Plan Amendment to add 1208 8th Street Redevelopment Project; and

WHEREAS, the Authority has forwarded the Brownfield Plan Amendment to the City Commission requesting its approval of the Brownfield Plan Amendment; and

WHEREAS, the City Commission has provided notice and a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to express their views and recommendations regarding the Brownfield Plan Amendment, as required by Act 381; and

WHEREAS, not less than 10 days has passed since the City Commission provided notice of the proposed Brownfield Plan to the taxing units; and

WHEREAS, the City Commission held a public hearing on the proposed Brownfield Plan on November 12, 2019.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. That the Brownfield Plan constitutes a public purpose under Act 381.
2. That the Brownfield Plan meets all the requirements of Section 13(1) of Act 381.

3. That the proposed method of financing the costs of the eligible activities, as identified in the Brownfield Plan and defined in Act 381, is feasible and the Authority has the authority to arrange the financing.
4. That the costs of the eligible activities proposed in the Brownfield Plan are reasonable and necessary to carry out the purposes of Act 381.
5. That the amount of captured taxable value estimated to result from the adoption of the Brownfield Plan is reasonable.
6. That the Brownfield Plan in the form presented is approved and is effective immediately.
7. That all resolutions or parts of resolutions in conflict herewith shall be and the same are hereby rescinded.

Be it Further Resolved that the Mayor and City Clerk are hereby authorized to execute all documents necessary or appropriate to implement the provisions of the Brownfield Plan.

AYES:

NAYS:

RESOLUTION DECLARED APPROVED.

Ann Marie Meisch, City Clerk

Stephen J Gawron, Mayor

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held on November 12, 2019 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

____

Ann Marie Meisch, City Clerk

CITY OF MUSKEGON
BROWNFIELD REDEVELOPMENT AUTHORITY

BROWNFIELD PLAN

FOR

1208 8TH STREET
MUSKEGON, MICHIGAN

Approved by the Brownfield Redevelopment Authority on: _______________________
Approved by the City Commissioners on: _______________________

Prepared with the assistance of:

ENVIROLOGIC TECHNOLOGIES, INC.
2960 Interstate Parkway
Kalamazoo, Michigan 49048
(269) 342-1100

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CITY OF MUSKEGON BROWNFIELD REDEVELOPMENT AUTHORITY
BROWNFIELD PLAN
FOR
1208 8TH STREET
MUSKEGON, MICHIGAN

1. INTRODUCTION AND PURPOSE

Envirologic has prepared this Brownfield Plan on behalf of the City of Muskegon Brownfield Redevelopment Authority for a property located at 1208 8th Street, Muskegon, Michigan. The parcel is currently a vacant building formerly used as an automobile dealership. A local developer intends to extensively renovate the building to create new commercial space.

The proposed project is a public benefit by bringing a previously vacant and dilapidated structure into compliance with building codes, eliminating blight, creating new commercial space, creating new jobs, increasing the City's tax base, improving parking, and supporting the City's efforts to spur new development within the core downtown area of Muskegon.

The purpose of this Plan is to support the project through the capture of state and local tax increment revenues for various environmental and non-environmental eligible costs.

The property is located within a Downtown Development Authority (DDA) district. The DDA has entered into an interlocal agreement with the Brownfield Redevelopment Authority to forego their portion of the tax increment capture in support of the project due to its benefits to the community.

The purpose of this plan, to be implemented by the Authority, is to satisfy the requirements for a Brownfield Plan as specified in Act 381 of the Public Acts of the State of Michigan of 1996, as amended, MCL 125.2651 et. seq., which is known as the "Brownfield Redevelopment Financing Act." Terms used in this document are as defined in Act 381.

2. ELIGIBLE PROPERTY INFORMATION

The property subject to this Brownfield Plan consists of one legal parcel and the adjacent public right-of-ways. The 1208 8th Street property subject to this Brownfield Plan consists of a parcel with a tax identification number of 61-24-205-317-0007-00. The legal description for the property, obtained from tax records is:

City of Muskegon Revised Plat of 1903 Lot 7&8 Block 317 except a strip of land 8 feet side across southeasterly end of Lot 8 for use as an alley subject to Cross Parking and Refuse Easement recorded L/P 3642/568.

Refer to Figure 1 (Exhibits) for a location map and legal description.

This parcel has been developed for industrial and commercial uses since the late 1800s. Early industrial uses of the property include boiler shop manufacturing and a foundry operated by Behrens Woodard & Jones Boiler Shops & Muskegon Novelty Iron Works, then Turnbuilt Boiler Works Company, followed by Lakeside Foundry. The current building on site was constructed in 1945 and was utilized as an automotive dealership and repair facility. A northern addition used for office space was added on in 1956. Mobil Oil Company installed two underground storage tanks (USTs) at the property in 1968; the USTs were removed in May 1991.

The initial assessment of this parcel consisted of the collection of one soil sample from the excavation and the removal of the two USTs that existed at the property, which at the time was addressed as 677 West Western Avenue. No petroleum contamination was present at that location. Further assessment of the property was conducted in 1991 and included the analysis of a single composite soil sample for copper, lead, and nickel. The analytical results from the sample indicated elevated concentrations of copper, lead, and nickel above background levels. The reported concentration of copper exceeds the current Groundwater-Surface Water Interface Protection Criterion (GSIPC) while the concentration of lead exceeds the Residential Direct Contact criterion. Two soil samples were collected in April 2002 and analyzed for polynuclear aromatics (PNAs) and Michigan 10 Metals. The analytical data indicated the presence of arsenic, copper, selenium, zinc, naphthalene, phenanthrene, fluoranthene, and benzo(a)pyrene at concentrations exceeding the current Generic Residential Cleanup Criteria. Envirologic conducted assessment activities in 2019 and demonstrated the presence of mercury, copper, lead, and silver in excess of Generic Residential Cleanup Criteria.

Based on the presence of various contaminants above Generic Residential Cleanup Criteria, the property is a “facility” as defined by Part 201 of the Natural Resources and Environmental Protection Act (1994 PA 451) and is also an “eligible property” as defined by the Brownfield Redevelopment Financing Act (1996 PA 381).

3. PROPOSED REDEVELOPMENT

The property currently consists of a small vacant building and an asphalt-covered parking lot to the east. Public right-of-ways with sidewalks abut the property to the north and west. The developer intends to put a new entrance on the north, and possibly west, side and create several interior commercial lease spaces. An outdoor seating area may be created to support one of the lease spaces as a coffee shop, café, or similar establishment. The final outcome will be a building that retains the historical brick exterior, with new window treatments and entryways to create a modern commercial space.

Portions of the adjacent streets may be expanded and/or striped to create angled parking, which would increase the available parking in the area as well as benefit public safety concerns.

The private investment is estimated at $700,000.

There are no tenants currently. It is estimated that the lease space would be sufficient to support a minimum of 6–12 full time equivalent jobs.

4. BROWNFIELD CONDITIONS

Because of the historical uses of the property, concerns about environmental conditions and the possible need to mitigate environmental risks was paramount. Extensive environmental assessment of the property was needed including Phase I and II Environmental Site Assessments, a Baseline Environmental Assessment, and Due Care documentation. These assessments demonstrated that residual contamination remains in soil at the site. The assessments also demonstrated that risks of vapor intrusion from various contaminant sources were not present. The existing asphalt parking and building slab provide an adequate barrier to the contaminated soil.

The condition of the building is such that a complete renovation is needed to make it functional and up to current building codes and standards. Full interior demolition and complete replacement of all heating, electrical, water, and sewer systems are needed to make the building functional. Because the site was a former auto dealership, three inground hydraulic hoists remain that will be removed as part of the interior demolition.

5. BROWNFIELD PLAN ELEMENTS (as specified in Section 13[1] of Act 381)

A. Description of Costs to be Paid for with Tax Increment Revenues

This Brownfield Plan has been developed to reimburse existing and anticipated costs to be incurred by the developer and, possibly, the City. Tax increment revenues will be captured for reimbursement from both local and school taxes. An Act 381 Work Plan will not be prepared to seek approval of school tax capture. BEA Activities, such as the Phase I and II Environmental Site Assessments and Baseline Environmental Assessment, are statutorily eligible for reimbursement with both local and school tax increment revenues. The total cost of BEA Activities is $17,100.

The Plan will also pay for eligible non-environmental costs including demolition activities estimated at $38,885. The demolition cost includes removal of non-functional building mechanical systems, window removals, floor removal, and removal of interior walls and ceilings.

Public infrastructure improvements may include improvements to W. Western and/or 8th Street to expand the street for angled parking. Costs may include new curbing, striping, re-paving, and other improvements within the public right-of-way. These costs may be borne by the developer or the City. Costs are estimated at $40,000.

Various “Site Preparation Activities” are eligible under the Act that may be conducted as part of the redevelopment. Eligible activities that may be conducted could include staking and surveying, temporary erosion control, temporary site control, temporary traffic control, and temporary facilities. A cost of $5,000 has been estimated for the total cost of all eligible Site Preparation Activities.

Specific costs to be paid for with tax increment revenues are detailed in Table 1 and described below.

The development of the Brownfield Plan is also an eligible activity, estimated at a cost of $7,500.

The Plan also includes Administrative Costs of the Authority. For the purposes of this Plan, the Administrative Costs of the City of Muskegon Brownfield Redevelopment Authority were projected by allocating a fixed fee of $1,000 annually. Typically, the City has calculated a fee of 10% of the cost of total eligible activities inclusive of contingencies. That amount may not be sufficient on an annual basis if the City needs to retain professional services (e.g., legal, financial, and environmental) in order to implement the Plan. Thus, a slightly higher annual administrative cost was utilized.

Contingencies at 15% of the eligible costs (excluding those already conducted) is included at an eligible cost and totals $12,583.

The total potential brownfield eligible activity costs—including contingencies, administrative costs of the Authority, preparation of the Brownfield Plan—are estimated at $145,129.

Additional tax increment revenues will be collected and disbursed to the State of Michigan's State Brownfield Redevelopment Fund. Additionally, once the eligible activities are reimbursed, tax increment revenues may be placed in the City's Local Brownfield Revolving Fund (LBRF).

B. Summary of Eligible Activities

Completed environmental activities include a Phase I Environmental Site Assessment, Baseline Environmental Assessment (BEA), and Documentation of Due Care.

Non-environmental activities include demolition, site preparation, and public infrastructure improvements related to improvements for street-level parking.

The development of the Brownfield Plan, administrative costs of the Authority, and contingencies are also eligible activities.

C. Estimate of Captured Taxable Value and Tax Increment Revenues

The initial taxable value is the value of the eligible property in 2019 (currently a taxable value of $73,006). The developer has approached the City and is pursuing development of an Obsolete Property Rehabilitation District for the property and a subsequent Obsolete Property Redevelopment Exemption. The exemption would delay taxation on the building improvements for a 12-year period. Because of the exemption, this Plan proposes to delay initiating capture of tax increment for five full years. Capture of available tax increment would start with 2025 property taxes. The Obsolete Property Redevelopment exemption will still be in place when capture through this Brownfield Plan is initiated. Thus, it is likely that there will be no available tax increment revenues to capture during the first several years. However, any improvement in land values above the present-day land value would be capturable—though likely insignificant. In 2019, the value of the land was recorded as $65,000 (not the taxable value), and this can be the basis of determining if there are improvements in land value during the term of the Obsolete Property Rehabilitation Exemption.

Once the Obsolete Property Rehabilitation Exemption expires at the end of 2031, the tax increment revenues will be available for capture through this Plan. The projected taxable value of land and buildings after improvements and expiration of the Obsolete Property Rehabilitation Exemption is $250,000. This value would produce about $9,600 in available tax increment revenues annually (school and local tax increment). This Plan anticipates only two years of school tax increment capture to reimburse the school eligible costs. Beyond that time, the Plan would capture local only taxes until all reimbursements are made. The Plan revenues as presented in the attached tables show that available tax increment revenues may not be sufficient to cover eligible costs. However, the tables do not include an inflationary adjustment and other factors that could lead to additional creation of taxable value and shorten the term of reimbursement.

The estimated captured taxable value for this redevelopment by year and in aggregate for each taxing jurisdiction is depicted in tabular form (Tables 2, 3, and 4).

A summary of the estimated reimbursement schedule and the amount of capture into the LBRF by year and in aggregate are presented as Table 5. Once eligible expenses are reimbursed, the Authority may capture up to five full years of the tax increment and deposit the revenues into an LBRF.

D. Method of Financing and Description of Advances by the Municipality

At this time, eligible activities are projected to be financed by the developer.

It is possible that the City may wish to finance public infrastructure improvements to ensure consistency and workmanship with surrounding public infrastructure.

No advances by the municipality have been made.

E. Maximum Amount of Note or Bonded Indebtedness

At this time, there are no plans by the Authority to incur indebtedness to support development of this site, but such plans could be made in the future to assist in the development if the Authority so chooses.

F. Duration of Brownfield Plan

The Authority intends to begin capture of tax increment in 2025. This Plan will then remain in place until the eligible activities have been fully reimbursed and up to five full years of capture into the LBRF is complete or 30 years, whichever occurs sooner.

G. Estimated Impact of Tax Increment Financing on Revenues of Taxing Jurisdictions

The estimated amount of tax increment revenues to be captured for this redevelopment from each taxing jurisdiction by year and in aggregate is presented as Table 4.

H. Legal Description, Property Map, Statement of Qualifying Characteristics, and Personal Property

The 1208 8th Street parcel subject to this Brownfield Plan consists of a parcel with a tax identification number of 61-24-205-317-0007-00. The property subject to this Brownfield Plan is the parcel at the corner of 8th Street and W. Western Avenue.

The legal description for the property, obtained from tax records is:

> *City of Muskegon Revised Plat of 1903 Lot 7&8 Block 317 except a strip of land 8 feet side across southeasterly end of Lot 8 for use as an alley subject to Cross Parking and Refuse Easement recorded L/P 3642/568.*

The property meets the definition of a “brownfield” as defined by Public Act 381, the Brownfield Redevelopment Financing Act of 1996, as amended, based upon the fact that the parcel meets the definition of a “facility” as defined by Part 201 of NREPA. The “facility” designation is based upon the presence of metals in shallow soil attributable to the historic use of the property as an automobile dealership.

This Brownfield Plan does intend to capture tax increment revenues associated with personal property tax, if available.

I. Estimates of Residents and Displacement of Families

There will be no displacement of families from this redevelopment.

J. Plan for Relocation of Displaced Persons

Not applicable.

K. Provisions for Relocation Costs

Not applicable.

L. Strategy for Compliance with Michigan's Relocation Assistance Law

Not applicable.

M. Other Material that the Authority or Governing Body Considers Pertinent

Not applicable.

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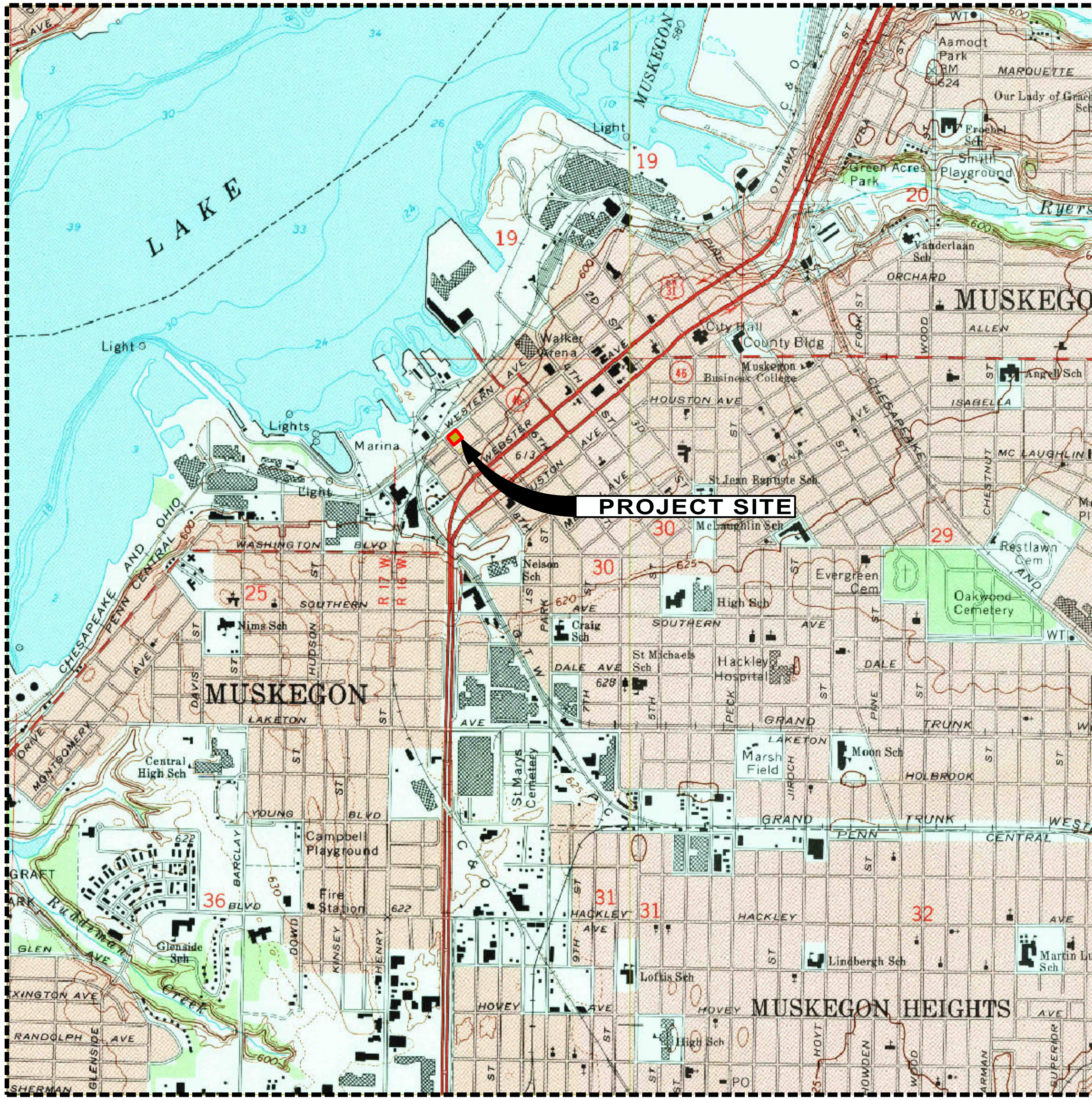
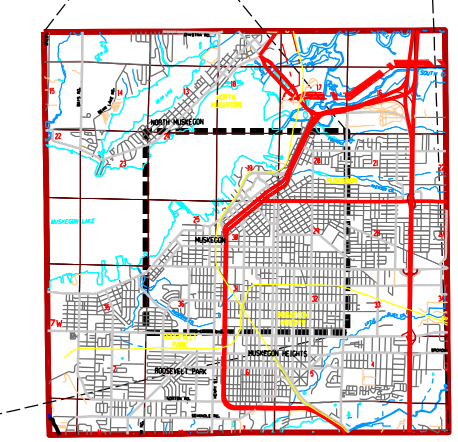
ATTACHMENTS

EXHIBITS



SOURCE: MUSKEGON WEST, MICHIGAN USGS 7.5 MINUTE TOPOGRAPHIC QUADRANGLE MAPS
MAPTECH© U.S. TERRAIN SERIES™ ®MAPTECH©, INC. 606-433-8500



T 10 N. R. 17 W.
MUSKEGON COUNTY
MUSKEGON, MICHIGAN

0 500 1000 2000 4000
SCALE 1" = 2000'

envirologic
environmental consulting + services
2960 INTERSTATE PARKWAY
KALAMAZOO, MICHIGAN 49048
PH: (269) 342-1100 FAX: (269) 342-4945

1208 8th ST.

1208 8th ST.
MUSKEGON, MI 49440

LOCATION MAP

PROJECT NO. 180309

FIGURE No. 1

000000 AAAAAA File: AA.dgn Model: Location Map

N
SCALE 1" = 40'
0 10 20 40 80

NOTE:
THIS IS NOT A PROPERTY BOUNDARY SURVEY. PROPERTY BOUNDARIES SHOWN ON THIS MAP ARE BASED ON AVAILABLE FURNISHED INFORMATION AND ARE APPROXIMATE ONLY AND SHOULD NOT BE USED TO ESTABLISH PROPERTY BOUNDARY LOCATION IN THE FIELD.

1208 8th ST.

1208 8th ST.
MUSKEGON, MI 49440

SITE PLAN

envirologic
environmental consulting + services
2960 INTERSTATE PARKWAY
KALAMAZOO, MICHIGAN 49048
PH: (269) 342-1100 FAX: (269) 342-4945

PROJECT NO.
180309

FIGURE No.
2

000000 AAAAA File: Model:

SCHEDULES/TABLES

Table 1

Summary of Eligible Costs

1208 8th Street, Muskegon, Michigan

Eligible Activities	Estimated Cost	Available to Reimburse with School and Local	Max School Capture
BEA Activities			
Phase I and II ESAs, BEA	$ 17,100.00	$ 17,100.00	$ 6,562.84
Non-Environmental Activities			
Site and Building Demolition	$ 38,885.00	$ -	
Public Infrastructure Improvements	$ 40,000.00	$ -	
Site Preparation Activities	$ 5,000.00	$ -	
TOTAL COSTS OF ELIGIBLE ACTIVITIES	**$ 100,985.00**	**$ 17,100.00**	**$ 6,562.84**
Financing Costs	$ -	$ -	
Contingencies (15%)	$ 12,582.75	$ -	
Brownfield and Work Plan Development	$ 7,500.00	$ -	$ -
TOTAL	**$ 121,067.75**	**$ 17,100.00**	**$ 6,562.84**
Administrative Costs of the Authority (estimated)	$ 23,000.00	$ 23,000.00	$ 8,827.21
Captured and Disbursed to State Brownfield Redevelopment Fund	$ 1,061.96		
Additional Capture for LBRF	TBD		
Total Eligible Costs	**$ 145,129.71**	**$ 40,100.00**	$ 15,390.05

Table 2

Estimate of Total Captured Incremental Taxes

1208 8th Street, Muskegon, Michigan

Year	Annual Total Capturable Millage	Initial Taxable Value	Tax Revenues from Initial Taxable Value	Estimated Future Taxable Value	Estimated Future Tax Revenues	Available Incremental Tax Revenues	Brownfield Redevelopment Fund	Available for Authority Disbursements
2025	54.3473	$ 73,006.00	$ 3,967.68	$ 73,006.00	$ 3,967.68	$ -	$ -	$ -
2026	54.3473	$ 73,006.00	$ 3,967.68	$ 73,006.00	$ 3,967.68	$ -	$ -	$ -
2027	54.3473	$ 73,006.00	$ 3,967.68	$ 73,006.00	$ 3,967.68	$ -	$ -	$ -
2028	54.3473	$ 73,006.00	$ 3,967.68	$ 73,006.00	$ 3,967.68	$ -	$ -	$ -
2029	54.3473	$ 73,006.00	$ 3,967.68	$ 73,006.00	$ 3,967.68	$ -	$ -	$ -
2030	54.3473	$ 73,006.00	$ 3,967.68	$ 73,006.00	$ 3,967.68	$ -	$ -	$ -
2031	54.3473	$ 73,006.00	$ 3,967.68	$ 73,006.00	$ 3,967.68	$ -	$ -	$ -
2032	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2033	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2034	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2035	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2036	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2037	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2038	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2039	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2040	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2041	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2042	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2043	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2044	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2045	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2046	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2047	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2048	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2049	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2050	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2051	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2052	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2053	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
2054	54.3473	$ 73,006.00	$ 3,967.68	$ 250,000.00	$ 13,586.83	$ 9,619.15	$ 530.98	$ 9,088.16
TOTAL						**$ 134,668.04**	**$ 7,433.75**	**$ 127,234.30**

OPRA Designation in place. Any increment from the taxation of land and personal property would still be captured.

Table 3

Estimate of Annual Effect on Taxing Jurisdictions

1208 8th, Muskegon, Michigan
After OPRA designation expires

SUMMER [1]				
Taxing Jurisdiction		State Ed Tax[2]	County Operating	Total
Millage		6	5.6984	11.6984
Initial Taxable Value	$ 73,006.00	$ 438.04	$ 416.02	$ 854.05
Future Taxable Value	$ 250,000.00	$ 1,500.00	$ 1,424.60	$ 2,924.60
Captured Taxable Value	$ 176,994.00	$ 1,061.96	$ 1,008.58	$ 2,070.55

WINTER TAXES[1]																	
Taxing Jurisdiction		County Museum	County Veterans	Senior Cit Services	Central Dispatch	Comm College	Comm College Debt	MAISD	City Oper	City Sanitation	Hackley Library	Hackley Debt	MPS Oper	MPS Debt 1995	MPS Debt 2009	MPS Sinking	Total
Millage		0.3221	0.0752	0.5	0.3000	2.2037	0.34	4.758	10.0899	3	2.4	0.4866	18	4.07	3.29	1	50.8355
Initial Taxable Value	$ 73,006.00	$ 23.52	$ 5.49	$ 36.50	$ 21.90	$ 160.88	$ 24.82	$ 347.36	$ 736.62	$ 219.02	$ 175.21	$ 35.52	$ 1,314.11	$ 297.13	$ 240.19	$ 73.01	$ 3,711.30
Future Taxable Value	$ 250,000.00	$ 80.53	$ 18.80	$ 125.00	$ 75.00	$ 550.93	$ 85.00	$ 1,189.50	$ 2,522.48	$ 750.00	$ 600.00	$ 121.65	$ 4,500.00	$ 1,017.50	$ 822.50	$ 250.00	$ 12,708.88
Captured Taxable Value	$ 176,994.00	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ 3,185.89	$ -	$ -	$ 176.99	$ 7,548.60

1. Based on millages from 2018 taxes
2. 3 mils of captured SET conveyed to State Brownfield Redevelopment Fund
3. School is 38.38%

Total Millage	62.5339
Total Annual Future Tax Liability	$ 15,633.48
Total Capturable Local Millages	30.3473
Total Annual Capturable Local Tax Increment	$ 5,371.29
Total Capturable School Millages	24.00000
Total Annual Capturable School Tax Increment	$ 4,247.86
Total School and Local Tax Increment Revenue/Yr	$ 9,619.15

Table 4

Captured Taxable Value and Tax Increment Revenue by Year and Aggregate for Each Taxing Jurisdiction

1208 8th Street, Muskegon, Michigan

Year	Captured Taxable Value	State Ed Tax[2]	County Operating	County Museum	County Veterans	Senior Cit Services	Central Dispatch	Comm College	Comm College Debt	MAISD	City Oper	City Sanitation	Hackley Library	Hackley Debt	MPS Oper	MPS Debt 1995	MPS Debt 2009	MPS Sinking	Total
		6	5.6984	0.3221	0.0752	0.5	0.3000	2.2037	0.34	4.758	10.0899	3	2.4	0.4866	18	4.07	3.29	1	62.5339
2025	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2026	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2027	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2028	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2029	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2030	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2031	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2032	$ 176,994.00	$ 1,061.96	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ 3,185.89	$ -	$ -	$ 176.99	$ 9,619.15
2033	$ 176,994.00	$ 1,061.96	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ 3,185.89	$ -	$ -	$ 176.99	$ 9,619.15
2034	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2035	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2036	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2037	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2038	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2039	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2040	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2041	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2042	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2043	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2044	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2045	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2046	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2047	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2048	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2049	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2050	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2051	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2052	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2053	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
2054	$ 176,994.00	$ -	$ 1,008.58	$ 57.01	$ 13.31	$ 88.50	$ 53.10	$ 390.04	$ -	$ 842.14	$ 1,785.85	$ 530.98	$ 424.79	$ -	$ -	$ -	$ -	$ 176.99	$ 5,371.29
TOTAL CAPTURABLE TAXES		$ 2,123.93	$ 23,197.40	$ 1,311.22	$ 306.13	$ 2,035.43	$ 1,221.26	$ 8,970.96	$ -	$ 19,369.16	$ 41,074.59	$ 12,212.59	$ 9,770.07	$ -	$ 6,371.78	$ -	$ -	$ 4,070.86	$ 132,035.38

3. Half of SET conveyed to State Brownfield Redevelopment Fund

OPRA Designation in place. Any tax increment on land and personal property will be captured.

Table 5

Estimated Reimbursement Schedule
1208 8th Street, Muskegon, Michigan

Year	Incremental Taxes Available for Capturable	Funds Disbursed							
		Available to Reimburse (School)	Available to Reimburse (Local)	Available to Reimburse (Aggregate)	State Brownfield Redevelopment Fund	Administration and Implementation Local	Administration and Implementation School	Local Brownfield Revolving Fund (School)*	Local Brownfield Revolving Fund (Local)
2025	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
2026	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
2027	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
2028	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
2029	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
2030	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
2031	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
2032	$ 9,619.15	$ 3,333.08	$ 4,755.08	$ 8,088.16	$ 530.98	$ 616.21	$ 383.79		
2033	$ 9,619.15	$ 3,229.76	$ 4,755.08	$ 16,073.00	$ 530.98	$ 616.21	$ 383.79		
2034	$ 5,371.29	$ -	$ 4,371.29	$ 20,444.29	$ -	$ 1,000.00	$ -	$ -	$ -
2035	$ 5,371.29	$ -	$ 4,371.29	$ 24,815.58	$ -	$ 1,000.00	$ -	$ -	$ -
2036	$ 5,371.29	$ -	$ 4,371.29	$ 29,186.87	$ -	$ 1,000.00	$ -	$ -	$ -
2037	$ 5,371.29	$ -	$ 4,371.29	$ 33,558.16	$ -	$ 1,000.00	$ -	$ -	$ -
2038	$ 5,371.29	$ -	$ 4,371.29	$ 37,929.45	$ -	$ 1,000.00	$ -	$ -	$ -
2039	$ 5,371.29	$ -	$ 4,371.29	$ 42,300.74	$ -	$ 1,000.00	$ -	$ -	$ -
2040	$ 5,371.29	$ -	$ 4,371.29	$ 46,672.03	$ -	$ 1,000.00	$ -	$ -	$ -
2041	$ 5,371.29	$ -	$ 4,371.29	$ 51,043.32	$ -	$ 1,000.00	$ -	$ -	$ -
2042	$ 5,371.29	$ -	$ 4,371.29	$ 55,414.61	$ -	$ 1,000.00	$ -	$ -	$ -
2043	$ 5,371.29	$ -	$ 4,371.29	$ 59,785.90	$ -	$ 1,000.00	$ -	$ -	$ -
2044	$ 5,371.29	$ -	$ 4,371.29	$ 64,157.19	$ -	$ 1,000.00	$ -	$ -	$ -
2045	$ 5,371.29	$ -	$ 4,371.29	$ 68,528.48	$ -	$ 1,000.00	$ -	$ -	$ -
2046	$ 5,371.29	$ -	$ 4,371.29	$ 72,899.77	$ -	$ 1,000.00	$ -	$ -	$ -
2047	$ 5,371.29	$ -	$ 4,371.29	$ 77,271.06	$ -	$ 1,000.00	$ -	$ -	$ -
2048	$ 5,371.29	$ -	$ 4,371.29	$ 81,642.35	$ -	$ 1,000.00	$ -	$ -	$ -
2049	$ 5,371.29	$ -	$ 4,371.29	$ 86,013.64	$ -	$ 1,000.00	$ -	$ -	$ -
2050	$ 5,371.29	$ -	$ 4,371.29	$ 90,384.93	$ -	$ 1,000.00	$ -	$ -	$ -
2051	$ 5,371.29	$ -	$ 4,371.29	$ 94,756.22	$ -	$ 1,000.00	$ -	$ -	$ -
2052	$ 5,371.29	$ -	$ 4,371.29	$ 99,127.51	$ -	$ 1,000.00	$ -	$ -	$ -
2053	$ 5,371.29	$ -	$ 4,371.29	$ 103,498.80	$ -	$ 1,000.00	$ -	$ -	$ -
2054	$ 5,371.29	$ -	$ 4,371.29	$ 107,870.09	$ -	$ 1,000.00	$ -	$ -	$ -
Totals	$ 132,035.38	$ 6,562.84	$ 101,307.25		$ 1,061.96	$ 22,232.42	$ 767.58	TBD	TBD

* Amount of school TIR placed in LBRF limited to environmental costs

Remaining term of OPRA designation

ATTACHMENTS

Notice of Public Hearing
Notice to Taxing Jurisdictions
Resolution Supporting a Brownfield Plan — City of Muskegon BRA/DDA
Resolution Approving a Brownfield Plan — City of Muskegon Commissioners

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: November 12, 2019	Title: Convention Center Brownfield Grant
Submitted By: Frank Peterson	Department: City Manager

Brief Summary: The Convention Center project incurred an unexpected expense for foundation dewatering estimated at $499,999. Staff worked diligently to identify a funding source for the change order. Michigan Department of Environment, Great Lakes, and Energy (EGLE) has approved a grant to the City of Muskegon in the amount of $499,999. Staff is seeking approval to authorize an expense of up to $499,999 to treat contaminated groundwater, and authorize staff to sign the grant agreement to cover the costs of the treatment.

Detailed Summary: Much of downtown Muskegon is built upon soils that were brought in and used as fill. At some point in the past 50 years, the soils under 4th street became contaminated with PFOS. During normal ground water testing as part of the dewatering process, it was determined that PFOS levels were too high to discharge the water into either the storm sewers or the county wastewater system. The costs will not be borne by one individual contractor. It is likely that there will be 6-8 contractors involved in the process; we followed the same selection process as was used to identify subcontractors on the overall convention center project. After learning of the potential for the great dewatering/treatment costs, staff worked to identify funding sources, as we did not want to use our entire contingency budget so early in the construction schedule. After chasing dozens of potential options to reduce the costs, we settled on applying for a grant through EGLE. Last week, we received approval from EGLE for the entire request – the agreement is attached. This action has cost the construction crew approximately 4 weeks. Accordingly, the crews have been authorized to begin on-site treatment effective November 12, 2019.

Amount Requested: $499,999	Amount Budgeted: $0
Fund(s) or Account(s): EGLE Grant	Fund(s) or Account(s):

Recommended Motion: To authorize staff to accept the $499,999 Brownfield Grant and expend the funds as per the Project Budget included in Appendix A of the Grant Agreement

Check if the following Departments need to approve the item first:

Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐

For City Clerk Use Only:

Commission Action:

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING

GRETCHEN WHITMER
GOVERNOR

EGLE

LIESL EICHLER CLARK
DIRECTOR

November 5, 2019

Mr. Frank Peterson
City Manager
City of Muskegon
933 Terrace Street
Muskegon, Michigan 49440

Dear Mr. Peterson:

SUBJECT: Renew Michigan Grant
Muskegon Convention Center
Tracking Code: 2020-2422
Location Code: 6F67

Enclosed for your records is an original signed agreement for the Muskegon Convention Center Brownfield Redevelopment grant project.

As a reminder, a detailed work plan, including a budget and schedule, must be submitted and approved in writing by the Department of Environment, Great Lakes, and Energy (EGLE) prior to conducting any activities. Activities that are not part of an approved work plan or amended work plan are ineligible. You may be responsible for payment of activities undertaken without prior EGLE approval.

Progress reports must be submitted to EGLE quarterly and must include invoices for expenses incurred during the quarter. A progress report describing project status must be submitted even if no expenses are incurred during the quarter.

If you have questions concerning your grant, or to request approval of a work plan, please contact me. I look forward to working with you on this project.

Sincerely,

Andrea Ryswick

Andrea Ryswick, Brownfield Redevelopment Coordinator
Brownfield Assessment and Redevelopment Section
Remediation and Redevelopment Division
616-401-0827

Enclosures
cc: Ms. Carrie Geyer, EGLE
Mr. Ryan Londrigan, EGLE
Ms. Dawn Austin, EGLE
Mr. Mark Kussro, EGLE
File #2020-2422

EGLE

BROWNFIELD GRANT AGREEMENT
BETWEEN THE
MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
AND
THE CITY OF MUSKEGON

This Grant Agreement ("Agreement") is made between the Michigan Department of Environment, Great Lakes, and Energy, Remediation and Redevelopment Division (hereafter "State"), and the City of Muskegon (hereafter "Grantee").

The purpose of this Agreement is to provide funding in exchange for work to be performed for the project named below. The State is authorized to provide grant assistance pursuant to the funding sources identified in Appendix A. This Agreement is subject to the terms and conditions specified herein.

Project Name: **Muskegon Convention Center**
Amount of Grant: **$499,999**
Start Date: **Date executed by the State**

Location Code: **6F67**
Tracking Code: **2020-2422**
End Date: **Two years after Start Date**

GRANTEE CONTACT:

Name/Title
Leo Evans
Director of Public Works

Organization
City of Muskegon

Address
933 Terrace Street
Muskegon, Michigan 49440

Telephone number
231-750-6369

E-mail address
Leo.evans@shorelinecity.com

Federal ID number
38-6004522

STATE'S CONTACT:

Name/Title
Andrea Ryswick
Brownfield Coordinator

Division
Remediation and Redevelopment Division

Address
350 Ottawa Avenue NW, Unit 10
Grand Rapids, Michigan 49503

Telephone number
616-401-0827

E-mail address
RyswickA@Michigan.gov

The individuals signing below certify by their signatures that they are authorized to sign this Grant Agreement on behalf of their agencies, and that the parties will fulfill the terms of this Agreement, including any attached appendices, as set forth herein.

FOR THE GRANTEE:

Frank Peterson, City Manager

Date 11/5/19

FOR THE STATE:

Joshua M. Mosher

Joshua Mosher, Acting Director
Remediation and Redevelopment Division
Michigan Department of Environment, Great Lakes, and Energy

11/5/19

Grant Execution Date / Agreement Start Date
Agreement End Date is two years after this date

Rev. 5-22-19

I. PROJECT SCOPE

This Agreement and its appendices constitute the entire Agreement between the State and the Grantee and may be modified only by written agreement between the State and the Grantee.

(A) The scope of this project is limited to the activities specified in Appendix A and such activities as are authorized by the State under this Agreement. Any change in project scope requires prior written approval in accordance with Section III, Changes, in this Agreement.

(B) By acceptance of this Agreement, the Grantee commits to complete the project identified in Appendix A within the time period allowed for in this Agreement and in accordance with the terms and conditions of this Agreement.

II. AGREEMENT PERIOD

Upon signature by the State, the Agreement shall be effective from the Start Date until the End Date on page 1. The State shall have no responsibility to provide funding to the Grantee for project work performed except between the Start Date and the End Date specified on page 1. Expenditures made by the Grantee prior to the Start Date or after the End Date of this Agreement are not eligible for payment under this Agreement.

III. CHANGES

Any changes to this Agreement other than budget line item revisions less than 20 percent of the total Agreement amount shall be requested by the Grantee or the State in writing and implemented only upon approval in writing by the State. The State reserves the right to deny requests for changes to the Agreement or to the appendices. No changes can be implemented without approval by the State.

IV. GRANTEE DELIVERABLES AND REPORTING REQUIREMENTS

The Grantee shall submit deliverables and follow reporting requirements specified in Appendix A of this Agreement.

(A) The Grantee must complete and submit quarterly progress reports according to a form and format prescribed by the State and must include supporting documentation of eligible project expenses. These reports shall be due according to the following*:*

Reporting Period	Due Date
January 1 – March 31	April 30
April 1 – June 30	July 31
July 1 – September 30	Before October 15*
October 1 – December 31	January 31

*Due to the State's year-end closing procedures, there will be an accelerated due date for the report covering July 1 – September 30. Advance notification regarding the due date for the quarter ending September 30 will be sent to the Grantee. If the Grantee is unable to submit a report in early October for the quarter ending September 30, an estimate of expenditures through September 30 must be submitted to allow the State to complete its accounting for that fiscal year.

The forms provided by the State shall be submitted to the State's contact at the address on page 1. All required supporting documentation (invoices, proof of payment, etc.) for expenses must be included with the report.

(B) The Grantee shall provide a final project report in a format prescribed by the State. The Grantee shall submit the final status report, including all supporting documentation for expenses, along with the final project report and any other outstanding products within 30 days from the End Date of the Agreement.

(C) The Grantee must provide electronic copies of all products and deliverables in accordance with Appendix A.

(D) All products shall acknowledge that the project was supported in whole or in part by the State, per the guidelines provided by the program.

(E) If 15 percent (15%) or more of the grant amount is expended in a single quarter, payment requests may be submitted once monthly during that quarter.

V. <u>GRANTEE RESPONSIBILITIES</u>

(A) The Grantee agrees to abide by all applicable local, state, and federal laws, rules, ordinances, and regulations in the performance of this grant.

(B) All local, state, and federal permits, if required, are the responsibility of the Grantee. Award of this grant is not a guarantee of permit approval by the State.

(C) The Grantee shall be solely responsible to pay all applicable taxes and fees, if any, that arise from the Grantee's receipt or execution of this grant.

(D) The Grantee is responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services submitted to the State under this Agreement. The Grantee shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in drawings, designs, specifications, reports, or other services.

(E) The State's approval of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve the Grantee of responsibility for the technical adequacy of the work. The State's review, approval, acceptance, or payment for any of the services shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

(F) The Grantee acknowledges that it is a crime to knowingly and willingly file false information with the State for the purpose of obtaining this Agreement or any payment under the Agreement, and that any such filing may subject the Grantee, its agents, and/or employees to criminal and civil prosecution and/or termination of the grant.

VI. <u>USE OF MATERIAL</u>

Unless otherwise specified in this Agreement, the Grantee may release information or material developed under this Agreement, provided it is acknowledged that the State funded all or a portion of its development.

The State, and federal awarding agency, if applicable, retains a royalty-free, nonexclusive and irrevocable right to reproduce, publish, and use in whole or in part, and authorize others to do so, any copyrightable material or research data submitted under this grant whether or not the material is copyrighted by the Grantee or another person. The Grantee will only submit materials that the State can use in accordance with this paragraph.

VII. ASSIGNABILITY

The Grantee shall not assign this Agreement or assign or delegate any of its duties or obligations under this Agreement to any other party without the prior written consent of the State. The State does not assume responsibility regarding the contractual relationships between the Grantee and any subcontractor.

VIII. SUBCONTRACTS

The State reserves the right to deny the use of any consultant, contractor, associate, or other personnel to perform any portion of the project. The Grantee is solely responsible for all contractual activities performed under this Agreement. Further, the State will consider the Grantee to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Grant. All subcontractors used by the Grantee in performing the project shall be subject to the provisions of this Agreement and shall be qualified to perform the duties required.

IX. NON-DISCRIMINATION

The Grantee shall comply with the Elliott Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 *et seq.*, and all other federal, state, and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or physical or mental disability that is unrelated to the individual's ability to perform the duties of a particular job or position. The Grantee agrees to include in every subcontract entered into for the performance of this Agreement this covenant not to discriminate in employment. A breach of this covenant is a material breach of this Agreement.

X. UNFAIR LABOR PRACTICES

The Grantee shall comply with the Employers Engaging in Unfair Labor Practices Act, 1980 PA 278, as amended, MCL 423.321 *et seq*.

XI. LIABILITY

(A) The Grantee, not the State, is responsible for all liabilities as a result of claims, judgments, or costs arising out of activities to be carried out by the Grantee under this Agreement, if the liability is caused by the Grantee, or any employee or agent of the Grantee acting within the scope of their employment or agency.

(B) Nothing in this Agreement should be construed as a waiver of any governmental immunity by the Grantee, the State, its agencies, or their employees as provided by statute or court decisions.

XII. CONFLICT OF INTEREST

No government employee, or member of the legislative, judicial, or executive branches, or member of the Grantee's Board of Directors, its employees, partner agencies, or their families shall benefit financially from any part of this Agreement.

XIII. ANTI-LOBBYING

If all or a portion of this Agreement is funded with federal funds, then in accordance with OMB Circular A-21, A-87, or A-122, as appropriate, the Grantee shall comply with the Anti-Lobbying Act, which prohibits the use of all project funds regardless of source, to engage in lobbying the state or federal government or in litigation against the State. Further, the Grantee shall require that the language of this assurance be included in the award documents of all subawards at all tiers.

If all or a portion of this Agreement is funded with state funds, then the Grantee shall not use any of the grant funds awarded in this Agreement for the purpose of lobbying as defined in the State of Michigan's lobbying statute, MCL 4.415(2). "'Lobbying' means communicating directly with an official of the executive branch of state government or an official in the legislative branch of state government for the purpose of influencing legislative or administrative action." The Grantee shall not use any of the grant funds awarded in this Agreement for the purpose of litigation against the State. Further, the Grantee shall require that language of this assurance be included in the award documents of all subawards at all tiers.

XIV. DEBARMENT AND SUSPENSION

By signing this Agreement, the Grantee certifies to the best of its knowledge and belief that it, its agents, and its subcontractors:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or the state.

(2) Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, as defined in 45 CFR 1185; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(3) Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in subsection (2).

(4) Have not within a three-year period preceding this Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.

(5) Will comply with all applicable requirements of all other state or federal laws, executive orders, regulations, and policies governing this program.

XV. AUDIT AND ACCESS TO RECORDS

The State reserves the right to conduct a programmatic and financial audit of the project, and the State may withhold payment until the audit is satisfactorily completed. The Grantee will be required to maintain all pertinent records and evidence pertaining to this Agreement, including grant and any required matching funds, in accordance with generally accepted accounting principles and other procedures specified by the State. The State or any of its duly authorized representatives must have access, upon reasonable notice, to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The Grantee will provide proper facilities for such access and inspection. All records must be maintained for a minimum of ten (10) years after the final payment has been issued to the Grantee by the State.

XVI. INSURANCE

(A) The Grantee must maintain insurance or self-insurance that will protect it from claims that may arise from the Grantee's actions under this Agreement.

(B) The Grantee must comply with applicable workers' compensation laws while engaging in activities authorized under this Agreement.

XVII. OTHER SOURCES OF FUNDING

The Grantee guarantees that any claims for reimbursement made to the State under this Agreement must not be financed by any source other than the State under the terms of this Agreement. If funding is received through any other source, the Grantee agrees to delete from Grantee's billings, or to immediately refund to the State, the total amount representing such duplication of funding.

XVIII. COMPENSATION

(A) A breakdown of costs allowed under this Agreement is identified in Appendix A. The State will pay the Grantee a total amount not to exceed the amount on page 1 of this Agreement, in accordance with Appendix A, and only for expenses incurred and paid. All other costs necessary to complete the project are the sole responsibility of the Grantee.

(B) Expenses incurred by the Grantee prior to the Start Date or after the End Date of this Agreement are not allowed under the Agreement, unless otherwise specified in Appendix A.

(C) The State will approve payment requests after approval of reports and related documentation as required under this Agreement.

(D) The State reserves the right to request additional information necessary to substantiate payment requests.

(E) Payments under this Agreement may be processed by Electronic Funds Transfer (EFT). The Grantee may register to receive payments by EFT at the SIGMA Vendor Self-Service website (http://www.michigan.gov/sigmavss).

(F) An amount equal to ten percent (10%) of the grant award will be withheld by the State until the project is completed in accordance with Section XIX, Closeout, and Appendix A.

XIX. CLOSEOUT

(A) A determination of project completion, which may include a site inspection and an audit, shall be made by the State after the Grantee has met any match obligations, satisfactorily completed the activities, and provided products and deliverables described in Appendix A.

(B) Upon issuance of final payment from the State, the Grantee releases the State of all claims against the State arising under this Agreement. Unless otherwise provided in this Agreement or by State law, final payment under this Agreement shall not constitute a waiver of the State's claims against the Grantee.

(C) The Grantee shall immediately refund to the State any payments in excess of the costs allowed by this Agreement.

XX. CANCELLATION

This Agreement may be canceled by the State, upon 30 days written notice, due to Executive Order, budgetary reduction, other lack of funding, upon request by the Grantee, or upon mutual agreement by the State and Grantee. The State may honor requests for just and equitable compensation to the Grantee for all satisfactory and eligible work completed under this Agreement up until 30 days after written notice, upon which time all outstanding reports and documents are due to the State and the State will no longer be liable to pay the grantee for any further charges to the grant.

XXI. TERMINATION

(A) This Agreement may be terminated by the State as follows.

(1) Upon 30 days written notice to the Grantee:

a. If the Grantee fails to comply with the terms and conditions of the Agreement, or with the requirements of the authorizing legislation cited on page 1, or the rules promulgated thereunder, or other applicable law or rules.
b. If the Grantee knowingly and willingly presents false information to the State for the purpose of obtaining this Agreement or any payment under this Agreement.
c. If the State finds that the Grantee, or any of the Grantee's agents or representatives, offered or gave gratuities, favors, or gifts of monetary value to any official, employee, or agent of the State in an attempt to secure a subcontract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Agreement.
d. If the Grantee or any subcontractor, manufacturer, or supplier of the Grantee appears in the register of persons engaging in unfair labor practices that is compiled by the Michigan Department of Licensing and Regulatory Affairs or its successor.
e. During the 30-day written notice period, the State shall withhold payment for any findings under subparagraphs a through d above, and the Grantee will immediately cease charging to the grant and stop earning match for the project (if applicable).

(2) Immediately and without further liability to the State if the Grantee, or any agent of the Grantee, or any agent of any subcontract is:

a. Convicted of a criminal offense incident to the application for or performance of a State, public, or private contract or subcontract;
b. Convicted of a criminal offense, including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees;
c. Convicted under State or federal antitrust statutes; or
d. Convicted of any other criminal offense that, in the sole discretion of the State, reflects on the Grantee's business integrity.
e. Added to the federal or state Suspension and Debarment list.

(B) If a grant is terminated, the State reserves the right to require the Grantee to repay all or a portion of funds received under this Agreement.

XXII. IRAN SANCTIONS ACT

By signing this Agreement the Grantee is certifying that it is not an Iran-linked business, and that its contractors are not Iran-linked businesses, as defined in MCL 129.312.

XXIII. ACCESS AGREEMENTS

A voluntary access agreement or court-ordered access must be secured by the Grantee prior to performance of the scope of work described in Appendix A for any portion of the project area or property where grant activities will be undertaken and that is not owned by the Grantee. Evidence of access must be provided to the State at its request.

XXIV. GRANT ADMINISTRATION

The use of a Grant Administrator to review work plans, reports, and other documents prepared by the contractor(s), review invoices, write project status reports, and coordinate project activities and communications is eligible for reimbursement conditional upon the State's approval of a scope of work and budget prior to incurring grant administration costs. Grant administration costs will be limited to three percent (3%) [ten percent (10%) (for areawides only)] of the total grant amount.

XXV. INELIGIBLE EXPENSES

Although the following costs may be related to the scope of work described in Appendix A, the following are ineligible for reimbursement under the grant:

Office equipment; software; insurance, except liability insurance required pursuant to this Agreement; taxes, except sales taxes; replacement or purchase of equipment; drinking water supply replacement, defined as but is not limited to, providing bottled water, constructing a new well, and extending or constructing a water supply system; operation and maintenance, defined as the activities necessary to provide for continued effectiveness and integrity of a response activity after construction of the response activity means or measures. The term includes activities such as groundwater removal and treatment; restoration of property or infrastructure, unless included in Appendix A; fees for attorneys or legal advice; grant recipient staff time for application submittal; costs incurred for environmental activities under a local Brownfield Redevelopment Authority Plan; costs incurred for activities outside a State-approved work plan; labor overtime; and training.

Travel costs for either vehicle use or vehicle mileage will be reimbursed, but not both. Vehicle mileage will be reimbursed at a maximum of the federal rate allowed by the Internal Revenue Service at the time the costs are incurred. Fees, such as those incurred for state or local permits; underground storage tank registration; late fees; or other fees may be eligible at the State's discretion. Other expenses may be determined ineligible in the course of invoice reviews.

XXVI. BIDS, CONTRACTORS

(A) For contracts over $20,000, the Grantee shall provide, or cause to be provided, the qualifications of the selected contractor(s) to the State. The State reserves the right to object to the selected contractor(s) or their qualifications. If the State has objections, it will inform the Grantee in writing within 30 days of receipt of the selected contractor's qualifications.

(B) For any contract over $20,000, except professional services, the Grantee shall solicit, or cause to be solicited, bids from at least three qualified contractors. The Grantee shall provide to the State copies of all bids received. If the contractor that submitted the lowest bid is not the contractor selected, the Grantee must submit written justification for the selection.

(C) Any contractor(s) retained for corrective action on regulated underground storage tanks shall be a qualified underground storage tank consultant that meets the requirements of Section 21325 of Part 213, Leaking Underground Storage Tanks of the NREPA.

(D) Any contractor(s) retained for asbestos abatement shall possess appropriate qualifications to perform asbestos abatement.

(E) Contractor markup on subcontractors and equipment is limited to a maximum of ten percent (10%) of the original cost, and subject to approval by the State.

XXVII. WORK PLANS AND PROJECT IMPLEMENTATION

(A) Prior to conducting any activities except property acquisition under the Agreement, the Grantee or its contractor shall submit a detailed work plan to the State for its approval. Work plans must include a description of the proposed activities, a budget, and a schedule for conducting the activities under Appendix A. A supplementary work plan, budget, and schedule are required for each subsequent phase of work. The Grantee and its contractor shall not proceed with grant-funded activities until the State approves the work plan, budget, and schedule in writing. The State may approve, modify and approve, or require amendments to the work plan.

(B) The Grantee or its contractor shall implement the work plan upon the State's written approval and according to the schedules contained therein. Changes or additions to the work plan may be submitted in writing and are subject to approval by the State. Changes to work plans without prior approval from the State, or performance of activities that are not part of an approved work plan or an amendment to a work plan, are considered ineligible expenses and may result in the Grantee being responsible for payment of unapproved activities.

XXVIII. ECONOMIC DEVELOPMENT

(A) The Grant Recipient acknowledges by its signature of this Agreement that there have been no material changes in the economic development proposal, property ownership, orother conditions of the property or project since the date the grant funds were awarded.

(B) In the event the proposed development changes or is not implemented, the Grantee shall immediately notify the State in writing and shall secure a new development project for the property within six (6) months after such notification. The Grantee shall then notify the State in writing of the proposed development. The alternate development project is also subject to approval by the State.

XXIX. OTHER TERMS AND CONDITIONS

(A) The State may withhold the grant until the State determines that the Grantee is able to proceed with the project scope described in Appendix A, pursuant to Part 196, Section 19612(3), of the NREPA.

(B) Following completion of the project, the State may conduct annual compliance inspectionsfor two (2) years to determine whether the project is being maintained for the use specified in this Agreement.

(C) The Grantee acknowledges, by signature of this Agreement, that the State is not obligated to provide additional funding beyond the Agreement amount should additional environmental costs be necessary to complete the project.

(D) If necessary to allow for completion of the project, the Grantee and State may mutually agree to extend the term of the Agreement. Agreement extensions should be requested by the Grantee or the State in writing, prior to the Agreement end date. The term of the Agreement may be extended up to a maximum of four additional 1-year periods. This Agreement may only be extended by a signed agreement between both parties.

MICHIGAN BROWNFIELD REDEVELOPMENT PROGRAM

BROWNFIELD REDEVELOPMENT GRANT
APPENDIX A

Project Details			
Project name and address	Muskegon Convention Center 460 W. Western Avenue and portions of 939 and 955 3rd Street Muskegon, Michigan 49440	**Grantee**	City of Muskegon
Tracking code	2020-2422	**Location Code**	6F67
Capital investment	$20,000,000	**Jobs created**	5 full-time 30 part-time
Grant amount	$499,999	**Loan amount**	NA
Funding Sources	Renew Michigan Grant (RMG)		

PROJECT DESCRIPTION:
The city of Muskegon is receiving a grant for management of contaminated groundwater during construction at a former roadway in downtown Muskegon. The developer, the city of Muskegon, will redevelop the vacated portion of 4th Street into a 42,000 square-foot convention center, investing approximately $20,000,000. The convention center, serving as a catalyst project for economic development in downtown Muskegon, will be located in-between and connected to the newly renovated L.C. Walker Arena and Delta Hotels by Marriott.

ANTICIPATED SCOPE OF WORK / BUDGET:

- Due care activities including, but not limit to, treatment and disposal of contaminated dewatering effluent and additional sampling

PROJECT BUDGET	
Eligible Activity	**Grant**
1. Due Care	$411,219
2. Third-party environmental oversight professional	$11,780
3. Grant administration (up to 3 percent of grant amount)	$12,000
4. Contingency (up to 15 percent of grant amount)	$65,000
Total	$499,999

In addition to the broad budget items above, the grant may be used for work plan and budget development, bid solicitation, technical specifications, and other administrative tasks approved by the Department of Environment, Great Lakes, and Energy (EGLE) grant coordinator. All grant-eligible work, including tasks not listed above, must be approved in advance. Work completed without an approved work plan may not be eligible for grant reimbursement.

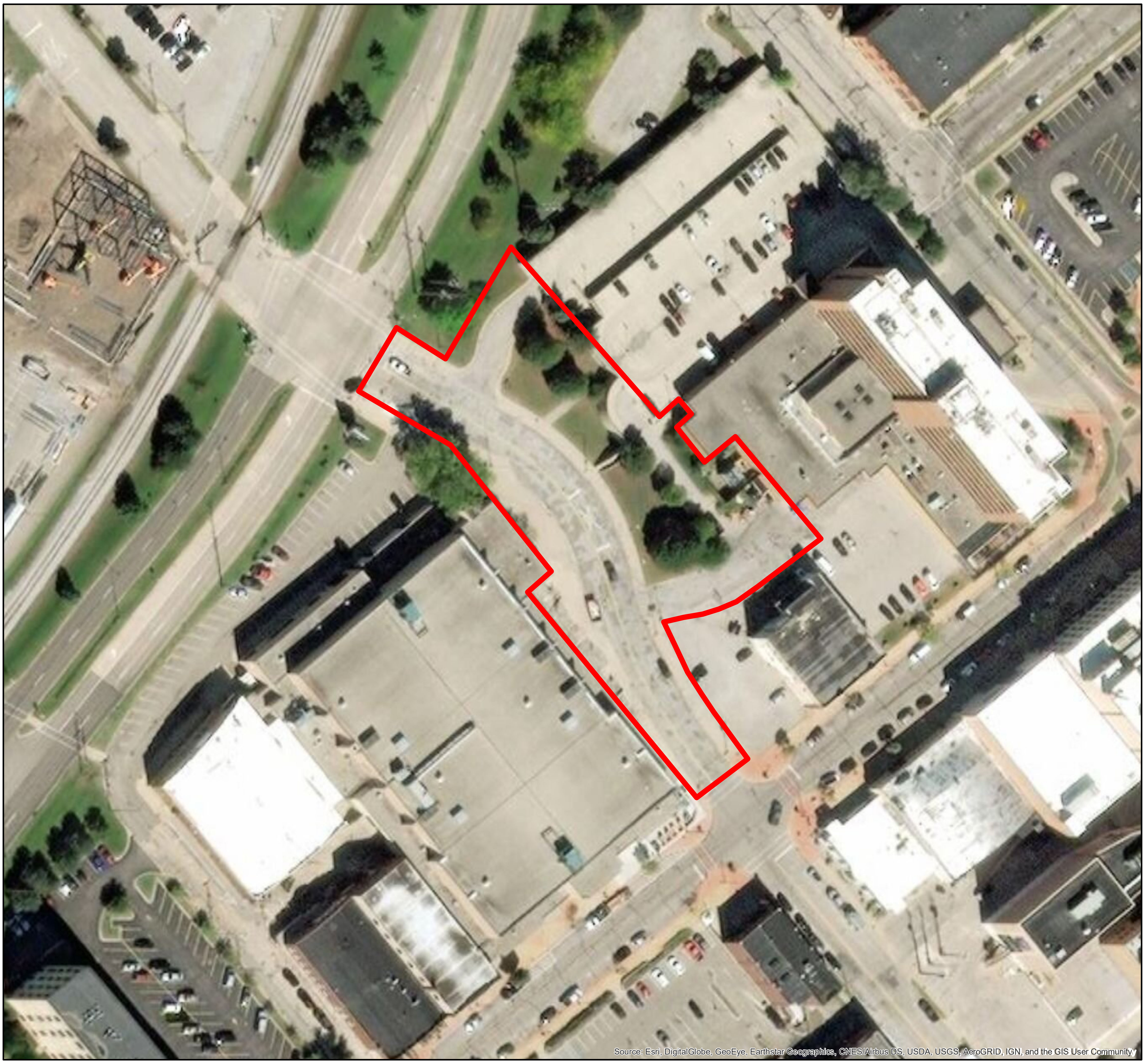
Prior to the start of any grant-eligible work, a work plan must be submitted to EGLE for review and approval. Work plan development will be paid for under the budget items listed above. A budget maximum of up to $5,000 is approved for work plan development. If individual work plan or multiple work plans collectively exceed the $5,000 cap, the anticipated cost to develop the work plan must be approved by the grant coordinator in advance, or the excess cost will not be eligible for reimbursement.

Progress reports must be submitted quarterly even if no expenses were incurred during the quarter. Progress reports must include invoices for expenses incurred during the quarter and copies of checks or statements showing all consultants / contractors were paid.

SCHEDULE: Work will be initiated on approved projects within two weeks of State approval unless otherwise approved by the State. The project will proceed on the following schedule:

Task	Schedule
1. Due Care Implementation	1st - 2nd quarters after start date
2. Third-party environmental oversight professional	1st - 2nd quarters after start date
3. Grant Administration	1st - 3rd quarters after start date
4. Closeout	3rd - 4th quarters after start date

Muskegon Convention Center



EGLE

MICHIGAN
BROWNFIELD
REDEVELOPMENT
PROGRAM

Datum; WGS_1984 Photo Source: MIS Date:2010 Resolution:1ft

★ Project Area

Project Scope

N
W E
S

Feet

0 37.5 75 150 225 300 375

460 West Western Avenue and Portions of 939 & 955 3rd Street

MUSKEGON , MUSKEGON COUNTY
S27 T10N R16W
FIGURE 1
EGLE Remediation &
Redevelopment Division
October 2019