

CITY OF MUSKEGON

CITY COMMISSION MEETING

NOVEMBER 10, 2008

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ CALL TO ORDER:
- ❑ PRAYER:
- ❑ PLEDGE OF ALLEGIANCE:
- ❑ ROLL CALL:
- ❑ HONORS AND AWARDS:
- ❑ INTRODUCTIONS/PRESENTATION:
- ❑ CONSENT AGENDA:
 - A. Approval of Minutes. CITY CLERK
 - B. Veterans Memorial Park. CITY MANAGER
 - C. Agreement for Gypsy Moth Suppression. PUBLIC WORKS
 - D. Distribution System Reliability Study Resolution. WATER FILTRATION
 - E. Change in Selling Price for City Owned Buildable lots in Jackson Hill, Nelson, McLaughlin, and Angell Neighborhoods. PLANNING & ECONOMIC DEVELOPMENT
 - F. Engineering Services Agreement for Traffic Signals upgrades at Various Locations. ENGINEERING
 - G. Request for Encroachment Agreement for Muskegon Housing Commission, 1088 Terrace Street. ENGINEERING
 - H. Request for Encroachment Agreement, 379 W. Western Avenue. ENGINEERING
 - I. Request to Approve Donation of Items to Muskegon County Museum. PUBLIC SAFETY
 - J. U. S. Environmental Protection Agency (USEPA) Grant Submittal. PLANNING & ECONOMIC DEVELOPMENT
- ❑ PUBLIC HEARINGS:
- ❑ COMMUNICATIONS:

❑ CITY MANAGER'S REPORT:

❑ UNFINISHED BUSINESS:

A. Concurrence with the Housing Board of Appeals Notice and Order to Demolish 254 Amity Avenue. PUBLIC SAFETY

❑ NEW BUSINESS:

❑ ANY OTHER BUSINESS:

❑ PUBLIC PARTICIPATION:

- *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 BECKER, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TDD: (231) 724-4172.

Date: November 10, 2008
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, October 28th.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 28, 2008

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, October 28, 2008.

Mayor Warmington opened the meeting with a prayer from Pastor Leslie Lew from the Lakeside Baptist Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioners Clara Shepherd, Lawrence Spataro, Sue Wierengo, Steve Wisneski, and Chris Carter, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

2008-89 HONORS AND AWARDS:

A. Employee Service Awards. CIVIL SERVICE

Shontea Jenkins, Civil Service Commissioner, introduced the City employees. The Mayor and Commissioners thanked them for their years of service.

2008-90 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the October 13th Commission Worksession, and the October 14th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Contract Agreement – Lockers – The Casper Corporation. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety requests that the Commission consider the bid for lockers for the men's locker room in the Police Department. The bid was submitted by The Casper Corporation of Kalamazoo,

Michigan.

Due to the layout of the locker room, The Casper Corporation is the only vendor who could provide the style of locker (built-in locking storage and bench) that will function in conjunction with the design. This is the same company that provided lockers for the women's locker room in 2007. Cost for the lockers (62) as proposed by Casper is \$66,976.

FINANCIAL IMPACT: This project is part of the 2009 capital improvement fund.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of this request.

C. Rezoning Request for Properties Located at 2320 and 2350 S. Getty Street. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the properties located at 2320 and 2350 S. Getty, from B-4, General Business District to I-2, General Industrial District.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their October 16th meeting. The vote was unanimous with B. Smith and J. Aslakson absent.

D. Rezoning Request for Properties Located in Area 8 Bounded by Keating Ave., Madison St., Holbrook Ave. and S. Getty St. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone multiple properties located in the City of Muskegon Continental Addition bounded by Keating Avenue, Madison Street, Holbrook Avenue and S. Getty Street.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their October 16th meeting. The vote was unanimous with B. Smith and J. Aslakson absent.

E. Resolution to Adopt Identity Theft Program Policy. TREASURER

SUMMARY OF REQUEST: To approve the resolution adopting an Identity Theft Policy Program in accordance with Federal Regulations.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and policy.

F. Meter Reading Radio Equipment Purchase 2009. PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase 11,000 Meter (MXU) Radio Transceiver Units and one (VXU) Vehicle based reading unit during the year 2009. This proposal will complete the process of installing radio read technology to all residential customers. It is the intent of the Department of Public Works to purchase the radio units in January of 2009 and to have the project completed in 2010.

FINANCIAL IMPACT: Total Cost \$1,240,000.

BUDGET ACTION REQUIRED: None, the 2009 Water Fund Budget includes \$1,400,000 in funding for this purchase.

STAFF RECOMMENDATION: To approve the purchase from ETNA SUPPLY.

G. Consideration of Bids for B-237 Richards Park WWTP Building Demolition. ENGINEERING

SUMMARY OF REQUEST: Award Phases 1 thru IV of the Richards Park WWTP Building Demolition contract to Pitsch Wrecking Co. out of Grand Rapids, MI since they were the lowest responsible bidder with a total bid price of \$82,600 and authorize staff to negotiate for a possible reduction in the aforementioned bid.

FINANCIAL IMPACT: The construction cost of \$82,600.

BUDGET ACTION REQUIRED: Cost from the 2008 and 2009 Budget items.

STAFF RECOMMENDATION: Award the contract to Pitsch Wrecking Co.

H. Admiral Petroleum, 11 E. Muskegon Ave., Request for an Encroachment Agreement. ENGINEERING

SUMMARY OF REQUEST: Hopp Environmental, on behalf of Admiral Petroleum, is requesting your permission to install one vertical monitoring well in the northerly right-of-way of Muskegon Avenue east of Pine Street as reflected in the application.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the encroachment agreement subject to the supplemental conditions and compliance with the necessary insurance requirements.

I. Support for Michigan Lighthouse Conservancy. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The Michigan Lighthouse Conservancy (MLC) has applied for ownership of the Muskegon lighthouses. From the information received by staff, they appear to have the ability to take on this responsibility. They have requested the support of the City by approval of the letter. If they seek grants, they will request the partnership of the City, as well as others. Some of these grants may require the City to submit the actual application, although the MLC will prepare the grant application (similar to the process we have used before with the local museums).

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve support of the Michigan Lighthouse Conservancy's application to take ownership of the Muskegon Pierhead and Muskegon South Breakwater lighthouses and authorize the Mayor to sign the letter of support.

J. Liquor License Request, Clay Avenue Cellars, Inc., 611 W. Clay Avenue.
CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Clay Avenue Cellars, Inc. to Add Space to the licensed 2008 Small Wine Maker and Direct Shipper Licenses located at 611 W. Clay.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.

Motion by Commissioner Carter, second by Commissioner Wierengo to approve the Consent Agenda as read.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

2008-91 PUBLIC HEARINGS:

A. Request for an Industrial Facilities Exemption Certificate Transfer, SAF Holland. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, SAF Holland, 1950 Industrial Blvd., has requested the transfer of an Industrial Facilities Exemption Certificate from their facility in Holland to their Muskegon facility. The total capital investment of the project is \$843,193 in personal property. The original certificate was issued in 2005 for a period of twelve years and it will

expire in 2017.

FINANCIAL IMPACT: The City will capture certain additional property taxes generated by the expansion.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval of the IFT transfer.

The Public Hearing opened to hear and consider any comments from the public.

Motion by Vice Mayor Gawron, second by Commissioner Spataro to close the Public Hearing and approve the request to transfer the Industrial Facilities Exemption Certificate for SAF Holland from their facility in Holland to Muskegon.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, Warmington, and Wierengo

Nays: None

MOTION PASSES

2008-92 UNFINISHED BUSINESS:

A. Concurrence with the Housing Board of Appeals Notice and Order to Demolish 254 Amity Avenue. PUBLIC SAFETY

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structure located at 254 Amity Avenue is unsafe, substandard, a public nuisance and that it be demolished within thirty days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Commissioner Shepherd to table the concurrence with the Housing Board of Appeals Notice and Order to demolish 254 Amity to the November 10th meeting.

ROLL VOTE: Ayes: Wierengo, Wisneski, Carter, Gawron, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

2008-93 NEW BUSINESS:

A. Vacation of the North Easterly Portion of the Alley Bounded by Eighth, Clay, Ninth and Western. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request for vacation of the North Easterly 265 feet of the alley in Block 318 in the City of Muskegon Revised Plat of 1903, bounded by Eighth Street, Clay Avenue, Ninth Street, and Western Avenue.

STAFF RECOMMENDATION: Staff recommends vacation of the north easterly 265 feet of the alley, with the condition that all utility easement rights be retained.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

COMMITTEE RECOMMENDATION: The Planning Commission recommended vacation of the alley at their October 16th meeting, with the condition that all utility easement rights be retained. The vote was 6-1 in favor, with B. Turnquist opposed and J. Aslakson and B. Smith absent.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the vacation of the north easterly portion of the alley bounded by Eighth, Clay, Ninth and Western as described.

ROLL VOTE: Ayes: Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd

Nays: Spataro

MOTION PASSES

B. Commercial Rehabilitation Tax Abatement Districts Policy. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the Commercial Rehabilitation Tax Abatement Districts Policy for the City of Muskegon.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Policy.

Motion by Vice Mayor Gawron, second by Commissioner Wisneski to approve the Commercial Rehabilitation Tax Abatement Districts Policy.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd

Nays: None

MOTION PASSES

C. Concurrence with the Housing Board of Appeals Notice and Order to Demolish the following: PUBLIC SAFETY

769 Washington – Area 12

640 Catawba

143 W. Southern – Area 10b

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. 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 a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 769 Washington.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

Mayor Warmington explained that the owner of 769 Washington had stepped out of the room during this item.

Motion by Commissioner Spataro, second by Commissioner Wierengo to reconsider actions regarding 769 Washington.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 769 Washington.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with

the Housing Board of Appeals notice and order to demolish 640 Catawba.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 143 W. Southern.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, and Wisneski

Nays: Warmington and Wierengo

MOTION PASSES

2008-94 ANY OTHER BUSINESS: Vice Mayor Gawron asked that a Homeowners and Bank Protection Act resolution be adopted.

Motion by Vice Mayor Gawron, second by Commissioner Carter to adopt a resolution to send to Congress in regards to the Homeowners and Bank Protection Act.

ROLL VOTE: Ayes: Spataro, Wierengo, Carter, and Gawron

Nays: Warmington, Wisneski, and Shepherd

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Carter to move the Worksession for the month of November to Tuesday, November 18th.

ROLL VOTE: Ayes: Warmington, Wierengo, Wisneski, Carter, Gawron, Shepherd, and Spataro

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Various comments were made.

ADJOURNMENT: The City Commission Meeting adjourned at 6:41 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk

Date: November 10, 2008
To: Honorable Mayor and City Commissioners
From: Bryon Mazade, City Manager
RE: Veterans Memorial Park

SUMMARY OF REQUEST: To approve the attached Veterans Memorial Park resolution.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

COMMITTEE RECOMMENDATION:

RESOLUTION

VETERANS MEMORIAL PARK

WHEREAS, the creation of Veterans Memorial Park, encircled by the arms of the Veterans Memorial Causeway between the Cities of Muskegon and North Muskegon, was the result of a Neal Deal Public Works Administration project in the year 1934; and

WHEREAS, manual labor created a place of reverence and for reflection on those who made the ultimate sacrifice in our nation's defense; and

WHEREAS, these 75 years later, the foundation and purpose of the Park continue to be reinforced through the commitment and contributions of service and governmental agencies, private businesses, groups and individuals, civilians and veterans alike; and

WHEREAS, the year 2009 marks the 75th Anniversary of Veterans Memorial Park, a place of quietude within which to remember all who have served, and are currently serving, in our nation's armed forces; and

WHEREAS, a committee has been formed to arrange a celebration of the 75th Anniversary of Veterans Memorial Park in 2009.

NOW, THEREFORE, BE IT RESOLVED, that the Muskegon City Commission and our citizens do hereby wholeheartedly support the 75th Anniversary celebration for Veterans Memorial Park in 2009.

IN WITNESS WHEREOF, I hereunto set
my hand and cause the seal of the City to be
affixed this 10th day of November, 2008.

Stephen J. Warmington, Mayor

Date: October 23, 2008
To: Honorable Mayor and City Commission
From: Public Works
RE: Agreement for Gypsy Moth Suppression

SUMMARY OF REQUEST: Muskegon County is offering a gypsy moth suppression program to local governments in 2009. To participate in the program, an intergovernmental agreement is required. An initial fee is required for field work and mapping of infestations. Financing options for actual suppression costs, if needed, are not known at present. Once actual costs are determined, the City may opt in or out of the program at will.

FINANCIAL IMPACT:

Initial cost is \$300.00 for field inspections and mapping in 2008 to determine if infestations qualify for suppression.

BUDGET ACTION REQUIRED:

None, the expense is budgeted under Cemetery Maintenance.

STAFF RECOMMENDATION:

Approve the intergovernmental agreement with the County.

INTERGOVERNMENTAL AGREEMENT

FOR

MUSKEGON COUNTY

GYPSY MOTH SUPPRESSION PROGRAM

INTERGOVERNMENTAL AGREEMENT FOR MUSKEGON COUNTY GYPSY MOTH SUPPRESSION PROGRAM

This Agreement is made and entered into this _____ day of _____, 2008, by and between _____, located at _____, hereinafter referred to as "Municipality" and the County of Muskegon, located at 990 Terrace Street, Muskegon, Michigan 49442, hereinafter referred to as "County."

I. AUTHORITY. This Agreement is made under the authority of the Urban Cooperation Act, MCL 124.504, et. seq.

II. PURPOSE. The purpose of this Agreement is to establish an intergovernmental program for the year 2009. The purpose of the program is to manage the gypsy moth population and its subsequent effects, and agree to mutually assist each other in the implementation of a comprehensive gypsy moth suppression program. This Agreement is also to ensure that the appropriate commitment to the gypsy moth suppression program's goals and its objectives are met by both parties.

III. COUNTY RESPONSIBILITY

A. County shall be responsible for general program administration.

B. County shall be responsible for necessary field audits of areas requiring aerial spraying in accordance with Michigan Department of Agriculture (MDA) specifications and standards.

C. County shall be responsible for required mapping of areas to be sprayed. This includes contracting for digitizing services.

D. County shall provide postage paid, pre-printed postcards, as property owner notification, as required by MDA.

E. County shall determine appropriate mailing list of properties affected by the aerial spray program and complete appropriate property owner notification. Costs associated with this will be charged to Municipality based on a per property count basis.

F. County will contract with a MDA solicited and selected contractor (or with MDA directly) for aerial spraying services.

G. County will determine time and date for aerial spraying operations in accordance with MDA specifications.

H. County will invoice Municipality for agreed costs of aerial spraying.

IV. MUNICIPALITY RESPONSIBILITY

A. Municipality will assist County staff in locating potential areas of infestation by providing County staff with maps indicating such areas (by November 1, 2008).

B. Municipality will approve areas determined to be in accordance with MDA specifications.

C. Municipality will reimburse County for costs associated with the aerial spraying and administration of the aerial spraying program per the schedule of fees listed in this Agreement.

D. The following is the financial responsibility of the Municipality:

1. \$300.00 for field work and mapping as required by MDA.
2. Full cost of aerial spraying based on actual digitized acres as approved by MDA and the Municipality.

NOTE: MDA is attempting to secure funds that would pay for up to 50% of the cost of spraying and 50% of administrative costs. Lower funding from the State (Federal Pass through) would result in less than 50% coverage of these costs. **If no funding becomes available, then 100% of these costs will be the responsibility of the Municipality.** These cost share ratios are dependent on MDA funding and may be subject to change due to funding availability. This Agreement is contingent upon receipt of funding from MDA.

3. Actual cost of materials and postage for property owner notifications.

V. HOLD HARMLESS AGREEMENT

To the fullest extent permitted by law, Municipality shall defend, indemnify, and hold harmless County, its subsidiaries, departments, divisions, and agencies and their respective officials, officers, directors, employees, and agents from and against any and all liability, litigation, causes of action, and claims, by whomsoever brought or alleged and regardless of the legal theories upon which based, and from and against all losses, costs, expenses, and fees and expenses of attorneys and expert witnesses resulting therefrom on account of, relating to, or arising out of bodily injury to or death of any person or on account of damage to property, including loss of use thereof, arising or allegedly arising out of or resulting from the work. The foregoing indemnity of County shall include, but is not limited to, claims alleging or involving the negligence of the Municipality, its subcontractors, or the joint negligence of the Municipality, its subcontractors, and or County, but shall not extend to liability found by way of final judgment to have resulted from the sole negligence of County.

VI. WITHDRAWAL FROM PROGRAM

Municipality may withdraw from this Agreement without penalty if notice of such action is received in writing by April 1, 2009. If no written notice is received, Municipality will be responsible for any associated costs or penalties assessed to County for withdrawing acres from the program in an untimely manner (including administrative time and materials as well as digitizing costs).

VII. SECTION HEADINGS

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

VIII. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

IX. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded or changed by any oral agreements, course of conduct, waiver or estoppel.

X. TERMS AND CONDITIONS

The terms and conditions used in this Agreement shall be given their common and ordinary definition and will not be construed against either party.

XI. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

COUNTY OF MUSKEGON

MUNICIPALITY

By: _____

James J. Derezinski, Chairman
County Board of Commissioners

By: _____

Its: _____

Dated: _____

Dated: _____

Date: November 25, 2008
To: Honorable Mayor and City Commission
From: Water Filtration
RE: Distribution System Reliability Study Resolution

SUMMARY OF REQUEST:

To approve the attached resolution for the area-wide water distribution system reliability study.

FINANCIAL IMPACT:

The City's portion of the study cost is: \$34,745.86.

BUDGET ACTION REQUIRED:

The reliability study is included in the 2009 Capitol Improvements Budget.

STAFF RECOMMENDATION:

To approve the attached resolution for the water distribution system reliability study.

RESOLUTION FOR PARTICIPATION IN A MULTI-SYSTEM
WATER RELIABILITY STUDY/MASTER PLAN

WHEREAS, the cities of Muskegon, North Muskegon and Roosevelt Park, and the Muskegon County Regional Water System, (the municipalities) desire to jointly perform the Michigan Department of Environmental Quality (MDEQ) reliability studies required for each of their water systems and establish a joint master plan.

WHEREAS, the water systems of all the municipalities are linked together and all the municipalities purchase their water from the City of Muskegon, via the City of Muskegon's treatment plant and transmission system including but not limited to its related storage and pumping facilities; and

WHEREAS, the municipalities understand that the actions of one municipality on its water system may impact the water systems of the municipalities; and

WHEREAS, the municipalities recognize the importance of having a comprehensive planning document and model in place to aid in determining future system upgrades, associated expenses and recommended approaches to distribute these costs; and

WHEREAS, the representatives of the Public Works Departments of the municipalities have together solicited engineering and planning proposals for the required work; and

WHEREAS, the representatives of the municipalities recommend that the engineering firm of Black & Veatch, be selected to perform the work for their quoted price of \$185,000, as outlined in Appendix A to this Resolution; and

WHEREAS, the representatives of the municipalities propose to divide the cost of the work in a ratio such that the cost to the County Regional System will be \$141,597.55, the cost to the City of Muskegon will be \$34,754.86, the cost to North Muskegon will be \$4,605.78 and the cost to Roosevelt Park would be \$4,041.81; and

WHEREAS, the County Regional System's share of \$141,597.55 includes future potential service areas in Whitehall and Montague as well as the four member Townships of the County Regional System; and

WHEREAS, the municipalities understand that a joint master plan for all municipalities will be of greater benefit than single master plans for each municipality; and

WHEREAS, by developing a single system reliability study and master plan, the County Regional System can more easily expand to the eastern and the northern communities with reasonable assurance that the water distribution systems as a whole can supply all current and future municipalities the necessary quantity and quality of water they each may desire; and

WHEREAS, the municipalities understand that an important result of this effort will be a unified water system model which will be able to predict the impact on all the municipalities' water systems from work performed by any single municipality and that this model will be held by the City of Muskegon but will be available to all member municipalities;

NOW, THEREFORE BE IT RESOLVED, that the municipalities agree to enter into an agreement with Black & Veatch to undertake the required joint reliability study and master plan for the water

systems of the municipalities. The City of Muskegon will hold the contract with Black & Veatch and invoice the other three municipalities for their respective share of each invoice submitted by Black & Veatch. The municipalities shall endeavor to make required payments to the City of Muskegon within 30 days of receipt of invoice. Upon approval of this Resolution by all the municipalities, a contract will be prepared and executed by the municipalities and the City of Muskegon outlining the above terms.

This resolution adopted on _____, 2008.

County of Muskegon

By _____

Date _____

Its _____

City of Muskegon

By _____

Date _____

Its _____

City of North Muskegon

By _____

Date _____

Its _____

City of Roosevelt Park

By _____

Date _____

Its _____

Commission Meeting Date: November 10, 2008

Date: October 31, 2008
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *CB*
RE: Change in Selling Price for City Owned Buildable lots in Jackson Hill, Nelson, McLaughlin, and Angell Neighborhoods.

SUMMARY OF REQUEST:

The assessed values for vacant, buildable lots appears to be rather high in certain central city neighborhoods. Therefore, it is recommended that lots be sold for a lower percentage of the assessed value. The Commission is requested to approve the changes for the selling price of City-owned buildable lots in target areas. The selling prices of the City owned buildable lots in Jackson Hill, McLaughlin, and Angell neighborhoods will be offered at 55% of the True Cash Value and in Nelson neighborhood they will be offered for 25% of the True Cash Value as shown on the Assessor's Office records. The building requirements would remain the same in all the neighborhoods. The selling prices would also reflect properties with the same lot dimensions, for example 66 ft. by 132 ft. would be close to the same in the selling price is these areas.

FINANCIAL IMPACT:

The selling price change for this target area could help spur property sales and relieve the City of maintenance costs for those lots. Additional sales will also place the property back on the tax rolls.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Staff recommends approval of the selling price changes.

COMMITTEE RECOMMENDATION:

The Land Reutilization Committee (LRC) recommended approval of the changes to the selling prices for these areas at their October 28, 2008 meeting.

RESOLUTION # _____

MUSKEGON CITY COMMISSION

RESOLUTION TO APPROVE THE MARKETING PLAN FOR SALE OF CITY-OWNED BUILDABLE RESIDENTIAL PROPERTY IN THE JACKSON HILL, NELSON, MCCLAUGHLIN, AND ANGELL NEIGHBORHOODS AT LOWER PRICES.

WHEREAS, publicly owned, buildable lots are a City maintenance liability; and

WHEREAS, buildable lots in the Jackson Hill, McLaughlin, and Angell neighborhoods be sold at 55% of the True Cash Value (TCV) that the Assessor's office places as the value of the land; and

WHEREAS, buildable lots in the Nelson neighborhood be sold at 25% of the True Cash Value (TCV) that the Assessor's Office places as the value of the land; and;

NOW, THEREFORE, BE IT RESOLVED, that the City Commission hereby approved the selling price changes for the buildable lots in the Jackson Hill, Nelson, McLaughlin, and Angell neighborhoods.

Adopted this 10th day of November, 2008.

Ayes:

Nays:

Absent:

By: _____
Stephen J. Warmington
Mayor

Attest: _____
Ann Marie Becker, MMC
Clerk

CERTIFICATE

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan, at a regular meeting held on November 10, 2008.

Ann Marie Becker, MMC
Clerk

Number	Address	Dimensions	TCV	25%ofTCV
1352	6TH	132 X 66	\$10,000.00	\$2,500.00
1589	PARK	50 X 134	\$10,000.00	\$2,500.00
1605	SANFORD	68.4 X 94	\$6,000.00	\$1,500.00
1638	6TH	*49.85 X 148	\$10,000.00	\$2,500.00
1660	7TH ST	99.7 X 137.6	\$15,000.00	\$3,750.00
275	MASON AVE	66 x 132	\$10,000.00	\$2,500.00
352	MASON	66 X132	\$10,000.00	\$2,500.00
354	MCLAUGHLIN	66 X 132	\$10,000.00	\$2,500.00
382 W	MUSKEGON	80 X 132	\$10,000.00	\$2,500.00
395	HOUSTON AVE	66 X 132	\$10,000.00	\$2,500.00
420	WASHINGTON	65 X 137.5	\$10,000.00	\$2,500.00
458	MONROE	66 X 132	\$10,000.00	\$2,500.00
459	WASHINGTON	70 X 135	\$10,000.00	\$2,500.00
465	WASHINGTON	50 X 135	\$10,000.00	\$2,500.00
481	MONROE	104.3 X 118.4 X 80 X 49.	\$15,000.00	\$3,750.00
487 W	SOUTHERN	101.5 X 115	\$15,000.00	\$3,750.00

Number	Address	Dimensions	TCV	55%ofTCV
323	CATAWBA AVE	66 X 132	\$4,000.00	\$2,200.00
269	CATHERINE AVE	66 X 132	\$4,000.00	\$2,200.00
384	CATHERINE AVE	66 X 132	\$4,000.00	\$2,200.00
1499	HOYT ST	58 X 126	\$4,000.00	\$2,200.00
1441	HOYT ST	64.25 X 136	\$4,000.00	\$2,200.00
1527	HOYT ST	58 X 126	\$4,000.00	\$2,200.00
163	IONA AVE	66 X 132	\$4,000.00	\$2,200.00
206	IRWIN	76.5 X 158	\$5,500.00	\$3,025.00
185 E	ISABELLA	66 X 132	\$4,000.00	\$2,200.00
360 E	ISABELLA	66 X 132	\$4,000.00	\$2,200.00
384 E	LARCH	60 x 125	\$4,000.00	\$2,200.00
304	MCLAUGHLIN	50 X 132	\$4,000.00	\$2,200.00
363	MCLAUGHLIN AVE	66 X 132	\$4,000.00	\$2,200.00
1373	PINE	79 x 122	\$5,500.00	\$3,025.00
1334	PINE	82.5 x 120	\$3,000.00	\$1,650.00
1318	PINE	60 X 120	\$4,000.00	\$2,200.00
1227	PINE	96 x 66	\$4,000.00	\$2,200.00
1608	SMITH	61.5 X 132.5	\$4,000.00	\$2,200.00
1088	SOPHIA	(odd large trian	\$5,500.00	\$3,025.00
1320	SPRING	66 X 132	\$4,000.00	\$2,200.00
1728	TERRACE	92.5 X 141	\$5,500.00	\$3,025.00
1679	TERRACE ST	54 X 130	\$4,000.00	\$2,200.00
1647	TERRACE ST	51 X 132	\$4,000.00	\$2,200.00
1061	WOOD ST	ODD	\$4,000.00	\$2,200.00

Number	Address	Dimensions	TCV	55%ofTCV
438	ADAMS AVE	66 X 232	\$5,500.00	\$3,025.00
456	ADAMS AVE	66 X 232	\$5,500.00	\$3,025.00
448	ADAMS AVE	66 X 232	\$5,500.00	\$3,025.00
312	CAMPBELL	94 X 244.7	\$5,500.00	\$3,025.00
436	CHARLES ST	75.25 X 131.99	\$4,000.00	\$2,200.00
396	ERICKSON	132 X 66	\$4,000.00	\$2,200.00
223	ERICKSON ST	66 X 132	\$3,000.00	\$1,237.50
451	ERICKSON ST	66 X 99	\$4,000.00	\$2,200.00
675 S	GETTY ST	151.5 X 120	\$5,500.00	\$3,025.00
530	HERRICK ST	178 X 99	\$5,500.00	\$3,025.00
601	JACKSON AVE	66 x 132	\$4,000.00	\$2,200.00
621	JACKSON AVE	Odd	\$5,500.00	\$3,025.00
396	JACKSON AVE	132 x 50	\$4,000.00	\$2,200.00
579	JACKSON AVE	66 X 132	\$4,000.00	\$2,200.00
325	JACKSON AVE	66 X 132	\$4,000.00	\$2,200.00
388	JACKSON AVE	72 X 132	\$4,000.00	\$2,200.00
558	JACKSON AVE	124.25 X 207.25	\$5,500.00	\$3,025.00
608	JACKSON AVE	70.26 X 159.75	\$4,000.00	\$2,200.00
677	JACKSON AVE	71.33 X 106.5 (Odd)	\$4,000.00	\$2,200.00
532	LEONARD	88 X 132	\$4,000.00	\$2,200.00
766	LEONARD AVE	122 X 132	\$5,500.00	\$3,025.00
740	LEONARD AVE	124 X 132	\$5,500.00	\$3,025.00
754	LEONARD AVE	124 X 132	\$5,500.00	\$3,025.00
704	LEONARD AVE	120 X 132	\$5,500.00	\$3,025.00
445	MARQUETTE	1 ACRE +/-	\$8,080.00	\$4,444.00
397	MARQUETTE AVE	66 X 132	\$4,000.00	\$2,200.00
559	MARQUETTE AVE	*49.5 X 207.29	\$4,000.00	\$2,200.00
685	MARQUETTE AVE	66 X 109	\$4,000.00	\$2,200.00
509	MCLAREN ST	255 X 99	\$5,500.00	\$3,025.00
628	MULDER	118 X 111	\$5,500.00	\$3,025.00
550	OCTAVIUS	1.2 Acres *	\$9,600.00	\$5,280.00
509	OCTAVIUS	66 X 132	\$4,000.00	\$2,200.00
723	SUMNER	105 X 114	\$4,000.00	\$2,200.00
725	WESLEY	80 X 118	\$4,000.00	\$2,200.00
346	WOOD	66 X 132	\$4,000.00	\$2,200.00
252	YUBA	99 X 132	\$4,000.00	\$2,200.00
599	YUBA	99 X 140	\$4,000.00	\$2,200.00
216	YUBA	99 X 132	\$4,000.00	\$2,200.00
523	YUBA	66 X 140	\$4,000.00	\$2,200.00

Number	Address	Dimensions	TCV	55%ofTCV
644	ADA AVE	66 X 165	\$4,000.00	\$2,200.00
158	ALLEN AVE	66 X 132	\$4,000.00	\$2,200.00
370	ALLEN AVE	66 X 132	\$4,000.00	\$2,200.00
654	ALLEN AVE	66 X 132	\$4,000.00	\$2,200.00
298	ALLEN AVE	66 X 132	\$4,000.00	\$2,200.00
306	ALLEN AVE	66 X 132	\$4,000.00	\$2,200.00
305	AMITY	66 X 132	\$4,000.00	\$2,200.00
499	AMITY AVE	62 X 132	\$4,000.00	\$2,200.00
695	AMITY AVE	80 X 132	\$5,500.00	\$3,025.00
304	AMITY AVE	66 x 132 & 33 x 16.5	\$4,000.00	\$2,200.00
159	AMITY AVE	78 X 132	\$4,000.00	\$2,200.00
451	APPLE AVE	66 X 132	\$4,000.00	\$2,200.00
457	CATHERINE AVE	66 X 132	\$4,000.00	\$2,200.00
502	CATHERINE AVE	56 X 132	\$4,000.00	\$2,200.00
824	CEDAR ST	132 X 150	\$5,500.00	\$3,025.00
438 E	ISABELLA	66 X 132	\$4,000.00	\$2,200.00
502 E	ISABELLA	66 X 132	\$4,000.00	\$2,200.00
1186	MAPLE ST	73 X 132	\$4,000.00	\$2,200.00
415	MCLAUGHLIN	132 X 132	\$5,500.00	\$3,025.00
510	MCLAUGHLIN	66 X 132	\$4,000.00	\$2,200.00
449	MCLAUGHLIN	66 X 132	\$4,000.00	\$2,200.00
286	MYRTLE	66 X 140	\$4,000.00	\$2,200.00
313	MYRTLE	Odd Corner	\$4,000.00	\$2,200.00
186	MYRTLE	66 X 140	\$4,000.00	\$2,200.00
206	MYRTLE	66 X 140	\$4,000.00	\$2,200.00
213	MYRTLE	67 X 95.5 X 76 X 59	\$3,000.00	\$1,650.00
671	OAK	ODD BUILDABLE	\$3,000.00	\$1,650.00
625	OAK	*49.5 X 110	\$3,000.00	\$1,650.00
528	OAK	80.5 X 132	\$4,000.00	\$2,200.00
420	OAK	66 X 132	\$4,000.00	\$2,200.00
452	OAK	66 X 132	\$4,000.00	\$2,200.00
502	OAK	66 X 132	\$4,000.00	\$2,200.00
539	OAK	66 X 132	\$4,000.00	\$2,200.00
595	OAK	60 X 132	\$4,000.00	\$2,200.00
617	OAK	89.5 X 110	\$5,500.00	\$3,025.00
635	OAK	66.9 X 110	\$4,000.00	\$2,200.00
447	OAK	66 X 120	\$4,000.00	\$2,200.00
450	ORCHARD	66 X 132	\$4,000.00	\$2,200.00
313	ORCHARD	74 X 132	\$6,000.00	\$3,300.00
919	SCOTT	66 X 132	\$4,000.00	\$2,200.00
768	SCOTT	66 X 99	\$4,000.00	\$2,200.00
283 E	WALTON	66 X 140	\$4,000.00	\$2,200.00
354 E	WALTON	99 X 116 (triangle)	\$5,500.00	\$3,025.00
346 E	WALTON	55 X 140	\$4,000.00	\$2,200.00
324 E	WALTON	*49.5 X 140	\$4,000.00	\$2,200.00
461	WHITE	66 X 132	\$4,000.00	\$2,200.00
530	WHITE	L Shaped-large	\$15,800.00	\$8,690.00

Number	Address	Dimensions	TCV	55%ofTCV
822	WILLIAMS	99 X 132	\$5,500.00	\$3,025.00
1294	WILLIAMS	78 X 188	\$5,500.00	\$3,025.00
1162/1174/1180	WILLIAMS	132 X 66	\$4,000.00	\$2,200.00
1060/1074	WILLIAMS	132 X 66	\$4,000.00	\$2,200.00
812	WOOD	153 x 128.12	\$5,500.00	\$3,025.00
818	WOOD	(odd large irregular)	\$5,500.00	\$3,025.00

Date: November 10, 2008

To: Honorable Mayor and City Commissioners

From: Engineering

RE: Engineering Services Agreement for Traffic Signals Upgrades
at various locations

SUMMARY OF REQUEST:

Authorize staff to enter into an engineering services agreement with Progressive A/E to perform the necessary design and specifications to upgrade twelve (12) traffic signals to LEDs. Progressive is being recommended as a result of reviewing a review of three proposals.

FINANCIAL IMPACT:

\$23,450 for the design and specifications only, survey will be done by City.

BUDGET ACTION REQUIRED:

None since this project was budgeted for in 2009.

STAFF RECOMMENDATION:

Authorize staff to enter into an agreement with Progressive.

COMMITTEE RECOMMENDATION:

October 22, 2008

Mr. Mohammed Al-Shatel
Engineering Department
City of Muskegon
933 Terrace St.
Muskegon, MI 49440

ProgressiveAE

Re: Proposal - 2008 CMAQ Signal Modernization

Dear Mr. Al-Shatel:

Progressive AE is pleased to submit this cost proposal for engineering services for the 2008 CMAQ traffic signal modernization project in the City of Muskegon, Michigan. Our understanding of the scope of services is based on our discussions with you as well as additional information that you have provided.

Enclosed you will find a scope of services, schedule for completion, fee for services, and our standard contract provisions which shall remain valid for 30 days.

We thank you for the opportunity to submit this proposal, and look forward to being able to work with you on this project. Should you have any questions regarding anything in the enclosed documents, please don't hesitate to contact me here at our office. If this proposal is acceptable to you, please sign in the space provided below and return a signed copy of the proposal to us.

Progressive AE has prepared this proposal including the scope of work, project approach, compensation, and any related sketches or exhibits for the City of Muskegon only, and we request that it be treated as strictly confidential and not copied or distributed for any reason other than evaluation for hire.

Sincerely,

PROGRESSIVE ARCHITECTURE ENGINEERING



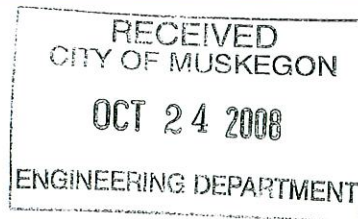
Ryan J. Minkus, P.E.
Transportation Engineer



Peter C. LaMourie, P.E., PTOE
Director of Transportation Engineering

RXM/smg
01200113/009
Enclosures
Proposal

cc: Progressive AE – Julie Kreuze, Cheryl Scales
X:\WMAJ1\01200113\2009\rm1022p.docx



ACCEPTED BY:

800 Ellis Road
Muskegon, MI 49441
231-799-4960 voice
231-799-4961 FAX
www.progressiveae.com

Name

Title

Date

Project Understanding

The City of Muskegon has been working to modernize and upgrade the existing traffic signals within the City limits. As a part of this continuing process, the City has obtained 2008 CMAQ funds to allow for upgrades to 12 intersections. Some of the key items to be upgraded at the project intersections include retrofit of the existing signals with LED lenses, add/replacement of vehicle detection loops as well as rewiring of any necessary traffic signals.

Scope of Work

Task 1 – Data Collection

In order to provide complete and accurate design drawings, topographic survey of each of the project intersections will be completed. Key features that will be picked up as a part of the survey will be all traffic signal related equipment, visible utility information, detailed sidewalk ramp grades. The intersections to be included as a part of this project are as follows:

- Clay and Third
- Getty and Evanston
- Hackley and Henry
- Marquette and Getty
- Marquette and Quarterline
- Wood and Irwin
- Sherman and Glenside
- Sherman and Henry
- Sherman and Lincoln
- Sherman and McCracken
- Sherman and Wickham
- Western and Fourth

Task 2 – Design Documentation

Using the data collected in Task 1, traffic signal construction documentation including drawings, specifications and cost estimates, will be prepared and submitted for review. Since this project is utilizing CMAQ funding, these documents will be required to undergo MDOT Local Agency review and acceptance prior to being approved for construction. Any comments received from MDOT's Grade Inspection meeting will be collected and incorporated into the final design documentation and submitted for approval.

Task 3 – Construction Services

Upon completion of Task 2, and subsequent letting of the project, the construction phase of the process will begin. This process will consist of a combination of field inspection, and processing to ensure that project construction stays on task. As a part of this process, City staff will provide day-to-day inspections, while Progressive AE will complete weekly inspections and process the necessary documents through MDOT's field manager to ensure proper and timely payments on the construction contract.

Task 4 – Meetings

As a part of this project we will plan on our attendance at three meetings during the project process. Included in these meetings will be a project kick-off meeting with the City staff as well as the Grade Inspection and Preconstruction meetings. We can attend additional meetings if desired on a time and expense basis.

Schedule and Budget

Schedule

To ensure a March/April construction start, Grade Inspection Plans should be submitted by the end of November and final plans turned in by the end of January. With this schedule, the planned letting would be the beginning of April with a construction start shortly thereafter. Construction on the project is anticipated to last approximately 6 weeks or approximately late June/early July 2009. With the current workloads and schedules that we have, Progressive AE can provide you with the qualified staff to meet these timeframes.

Budget

The cost for completing Tasks 1 through 4 (labor and expenses) will be \$35,920.00 (thirty-five thousand, nine hundred twenty dollars). The cost breakdown for individual items is as follows:

- Project Survey: \$12,450.00
- Construction Documentation: \$19,695.00
- Construction Engineering: \$ 3,775.00

Progressive AE will provide additional services if requested (such as additional meetings or analyses) on a time and expense basis. A Change in Services Request (CSR) form will be submitted for approval prior to beginning any work on any additional service tasks. The CSR will outline the scope, schedule and budget for the additional services to be performed. This schedule and budget are valid for 30 days. After 30 days please contact us to verify that we can still meet the schedule and budget that has been outlined above.

We are pleased to submit this information and look forward to the opportunity to work with the City of Muskegon. Please let us know if you have any questions regarding the information contained within this proposal, or if you desire additional information regarding Progressive AE's extensive Traffic Engineering experience.

The parties to this agreement, Progressive Architecture & Engineering, Grand Rapids, Michigan, hereinafter called the ENGINEER and the City of Muskegon, Michigan hereinafter called the OWNER, hereby agree to the following conditions:

- A. Limit of Scope: The services provided by the ENGINEER shall be limited to those described in the Scope of Services.
- B. Changed Conditions: If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to the ENGINEER are revealed, to the extent that they affect the scope of services, compensations, schedule, allocation of risks or other material terms of this Agreement, the ENGINEER may call for re-negotiation of appropriate portions of the Agreement. The ENGINEER shall notify the OWNER of the changed conditions necessitating re-negotiation, and the ENGINEER and the OWNER shall promptly and in good faith enter into re-negotiation of this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement.
- C. Additional Services: Additional services not specifically identified in the Scope of Services shall be paid or by the OWNER in addition to the fees previously stated, provided the OWNER authorizes such services in writing. Special services will be billed monthly as work progresses and invoices are due upon receipt.
- D. Standard of Care: In providing services under this Agreement, the ENGINEER will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Upon notice to the ENGINEER and by mutual agreement between the parties, the ENGINEER will without additional compensation, correct those services not meeting such a standard.
- E. Opinions of Probable Construction Cost: In providing opinions of probable construction cost, the OWNER understands that the ENGINEER has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the ENGINEER's opinions of probable construction costs are made on the basis of the ENGINEER's professional judgement and experience. The ENGINEER makes no warranty, express or implied that the bids or the negotiated cost of the work will not vary from the ENGINEER's opinion of probable construction cost.
- F. Schedule for Rendering Services: The ENGINEER shall prepare and submit for OWNER approval a schedule for the performance of the ENGINEER's services. This schedule shall include reasonable allowances for review and approval times required by the OWNER, performance of services by the OWNER's consultants, and review and approval times required by public authorities having jurisdiction over the project. This schedule shall be equitably adjusted as the project progresses, allowing for changes in scope, character or size of the project requested by the OWNER, or for delays or other causes beyond the ENGINEER's reasonable control.
- G. Ownership of Reports, Drawings and Other Materials: The OWNER agrees that all reports, drawings, letters, work sheets, plans, preliminary material tables, supportive data, documents and other materials produced by the ENGINEER in the course of and for the purpose of meeting this contract are the property of the ENGINEER, and shall remain in the possession of the ENGINEER. The OWNER shall have access to the above named material during normal business hours of the ENGINEER during and after completion of this contract. The OWNER may obtain copies of any of the above named material. Copies of electronic media may be obtained by the OWNER via execution of this Agreement. (See Alteration and Reuse of CAD Information provision of this Agreement.)

- H. Alteration and Reuse of CAD Information: Because computer aided design/drafting (CAD) information stored in electronic form can be modified by other parties, intentionally or otherwise, without notice or indication of said modifications, the ENGINEER reserves the right to remove all indications of its ownership and/or involvement in the material from each electronic medium not held in its possession. The OWNER may retain copies of the work performed by the ENGINEER in CAD form. Copies shall be for information and used by the OWNER for the specific purpose for which the ENGINEER was engaged. Said material shall not be used by the OWNER, or transferred to any other party, for use in other projects, additions to the current project, or any other purpose for which the material was not strictly intended without the ENGINEER's express written permission. Any unauthorized modification or reuse of the materials shall be at the OWNER's sole risk, and the OWNER agrees to defend, indemnify, and hold the ENGINEER harmless, from all claims, injuries, damages, losses, expenses, and attorneys' fees arising out of the unauthorized modification of these materials.
- I. Payment Terms: Invoices will be submitted by the ENGINEER monthly, are due upon presentation and shall be considered past due if not paid within thirty (30) calendar days of the due date.
- J. Disputed Invoices: If the OWNER objects to any portion of an invoice, the OWNER shall so notify the ENGINEER in writing within ten (10) calendar days of receipt of the invoice. The OWNER shall identify in writing the specific cause of the disagreement and the amount in dispute and shall pay that portion of the invoice not in dispute in accordance with other payment terms of this Agreement. Any dispute over invoiced amounts due which cannot be resolved within ten (10) calendar days after presentation of invoice by direct negotiation between the parties shall be resolved within thirty (30) calendar days in accordance with the Dispute Resolution provision of this Agreement. Interest at one-and-one-half (1.5) percent (or the maximum rate allowable by law, whichever is less) shall be paid by the OWNER on all disputed invoice amounts that are subsequently resolved in the ENGINEER's favor and shall be calculated on the unpaid balance from the due date of the invoice.
- K. Abandonment of Work: If any work is abandoned or suspended, the ENGINEER shall be paid for services performed prior to receipt of written notice from the OWNER of abandonment or suspension.
- L. Errors and Omissions Insurance: The ENGINEER maintains an errors and omissions insurance policy as part of normal business practice. The OWNER agrees to limit the ENGINEER's liability to the OWNER and to all Construction Contractors and Subcontractors on the project due to the ENGINEER's negligent acts, errors, or omissions, such that the total aggregate liability of the ENGINEER to all those named shall not exceed \$100,000.00.
- M. Indemnification: The ENGINEER agrees to the fullest extent permitted by law, to indemnify and hold harmless the OWNER against damages, liabilities and costs arising from the negligent acts of the ENGINEER in the performance of professional services under this Agreement, to the extent that the ENGINEER is responsible for such damages, liabilities and costs on a comparative basis of fault and responsibility between the ENGINEER and the OWNER. The ENGINEER shall not be obligated to indemnify the OWNER for the OWNER's own negligence.
- N. Consequential Damages: Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the OWNER nor the ENGINEER, their respective officers, directors, partners, employees, contractors or sub-consultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential

damages arising out of or connected in any way to the project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the OWNER and the ENGINEER shall require similar waivers of consequential damages protecting all the entities or persons named herein all contracts and subcontracts with others involved in this project.

- O. Dispute Resolution: The OWNER agrees that all claims, disputes, and other matters in question between the parties arising out of or relating to this Agreement or breach thereof first shall be submitted for non-binding mediation to any one of the following, as agreed to by the parties: American Arbitration Association, American Intermediation Service, Americord, Dispute Resolution, Inc., Endispute, or Judicate. Any party hereto may initiate mediation within the time allowed for filing for arbitration as set forth below and the parties hereto agree to fully cooperate and participate in good faith to resolve the dispute(s). The cost of mediation shall be shared equally by the parties hereto. Any time expended in mediation shall not be included in calculating the time for filing arbitration.

If mediation fails to resolve the claim or dispute, the matter shall be submitted to arbitration with the American Arbitration Association under the Construction Industry rules, unless the parties agree otherwise or unless a plaintiff not a party hereto institutes litigation in a court of competent jurisdiction and said court takes personal jurisdiction over one of the parties hereto regarding the same subject matter as in dispute between the parties hereto.

No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder, or in any other manner, any additional person not a party to this Agreement except by written consent of the parties and such consent to arbitration involving an additional person(s) shall not constitute consent to arbitration of any dispute not described therein. This Agreement to arbitrate and any agreement to arbitrate with an additional person(s) shall be specifically enforceable under the prevailing arbitration law.

The demand for arbitration shall be made within one (1) year of the date the claimant knew or should have known of the existence of the claim, dispute, or other matter. If the demand for arbitration is not effectuated within one (1) year, the claim, dispute, or other matter shall be forever barred and not mandatory.

The decision rendered by the arbitrators shall be final, and judgement may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. In the event either party makes a claim or brings action against the other party for any act arising out of the performance of the services hereunder, and the claimant fails to prove such claim or action, then the claimant shall pay all legal and other costs (including attorneys' fees) incurred by the other party in defense of such claim or action.

Engineering Proposals							
Firm's Name		Fee Per Task			Total Without Survey		Total
		Survey	Design/Specifications	Const. Eng.			
Progressive		\$12,450.00	\$19,695.00	\$3,775.00	\$23,470.00		\$35,920.00
Wade Trim		\$8,050.00	\$23,200.00	\$4,250.00	\$27,450.00		\$35,500.00
URS		\$9,000.00	\$25,900.00	\$5,000.00	\$30,900.00		\$39,900.00

Date: November 10, 2008
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Request for Encroachment Agreement
Muskegon Housing Commission – 1088 Terrace St.

SUMMARY OF REQUEST:

Rivertown Contractors, Inc. on behalf of the Muskegon Housing Commission has submitted the attached encroachment agreement form requesting your permission to install a 12 underground electrical cable in the right of way consisting of 10 feet from the property line to the terrace on Hartford Ave., 150 feet beneath the terrace along Hartford Ave., and 66 feet beneath Terrace St. for a total encroachment of 216 feet. This encroachment will connect the newly purchased parking lot to the existing electrical system of the housing commission building.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the encroachment agreement to install 216 feet of 12 volt electrical cable per the attached site plan.

COMMITTEE RECOMMENDATION:

CITY OF MUSKEGON
ENCROACHMENT PERMIT AGREEMENT

REQUEST: A one-hundred dollar (\$100.00) non-refundable fee is required for processing of request.

1. LICENSEE proposes to install, repair or maintain improvements or facilities ("the encroachment"), in or abutting a street, alley, sidewalk, park, terrace or other property controlled or owned by the City of Muskegon, the encroachment being described as: (Attach exhibits) (1 unit equals 0-99 lineal feet)

Install 12 volt underground electrical cable in the right of way consisting of 10 feet from the property line to the terrace on Hartford Ave., 150 feet beneath the terrace along Hartford Ave., and 66 feet beneath Terrace St. for a total encroachment of 216 feet.

2. The City-owned or controlled property (herein "property") subject to the encroachment is described as: [please insert a general description, and if required by the CITY, an accurate legal description]

1088 Peck St.

3. The CITY is willing to grant such privilege upon the terms and conditions herein. This agreement shall constitute a permit under Chapter 74 of the Code of City Ordinances, and with all future amendments shall apply to any encroachment on public right of way or property.

PERMIT AGREEMENT:

THIS AGREEMENT is made and entered into this 28th day of October 2008, by and between the CITY OF MUSKEGON, a municipal corporation (hereinafter called CITY), and **the Muskegon Housing Commission, Muskegon, MI** (hereinafter called LICENSEE).

THEREFORE,

1. CITY does hereby grant unto LICENSEE the privilege of constructing, installing, maintaining, repairing and performing all necessary functions relating to the encroachment, and for that purpose to enter the property, for the term herein stated. This privilege shall be effective upon the delivery to the CITY of the required evidence of insurance coverage as outlined in paragraph 4 under this section and only after approval of this agreement by the City Commission and at which time an encroachment permit will be issued.

This grant is subject to the following special conditions: See supplemental conditions attached

2. That LICENSEE shall pay to the CITY for the privilege hereby granted the sum of **\$150.00** Dollars (**\$10.00**), per unit as described under Request, paragraph 1, applicable to the current Master Fee Resolution. Such payment is to be made upon the signing of this agreement to the City of Muskegon, and the privilege hereby granted shall continue for a period of five years from said date and renewal payment as set in the Master Fee Resolution to continue in five year intervals due on the first day of May unless sooner terminated as hereinafter provided.

3. INDEMNIFICATION. The LICENSEE shall indemnify and save harmless said GRANTOR of and from any liability for claims, damages, costs, expenses, or fees, including any attorney fees, or fines or awards brought against or charged to the CITY by any person, firm or corporation on account of or arising from the privilege hereby granted to LICENSEE or the activities of the LICENSEE related to the encroachment or this privilege. This indemnification obligation shall include all liabilities for environmental damage or releases of hazardous substances subject to any governmental or third party action. "Hazardous substance" is defined as any material constituting a prohibited or regulated substance under governmental law, rule, statute or regulation in force at any time, including future times.

4. INSURANCE. LICENSEE shall at all times carry liability insurance in such amounts as are satisfactory to CITY, and issued by companies acceptable to the CITY, licensed in the State of Michigan, naming CITY as an additional insured on any such policy. LICENSEE will file yearly with the CITY certificates or policies evidencing such insurance coverage. The insurance policies or certificates shall provide that the CITY shall be given thirty days written notice before a cancellation or change in coverage may occur. The types of coverage and coverage limits as required by City Engineer shall be as follows:

See supplemental conditions

5. BONDING. Before this agreement permit becomes valid, LICENSEE shall file with the CITY a bond conforming to the requirements of all applicable ordinances, and to cover removal of said encroachment in part or whole, if essential for CITY to do so. This Bond shall keep same in force during the entire term of this agreement.

6. The privilege hereby granted may be canceled and revoked in part or whole by the CITY at any time upon giving said LICENSEE thirty (30) days of written notice of such cancellation and revocation, with no refund of the fee required in paragraph 2 of Permit Agreement.

7. LICENSEE may surrender up the privilege hereby granted at any time upon giving notice in writing to the CITY thirty (30) days prior to such surrender with no refund of the fee required in paragraph 2 of Permit Agreement; provided, however, that upon the voluntary relinquishment or abandonment of this privilege, or upon cancellation or revocation thereof by the CITY, the LICENSEE shall remove any structure(s) erected upon, within or overhanging the area of encroachment and restore the property at LICENSEE'S expense and in a manner satisfactory to the CITY and in default thereof shall be liable to the CITY for any cost, damage or expense the CITY may sustain in such restoration.

8. That should said LICENSEE fail or refuse to conform to any of the conditions on its part to be performed hereunder, the privilege hereby granted shall immediately terminate and become null and void.

9. This agreement shall be binding upon the respective heirs, representatives, successors and assigns of the parties hereto.

Witnesses:

CITY OF MUSKEGON

By _____

_____, Mayor

And _____

_____, Clerk

LICENSEE:

SUPPLEMENTAL CONDITIONS

- 1- The grantee shall be fully responsible for the maintenance of the encroachment(s) and any relocation that becomes necessary to facilitate other improvements within the right of way (s).
- 2- Grantee will be responsible to maintain and keep, for the duration of this agreement, a valid insurance coverage (naming the City of Muskegon as additional insured) satisfactory to the City.
- 3- **If approved (by the City Commission), a permit to work in the right of way must be obtained from the Engineering Department before any work begins.**
- 4- Insurance: LICENSEE shall at all time carry liability insurance in such amounts as are satisfactory to the City. The provision for liability insurance set forth shall remain in full force and effect in lieu of any other insurance requirement, provided that the City shall be given thirty (30) days written notice before a change in coverage may occur.
- 5- The City and/or its agent are not responsible for any damage to the facilities.

Hoffman, Evelyn

From: Al-Shatel, Mohammed
Sent: Thursday, October 23, 2008 1:10 PM
To: Hoffman, Evelyn
Subject: FW: Easement Agreement along Hartford, between Terrace and Peck

Please attach this email to the encroachment request for Hartford Terrace.

-----Original Message-----

From: Howard Windham [mailto:buddy-rivertown@charter.net]
Sent: Thursday, October 23, 2008 12:42 PM
To: Al-Shatel, Mohammed
Cc: YM1080@aol.com; 'Don Smalligan'
Subject: Easement Agreement along Hartford, between Terrace and Peck

Dear Sir:

Confirming our conversation this morning please be advised the conduit and wire we wish to place in the City easement on Hartford, between Terrace and Peck will only carry 12v of power **not** line voltage. This cabling is for video surveillance cameras only.

We will of course contact MS Dig prior to starting any trenching in the right of way.

Please expedite our easement agreement at your earliest. Thanks you for your help and do not hesitate to call if you should have any questions.

Buddy Windham

office: 616 896-6488
mobile: 616 437-0864
fax: 616 896-6490
email: buddy-rivertown@charter.net
email: buddy@cyconenterprises.com
email: buddy@thecycongroup.com

Rivertown Contractors, Inc.

General Contractor, Construction Services, Project Design and Management
(a Cycon Group Company)

This e-mail, including attachments, may include confidential and/or proprietary information, and may be used only by the person or entity to which it is addressed. This email acts as a receipt and of actual correspondence between parties involved. If the person or persons that this email is sent to are currently under contract at the time, this email acts as a binding agreement and acknowledgment of receipt of correspondence until proper change orders are in place and signed by both parties. All emails, sent and received will be documented by Rivertown Contractors Inc. for future reference. If the reader of this e-mail is not the intended recipient or his or her authorized agent, the reader is hereby notified that any dissemination, distribution or copying of

this e-mail is prohibited. If you have received this e-mail in error, please notify the sender by replying to this message and delete this e-mail immediately.

No virus found in this outgoing message.

Checked by AVG.

Version: 7.5.549 / Virus Database: 270.8.2/1740 - Release Date: 10/22/2008 7:24 PM

NADEAU

APPRAISAL SERVICE

www.nadeauappraisal.com

Site Map

SKETCH/AREA TABLE ADDENDUM

File No 24-203-220-0003-00

Property Address 1088 PECK ST

City MUSKOGON

County MUSKOGON

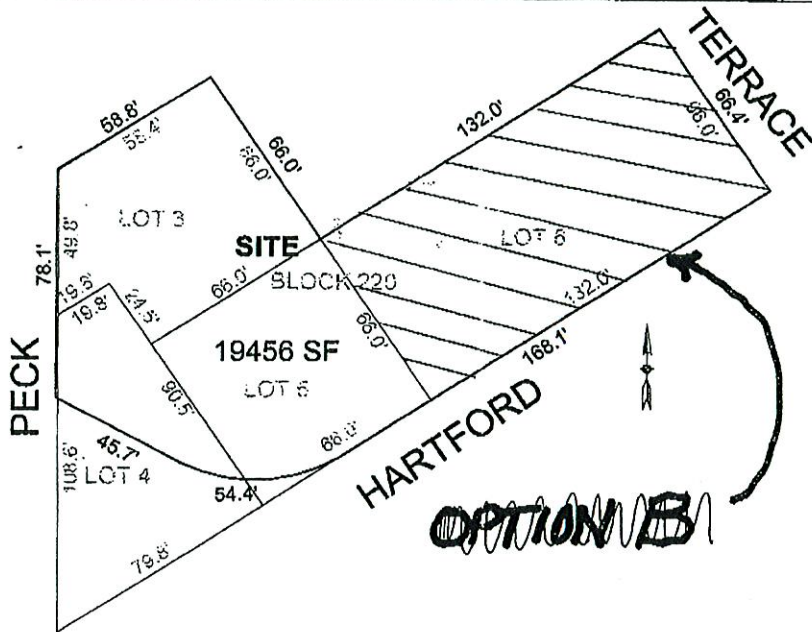
State MI

Zip 49440

Owner BETHANY CHRISTIAN REFORMED CHURCH

Client

Appraiser Name



Scale: 1" = 40'

Date: November 10, 2008
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Request for Encroachment Agreement
379 W. Western Ave.

SUMMARY OF REQUEST:

Sidock Systems, LLC has submitted the attached amendment to encroachment agreement #2008-15(j) requesting your permission to install a flag pole on each side of the glass canopy 30' long and 7'6" deep glass canopy which will extend into the Western Ave. public right of way.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the amendment to the encroachment agreement for the installation of the flag poles as per the attached plan.

COMMITTEE RECOMMENDATION:

CITY OF MUSKEGON

2008-15(j) ENCROACHMENT PERMIT AGREEMENT AMENDMENT

REQUEST: A one-hundred dollar (\$100.00) non-refundable fee is required for processing of request.

***Fee waived due to amendment**

1. LICENSEE proposes to install, repair or maintain improvements or facilities ("the encroachment"), in or abutting a street, alley, sidewalk, park, terrace or other property controlled or owned by the City of Muskegon, the encroachment being described as: (Attach exhibits) (1 unit equals 0-99 lineal feet)

Install a flag pole on each side of the canopy (see attached agreement) on the Western Ave. side of the building per the attached site plan. The total number of units will increase from one (1) unit to three (3) units.

2. The City-owned or controlled property (herein "property") subject to the encroachment is described as: [please insert a general description, and if required by the CITY, an accurate legal description]
379 Western Ave.

3. The CITY is willing to grant such privilege upon the terms and conditions herein. This agreement shall constitute a permit under Chapter 74 of the Code of City Ordinances, and with all future amendments shall apply to any encroachment on public right of way or property.

PERMIT AGREEMENT:

THIS AGREEMENT is amended and entered into this _____ day of _____, by and between the CITY OF MUSKEGON, a municipal corporation (hereinafter called CITY), and **Sidock Properties LLC** (hereinafter called LICENSEE).

THEREFORE,

1. CITY does hereby grant unto LICENSEE the privilege of constructing, installing, maintaining, repairing and performing all necessary functions relating to the encroachment, and for that purpose to enter the property, for the term herein stated. This privilege shall be effective upon the delivery to the CITY of the required evidence of insurance coverage as outlined in paragraph 4 under this section and only after approval of this agreement by the City Commission and at which time an encroachment permit will be issued.

This grant is subject to the following special conditions:

Sidock Properties LLC has submitted the additional encroachment agreement fee of \$ 100.00 and agrees to adhere to the attached supplemental conditions for the life of this encroachment.

2. That LICENSEE shall pay to the CITY for the privilege hereby granted the sum of **Ten and no/100 Dollars (\$10.00)**, per unit as described under Request, paragraph 1, applicable to the current Master Fee Resolution. Such payment is to be made upon the signing of this agreement to the City of Muskegon, and the privilege hereby granted shall continue for a period of five years from said date and renewal payment as set in the Master Fee Resolution to continue in five year intervals due on the first day of May unless sooner terminated as hereinafter provided.

3. INDEMNIFICATION. The LICENSEE shall indemnify and save harmless said GRANTOR of and from any liability for claims, damages, costs, expenses, or fees, including any attorney fees, or fines or awards brought against or charged to the CITY by any person, firm or corporation on account of or arising from the privilege hereby granted to LICENSEE or the activities of the LICENSEE related to the encroachment or this privilege. This indemnification obligation shall include all liabilities for environmental damage or releases of hazardous substances subject to any governmental or third party action. "Hazardous substance" is defined as any material constituting a prohibited or regulated substance under governmental law, rule, statute or regulation in force at any time, including future times.

4. INSURANCE. LICENSEE shall at all times carry liability insurance in such amounts as are satisfactory to CITY, and issued by companies acceptable to the CITY, licensed in the State of Michigan, naming CITY as an additional insured on any such policy. LICENSEE will file yearly with the CITY certificates or policies evidencing such insurance coverage. The insurance policies or certificates shall provide that the CITY shall be given thirty days written notice before a cancellation or change in coverage may occur. The types of coverage and coverage limits as required by City Engineer shall be as follows:

City to be named as additional insured on the property's liability certificate

5. BONDING. Before this agreement permit becomes valid, LICENSEE shall file with the CITY a bond conforming to the requirements of all applicable ordinances, and to cover removal of said encroachment in part or whole, if essential for CITY to do so. This Bond shall keep same in force during the entire term of this agreement.

6. The privilege hereby granted may be canceled and revoked in part or whole by the CITY at any time upon giving said LICENSEE thirty (30) days of written notice of such cancellation and revocation, with no refund of the fee required in paragraph 2 of Permit Agreement.

7. LICENSEE may surrender up the privilege hereby granted at any time upon giving notice in writing to the CITY thirty (30) days prior to such surrender with no refund of the fee required in paragraph 2 of Permit Agreement; provided, however, that upon the voluntary relinquishment or abandonment of this privilege, or upon cancellation or revocation thereof by the CITY, the LICENSEE shall remove any structure(s) erected upon, within or overhanging the area of encroachment and restore the property at LICENSEE'S expense and in

a manner satisfactory to the CITY and in default thereof shall be liable to the CITY for any cost, damage or expense the CITY may sustain in such restoration.

8. That should said LICENSEE fail or refuse to conform to any of the conditions on its part to be performed hereunder, the privilege hereby granted shall immediately terminate and become null and void.

9. This agreement shall be binding upon the respective heirs, representatives, successors and assigns of the parties hereto.

Witnesses:

CITY OF MUSKEGON

By _____

See attached encr 2008-15(j), Mayor

And _____

See attached encr 2008-15(j), Clerk

LICENSEE:

SUPPLEMENTAL CONDITIONS

- 1- The grantee shall be fully responsible for the maintenance of the encroachment(s) and any relocation that becomes necessary to facilitate other improvements within the right of way (s).
- 2- Grantee will be responsible to maintain and keep, for the duration of this agreement, a valid insurance coverage satisfactory to the City.
- 3- If approved (by the City Commission), a permit to work in the right of way must be obtained from the Engineering Department before any work begins.
- 4- Insurance: LICENSEE shall at all times carry liability insurance in such amounts as are satisfactory to the City. The provision for liability insurance set forth shall remain in full force and effect in lieu of any other insurance requirement, provided that the City shall be given thirty (30) days written notice before a change in coverage may occur.
- 5- The City and/or its agent are not responsible for any damage to the facilities.

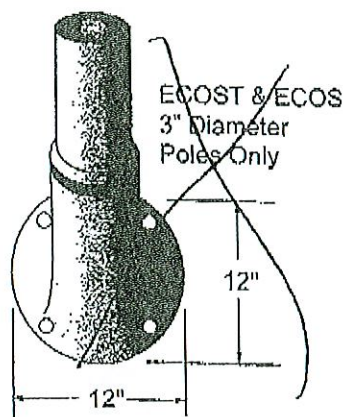
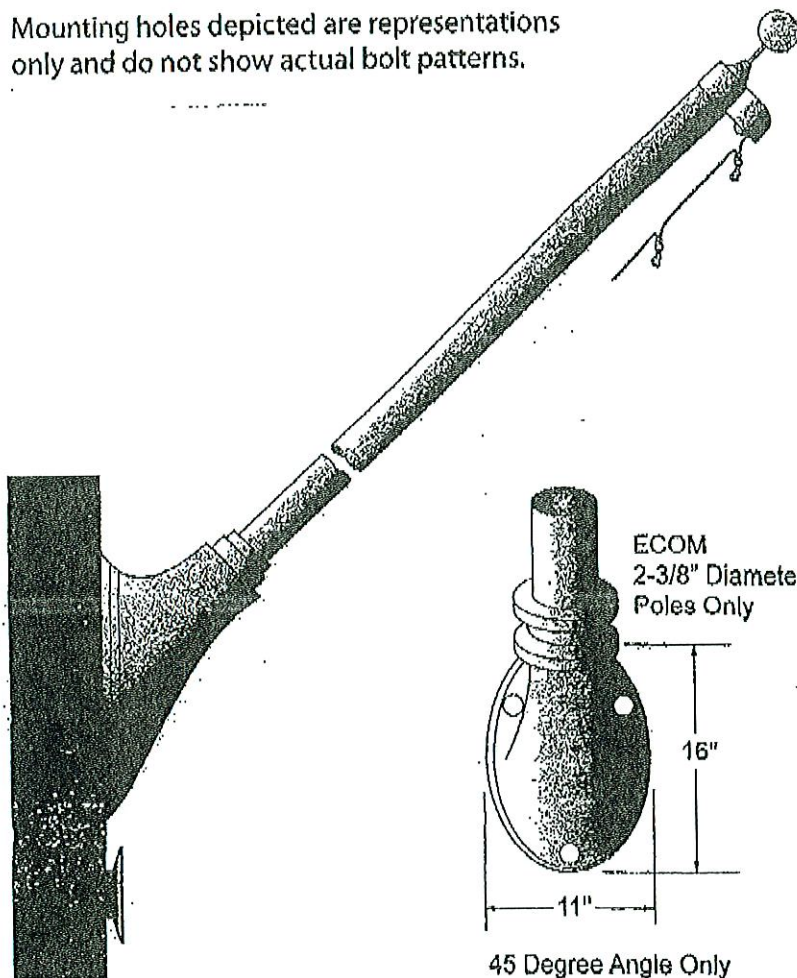
OUTDOOR FLAGPOLES

OUTRIGGER WALL MOUNT SERIES

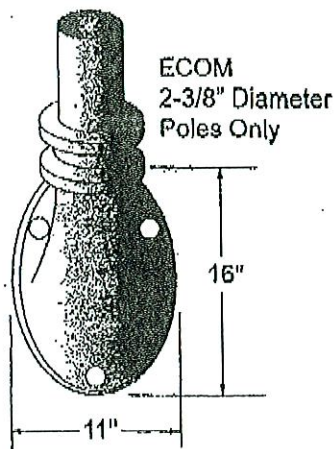
External Halyard Aluminum Flagpoles

All Models are Cone Tapered Except the ECOS Models which are Non-Tapering Poles

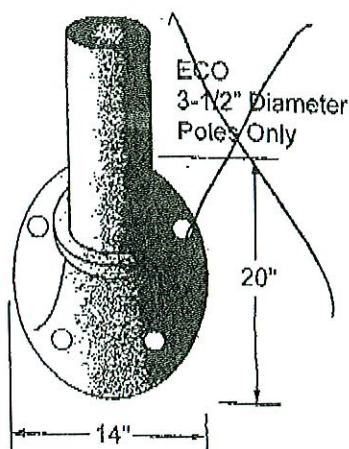
Mounting holes depicted are representations only and do not show actual bolt patterns.



45 Degree Angle Only



45 Degree Angle Only



60 Degree Angle Only

STANDARD ACCESSORIES

- Gold anodized aluminum ball ornament
- Cast aluminum stationary truck
- Solid braided polypropylene halyard
- (2) nylon flag snaps
- Cast aluminum cleat with mounting screws
- Cast aluminum mounting bracket expansion shields

MODEL	OVERALL LENGTH	CONE TAPERED	NON-TAPERED	BUTT DIA.	TOP DIA.	WALL	REC. FLAG SIZE	SHIPPING WEIGHT
ECOM8	8'			2 3/8"	1 7/8"	.140	3' x 5'	25 lbs.

2008-15(j)

CITY OF MUSKEGON
ENCROACHMENT PERMIT AGREEMENT

REQUEST: A one-hundred dollar (\$100.00) non-refundable fee is required for processing of request.

1. LICENSEE proposes to install, repair or maintain improvements or facilities ("the encroachment"), in or abutting a street, alley, sidewalk, park, terrace or other property controlled or owned by the City of Muskegon, the encroachment being described as: (Attach exhibits) (1 unit equals 0-99 lineal feet)
Main entrance canopy on the Western Avenue side.

2. The City-owned or controlled property (herein "property") subject to the encroachment is described as: [please insert a general description, and if required by the CITY, an accurate legal description]
Sidewalk, Western Avenue

3. The CITY is willing to grant such privilege upon the terms and conditions herein. This agreement shall constitute a permit under Chapter 74 of the Code of City Ordinances, and with all future amendments shall apply to any encroachment on public right of way or property.

PERMIT AGREEMENT:

THIS AGREEMENT is made and entered into this 12th day of February 2008, by and between the CITY OF MUSKEGON, a municipal corporation (hereinafter called CITY), and Sidock Properties, LLC (hereinafter called LICENSEE).

THEREFORE,

1. CITY does hereby grant unto LICENSEE the privilege of constructing, installing, maintaining, repairing and performing all necessary functions relating to the encroachment, and for that purpose to enter the property, for the term herein stated. This privilege shall be effective upon the delivery to the CITY of the required evidence of insurance coverage as outlined in paragraph 4 under this section and only after approval of this agreement by the City Commission and at which time an encroachment permit will be issued.

This grant is subject to the following special conditions: _____

2. That LICENSEE shall pay to the CITY for the privilege hereby granted the sum of _____ Dollars (\$ _____), per unit as described under Request, paragraph 1, applicable to the current Master Fee Resolution. Such payment is to be made upon the signing of this agreement to the City of Muskegon, and the privilege hereby granted shall continue for a period of five years from said date and renewal payment as set in the Master Fee Resolution to continue in five year intervals due on the first day of May unless sooner terminated as hereinafter provided.

3. INDEMNIFICATION. The LICENSEE shall indemnify and save harmless said GRANTOR of and from any liability for claims, damages, costs, expenses, or fees, including any attorney fees, or fines or awards brought against or charged to the CITY by any person, firm or corporation on account of or arising from the privilege hereby granted to LICENSEE or the activities of the LICENSEE related to the encroachment or this privilege. This indemnification obligation shall include all liabilities for environmental damage or releases of hazardous substances subject to any governmental or third party action. "Hazardous substance" is defined as any material constituting a prohibited or regulated substance under governmental law, rule, statute or regulation in force at any time, including future times.

4. INSURANCE. LICENSEE shall at all times carry liability insurance in such amounts as are satisfactory to CITY, and issued by companies acceptable to the CITY, licensed in the State of Michigan, naming CITY as an additional insured on any such policy. LICENSEE will file yearly with the CITY certificates or policies evidencing such insurance coverage. The insurance policies or certificates shall provide that the CITY shall be given thirty days written notice before a cancellation or change in coverage may occur. The types of coverage and coverage limits as required by City Engineer shall be as follows:

5. BONDING. Before this agreement permit becomes valid, LICENSEE shall file with the CITY a bond conforming to the requirements of all applicable ordinances, and to cover removal of said encroachment in part or whole, if essential for CITY to do so. This Bond shall keep same in force during the entire term of this agreement.

6. The privilege hereby granted may be canceled and revoked in part or whole by the CITY at any time upon giving said LICENSEE thirty (30) days of written notice of such cancellation and revocation, with no refund of the fee required in paragraph 2 of Permit Agreement.

7. LICENSEE may surrender up the privilege hereby granted at any time upon giving notice in writing to the CITY thirty (30) days prior to such surrender with no refund of the fee required in paragraph 2 of Permit Agreement; provided, however, that upon the voluntary relinquishment or abandonment of this privilege, or upon cancellation or revocation thereof by the CITY, the LICENSEE shall remove any structure(s) erected upon, within or overhanging the area of encroachment and restore the property at LICENSEE'S expense and in

a manner satisfactory to the CITY and in default thereof shall be liable to the CITY for any cost, damage or expense the CITY may sustain in such restoration.

8. That should said LICENSEE fail or refuse to conform to any of the conditions on its part to be performed hereunder, the privilege hereby granted shall immediately terminate and become null and void.

9. This agreement shall be binding upon the respective heirs, representatives, successors and assigns of the parties hereto.

Witnesses:

Linda Potter
Linda Potter

Irene Dempsey
Irene Dempsey

CITY OF MUSKEGON

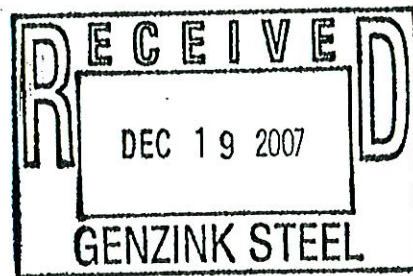
By Stephen J. Worthington, Mayor

And Ann Marie Becker, Clerk

LICENSEE:

W. H. Burt for W. Sidock, LLC

Sidock Properties

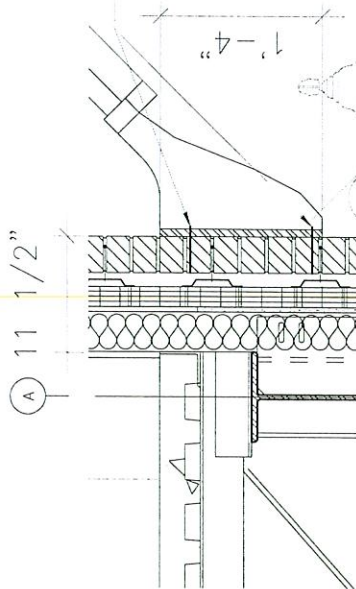


SUPPLEMENTAL CONDITIONS

- 1- The grantee shall be fully responsible for the maintenance of the encroachment(s) and any relocation that becomes necessary to facilitate other improvements within the right of way (s).
- 2- Grantee will be responsible to maintain and keep, for the duration of this agreement, a valid insurance coverage satisfactory to the City.
- 3- If approved (by the City Commission), a permit to work in the right of way must be obtained from the Engineering Department before any work begins.
- 4- Insurance: LICENSEE shall at all times carry liability insurance in such amounts as are satisfactory to the City. The provision for liability insurance set forth shall remain in full force and effect in lieu of any other insurance requirement, provided that the City shall be given thirty (30) days written notice before a change in coverage may occur.
- 5- The City and/or its agent are not responsible for any damage to the facilities.

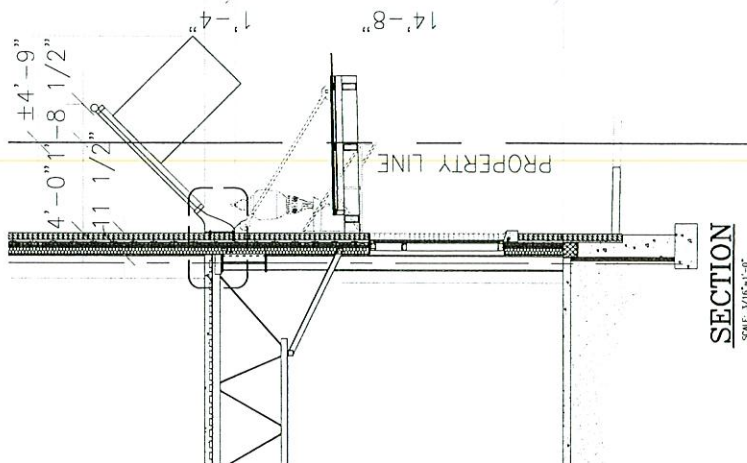


HILTI HIT HY20 ADHESIVE ANCHORS
1/2"Ø & 3 3/8" EMBEDMENT



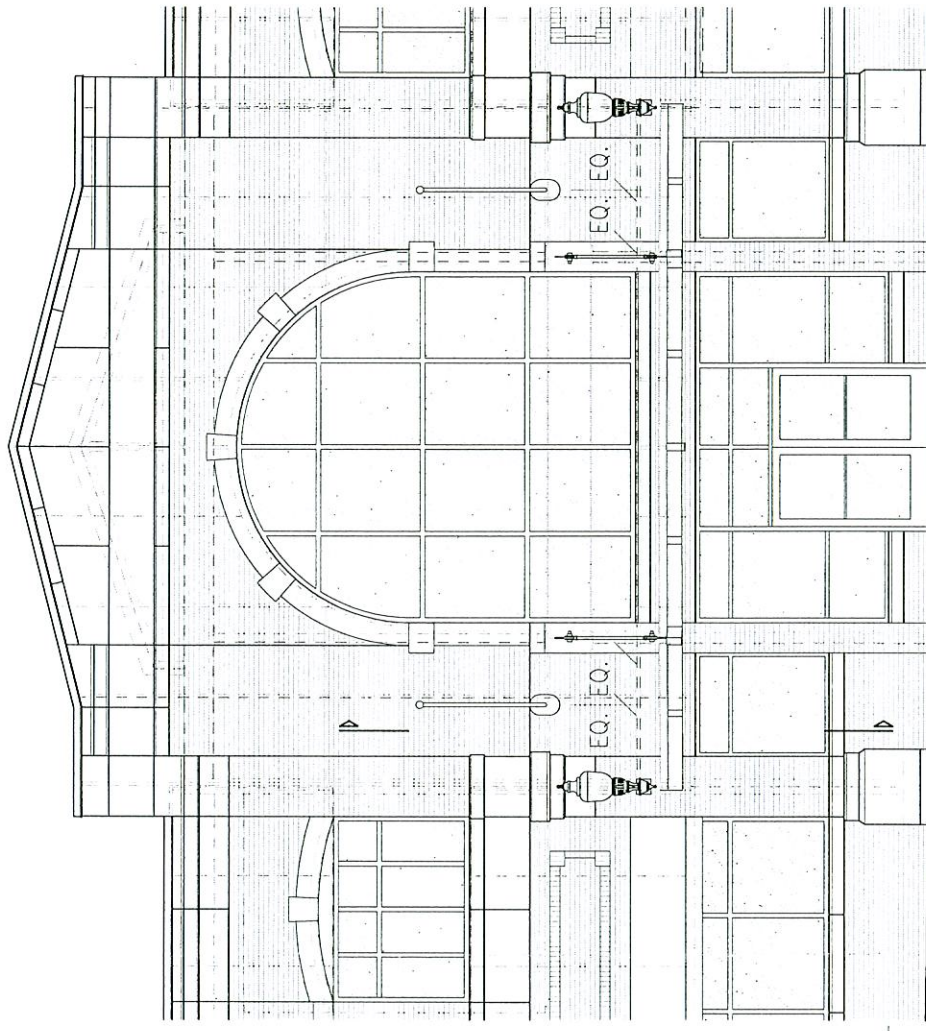
DETAIL
SCALE 1/4"=1'-0"

A



SECTION
SCALE 3/16"=1'-0"

FIN. FLOOR
EL. = 100'-0"



NORTH (WESTERN AVENUE) ELEVATION
SCALE 3/16"=1'-0"



Sidock Group, Inc.
DESIGNER • ARCHITECT • CONSULTANT • PROJECT MANAGER

Job Number 156165	File Name 6165SKA	Sheet SK-A	Last Drawn 10/13/08	By HNC
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CITY COMMISSION MEETING
Monday November 10, 2008

TO: Honorable Mayor and City Commissioners

FROM: Mark Kincaid
Deputy Director of Public Safety

DATE: November 5, 2008

SUBJECT: Request to Approve Donation of Items to Muskegon County Museum

SUMMARY OF REQUEST:

The Muskegon County Museum has requested the City of Muskegon to donate items from the enclosed list to their collection. These items have been stored at the old Central Fire Station and are no longer required for use by the Fire Department.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATIONS:

Approval

Material Requested to be Donated to the Muskegon County Museum from the Muskegon
Fire Department

Shift schedule books, company not indicated on book

1984-1986

1987-1990

1991-1994

City of Muskegon Budget Booklets

1959

1966

1967

1970

1984

1976

Dispatch log books from several different companies of the Muskegon
Fire Department

Rescue 1

1994

1996-1997

Rescue Medic 70

1998

Rescue 71

1994

1998-2001

2001-2002

Engine 23

1987-1989

1989-1991

1992

1998

2000-2003

Engine 24

1987

1989

1997-1999

Engine 25

1992

Engine No 5

1964-1978

1978-1986

1986-1989

Station 4

1984-1987

1991-1996

1996-2001

Log books of fire calls, no Company noted on log book
1939
1981-1982
1982-1984
1984
1987-1990
2002

Large format Fire Record log book. Red covers on ledger sized sheets.
No company listed on books.

1939
1941
1943
1945
1947
1949
1952
1974
1951
1978
1986

Fire Alarm Record Book - no company noted on book
1950

Chief's Log
1987-1989

Duty Chief's Log
1992-2005

Fire Prevention Scrapbook 1962-1963

Clippings, photos and memorabilia from programs presented to children,
thankyou notes from the children, etc

Ordinances and General Rules - city of Muskegon Fire Department, no
date

Photographs
1958- Fire Fighters at public event
1966- Miss Flame Candidates
Not dated - Fire Station No. 4

File of materials pertaining to the selection and purchase of a Fire
Boat, 1968

Blueprints and elevation drawings of the ground floor of a structure
titled "New City Barn" -1912
No address on the drawings, this is not the Fire House structure nor is
it familiar as a structure existing in the city of Muskegon but was
generated for the Muskegon Fire Department.

Minutes of meetings of the Fire Emergency Dispatch System group 1979-
1984

Box of newspapers - NOTE- these are still inside the vault as the box is very heavy. Would like them for Education programs, not for museum collection.

Fire pole cage - this is still installed upstairs in the dormitory area. We would like to install one of these in the Fire Barn Museum.

Metal beds with springs - these are upstairs in the dormitory area. We would like up to 6 for the Fire Barn Museum. Museum will not acquire the mattresses.

Commission Meeting Date: November 10, 2008

Date: November 6, 2008
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department *cbc*
**RE: U. S. Environmental Protection Agency (USEPA)
Grant Submittal**

SUMMARY OF REQUEST: The Site Assessment grants that the City of Muskegon has received through the Michigan Department of Environmental Quality (MDEQ) have been invaluable to assisting our development community. Unfortunately, these funds have been exhausted. However, the US Environmental Protection Agency (EPA) has a funding cycle for a similar grant. We applied for this grant in 2007, but were not approved. We would like to try, again, this year. The application is due November 14, 2008. Envirologic Technologies Inc (Kalamazoo) and Anne Couture have agreed to prepare the grant on the City of Muskegon's behalf (with assistance from our staff). If approved, the funds would be received through the BRA. Anne Couture would continue to assist with the grant administration and the City would go through a RFP process for environmental consultants.

FINANCIAL IMPACT: If approved, the City of Muskegon will receive up to \$200,000 in grant funds to assist in brownfield redevelopment.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the attached resolution and authorize the Mayor and Clerk to sign.

COMMITTEE RECOMMENDATION: None.

Resolution No. _____

MUSKEGON CITY COMMISSION

**RESOLUTION AUTHORIZING THE SUBMITTAL OF AN
U.S. ENVIRONMENTAL PROTECTION AGENCY (USEPA)
BROWNFIELD ASSESSMENT APPLICATION**

WHEREAS, the USEPA is seeking proposals for grants for Brownfield Assessments to fund environmental assessments necessary to facilitate redevelopment projects; and

WHEREAS the current Site Assessment Fund Grant that the City received from the Michigan Department of Environmental Quality several years ago has been an important economic development tool in assisting redevelopment projects, and these funds have been exhausted; and

WHEREAS environmental response activities are necessary in order to facilitate additional economic development in the City to assure that the property can be used in a safe and environmentally sound manner; and

WHEREAS, the redevelopment of brownfield sites in the City is consistent with the City of Muskegon's Master Land Use Plan; and

WHEREAS, it is the intention of the City to assist in additional redevelopment projects if the USEPA Brownfield Grant is awarded;

NOW, THEREFORE, BE IT RESOLVED, THAT the City Commission authorizes City staff to apply for and secure a grant for up to \$200,000 for a Brownfield Assessment Grant; to address sites contaminated by hazardous substances, and enter into a grant agreement with the USEPA if the grant is awarded.

Adopted this _____ of _____.

AYES:

NAYS:

ABSTAIN:

By: _____
Stephen J. Warmington, Mayor

Attest: _____
Ann Marie Becker, Clerk

DATE: 08/19/2008
TO: Honorable Mayor and Commissioners
FROM: Mark Kincaid, Deputy Director of Public Safety
RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN070238

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **254 AMITY AVE Area 11** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN070238 254 Amity

Location and ownership: This structure is located on Amity between Fork and Jay Streets and is owned by Marilyn Brewster, 347 Shonat St., Apt #5, Muskegon, MI 49442.

Staff Correspondence: A dangerous building inspection was conducted on 11/08/07. An interior inspection was conducted 11/30/07. The Notice and Order to Repair was issued on 11/28/07. On 02/07/08, 03/06/08, and 04/03/08, the HBA tabled case to allow owner time to secure loan, establish timeline for repairs and obtain necessary permits. On 05/01/08 the HBA declared the structure substandard and dangerous. A building permit was issued 09/05/08 for removal of carport, replace siding and roof repair with a expiration date of 10/28/08. A final inspection has not been scheduled for these repairs.

Owner Contact: Ms. Brewster was present for all HBA meetings stating she was working with Neighborhood Investment Corp to get loan to complete repairs and there were delays in getting taxes paid and obtaining insurance.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: 12,800

Estimated cost to repair: \$25,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

SUMMARY FOR: 254 AMITY AVE

This building is a two story mixed use building with the second floor being set up for residential and the lower level a closed storefront that is largely used for storage. The apartment on the second floor is currently unoccupied. This building has been allowed to deteriorate to a point where it is a blighting influence on the neighborhood.

CITY OF MUSKEGON
933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715
**DANGEROUS BUILDING INSPECTION
REPORT**

Thursday, November 8, 2007

Enforcement # EN070238 **Property Address** 254 AMITY AVE
Parcel #24-205-205-0011-10 **Owner** BREWSTER MARILYN L

Inspector: Henry Faltinowski

Date completed: 11/08/2007

DEFICIENCIES:

Uncorrected

1. Siding missing on building falling off building exterior.
2. Roof covering must be replaced rotted shingles, missing shingles; missing soffit and fascia.
3. Structural damage to rafter system provide rafter investigation. Large humps and sags in roofline.
4. Carport in state of collapse; remove or rebuild to code MRC 2003. Roof caving in, header - beam support failings - columns falling out of alignment.
5. Provide interior inspection.

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

Henry Faltinowski, Building Inspector

Date

CITY OF MUSKEGON
933 Terrace St., P.O. Box 536, Muskegon, MI 49443 (231)724-6715
DANGEROUS BUILDING INTERIOR INSPECTION REPORT

254 AMITY AVE
11/30/2007

Inspection noted:

Uncorrected

1. Repair all ceiling, wall, floor damage.
2. Interior garages storage area needs to be rebuilt to MRC 2003 Code - Cracked rafters; deteriorated roof covering, large sags in wall framing.
3. Repair upper stairway - treads loose, cracked missing sections.
4. Must remove large amount of storage to determine complete interior inspection upper and lower sections.
5. Smoke alarms required by code.
6. Building to be rewired to code.
7. Electric services to be replaced to code.
8. Smoke alarms to be installed in residential unit to code.
9. Inspect all plumbing for correct materials.
10. Kitchen sink upper.
11. Replace PVC water distribution pipe in basement.
12. Inspect & repair boiler & water heater & chimney.
13. Pressure test gas line; must have backflow device for boiler.
14. Seal vent for water heater.
15. Need T & P drain lines for water heaters.
16. Inspect & repair all plumbing when water is established as needed.
17. Inspect & certify space heater in store room.
18. Inspect & certify all coolers & store equipment.

BASED UPON MY RECENT INSPECTION OF THE ABOVE PROPERTY, I HAVE DETERMINED THAT THE STRUCTURE MEETS THE DEFINITION OF A DANGEROUS AND/OR SUBSTANDARD BUILDING AS SET FORTH IN SECTION 10-61 OF THE MUSKEGON CITY CODE.

HENRY FALTINOWSKI, BUILDING INSPECTOR

DATE

