

CITY OF MUSKEGON

CITY COMMISSION MEETING

NOVEMBER 7, 2022 @ 5:30 P.M.

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

AGENDA

- ☐ CALL TO ORDER:
- ☐ PRAYER:
- ☐ PLEDGE OF ALLEGIANCE:
- ☐ ROLL CALL:
- ☐ HONORS, AWARDS, AND PRESENTATIONS:
 - A. Presentation on Regional Transit Authority by Muskegon County
- ☐ PUBLIC COMMENT ON AGENDA ITEMS:
- ☐ CONSENT AGENDA:
 - A. Approval of Minutes City Clerk
 - B. Arena Lease – Carlisle’s Arena Director
 - C. Amendment to Marihuana Overlay District – Drive Thrus/Signs Planning
 - D. Landscaping RFP Public Works
 - E. MDEGLE High Water Infrastructure Grant Public Works
 - F. Roberts Street MDOT Agreement Public Works
 - G. Trash Compactors Public Works/Parks
 - H. LRS ARP Updated Construction Agreement Development Services
 - I. LRS PRI Act 99 Installment Purchase Agreement Development Services
 - J. Sale of 1527 Hoyt Street City Manager
- ☐ PUBLIC HEARINGS:
- ☐ UNFINISHED BUSINESS:
- ☐ NEW BUSINESS:
- ☐ ANY OTHER BUSINESS:

A. Sale of 206 Irwin Avenue City Manager

B. Sale of 291 McLaughlin City Manager

☐ PUBLIC COMMENT ON NON-AGENDA ITEMS:

- ▶ **Reminder: Individuals who would like to address the City Commission shall do the following:**
- ▶ Fill out a request to speak form attached to the agenda or located in the back of the room.
- ▶ Submit the form to the City Clerk.
- ▶ Be recognized by the Chair.
- ▶ Step forward to the microphone.
- ▶ State name and address.
- ▶ Limit of 3 minutes to address the Commission.
- ▶ (Speaker representing a group may be allowed 10 minutes if previously registered with City Clerk.)

☐ CLOSED SESSION:

☐ ADJOURNMENT:

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

MUSKEGON COUNTY

MICHIGAN

September 26, 2022

Board of Commissioners

Robert Scolnik, Chair
District 4

Susie Hughes,
Vice Chair - District 3

Rillastine R. Wilkins
District 1

Marcia Hovey-Wright
District 2

Zach Lahring
District 5

Charles Nash
District 6

Malinda Pego
District 7

Doug Brown
District 8

Kim Cyr
District 9

Dear City of Muskegon Council/Board Members,

In 2020, The West Michigan Shoreline Regional Development Commission (WMSRDC) received a grant from the Michigan Department of Transportation to perform an analysis of the two major public transportation services within the WestPlan Metropolitan Planning Organization (MPO) area. The purpose of the West Michigan Regional Transit Systems Governance and Organizational Transition Study was to focus on the Muskegon Area Transit System (MATS) and the Harbor Transit Multi-Modal Transportation System (Harbor Transit) from an organizational and operational perspective with potential recommendations on future collaborations and coordination between the two agencies. The project is supported by both Muskegon County and Harbor Transit.

SRF, the hired consultant, is conducting the study and has been providing guidance along the way. A detailed analysis was completed looking at the governance structures of the two transit agencies in the MPO area, and several other agencies were looked at as case examples for study purposes. Regional connections and service is still a high priority for the area. The initial recommendation was to further research the possibility of a Muskegon County Transit Authority. There were no changes recommended for the Harbor Transit agency, but connections and future collaborations between the two transit agencies are being analyzed.

As we move forward to explore the potential creation of a Muskegon County Transit Authority, Muskegon County is asking the City of Muskegon to agree to participate in transit authority development discussions and assign a representative from the City of Muskegon to serve on a working committee.

As the region's MPO, WMSRDC will be facilitating the meetings along with support from SRF. Please let me know if you have any questions.

Sincerely,



Mark Eisenbarth
County Administrator

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: November 7, 2022	Title: Approval of Minutes
Submitted By: Ann Marie Meisch, MMC	Department: City Clerk
Brief Summary: To approve the minutes of the October 10, 2022 Worksession and October 11, 2022 Regular Meeting.	
Detailed Summary: N/A	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: To approve the minutes.	
For City Clerk Use Only: Commission Action:	

CITY OF MUSKEGON
CITY COMMISSION WORKSESSION

Monday, October 10, 2022
5:30 p.m.
City Commission Chambers
933 Terrace Street, Muskegon, MI 49440

MINUTES

2022-89

Present: Mayor Johnson, Vice Mayor German, Commissioners Gorman, St.Clair, and Emory

Absent: Commissioners Hood and Ramsey

Transportation Asset Management Plan

Public Act 325 of 2018 began a process which requires all road maintaining agencies with at least 100 centerline miles to prepare and have on file with the state a Transportation Asset Management Plan (TAMP) that is updated every three years. To that end, and recognizing the value of asset management principles applied to City infrastructure, the Commission authorized Prein & Newhof to create a plan for the City at the May 24, 2022 meeting.

As defined by the act, asset management is “an ongoing process of maintaining, preserving, upgrading, and operating physical assets cost effectively, based on a continuous physical inventory and condition assessment and investment to achieve established performance goals.” In more practical terms the plan provides a detailed inventory of roads, bridges, culverts and traffic signals in the City, sets goals for maintaining the overall condition of the City’s transportation infrastructure, and makes recommendations on how to achieve the goals in the context of the funds expected to be available.

Staff will present the plan that is required to be submitted to the State, discuss it’s benefits and recommendations, and outline the process going forward that will allow staff, in consultation with Prein & Newhof, to develop a more comprehensive Capital Improvement Plan that takes into account all of the City’s major infrastructure asset categories (water, sewer, drainage and roadways).

Dan VanderHeide, Deputy Director of the Department of Public Works, provided background of why we need a Transportation Asset Management Plan and introduced Barb Marczak, Team Leader for the Prein & Newhof Muskegon office. She has addressed the commission in the past, talking about Asset Management. Barbara and Connie, another team lead for Prein & Newhof, presented an overview of the Transportation Asset Management Plan that will be on the agenda for consideration on October 11, 2022.

Storm Water Management Ordinance

The City has used the Muskegon County Drain Commissioner's Office for storm water management reviews of new development since about October of 2016. In 2021 the City began the process of taking back management of our own storm water reviews to increase quality and control over the process and to speed review times. Staff has been working with ENG. Inc. to prepare a new storm water ordinance that will allow the City to formally take back control of storm water management with an ordinance and other documents in compliance with our state permitting requirements and EGLE procedures. The City attorney has reviewed the ordinance.

The new ordinance will be presented for review, together with the far more in-depth storm water procedures manual that governs how the ordinance is enforced. Both documents will require review by the state, however in a quirk of procedure the state will not review or approve the documents until adopted. Given the similarity of these documents and rules to those of other Muskegon County governments and similar governments throughout the state, staff and the consultant anticipate minimal comments from the state, if any.

Developers will see little change to the process, as the new ordinance and rules are designed very similar to the County standards we now use, and reviews will continue to be performed by ENG. Inc., the same consultant that performs reviews for the County. What changes do occur are anticipated to be positive to both the City and developers, with the goal of increasing service and practicality of application.

Dan VanderHeide, Deputy Director of the Department of Public Works, presented information on a proposed Storm Water Management Ordinance. Ryan, a representative from ENG, Inc., the same consultant that performs review for the County, was also present and provided an explanation of the role of ENG, Inc. in the City of Muskegon.

Discussion took place and the Storm Water Management Ordinance will appear on the agenda for the October 25, 2022 meeting.

Special Events Policy Changes

Staff is seeking guidance on potential changes to the special event policy and fee waivers. Jacqui Erny, DPW Clerical Supervisor, presented information about events that have taken place this past year and provided information about feedback that has been received regarding some events logistics. Some proposed changes to the fee waiver process are being presented.

Discussion took place regarding the proposed changes to the Special Events Policy and this item will appear on the agenda for the October 25, 2022 meeting.

Marihuana Ordinance/Muskegon Social Equity Program

The Planning Commission and City Commission held a joint meeting on August 4 and discussed a variety of marihuana issues related to zoning. Please see the enclosed packet from that meeting, with notes from the meeting in red. Staff is also requesting to amend the Muskegon Social Equity Program to allow all social equity applicants to be considered, not just those with a prior arrest. Staff would also like to clarify how many grants an applicant may be awarded.

To qualify as a State of Michigan social equity recipient, an individual must meet one of the following qualifying criteria:

1. Residency in a disproportionately impacted community for at least five cumulative years.
2. Misdemeanor or felony conviction of a marihuana related offense.
3. Registration as a primary caregiver under the Michigan Marihuana Act for at least two years between 2008 and 2017.

Mike Franzak, Planning Manager, presented information regarding the Muskegon Social Equity Program and is seeking to expand access to grant funds for social equity applicants as indicated above.

Discussion took place and this item will appear on the agenda for a regular meeting at a later date.

Pere Marquette Parking & Boardwalk Improvements

Leo Evans, Director of Department of Public Works, presented a brief update on the plans that are just getting developed in regards to the options for expanded parking and boardwalk improvements within Pere Marquette Park.

Commission approved engineering for this project back in January of 2022 and requested that staff undertake additional negotiations with the engineer to further refine the project scope. That additional negotiation was not finalized until late April. Survey was conducted in July and the preliminary design concepts were developed in August/September.

Director Evans presented the preliminary designs and talked through a few of the details about the project to provide the public and Commission and update on the project.

Discussion regarding the project took place, the Department of Public Works will continue to move forward and inform the commission as appropriate.

Parks and Rec Reorganization

LeighAnn Miekse, Interim City Manager, is seeking input on a plan for the new Parks and Recreation Department.

A team consisting of all four division heads, the clerk, and the parks supervisor have been discussing how best to organize the new Parks and Recreation Department. There are interim and future charts showing the proposal for the new department and the changes to the City Clerk's office.

Parks and Rec Interim: The new department head position reports to the Public Works Director, and the new department will include three focus areas. Recreational programming will include coordination with existing programs until a new supervisor position can be funded. Special event coordination will fall under the new department.

Parks and Rec Future: Once a new supervisor is hired and funding is available for additional staff, the new department will include recreational programming, neighborhood appearance, special event coordination, as well as city run events.

City Clerk Interim: There are no changes proposed to this department in the interim.

City Clerk Future: Once staff are added to the Parks and Recreation Department, city run events will be moved to the new department. At this time, the group agrees that the Farmer's Market and Western Market should be retained with the City Clerk into the future.

The leadership team seeks input from the commission on this proposal. Leadership will work together to determine details, phasing, and timing for implementation.

Discussion took place regarding the Reorganization and leadership staff will continue to discuss and craft a transition plan.

Public Comment: Public comments were received.

Adjournment: The City of Muskegon Worksession meeting adjourned at 8:05 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk

CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 11, 2022 @ 5:30 P.M.

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

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, October 11, 2022, a moment of silence was observed, after which the Commission and public recited the Pledge of Allegiance to the Flag.

Present: Mayor Ken Johnson, Vice Mayor Willie German, Jr., Commissioners Teresa Emory, Rebecca St.Clair, Rachel Gorman, Michael Ramsey, and Eric Hood, Interim City Manager LeighAnn Mikesell, City Attorney John Schrier, and City Clerk Ann Meisch.

Absent: Vice Mayor Willie German, Jr.

PUBLIC COMMENT ON AGENDA ITEMS: No public comments were received.

2022-89 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the September 12, 2022 Work Session and September 13, 2022 Regular Meeting.

STAFF RECOMMENDATION: To approve the minutes

B. MERS – Police Command DB Pension Multiplier Finance

SUMMARY OF REQUEST: The City seeks to reduce the Police Command Defined Benefit multiplier from 3.0% to 2.67% per the Union Contract effective December 31, 2022.

The Finance Department wants permission to sign a Defined Benefit Plan Adoption Agreement to reduce the multiplier for Police Command as follows:

An employee who was hired before July 28, 2006 and became member of the Police Command unit between January 1, 2019 and December 31, 2022 shall receive a retirement benefit as determined by the Police Officer's Labor Council contract with the City of Muskegon the following.

An employee who retires on or after December 31, 2022 shall receive a bridged benefit as follows:

- a) A pensions multiplier of 3.0% for service prior to December 31, 2022 times the employee's "frozen final average compensation".
- b) A pension multiplier of 2.67% for service on or after December 31, 2022 times the employee's "termination final average compensation".

The total pension shall not exceed 80% of the "termination final average compensation".

STAFF RECOMMENDATION: To reduce Defined Benefit pension multiplier from 3.0% to 2.67% for the Police Command Unit.

C. Transportation Asset Management Plan Public Works

SUMMARY OF REQUEST: Public Act 325 of 2018 began a process which requires all road maintaining agencies with at least 100 centerline miles to prepare and have on file with the state a Transportation Asset Management Plan (TAMP) that is updated every three years. To that end, and recognizing the value of asset management principles applied to City infrastructure, the Commission authorized Prein & Newhof to create a plan for the City at the May 24, 2022 meeting.

As defined by the act, asset management is "an ongoing process of maintaining, preserving, upgrading, and operating physical assets cost effectively, based on a continuous physical inventory and condition assessment and investment to achieve established performance goals." In more practical terms the plan provides a detailed inventory of roads, bridges, culverts and traffic signals in the City, sets goals for maintaining the overall condition of the City's transportation infrastructure, and makes recommendations on how to achieve the goals in the context of the funds expected to be available.

As a part of the obligations to the state, the Commission must certify the plan, including a resolution designating the mayor and chief financial officer (Finance Director) as the City's authorized signers.

STAFF RECOMMENDATION: To adopt a resolution authorizing the mayor and Finance Director to certify to the state that the City has a Transportation Asset Management Plan, and to adopt the plan.

F. Rezoning 398 Catawba Avenue Planning

SUMMARY OF REQUEST: Request to rezone the property at 398 Catawba Ave from R-3, Single Family High Density Residential to B-4, General Business, by Gordon Painting and Pressure Washing, LLC.

The Planning Commission recommended approval of the rezoning by a 7-0 vote.

STAFF RECOMMENDATION: To rezone the property at 398 Catawba Ave from R-3, Single Family High Density Residential to B-4, General Business.

2nd READING REQUIRED

H. Ten Month Extension to Complete Construction of Home at 1210 Morgan Avenue Planning

SUMMARY OF REQUEST: The City Commission approved the vacant lot sale of 1210 Morgan Ave. to Mr. Edward Pierce Jr. at their May 11, 2021, meeting. Mr. Pierce was given 18 months to construct a single-family home on the property starting from the closing date of July 7, 2021. Mr. Pierce is asking for an extension from the January 7, 2023, deadline due to scheduling issues with a contractor for the construction. Mr. Pierce stated that he will be trying to find another contractor and is asking for an extension until November 30, 2023.

STAFF RECOMMENDATION: Staff recommends approval of the time extension, as well as authorization for both the City Mayor and Clerk to sign the resolution.

Motion by Commissioner Ramsey, second by Commissioner Emory, to accept the consent agenda as presented, minus items D, E, and G.

ROLL VOTE: Ayes: Ramsey, Gorman, Emory, St.Clair, Johnson, and Hood
Nays: None

MOTION PASSES

2022-90 REMOVED FROM CONSENT AGENDA:

D. Combination Sewer Truck Public Works

SUMMARY OF REQUEST: The equipment division is seeking approval to purchase one (900 ECO) Combination Sewer Truck from Fredrickson Supply within the Sourcwell Contract in the amount of \$565,555.00.

Currently we have two combination sewer trucks that are each approaching 15 years of age and are due for replacement. The existing trucks require extensive upkeep and maintenance and have surpassed their useful life. In the future we are looking to shorten the length of use for this piece of equipment and only maintain one active combination sewer truck in our fleet but cycle it through for replacement on a more frequent basis to lessen the maintenance costs and increase operational efficiencies.

Delivery of the truck and payments are estimated at least 1 year out from date of order.

Staff originally budgeted to finance this vehicle over 5-years with the first payment amount shown in the 22/23 budget. Given the rapid increase in interest rates staff plans to re-evaluate the available financing mechanisms to best make this purchase. As noted below the first payments will not be

due until next fiscal year which allows us additional time to research those options.

AMOUNT REQUESTED: \$565,555 (23/24) AMOUNT BUDGETED: \$107,000 (22/23)

FUND OR ACCOUNT: 661-563-971

STAFF RECOMMENDATION: Authorize the purchase of a new 900 ECO Combination Sewer Truck from Fredrickson Supply in the amount of \$565,555.00

Motion by Commissioner Emory, second by Commissioner St. Clair, to authorize the purchase of a new 900 ECO Combination Sewer Truck from Fredrickson Supply in the amount of \$565,555.00

ROLL VOTE: Ayes: Gorman, Emory, St.Clair, Johnson, Hood, and Ramsey

Nays: None

MOTION PASSES

E. Parks Donation Policy DPW/Parks

SUMMARY OF REQUEST: Staff previously presented a new policy related to donations made towards the City Parks at the August Work Session meeting. Staff has made noted revisions to the document and returns it for further discussion and/or adoption. Major revisions made are as follows:

- Added language to the “Donation Cost” section that allowed for City to partner on specific projects at the discretion of the Parks and Recreation Director when those projects are deemed to be in extensive mutual interest to both the donor and the City Park system. Intended to provide a mechanism for shared cost on select donation items when appropriate.
- Added language to the “Donation Term” section that encouraged donors to partner with the CFFMC on donations that are intended to exist in perpetuity.

Added language to the “Donation Term” section to define an Act of God.

STAFF RECOMMENDATION: To approve the Donation Policy for City Parks

Motion by Commissioner Emory, second by Commissioner St. Clair, to approve the Donation Policy for City Parks with Type 1 donation requests that are approved for locations within the Beachwood Bluffton neighborhood parks to be charged double the actual cost as outlined in the policy, the additional proceeds generated will be used to provide matching amenities to parks in other areas of the city that have not traditionally received as high of demand for donations.

ROLL VOTE: Ayes: Gorman, Emory, St.Clair, Johnson, Hood, and Ramsey

Nays: None

MOTION PASSES

G. Firefighting Turnout Set Public Safety/Fire

SUMMARY OF REQUEST: The Fire Department is seeking approval to purchase ten (10) sets of firefighting turnout gear. Each set is comprised of a coat and pants with suspenders. The current sets are worn and contain PFAS materials that are harmful to firefighters. The waterproofing materials in firefighting turnouts were found to contain PFAS. The vendor allowed us the same price break the City of Grand Rapids received for their recent purchase of turnout gear.

AMOUNT REQUESTED: \$29,650 AMOUNT BUDGETED: \$30,000

FUND OR ACCOUNT: 101-901-982-092114

STAFF RECOMMENDATION: To approve staff to purchase ten sets of firefighting turnout gear from MES of Sanford Michigan.

Motion by Commissioner Ramsey, second by Commissioner Hood, to approve staff to purchase ten sets of firefighting turnout gear from MES of Sanford, Michigan.

ROLL VOTE: Ayes: Emory, St.Clair, Johnson, Hood, Ramsey, and Gorman

Nays: None

MOTION PASSES

2022-91 NEW BUSINESS:

**A. Ordinance Amendment – Reduced Housing Unit Size Minimums
Planning**

SUMMARY OF REQUEST: Staff-initiated request to amend section 2319 of the zoning ordinance to reduce the minimum size requirements for single-family houses, rowhomes, duplexes and small multiplexes (up to 6 units) from 850 sf of floor area to 550 sf (total) and to also change the minimum size requirements for large multiplexes (6 units and above), mixed-use buildings and accessory dwelling units from 650 sf of floor area to 375 sf (total).

A motion to recommend approval of the original request failed by a 2-3 vote at the August 11 Planning Commission meeting. At the August 23 City Commission meeting, staff requested to remove the item from the agenda in order to make some changes to the proposal and bring back to Planning Commission. The proposal was amended and brought back to the Planning Commission at their September 15 meeting, where they recommended approval of the new amendments by a 6-1 vote.

The changes to the original amendment include requiring an additional 100 sf for each additional bedroom; additional language stating that all units located in single-family residential districts must comply with Section 400 of the zoning ordinance, which will prevent single-family houses from being split into additional units. It should also be noted that the current minimum housing size is measured by “floor area,” which is defined by the zoning ordinance as *“the area in a dwelling unit included in the determination of occupancy restrictions. It includes the sum of floor areas of bedrooms, and common living areas. The floor area of storage areas and closet, basements without a second egress, attached garages, breezeways, and enclosed and unenclosed porches shall be excluded.”* Staff is proposing to no longer use this method in determining the minimum size, but rather by measuring from the outside wall of the unit.

STAFF RECOMMENDATION: To approve the request to amend section 2319 of the zoning ordinance to reduce the minimum size requirements for single-family houses, rowhomes, duplexes and small multiplexes (up to 6 units) from 850 sf of floor area to 550 sf (total) and to also change the minimum size requirements for large multiplexes (6 units and above), mixed-use buildings and accessory dwelling units from 650 sf of floor area to 375 sf (total).

Motion by Commissioner Ramsey, second by Commissioner Hood, to approve the request to amend section 2319 of the zoning ordinance to reduce the minimum size requirements for single-family houses, rowhomes, duplexes and small multiplexes (up to 6 units) from 850 sf of floor area to 550 sf (total) and to also change the minimum size requirements for large multiplexes (6 units and above), mixed-use buildings and accessory dwelling units from 650 sf of floor area to 375 sf (total).

ROLL VOTE: Ayes: St.Clair, Johnson, Hood, Ramsey, Gorman, and Emory

Nays: None

MOTION PASSES

2ND READING REQUIRED

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

ADJOURNMENT: The City Commission meeting adjourned at 6:27 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: November 7, 2022		Title: Arena Lease – Carlisle’s	
Submitted By: Jake Laime		Department: Arena Director	
Brief Summary: Seeking approval of the amended lease with Carlisle’s at the Trinity Health Arena.			
Detailed Summary & Background: Amendment of Section 6 of the Agreement for Management of a Portion of a Licensed Premises Pursuant to Participating Agreement. To reflect the following: Construction costs paid by Carlisle and/or reimbursed to the City of Muskegon in the amount of \$439,219.91, will result in a use credit to Carlisle at the rate of \$7.00 per month for each \$1,000 of construction costs incurred together with interest on the unreimbursed construction costs calculated at the rate of 5% per annum. Any unused credit for the month shall roll over and be added to the total available use credit in subsequent months. These credits shall continue monthly for the term of this Agreement and any extensions thereof to and until such time as the use credit is fully utilized and amortized. In the original agreement the construction cost was \$650,000.00. However, we are reducing the credit costs by \$210,780.09 due to construction overages by Carlisle’s. Allowing Carlisle’s to utilize to credit saves the City \$279,259.64 in accrued interest thru 2040.			
Goal/Focus Area/Action Item Addressed:			
Amount Requested:		Amount Budgeted:	
Fund(s) or Account(s): 254		Fund(s) or Account(s):	
Recommended Motion: Approve the lease and authorize the Authorize the Mayor and Clerk to sign.			
Approvals: <i>Get approval from division head at a minimum prior to sending to the Clerk.</i> Immediate Division Head ☒ Information Technology ☐ Other Division Heads ☒ Communication ☐ Legal Review ☒		Guest(s) Invited / Presenting Yes ☐ No ☒	
For City Clerk Use Only: Commission Action:			

Amended & Restated Agreement for Management of a Portion of a Licensed Premises Pursuant to Participating Agreement

This Amendment is made effective as of October ____, 2022 between the

City of Muskegon

a Michigan municipal corporation
933 Terrace St.
Muskegon, MI 49440
(hereinafter "City of Muskegon"), and

Carlisle's Goods & Leisure, LLC

a Michigan limited liability
company 14716 Leonard Rd.
Spring Lake, MI 49456
(hereinafter "Carlisle")

RECITALS

- A. The City of Muskegon owns the Mercy Health Arena located at 470 W. Western Avenue, Muskegon, Michigan 49440 ("Arena"). The City of Muskegon is responsible for operation, maintenance, and improvements for the Arena.
- B. The City of Muskegon has the authority to authorize use of portions of the Arena on an exclusive and non-exclusive basis.
- C. The City of Muskegon has applied for a Class C liquor license and related permits issued by the Michigan. Liquor Control Commission ("MLCC") for providing a restaurant, concessions, bar, and bar service throughout the Arena (collectively the "License").
- D. The City of Muskegon proposes entering into a Participating Agreement with Carlisle pursuant to Rule 436.1401 to permit the limited use of the license, subject to and only upon the approval of the MLCC, upon the terms and conditions of this Agreement.
- E. In connection with this Agreement, the City of Muskegon is willing to grant to Carlisle, and Carlisle desires to receive from the City of Muskegon, the exclusive right to use and manage that portion of the Arena to be known as the Carlisle Area (See attached **Exhibit A**) for the operation of a certain restaurant and bar business commonly known as the "Carlisle's Goods & Leisure", subject to and in accordance with the terms and conditions of this Agreement.

In consideration of the premises and the mutual promises set forth herein, the parties agree as follows:

1. **CARLISLE PARTICIPATING AGREEMENT.** Upon execution of this Agreement, the parties agree to act in good faith and to utilize their best efforts to make application to the MLCC for a Participating Agreement/Participation Permit Application pursuant to Rule 436.1041. Carlisle will operate a full-service restaurant, bar and bar service within the Carlisle Space as hereinafter defined. The parties acknowledge that this Agreement is contingent upon and shall only become effective upon approval of the MLCC of the Participating Agreement/Participation Permit Application.
2. **DESCRIPTION OF CARLISLE SPACE.** Carlisle will have the right to use and manage the Carlisle Space and fixtures as follows:
 - a. The exclusive right to use and manage the Carlisle Space (depicted on the attached **Exhibit A**) and the Outdoor Sidewalk Patio, and a non-exclusive right of access for Carlisle's employees, patrons and suppliers to and from the Restaurant Space across other portions of the Arena.
 - b. The limited nonexclusive right to use other areas in the Arena that would not interfere with the management and operation of the Arena by the City of Muskegon, excluding only the area identified as the "Rad Dad's Space" in the Agreement for Management of a Portion of a Licensed Premises Pursuant to Participating Agreement between the City of Muskegon and Rad Dad's, LLC (depicted on **Exhibit B**).
 - c. Notwithstanding the foregoing, during events held at the Arena when it is open to the public, the term exclusive use shall be construed to allow patrons to enter and leave the Carlisle Space and all areas of the Arena licensed by the MLCC.
3. **TERM.** This Agreement shall become effective upon execution with the contingencies provided for herein. The initial term of this Agreement shall be for a period of five (5) years commencing with the approval of the MLCC of the Participating Agreement/Participation Permit Application with a term extension equal to the time from such approval to the date a certificate of occupancy is issued by the City of Muskegon, a license is issued by the Muskegon County Department of Health or the MLCC has approved the licensed space identified on Exhibit A, whichever date is latest. The monthly Use Payment shall commence on the first day of the month following such approval. In addition, Carlisle shall have six additional five (5) year options. In the absence of any other provision herein, Carlisle shall be provided written notice of any default and afforded not less than sixty (60) days to cure the default. Provided that Carlisle is not in material default of this Agreement at the time of expiration of the initial term or any option term, Carlisle shall provide the City of Muskegon with written notice of its intent to renew this Agreement in writing no later than sixty (60) days prior to the expiration of the initial term and any renewal term provided, however, that said sixty (60) days shall not begin to toll until sixty (60) days after the City of Muskegon has provided Carlisle with written notice of the expiration of the initial term or any renewal term.

4. **CONSTRUCTION AND IMPROVEMENTS; USAGE.** Upon approval by the MLCC of the Participating Agreement, the City of Muskegon, at its sole cost and expense, will undertake construction of Carlisle Space improvements substantially in accordance with the plans, specifications, and costs identified and attached hereto as Exhibit B. The City of Muskegon agrees to proceed in good faith and in a reasonable manner in order to complete the work and obtain all regulatory approvals and signoffs within 60 days of this agreement provided that an additional term of 120 days will be allowed for completion. Carlisle will repay the City of Muskegon the actual costs of the improvements within 90 days following the completion of the construction and issuance of approval of the License, whichever occurs later. Upon completion of the construction, the City of Muskegon shall provide Carlisle with written confirmation of the amounts expended by the City of Muskegon under this Section 4. The total Cost of Improvements shall not exceed \$650,000 unless mutually agreed upon by the parties and, once repayment is made by Carlisle as set forth above, the amounts on the amortization schedule (see the attached **Exhibit C**) shall be credited against the Use Payments provided for in Paragraph 6.

Carlisle shall use and manage the Carlisle Space for purposes of operating a sports bar and restaurant operation, including food and beverage service preparation ("Restaurant").

5. **CARLISLE'S COMPENSATION.** In consideration for the management and operation of the Restaurant and the Carlisle Space, Carlisle shall retain 100% of the net profits generated from the operation of the Restaurant, including the sale of alcoholic beverages under the License, non-alcoholic beverages, food, merchandise, cover charges, and other goods and services which would not constitute a violation of MLCC rules. The term "net profits" as used in this Agreement shall mean all revenue derived from the operation of the Restaurant less all expenses related to the operation of the Restaurant. During the term of this Agreement, Carlisle will deliver to the City of Muskegon at least 15 days before the end of each month an income statement certified by an officer or manager of Carlisle setting forth its net profits of the prior period. Carlisle grants to the City of Muskegon the right at all reasonable times to have access to all books, accounts, records, and reports that may be kept by Carlisle showing all financial information related to the operation of the Restaurant. If a review discloses any discrepancy in the net profits, the parties shall mutually agree on a Certified Public Accountant to review the financial statements and records of Carlisle and determine the net profits. Such determination shall be binding on the parties.
6. **MONTHLY USE PAYMENT.** In consideration of this Agreement, Carlisle shall pay monthly Use Payment to the City of Muskegon in an amount equal to \$3,645.83 during the initial Term. Provided, each subsequent five-year renewal option thereafter, the applicable monthly Use Payment will be adjusted as follows:

- | | |
|--------------|------------|
| a. Option #1 | \$4,229.17 |
| b. Option #2 | \$4,666.67 |
| c. Option #3 | \$4,958.33 |
| d. Option #4 | \$5,250.00 |
| e. Option #5 | \$5,541.67 |

f. Option #6 \$5,833.33

Construction costs paid by Carlisle and/or reimbursed to the City of Muskegon in the amount of \$439,219.91, will result in a use credit to Carlisle at the rate of \$7.00 per month for each \$1,000 of construction costs incurred together with interest on the unreimbursed construction costs calculated at the rate of 5% per annum. Any unused credit for the month shall roll over and be added to the total available use credit in subsequent months. These credits shall continue monthly for the term of this Agreement and any extensions thereof to and until such time as the use credit is fully utilized and amortized.

7. **ADJUSTMENT OF MONTHLY USE PAYMENT.** The monthly Use Payment shall be adjusted upon the following events and upon the following terms:
 - i. **Professional Hockey, Football, and Soccer Games.** The amount of monthly use fee shall periodically increase during months when there occur in the Arena USHL hockey, professional football, and/or professional soccer games. The amount of such increase shall be the sum of \$500 per USHL hockey event day, \$400 per professional football event day, and \$400 per professional soccer event day that takes place at the Arena during a given month, and shall be paid with the payment of the following month's use payment. For example, if during the term of this Agreement there are five hockey events and two football events at the Arena during the month of January, Carlisle's use fee for the month of February would be increased by \$3,300 (\$500 x five hockey events (\$2,500) + \$400 x two football events (\$800) = \$3,300). Carlisle shall have no further obligation to provide financial support or sponsorship to any event using the Mercy Health Arena. If Carlisle can reasonably demonstrate that events held in the Arena other than USHL hockey, professional football, and professional soccer, negatively impact the gross sale of Carlisle, Carlisle shall not be obligated to pay a temporary rent increase for any such other events.
 - ii. **Suspension of Liquor License.** In the event that the License issued by the MLCC shall be suspended, Use Payments shall be suspended pro rata during such suspension term.
8. **CONTRIBUTION TO OVERHEAD AND MAINTENANCE.** Carlisle shall also pay to the City of Muskegon a contribution for overhead utilities not separately metered and maintenance costs in an amount equal to \$1,750 per month during the initial Term.
9. **UTILITY COSTS.** City shall pay all charges for gas, electricity, water, power, telephone, cable television and internet service used, rendered or supplied upon or in connection with the Carlisle Space. City shall have the discretion to set the level of cable service provided within the Carlisle Space. Carlisle may request that the City upgrade such services, with the additional associated costs added to Carlisle's contribution to overhead and maintenance as outlined in Section 8 of this Agreement.
10. **ASSIGNMENT.** Carlisle shall not assign this Agreement without prior written consent of the City of Muskegon and the MLCC. Such approval and consent shall not

unreasonably be withheld by the City of Muskegon and shall be subject to the rules and regulations of the MLCC.

11. **OBLIGATIONS OF THE CITY OF MUSKEGON.** The City of Muskegon shall purchase all alcoholic and food inventory to be used by the Restaurant. The City of Muskegon shall furnish "janitorial services" for the exterior of the building and in lobby areas and restrooms used by the public, exclusive of those areas used and managed by Carlisle. The City of Muskegon agrees to maintain in satisfactory working order, all public ways and structures of the Arena, including plate glass, roof, and outer walls and heating, electrical and plumbing supply sites, air conditioning and hot water supply units. The City of Muskegon agrees to allow use of its dumpsters by Carlisle, and the cost of such service shall be shared between The City of Muskegon and Carlisle. The City of Muskegon agrees to be responsible for any structural repairs, replacements or changes in the Arena which affect the Carlisle Space for its intended purpose.
12. **OBLIGATIONS OF CARLISLE.** Carlisle shall reimburse the City of Muskegon for all alcoholic and food inventory purchased by the City of Muskegon for the Restaurant within 15 days of receipt of an invoice from the City of Muskegon. Carlisle agrees that it will pay all expenses in connection with the use and management of the Carlisle Space and fixtures, including, but not limited to, all rights and privileges granted, including all taxes, permits, fees, license fees and assessments lawfully levied or assessed upon Carlisle's personal property or upon its use or possession of the Carlisle Space and fixtures. Except for the License, Carlisle agrees to secure all permits and licenses required related to its use of the Carlisle Space, including any other metered utility services provided to the Carlisle Space.

Carlisle agrees that it will at all times maintain the Carlisle Space and fixtures in a neat, clean, safe, sanitary and orderly condition, and shall provide janitorial services with respect thereto. Carlisle shall provide for the sanitary handling and disposal of trash and other refuse from its operation in a manner satisfactory to the City of Muskegon.

Carlisle will make no structural changes or additions to the Carlisle Space without first obtaining written approval from the City of Muskegon.

Carlisle agrees to provide and pay for any and all decorations to the Carlisle Space. Carlisle shall provide the following services from the Carlisle Space at all times during the term of this Agreement at its sole cost and expense:

- a. Carlisle shall furnish, at its expense, all service equipment of every sort (such as silverware, linen, glassware, crockery, utensils, pots and pans, and additional equipment), which may be required for use in Carlisle's operation and which is not already presently located in the Carlisle Space.
- b. Carlisle shall undertake to comply with all MLCC rules and shall not allow entertainment.

- c. Carlisle shall cooperate with the City of Muskegon in securing all permits and licenses required by any public agency, including the License issued by the MLCC in connection with the operation of the Arena as a sports and entertainment venue.
- d. Carlisle shall carry workers compensation insurance in the amounts required by state law for all employees hired by Carlisle to work in the Carlisle Space.
13. **ORDINANCES AND STATUTES.** Carlisle shall comply with all statutes, ordinances, and requirements of all municipal, state and federal authorities now in force or which may be in force, pertaining to the premises, occasioned by or affecting the use thereof by Carlisle. The commencement or pendency of any state or federal court abatement proceeding affecting the use of the Carlisle Space shall, at the option of the City of Muskegon, be deemed a breach hereof. The City of Muskegon represents and warrants that the Arena shall be in compliance with the Americans with Disabilities Act, and its regulation, as of the commencement of this Agreement.
14. **MAINTENANCE, REPAIRS, ALTERATIONS.** Carlisle shall, at its expense and at all times, maintain the Carlisle Space in good and safe condition, including plate glass, electrical wiring, plumbing and heating installations. Carlisle shall also maintain in good condition such portions adjacent to the Arena within the Carlisle Space, such as sidewalks, driveways, lawns, and shrubbery.
15. **ENTRY AND INSPECTION.** Carlisle shall permit the City of Muskegon or the City of Muskegon's agents to enter upon the Carlisle Space at reasonable times for the purpose of performing maintenance and making repairs and replacement in any case where the City of Muskegon is obligated, and in any other case where the City of Muskegon determined that it was necessary to do so in order to preserve the structural safety of the Carlisle Space to correct any condition likely to cause injuries or damages to persons or property.
16. **DAMAGE OR DESTRUCTION OF PREMISES.** If by reason of any cause the Carlisle Space is damaged to such an extent that the Carlisle Space is unusable in whole or in substantial part, then:
- a. If the repairs and rebuilding necessary to restore the Carlisle Space to its condition prior to the occurrence or the damage can be in the reasonable judgment of Carlisle be completed within ninety (90) days from the date on which the damage occurred, Carlisle shall so notify the City of Muskegon in writing and shall proceed promptly with such repairs and rebuilding, and in such event the use of said premises shall be abated for the period from the date of the occurrence of such damage to the date upon which such repairs and rebuilding are completed; and
- b. If such repairs and rebuilding cannot, in the reasonable judgment of Carlisle, be completed within ninety (90) days, the City of Muskegon and Carlisle can mutually agree either to:
- Have Carlisle proceed promptly with said repairs and rebuilding, in which event the said use shall be abated; or
 - To terminate this Agreement.

17. **RISK OF LOSS.** During the term of this lease, and any extension or renewal thereof, the risk of loss with respect to all risks insurable under a fire and extended coverage insurance policy meeting the requirements of the laws of the State of Michigan, together with the risk of loss with respect to all uninsurable losses to the premises which are subject to the control or prevention by Carlisle, shall rest upon Carlisle.
18. **SUBROGATION.** Carlisle, its officers, agents, or employees shall not be liable for damage to the Leased Premises or for interruption of rent resulting from any of the perils covered by fire and extended coverage insurance, or which would be covered if such insurance were in force, and the City of Muskegon agrees not to sue for such damage and that every applicable policy of insurance will contain or be endorsed with the standard waiver of subrogation clause. The City of Muskegon shall not be liable for damage to the property or business of Carlisle in or on the Carlisle Space resulting from any of the perils covered if such insurance were in force, and Carlisle agrees not to sue for such damage and that every applicable policy of insurance will contain or be endorsed with the standard waiver of subrogation clause.
19. **INSURANCE.** Carlisle, at its expense, shall maintain general liability insurance insuring the City of Muskegon and Carlisle with minimum coverage as follows: **\$1,000,000.00.** Carlisle shall provide the City of Muskegon with a Certificate of Insurance showing the City of Muskegon and CFMC as additional insureds. The Certificate shall provide for a thirty (30) day written notice to the City of Muskegon and CFMC in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies, which may be owned by the City of Muskegon or Carlisle, Carlisle and the City of Muskegon, for the benefit of each other, waive any and all rights of subrogation, which might otherwise exist. The City of Muskegon agrees to notify Carlisle in writing as soon as practicable of any claim, demand or action arising out of an occurrence covered, and to cooperate with Carlisle in the investigation and defense of such claim. Carlisle and the City of Muskegon agree that each insurance policy shall provide for a minimum of thirty (30) days written notice of cancellation to the City of Muskegon. Carlisle shall also be responsible for a portion of the cost of the liquor liability insurance purchased by the City of Muskegon for the Arena. Carlisle agrees that the amount of the liquor liability premium equal to the percent that Carlisle's alcohol sales bear to total sales under the License during the measured period of time shall be added to the monthly Use Payment on an estimated prorated basis, with any necessary adjustments being made within 30 days after the end of a calendar quarter.
20. **SIGNS.** The City of Muskegon and Carlisle shall cooperate to secure maximum signage area for Carlisle which shall be reasonable commensurate with its exclusive space. All signage shall be in conformance with applicable laws and statutes and Carlisle shall not construct the signage without the prior written consent of the City of Muskegon which consent shall not unreasonably be withheld or delayed.
21. **ABANDONMENT OF CARLISLE SPACE.** If Carlisle shall abandon or vacate the Carlisle Space, or be dispossessed by process of law, or otherwise, the City of Muskegon shall have the right to declare this Agreement is terminated. In such event, any personal property belonging to Carlisle left within the Carlisle Space shall be

deemed to be abandoned, and the City of Muskegon shall be permitted to dispose of such personal property as it deems appropriate.

22. **INSOLVENCY.** In the event that a receiver shall be appointed to take over the Carlisle's business, and such receivership is not dismissed within sixty (60) days or in the event that the Carlisle shall make a general assignment for the benefit of creditors, or Carlisle shall take or suffer any action under any insolvency or bankruptcy act, the same shall constitute breach of this Agreement by Carlisle.
23. **TERMINATION OF AGREEMENT.** Subject to the provisions in Paragraph 25, The City of Muskegon, at its option, may declare this Agreement terminated in its entirety upon the happening of any one or more of the following events:
- a. If the any expenses, fees, charges, and/or other money payments for which Carlisle is financially responsible, shall be unpaid thirty (30) days from the date that they become due;
 - b. If Carlisle abandons the Carlisle Space for a period of thirty (30) days at any one time, except when such abandonment and cessation is due to fire, earthquake, governmental action, default of the City of Muskegon, or other cause beyond it control;
 - c. If Carlisle shall use or permit the use of the Carlisle Space at any time for any purpose for which the use was not authorized by this Agreement or by a subsequent written agreement between the parties after written notice and opportunity to cure; and
 - d. If Carlisle shall use or permit the use of the Carlisle Space in violation of any law, rule or regulation to which Carlisle had agreed in this Agreement to conform after written notice and opportunity to cure.
24. **REMEDIES OF OWNER ON DEFAULT.** In the event of any material breach of this Agreement by Carlisle, the City of Muskegon may, at its option, terminate this Agreement and recover from Carlisle: (a) the worth at the time of award of the unpaid monthly Use Payment which would have been earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid monthly Use Payment which would have been earned after termination until the time of the award exceeds the amount of such loss of use that the Carlisle proves could have been reasonably avoided; (c) the worth at the time of award of the amount by which the unpaid monthly Use Payment for the balance of the term after the time of award exceeds the amount of such loss of use that Carlisle proves could be reasonably avoided.

The City of Muskegon may, in the alternative, continue this Agreement in effect, as long as the City of Muskegon does not terminate Carlisle's right to use and management, and the City of Muskegon may enforce all his rights and remedies under this Agreement, including the right to recover the monthly Use Payment under this Agreement, if said breach continues, the City of Muskegon may at any time

thereafter, elect to terminate this Agreement. Nothing contained herein shall be deemed to limit any other rights or remedies which the City of Muskegon may have.

25. **RIGHT TO CURE.** In addition to the rights herein before set forth, Carlisle shall have the right to contest any allegation of material breach in the appropriate court in Muskegon County, Michigan. In the event of an adjudication of a material default of this agreement by such court, the relief shall provide that Carlisle shall have 30 days from the date of such adjudication to cure the default.

26. **RESERVATION OF RIGHTS BY THE. CITY OF MUSKEGON.**

a. The City of Muskegon reserves the right to further develop or improve the Arena as it sees fits, regardless of the desires or view of Carlisle.

b. The City of Muskegon reserves the right to adopt, from time to time, reasonable rules and regulations for the operation of the Arena which are not inconsistent with the provisions of this Agreement. Carlisle and its agents, employees, invitees, and licenses shall comply with all those rules and regulations.

27. **SURRENDER AND HOLDING OVER.** Carlisle agrees that at the expiration or termination of this Agreement, it will quit and surrender the Carlisle Space in good state and condition, reasonable wear and tear excepted, and also excepting damage arising from acts, events or conditions beyond the control of Carlisle, and that Carlisle shall forthwith remove all equipment trade fixtures and personal property belonging to it. Carlisle shall give the City of Muskegon the first right of refusal to purchase any equipment or trade fixtures purchased by Carlisle. Carlisle further agrees that all structures and improvements on the Carlisle Space and all fixtures in Exhibit B are the property of the City of Muskegon, shall remain upon the Carlisle Space, and shall be in good usable order and condition, with allowance for reasonable wear and tear and damage by the elements, and also excepting damage arising from acts, events and conditions beyond the control of Carlisle. The City of Muskegon shall have the right upon such expiration or termination to enter upon and take possession of such property.

28. **GENERAL PROVISIONS.**

a. **Governing Law.** This Agreement is executed in accordance with, shall be governed by, and construed and interpreted in accordance with the laws of the State of Michigan.

b. **Entire Agreement.** This Agreement shall constitute the entire agreement, and shall supersede any other agreements, written or oral, and any contemporaneous or prior negotiations and representations that may have been made or entered into, by and between the parties with respect to the subject matter of this Agreement and shall not be modified or amended except in a subsequent writing signed by the party against whom enforcement is sought.

- c. **Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of and be enforceable by, the parties and their respective legal representatives, permitted successors and assigns.
- d. **Counterparts.** This Agreement may be executed in counterparts, and each set of duly delivered identical counterparts which includes all signatories shall be deemed to be one original document.
- e. **Full Execution.** This Agreement requires the signature of both parties. Until fully executed, on a single copy or in counterparts, this Agreement is of no binding force or effect and if not fully executed, this Agreement is void.
- f. **Non-Waiver.** No waiver by any party of any provision of this Agreement shall constitute a waiver by such party of such provision on any other occasion or a waiver by such party of any other provision of this Agreement.
- g. **Severability.** Should any one or more of the provisions of this Agreement be determined to be invalid, unlawful, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be impaired or affected.
- h. **Assignment or Delegation.** Except as otherwise specifically set forth in this Agreement, neither party shall assign all or any portion of its rights and obligations contained in this Agreement without the express prior written approval of the other party, which approval may not be unreasonably withheld.
- i. **Venue.** The parties agree that for purposes of any dispute in connection with this agreement, the Muskegon County Circuit Court shall have exclusive personal and subject matter jurisdiction and venue.
- j. **Terms.** Nouns and pronouns will be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the person or persons, firm or corporation may in the context require.
- k. **Fax Signatures.** The parties have agreed that fax copies of the signed Agreement shall constitute a valid, enforceable agreement. Each party will mail originals to the respective party upon their execution of this Agreement.
- l. **Notices.** Any notice which either party may or is required to give, shall be given by mailing the same, postage prepaid, to Carlisle at the address shown above, or the City of Muskegon at the address shown above, or at other such places as may be designated by the parties from time to time. Notice shall be sent by regular first-class mail or by registered or certified mail, return receipt requested.

**Signature Page to the Amendment to Agreement for Management of a
Portion of a Licensed Premises Pursuant to Participating Agreement
Effective Date October ____, 2022**

THE CITY OF MUSKEGON –

By: _____
Name: Ken Johnson
Title: Mayor
Date: _____, 2022

By: _____
Name: Ann Meisch
Title: Clerk
Date: _____, 2022

CARLISLE'S GOODS & LEISURE, LLC –

By: _____
Name: _____
Title: Manager
Date: _____, 2022

Exhibit A

Carlisle Space

(attached)

Exhibit B

Carlisle Plans, Specifications, and Fixtures

(attached)

Exhibit C

Amortization Schedule

Compound Period: Monthly

Nominal Annual Rate: 5.000 %

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Loan	10/01/2022	439,219.91	1		
2	Payment	11/01/2022	3,074.53	216	Monthly	10/01/2040
3	Payment	11/01/2040	4,675.85	1		

AMORTIZATION SCHEDULE - Normal Amortization

	Date	Payment	Interest	Principal	Balance
Loan	10/01/2022				439,219.91
1	11/01/2022	3,074.53	1,830.08	1,244.45	437,975.46
2	12/01/2022	3,074.53	1,824.90	1,249.63	436,725.83
2022 Totals		6,149.06	3,654.98	2,494.08	
3	01/01/2023	3,074.53	1,819.69	1,254.84	435,470.99
4	02/01/2023	3,074.53	1,814.46	1,260.07	434,210.92
5	03/01/2023	3,074.53	1,809.21	1,265.32	432,945.60
6	04/01/2023	3,074.53	1,803.94	1,270.59	431,675.01
7	05/01/2023	3,074.53	1,798.65	1,275.88	430,399.13
8	06/01/2023	3,074.53	1,793.33	1,281.20	429,117.93
9	07/01/2023	3,074.53	1,787.99	1,286.54	427,831.39
10	08/01/2023	3,074.53	1,782.63	1,291.90	426,539.49
11	09/01/2023	3,074.53	1,777.25	1,297.28	425,242.21
12	10/01/2023	3,074.53	1,771.84	1,302.69	423,939.52
13	11/01/2023	3,074.53	1,766.41	1,308.12	422,631.40
14	12/01/2023	3,074.53	1,760.96	1,313.57	421,317.83

2023 Totals		36,894.36	21,486.36	15,408.00	
15	01/01/2024	3,074.53	1,755.49	1,319.04	419,998.79
16	02/01/2024	3,074.53	1,749.99	1,324.54	418,674.25
17	03/01/2024	3,074.53	1,744.48	1,330.05	417,344.20
18	04/01/2024	3,074.53	1,738.93	1,335.60	416,008.60
19	05/01/2024	3,074.53	1,733.37	1,341.16	414,667.44
20	06/01/2024	3,074.53	1,727.78	1,346.75	413,320.69
21	07/01/2024	3,074.53	1,722.17	1,352.36	411,968.33
22	08/01/2024	3,074.53	1,716.53	1,358.00	410,610.33
23	09/01/2024	3,074.53	1,710.88	1,363.65	409,246.68
24	10/01/2024	3,074.53	1,705.19	1,369.34	407,877.34
25	11/01/2024	3,074.53	1,699.49	1,375.04	406,502.30
26	12/01/2024	3,074.53	1,693.76	1,380.77	405,121.53
2024 Totals		36,894.36	20,698.06	16,196.30	
27	01/01/2025	3,074.53	1,688.01	1,386.52	403,735.01
28	02/01/2025	3,074.53	1,682.23	1,392.30	402,342.71
29	03/01/2025	3,074.53	1,676.43	1,398.10	400,944.61
30	04/01/2025	3,074.53	1,670.60	1,403.93	399,540.68
31	05/01/2025	3,074.53	1,664.75	1,409.78	398,130.90
32	06/01/2025	3,074.53	1,658.88	1,415.65	396,715.25
33	07/01/2025	3,074.53	1,652.98	1,421.55	395,293.70
34	08/01/2025	3,074.53	1,647.06	1,427.47	393,866.23
35	09/01/2025	3,074.53	1,641.11	1,433.42	392,432.81
36	10/01/2025	3,074.53	1,635.14	1,439.39	390,993.42
37	11/01/2025	3,074.53	1,629.14	1,445.39	389,548.03
38	12/01/2025	3,074.53	1,623.12	1,451.41	388,096.62
2025 Totals		36,894.36	19,869.45	17,024.91	
39	01/01/2026	3,074.53	1,617.07	1,457.46	386,639.16

40	02/01/2026	3,074.53	1,611.00	1,463.53	385,175.63
41	03/01/2026	3,074.53	1,604.90	1,469.63	383,706.00
42	04/01/2026	3,074.53	1,598.78	1,475.75	382,230.25
43	05/01/2026	3,074.53	1,592.63	1,481.90	380,748.35
44	06/01/2026	3,074.53	1,586.45	1,488.08	379,260.27
45	07/01/2026	3,074.53	1,580.25	1,494.28	377,765.99
46	08/01/2026	3,074.53	1,574.02	1,500.51	376,265.48
47	09/01/2026	3,074.53	1,567.77	1,506.76	374,758.72
48	10/01/2026	3,074.53	1,561.49	1,513.04	373,245.68
49	11/01/2026	3,074.53	1,555.19	1,519.34	371,726.34
50	12/01/2026	3,074.53	1,548.86	1,525.67	370,200.67
2026 Totals		36,894.36	18,998.41	17,895.95	
51	01/01/2027	3,074.53	1,542.50	1,532.03	368,668.64
52	02/01/2027	3,074.53	1,536.12	1,538.41	367,130.23
53	03/01/2027	3,074.53	1,529.71	1,544.82	365,585.41
54	04/01/2027	3,074.53	1,523.27	1,551.26	364,034.15
55	05/01/2027	3,074.53	1,516.81	1,557.72	362,476.43
56	06/01/2027	3,074.53	1,510.32	1,564.21	360,912.22
57	07/01/2027	3,074.53	1,503.80	1,570.73	359,341.49
58	08/01/2027	3,074.53	1,497.26	1,577.27	357,764.22
59	09/01/2027	3,074.53	1,490.68	1,583.85	356,180.37
60	10/01/2027	3,074.53	1,484.08	1,590.45	354,589.92
61	11/01/2027	3,074.53	1,477.46	1,597.07	352,992.85
62	12/01/2027	3,074.53	1,470.80	1,603.73	351,389.12
2027 Totals		36,894.36	18,082.81	18,811.55	
63	01/01/2028	3,074.53	1,464.12	1,610.41	349,778.71
64	02/01/2028	3,074.53	1,457.41	1,617.12	348,161.59
65	03/01/2028	3,074.53	1,450.67	1,623.86	346,537.73

66	04/01/2028	3,074.53	1,443.91	1,630.62	344,907.11
67	05/01/2028	3,074.53	1,437.11	1,637.42	343,269.69
68	06/01/2028	3,074.53	1,430.29	1,644.24	341,625.45
69	07/01/2028	3,074.53	1,423.44	1,651.09	339,974.36
70	08/01/2028	3,074.53	1,416.56	1,657.97	338,316.39
71	09/01/2028	3,074.53	1,409.65	1,664.88	336,651.51
72	10/01/2028	3,074.53	1,402.71	1,671.82	334,979.69
73	11/01/2028	3,074.53	1,395.75	1,678.78	333,300.91
74	12/01/2028	3,074.53	1,388.75	1,685.78	331,615.13
2028 Totals		36,894.36	17,120.37	19,773.99	
75	01/01/2029	3,074.53	1,381.73	1,692.80	329,922.33
76	02/01/2029	3,074.53	1,374.68	1,699.85	328,222.48
77	03/01/2029	3,074.53	1,367.59	1,706.94	326,515.54
78	04/01/2029	3,074.53	1,360.48	1,714.05	324,801.49
79	05/01/2029	3,074.53	1,353.34	1,721.19	323,080.30
80	06/01/2029	3,074.53	1,346.17	1,728.36	321,351.94
81	07/01/2029	3,074.53	1,338.97	1,735.56	319,616.38
82	08/01/2029	3,074.53	1,331.73	1,742.80	317,873.58
83	09/01/2029	3,074.53	1,324.47	1,750.06	316,123.52
84	10/01/2029	3,074.53	1,317.18	1,757.35	314,366.17
85	11/01/2029	3,074.53	1,309.86	1,764.67	312,601.50
86	12/01/2029	3,074.53	1,302.51	1,772.02	310,829.48
2029 Totals		36,894.36	16,108.71	20,785.65	
87	01/01/2030	3,074.53	1,295.12	1,779.41	309,050.07
88	02/01/2030	3,074.53	1,287.71	1,786.82	307,263.25
89	03/01/2030	3,074.53	1,280.26	1,794.27	305,468.98
90	04/01/2030	3,074.53	1,272.79	1,801.74	303,667.24
91	05/01/2030	3,074.53	1,265.28	1,809.25	301,857.99

92	06/01/2030	3,074.53	1,257.74	1,816.79	300,041.20
93	07/01/2030	3,074.53	1,250.17	1,824.36	298,216.84
94	08/01/2030	3,074.53	1,242.57	1,831.96	296,384.88
95	09/01/2030	3,074.53	1,234.94	1,839.59	294,545.29
96	10/01/2030	3,074.53	1,227.27	1,847.26	292,698.03
97	11/01/2030	3,074.53	1,219.58	1,854.95	290,843.08
98	12/01/2030	3,074.53	1,211.85	1,862.68	288,980.40
2030 Totals		36,894.36	15,045.28	21,849.08	
99	01/01/2031	3,074.53	1,204.09	1,870.44	287,109.96
100	02/01/2031	3,074.53	1,196.29	1,878.24	285,231.72
101	03/01/2031	3,074.53	1,188.47	1,886.06	283,345.66
102	04/01/2031	3,074.53	1,180.61	1,893.92	281,451.74
103	05/01/2031	3,074.53	1,172.72	1,901.81	279,549.93
104	06/01/2031	3,074.53	1,164.79	1,909.74	277,640.19
105	07/01/2031	3,074.53	1,156.83	1,917.70	275,722.49
106	08/01/2031	3,074.53	1,148.84	1,925.69	273,796.80
107	09/01/2031	3,074.53	1,140.82	1,933.71	271,863.09
108	10/01/2031	3,074.53	1,132.76	1,941.77	269,921.32
109	11/01/2031	3,074.53	1,124.67	1,949.86	267,971.46
110	12/01/2031	3,074.53	1,116.55	1,957.98	266,013.48
2031 Totals		36,894.36	13,927.44	22,966.92	
111	01/01/2032	3,074.53	1,108.39	1,966.14	264,047.34
112	02/01/2032	3,074.53	1,100.20	1,974.33	262,073.01
113	03/01/2032	3,074.53	1,091.97	1,982.56	260,090.45
114	04/01/2032	3,074.53	1,083.71	1,990.82	258,099.63
115	05/01/2032	3,074.53	1,075.42	1,999.11	256,100.52
116	06/01/2032	3,074.53	1,067.09	2,007.44	254,093.08
117	07/01/2032	3,074.53	1,058.72	2,015.81	252,077.27

118	08/01/2032	3,074.53	1,050.32	2,024.21	250,053.06
119	09/01/2032	3,074.53	1,041.89	2,032.64	248,020.42
120	10/01/2032	3,074.53	1,033.42	2,041.11	245,979.31
121	11/01/2032	3,074.53	1,024.91	2,049.62	243,929.69
122	12/01/2032	3,074.53	1,016.37	2,058.16	241,871.53
2032 Totals		36,894.36	12,752.41	24,141.95	
123	01/01/2033	3,074.53	1,007.80	2,066.73	239,804.80
124	02/01/2033	3,074.53	999.19	2,075.34	237,729.46
125	03/01/2033	3,074.53	990.54	2,083.99	235,645.47
126	04/01/2033	3,074.53	981.86	2,092.67	233,552.80
127	05/01/2033	3,074.53	973.14	2,101.39	231,451.41
128	06/01/2033	3,074.53	964.38	2,110.15	229,341.26
129	07/01/2033	3,074.53	955.59	2,118.94	227,222.32
130	08/01/2033	3,074.53	946.76	2,127.77	225,094.55
131	09/01/2033	3,074.53	937.89	2,136.64	222,957.91
132	10/01/2033	3,074.53	928.99	2,145.54	220,812.37
133	11/01/2033	3,074.53	920.05	2,154.48	218,657.89
134	12/01/2033	3,074.53	911.07	2,163.46	216,494.43
2033 Totals		36,894.36	11,517.26	25,377.10	
135	01/01/2034	3,074.53	902.06	2,172.47	214,321.96
136	02/01/2034	3,074.53	893.01	2,181.52	212,140.44
137	03/01/2034	3,074.53	883.92	2,190.61	209,949.83
138	04/01/2034	3,074.53	874.79	2,199.74	207,750.09
139	05/01/2034	3,074.53	865.63	2,208.90	205,541.19
140	06/01/2034	3,074.53	856.42	2,218.11	203,323.08
141	07/01/2034	3,074.53	847.18	2,227.35	201,095.73
142	08/01/2034	3,074.53	837.90	2,236.63	198,859.10
143	09/01/2034	3,074.53	828.58	2,245.95	196,613.15

144	10/01/2034	3,074.53	819.22	2,255.31	194,357.84
145	11/01/2034	3,074.53	809.82	2,264.71	192,093.13
146	12/01/2034	3,074.53	800.39	2,274.14	189,818.99
2034 Totals		36,894.36	10,218.92	26,675.44	
147	01/01/2035	3,074.53	790.91	2,283.62	187,535.37
148	02/01/2035	3,074.53	781.40	2,293.13	185,242.24
149	03/01/2035	3,074.53	771.84	2,302.69	182,939.55
150	04/01/2035	3,074.53	762.25	2,312.28	180,627.27
151	05/01/2035	3,074.53	752.61	2,321.92	178,305.35
152	06/01/2035	3,074.53	742.94	2,331.59	175,973.76
153	07/01/2035	3,074.53	733.22	2,341.31	173,632.45
154	08/01/2035	3,074.53	723.47	2,351.06	171,281.39
155	09/01/2035	3,074.53	713.67	2,360.86	168,920.53
156	10/01/2035	3,074.53	703.84	2,370.69	166,549.84
157	11/01/2035	3,074.53	693.96	2,380.57	164,169.27
158	12/01/2035	3,074.53	684.04	2,390.49	161,778.78
2035 Totals		36,894.36	8,854.15	28,040.21	
159	01/01/2036	3,074.53	674.08	2,400.45	159,378.33
160	02/01/2036	3,074.53	664.08	2,410.45	156,967.88
161	03/01/2036	3,074.53	654.03	2,420.50	154,547.38
162	04/01/2036	3,074.53	643.95	2,430.58	152,116.80
163	05/01/2036	3,074.53	633.82	2,440.71	149,676.09
164	06/01/2036	3,074.53	623.65	2,450.88	147,225.21
165	07/01/2036	3,074.53	613.44	2,461.09	144,764.12
166	08/01/2036	3,074.53	603.18	2,471.35	142,292.77
167	09/01/2036	3,074.53	592.89	2,481.64	139,811.13
168	10/01/2036	3,074.53	582.55	2,491.98	137,319.15
169	11/01/2036	3,074.53	572.16	2,502.37	134,816.78

170	12/01/2036	3,074.53	561.74	2,512.79	132,303.99
2036 Totals		36,894.36	7,419.57	29,474.79	
171	01/01/2037	3,074.53	551.27	2,523.26	129,780.73
172	02/01/2037	3,074.53	540.75	2,533.78	127,246.95
173	03/01/2037	3,074.53	530.20	2,544.33	124,702.62
174	04/01/2037	3,074.53	519.59	2,554.94	122,147.68
175	05/01/2037	3,074.53	508.95	2,565.58	119,582.10
176	06/01/2037	3,074.53	498.26	2,576.27	117,005.83
177	07/01/2037	3,074.53	487.52	2,587.01	114,418.82
178	08/01/2037	3,074.53	476.75	2,597.78	111,821.04
179	09/01/2037	3,074.53	465.92	2,608.61	109,212.43
180	10/01/2037	3,074.53	455.05	2,619.48	106,592.95
181	11/01/2037	3,074.53	444.14	2,630.39	103,962.56
182	12/01/2037	3,074.53	433.18	2,641.35	101,321.21
2037 Totals		36,894.36	5,911.58	30,982.78	
183	01/01/2038	3,074.53	422.17	2,652.36	98,668.85
184	02/01/2038	3,074.53	411.12	2,663.41	96,005.44
185	03/01/2038	3,074.53	400.02	2,674.51	93,330.93
186	04/01/2038	3,074.53	388.88	2,685.65	90,645.28
187	05/01/2038	3,074.53	377.69	2,696.84	87,948.44
188	06/01/2038	3,074.53	366.45	2,708.08	85,240.36
189	07/01/2038	3,074.53	355.17	2,719.36	82,521.00
190	08/01/2038	3,074.53	343.84	2,730.69	79,790.31
191	09/01/2038	3,074.53	332.46	2,742.07	77,048.24
192	10/01/2038	3,074.53	321.03	2,753.50	74,294.74
193	11/01/2038	3,074.53	309.56	2,764.97	71,529.77
194	12/01/2038	3,074.53	298.04	2,776.49	68,753.28
2038 Totals		36,894.36	4,326.43	32,567.93	

195	01/01/2039	3,074.53	286.47	2,788.06	65,965.22
196	02/01/2039	3,074.53	274.86	2,799.67	63,165.55
197	03/01/2039	3,074.53	263.19	2,811.34	60,354.21
198	04/01/2039	3,074.53	251.48	2,823.05	57,531.16
199	05/01/2039	3,074.53	239.71	2,834.82	54,696.34
200	06/01/2039	3,074.53	227.90	2,846.63	51,849.71
201	07/01/2039	3,074.53	216.04	2,858.49	48,991.22
202	08/01/2039	3,074.53	204.13	2,870.40	46,120.82
203	09/01/2039	3,074.53	192.17	2,882.36	43,238.46
204	10/01/2039	3,074.53	180.16	2,894.37	40,344.09
205	11/01/2039	3,074.53	168.10	2,906.43	37,437.66
206	12/01/2039	3,074.53	155.99	2,918.54	34,519.12
2039 Totals		36,894.36	2,660.20	34,234.16	
207	01/01/2040	3,074.53	143.83	2,930.70	31,588.42
208	02/01/2040	3,074.53	131.62	2,942.91	28,645.51
209	03/01/2040	3,074.53	119.36	2,955.17	25,690.34
210	04/01/2040	3,074.53	107.04	2,967.49	22,722.85
211	05/01/2040	3,074.53	94.68	2,979.85	19,743.00
212	06/01/2040	3,074.53	82.26	2,992.27	16,750.73
213	07/01/2040	3,074.53	69.79	3,004.74	13,745.99
214	08/01/2040	3,074.53	57.27	3,017.26	10,728.73
215	09/01/2040	3,074.53	44.70	3,029.83	7,698.90
216	10/01/2040	3,074.53	32.08	3,042.45	4,656.45
217	11/01/2040	4,675.85	19.40	4,656.45	0.00
2040 Totals		35,421.15	902.03	34,519.12	
Grand Totals		668,774.33	229,554.42	439,219.91	

**Agreement for Management of a Portion of a Licensed Premises
Pursuant to Participating Agreement**

THIS AGREEMENT is made and executed as of May 6th, 2022
between the

City of Muskegon

a Michigan municipal corporation
933 Terrace St.
Muskegon, MI 49440
(hereinafter "City of Muskegon"), and

Carlisle's Goods & Leisure, LLC

a Michigan limited liability company
14716 Leonard Rd.
Spring Lake, MI 49456
(hereinafter "Carlisle")

RECITALS

- A. The City of Muskegon owns the Mercy Health Arena located at 470 W. Western Avenue, Muskegon, Michigan 49440 ("Arena"). The City of Muskegon is responsible for operation, maintenance and improvements for the Arena.
- B. The City of Muskegon has the authority to authorize use of portions of the Arena on an exclusive and non-exclusive basis.
- C. The City of Muskegon has applied for a Class C liquor license and related permits issued by the Michigan Liquor Control Commission ("MLCC") for providing a restaurant, concessions, bar and bar service throughout the Arena (collectively the "License").
- D. The City of Muskegon proposes entering into a Participating Agreement with Carlisle pursuant to Rule 436.1401 to permit the limited use of the license, subject to and only upon the approval of the MLCC, upon the terms and conditions of this Agreement.
- E. In connection with this Agreement, the City of Muskegon is willing to grant to Carlisle, and Carlisle desires to receive from the City of Muskegon, the exclusive right to use and manage that portion of the Arena to be known as the Carlisle Area (See attached **Exhibit A**) for the operation of a certain restaurant and bar business commonly known as the "Carlisle's Goods & Leisure", subject to and in accordance with the terms and conditions of this Agreement.

of its intent to renew this Agreement in writing no later than sixty (60) days prior to the expiration of the initial term and any renewal term provided, however, that said sixty (60) days shall not begin to toll until sixty (60) days after the City of Muskegon has provided Carlisle with written notice of the expiration of the initial term or any renewal term.

4. **CONSTRUCTION AND IMPROVEMENTS; USAGE.** Upon approval by the MLCC of the Participating Agreement, the City of Muskegon, at its sole cost and expense, will undertake construction of Carlisle Space improvements substantially in accordance with the plans, specifications and costs identified and attached hereto as Exhibit B. The City of Muskegon agrees to proceed in good faith and in a reasonable manner in order to complete the work and obtain all regulatory approvals and signoffs within 60 days of this agreement provided that an additional term of 120 days will be allowed for completion. Carlisle will repay the City of Muskegon the actual costs of the improvements within 90 days following the completion of the construction and issuance approval of the License, whichever occurs later. Upon completion of the construction, the City of Muskegon shall provide Carlisle with written confirmation of the amounts expended by the City of Muskegon under this Section 4. The total Cost of Improvements shall not exceed \$650,000 unless mutually agreed to between the parties and, once repayment is made by Carlisle as set forth above, shall be credited against the Use Payments provided for in Paragraph 6.

Carlisle shall use and manage the Carlisle Space for purposes of operating a sports bar and restaurant operation, including food and beverage service preparation ("Restaurant").

5. **CARLISLE'S COMPENSATION.** In consideration for the management and operation of the Restaurant and the Carlisle Space, Carlisle shall retain 100% of the net profits generated from the operation of the Restaurant, including the sale of alcoholic beverages under the License, non-alcoholic beverages, food, merchandise and cover charges and other goods and services which would not constitute a violation of MLCC rules. The term "net profits" as used in this Agreement shall mean all revenue derived from the operation of the Restaurant less all expenses related to the operation of the Restaurant. During the term of this Agreement, Carlisle will deliver to the City of Muskegon by the 15th day of the end of each month an income statement certified by an officer or manager of Carlisle setting forth its net profits. Carlisle grants to the City of Muskegon the right at all reasonable times to have access to all books, accounts, records and reports, that may be kept by Carlisle showing all financial information related to the operation of the Restaurant. If a review discloses any discrepancy in the net profits, the parties shall mutually agree on a Certified Public Accountant to review the financial statements and records of Carlisle and determine the net profits. Such determination shall be binding on the parties.

In consideration of the premises and the mutual promises set forth herein, the parties agree as follows:

1. **CARLISLE PARTICIPATING AGREEMENT.** Upon execution of this Agreement, the parties agree to act in good faith and to utilize their best efforts to make application to the MLCC for a Participating Agreement/Participation Permit Application pursuant to Rule 436.1041. Carlisle will operate a full-service restaurant, bar and bar service within the Carlisle Space as hereinafter defined. The parties acknowledge that this Agreement is contingent upon and shall only become effective upon approval of the MLCC of the Participating Agreement/Participation Permit Application.
2. **DESCRIPTION OF CARLISLE SPACE.** Carlisle will have the right to use and manage the Carlisle Space and fixtures as follows:
 - a. The exclusive right to use and manage the Carlisle Space (depicted on the attached **Exhibit A**) and the Outdoor Sidewalk Patio, and a non-exclusive right of access for Carlisle's employees, patrons and suppliers to and from the Restaurant Space across other portions of the Arena.
 - b. The limited nonexclusive right to use other areas in the Arena that would not interfere with the management and operation of the Arena by the City of Muskegon, excluding only the area identified as the "Rad Dad's Space" in the Agreement for Management of a Portion of a Licensed Premises Pursuant to Participating Agreement between the City of Muskegon and Rad Dad's, LLC (depicted on **Exhibit B**).
 - c. Notwithstanding the foregoing, during events held at the Arena when it is open to the public, the term exclusive use shall be construed to allow patrons to enter and leave the Carlisle Space and all areas of the Arena licensed by the MLCC.
3. **TERM.** This Agreement shall become effective upon execution with the contingencies provided for herein. The initial term of this Agreement shall be for a period of five (5) years commencing with the approval of the MLCC of the Participating Agreement/Participation Permit Application with a term extension equal to the time from such approval to the date a certificate of occupancy is issued by the City of Muskegon, a license is issued by the Muskegon County Department of Health or the MLCC has approved the licensed space identified on Exhibit A, whichever date is latest. The monthly Use Payment shall commence on the first day of the month following such approval. In addition, Carlisle shall have six additional five (5) year options. In the absence of any other provision herein, Carlisle shall be provided written notice of any default and afforded not less than sixty (60) days to cure the default. Provided that Carlisle is not in material default of this Agreement at the time of expiration of the initial term or any option term, Carlisle shall provide the City of Muskegon with written notice

6. **MONTHLY USE PAYMENT.** In consideration of this Agreement, Carlisle shall pay monthly Use Payment to the City of Muskegon in an amount equal to \$3,645.83 during the initial Term. Provided, each subsequent five-year renewal option thereafter, the applicable monthly Use Payment will be adjusted as follows:

a. Option #1	\$4,229.17
b. Option #2	\$4,666.67
c. Option #3	\$4,958.33
d. Option #4	\$5,250.00
e. Option #5	\$5,541.67
f. Option #6	\$5,833.33

Construction costs paid by Carlisle and/or reimbursed to the City of Muskegon, up to \$650,000 as set forth in paragraph 4, will result in a use credit to Carlisle at the rate of \$7.00 per month for each \$1,000 of construction costs incurred together with interest on the unreimbursed construction costs calculated at the rate of 5% per annum. Any unused credit for the month shall roll over and be added to the total available use credit in subsequent months. These credits shall continue monthly for the term of this Agreement and any extensions thereof to and until such time as the use credit is fully utilized and amortized.

7. **ADJUSTMENT OF MONTHLY USE PAYMENT.** The monthly Use Payment shall be adjusted upon the following events and upon the following terms:

i. **Professional Hockey, Football, and Soccer Games.** The amount of monthly use fee shall periodically increase during months when there occur in the Arena USHL hockey, professional football, and/or professional soccer games. The amount of such increase shall be the sum of \$500 per USHL hockey event day, \$400 per professional football event day and \$400 per professional soccer event day that takes place at the Arena during a given month, and shall be paid with the payment of the following month's use payment. For example, if during the term of this Agreement there are five hockey events and two football events at the Arena during the month of January, Carlisle's use fee for the month of February would be increased by \$3,300 (\$500 x five hockey events (\$2,500) + \$400 x two football events (\$800) = \$3,300). Carlisle shall have no further obligation to provide financial support or sponsorship to any event using the Mercy Health Arena. If Carlisle can reasonably demonstrate that events held in the Arena other than USHL hockey, professional football, and professional soccer, negatively impact the gross sale of Carlisle, Carlisle shall not be obligated to pay a temporary rent increase for any such other events.

ii. **Suspension of Liquor License.** In the event that the License issued by the MLCC shall be suspended, Use Payments shall be suspended pro rata during such suspension term.

8. **CONTRIBUTION TO OVERHEAD AND MAINTENANCE.** Carlisle shall also pay to the City of Muskegon a contribution for overhead utilities not separately metered and maintenance an amount equal to \$1,750 per month during the initial Term.
9. **UTILITY COSTS.** City shall pay all charges for gas, electricity, water, power, telephone, cable television and internet service used, rendered or supplied upon or in connection with the Carlisle Space. City shall have the discretion to set the level of cable service provided within the Carlisle Space. Carlisle may request that the City upgrade such services, with the additional associated costs added to Carlisle's contribution to overhead and maintenance as outlined in Section 8 of this Agreement.
10. **ASSIGNMENT.** Carlisle shall not assign this Agreement without prior written consent of the City of Muskegon and the MLCC. Such approval and consent shall not unreasonably be withheld by the City of Muskegon and shall be subject to the rules and regulations of the MLCC.
11. **OBLIGATIONS OF THE CITY OF MUSKEGON.** The City of Muskegon shall purchase all alcoholic and food inventory to be used by the Restaurant. The City of Muskegon shall furnish "janitorial services" for the exterior of the building and in lobby areas and restrooms used by the public, exclusive of those areas used and managed by Carlisle. The City of Muskegon agrees to maintain in satisfactory working order, all public ways and structures of the Arena, including plate glass, roof, and outer walls and heating, electrical and plumbing supply sites, air conditioning and hot water supply units. The City of Muskegon agrees to allow use of its dumpsters by Carlisle, and the cost of such service shall be shared between The City of Muskegon and Carlisle. The City of Muskegon agrees to be responsible for any structural repairs, replacements or changes in the Arena which affect the Carlisle Space for its intended purpose.
12. **OBLIGATIONS OF CARLISLE.** Carlisle shall reimburse the City of Muskegon for all alcoholic and food inventory purchased by the City of Muskegon for the Restaurant within 15 days of receipt of an invoice from the City of Muskegon. Carlisle agrees that it will pay all expenses in connection with the use and management of the Carlisle Space and fixtures, including, but not limited to, all rights and privileges granted, including all taxes, permits, fees, license fees and assessments lawfully levied or assessed upon Carlisle's personal property or upon its use of possession of the Carlisle Space and fixtures. Except for the License, Carlisle agrees to secure all permits and licenses required related to its use of the Carlisle Space, including any other metered utility services provided to the Carlisle Space.

Carlisle agrees that it will at all times maintain the Carlisle Space and fixtures in a neat, clean, safe, sanitary and orderly condition, and shall provide janitorial services with respect thereto. Carlisle shall provide for the sanitary handling and

disposal of trash and other refuse from its operation in a manner satisfactory to the City of Muskegon.

Carlisle will make no structural changes or additions to the Carlisle Space without first obtaining written approval from the City of Muskegon.

Carlisle agrees to provide and pay for any and all decorations to the Carlisle Space. Carlisle shall provide the following services from the Carlisle Space at all times during the term of this Agreement at its sole cost and expense:

a. Carlisle shall furnish, at its expense, all service equipment of every sort (such as silverware, linen, glassware, crockery, utensils, pots and pans, and additional equipment), which may be required for use in Carlisle's operation and which is not already presently located in the Carlisle Space.

b. Carlisle shall undertake to comply with all MLCC rules and shall not allow entertainment.

c. Carlisle shall cooperate with the City of Muskegon in securing all permits and licenses required by any public agency, including the License issued by the MLCC in connection with the operation of the Arena as a sports and entertainment venue.

d. Carlisle shall carry workers compensation insurance in the amounts required by state law for all employees hired by Carlisle to work in the Carlisle Space.

13. **ORDINANCES AND STATUTES.** Carlisle shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force or which may be in force, pertaining to the premises, occasioned by or affecting the use thereof by Carlisle. The commencement or pendency of any state or federal court abatement proceeding affecting the use of the Carlisle Space shall, at the option of the City of Muskegon, be deemed a breach hereof. The City of Muskegon represents and warrants that the Arena shall be in compliance with the Americans with Disabilities Act, and its regulation, as of the commencement of this Agreement.

14. **MAINTENANCE, REPAIRS, ALTERATIONS.** Carlisle shall, at its expense and at all times, maintain the Carlisle Space in good and safe condition, including plate glass, electrical wiring, plumbing and heating installations. Carlisle shall also maintain in good condition such portions adjacent to the Arena within the Carlisle Space, such as sidewalks, driveways, lawns and shrubbery.

15. **ENTRY AND INSPECTION.** Carlisle shall permit the City of Muskegon or the City of Muskegon's agents to enter upon the Carlisle Space at reasonable times for the purpose of performing maintenance and making repairs and replacement in any case where the City of Muskegon is obligated, and in any other case

where the City of Muskegon determined that it was necessary to do so in order to preserve the structural safety of the Carlisle Space to correct any condition likely to cause injuries or damages to persons or property.

16. **DAMAGE OR DESTRUCTION OF PREMISES.** If by reason of any cause the Carlisle Space is damaged to such an extent that the Carlisle Space is unusable in whole or in substantial part, then:
- a. If the repairs and rebuilding necessary to restore the Carlisle Space to its condition prior to the occurrence or the damage can be in the reasonable judgment of Carlisle be completed within ninety (90) days from the date on which the damage occurred, Carlisle shall so notify the City of Muskegon in writing and shall proceed promptly with such repairs and rebuilding, and in such event the use of said premises shall be abated for the period from the date of the occurrence of such damage to the date upon which such repairs and rebuilding are completed; and
 - b. If such repairs and rebuilding cannot, in the reasonable judgment of Carlisle, be completed within ninety (90) days, the City of Muskegon and Carlisle can mutually agree either to:
 - Have Carlisle proceed promptly with said repairs and rebuilding, in which event the said use shall be abated; or
 - To terminate this Agreement.
17. **RISK OF LOSS.** During the term of this lease, and any extension or renewal thereof, the risk of loss with respect to all risks insurable under a fire and extended coverage insurance policy meeting the requirements of the laws of the State of Michigan, together with the risk of loss with respect to all uninsurable losses to the premises which are subject to the control or prevention by Carlisle, shall rest upon Carlisle.
18. **SUBROGATION.** Carlisle, its officers, agents or employees shall not be liable for damage to the Leased Premises or for interruption of rent resulting from any of the perils covered by fire and extended coverage insurance, or which would be covered if such insurance were in force, and the City of Muskegon agrees not to sue for such damage and that every applicable policy of insurance will contain or be endorsed with the standard waiver of subrogation clause. The City of Muskegon shall not be liable for damage to the property or business of Carlisle in or on the Carlisle Space resulting from any of the perils covered if such insurance were in force, and Carlisle agrees not to sue for such damage and that every applicable policy of insurance will contain or be endorsed with the standard waiver of subrogation clause.

19. **INSURANCE.** Carlisle, at its expense, shall maintain general liability insurance insuring the City of Muskegon and Carlisle with minimum coverage as follows: \$1,000,000.00. Carlisle shall provide the City of Muskegon with a Certificate of Insurance showing the City of Muskegon and CFMC as additional insureds. The Certificate shall provide for a thirty (30) day written notice to the City of Muskegon and CFMC in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies, which may be owned by the City of Muskegon or Carlisle, Carlisle and the City of Muskegon, for the benefit of each other, waive any and all rights of subrogation, which might otherwise exist. The City of Muskegon agrees to notify Carlisle in writing as soon as practicable of any claim, demand or action arising out of an occurrence covered, and to cooperate with Carlisle in the investigation and defense of such claim. Carlisle and the City of Muskegon agree that each insurance policy shall provide for a minimum of thirty (30) days written notice of cancellation to the City of Muskegon. Carlisle shall also be responsible for a portion of the cost of the liquor liability insurance purchased by the City of Muskegon for the Arena. Carlisle agrees that the amount of the liquor liability premium equal to the percent that Carlisle's alcohol sales bear to total sales under the License during the measured period of time shall be added to the monthly Use Payment on an estimated prorated basis, with any necessary adjustments being made within 30 days after the end of a calendar quarter.
20. **SIGNS.** The City of Muskegon and Carlisle shall cooperate to secure maximum signage area for Carlisle which shall be reasonable commensurate with its exclusive space. All signage shall be in conformance with applicable laws and statutes and Carlisle shall not construct the signage without the prior written consent of the City of Muskegon which consent shall not unreasonably be withheld or delayed.
21. **ABANDONMENT OF CARLISLE SPACE.** If Carlisle shall abandon or vacate the Carlisle Space, or be dispossessed by process of law, or otherwise, the City of Muskegon shall have the right to declare this Agreement is terminated. In such event, any personal property belonging to Carlisle left within the Carlisle Space shall be deemed to be abandoned, and the City of Muskegon shall be permitted to dispose of such personal property as it deems appropriate.
22. **INSOLVENCY.** In the event that a receiver shall be appointed to take over the Carlisle's business, and such receivership is not dismissed within sixty (60) days or in the event that the Carlisle shall make a general assignment for the benefit of creditors, or Carlisle shall take or suffer any action under any insolvency or bankruptcy act, the same shall constitute breach of this Agreement by Carlisle.
23. **TERMINATION OF AGREEMENT.** Subject to the provisions in Paragraph 25, The City of Muskegon, at its option, may declare this Agreement terminated in its entirety upon the happening of any one or more of the following events:

a. If the any expenses, fees, charges, and/or other money payments for which Carlisle is financially responsible, shall be unpaid thirty (30) days from the date that they become due;

b. If Carlisle abandons the Carlisle Space for a period of thirty (30) days at any one time, except when such abandonment and cessation is due to fire, earthquake, governmental action, default of the City of Muskegon, or other cause beyond it control;

c. If Carlisle shall use or permit the use of the Carlisle Space at any time for any purpose for which the use was not authorized by this Agreement or by a subsequent written agreement between the parties after written notice and opportunity to cure; and

d. If Carlisle shall use or permit the use of the Carlisle Space in violation of any law, rule or regulation to which Carlisle had agreed in this Agreement to conform after written notice and opportunity to cure.

24. **REMEDIES OF OWNER ON DEFAULT.** In the event of any material breach of this Agreement by Carlisle, the City of Muskegon may, at its option, terminate this Agreement and recover from Carlisle: (a) the worth at the time of award of the unpaid monthly Use Payment which would have been earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid monthly Use Payment which would have been earned after termination until the time of the award exceeds the amount of such loss of use that the Carlisle proves could have been reasonably avoided; (c) the worth at the time of award of the amount by which the unpaid monthly Use Payment for the balance of the term after the time of award exceeds the amount of such loss of use that Carlisle proves could be reasonably avoided.

The City of Muskegon may, in the alternative, continue this Agreement in effect, as long as the City of Muskegon does not terminate Carlisle's right to use and management, and the City of Muskegon may enforce all his rights and remedies under this Agreement, including the right to recover the monthly Use Payment under this Agreement, if said breach continues, the City of Muskegon may at any time thereafter, elect to terminate this Agreement. Nothing contained herein shall be deemed to limit any other rights or remedies which the City of Muskegon may have.

25. **RIGHT TO CURE.** In addition to the rights herein before set forth, Carlisle shall have the right to contest any allegation of material breach in the appropriate court in Muskegon County, Michigan. In the event of an adjudication of a material default of this agreement by such court, the relief shall provide that Carlisle shall have 30 days from the date of such adjudication to cure the default.

26. **RESERVATION OF RIGHTS BY THE CITY OF MUSKEGON.**

a. The City of Muskegon reserves the right to further develop or improve the Arena as it sees fits, regardless of the desires or view of Carlisle.

b. The City of Muskegon reserves the right to adopt, from time to time, reasonable rules and regulations for the operation of the Arena which are not inconsistent with the provisions of this Agreement. Carlisle and its agents, employees, invitees, and licenses shall comply with all those rules and regulations.

27. **SURRENDER AND HOLDING OVER.** Carlisle agrees that at the expiration or termination of this Agreement, it will quit and surrender the Carlisle Space in good state and condition, reasonable wear and tear excepted, and also excepting damage arising from acts, events or conditions beyond the control of Carlisle, and that Carlisle shall forthwith remove all equipment trade fixtures and personal property belonging to it. Carlisle shall give the City of Muskegon the first right of refusal to purchase any equipment or trade fixtures purchased by Carlisle. Carlisle further agrees that all structures and improvements on the Carlisle Space and all fixtures in Exhibit B are the property of the City of Muskegon, shall remain upon the Carlisle Space, and shall be in good usable order and condition, with allowance for reasonable wear and tear and damage by the elements, and also excepting damage arising from acts, events and conditions beyond the control of Carlisle. The City of Muskegon shall have the right upon such expiration or termination to enter upon and take possession of such property.

28. **GENERAL PROVISIONS.**

a. **Governing Law.** This Agreement is executed in accordance with, shall be governed by, and construed and interpreted in accordance with the laws of the State of Michigan.

b. **Entire Agreement.** This Agreement shall constitute the entire agreement, and shall supersede any other agreements, written or oral, and any contemporaneous or prior negotiations and representations that may have been made or entered into, by and between the parties with respect to the subject matter of this Agreement and shall not be modified or amended except in a subsequent writing signed by the party against whom enforcement is sought.

c. **Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of and be enforceable by, the parties and their respective legal representatives, permitted successors and assigns.

d. **Counterparts.** This Agreement may be executed in counterparts, and each set of duly delivered identical counterparts which includes all signatories shall be deemed to be one original document.

e. **Full Execution.** This Agreement requires the signature of both parties. Until fully executed, on a single copy or in counterparts, this Agreement is of no binding force or effect and if not fully executed, this Agreement is void.

f. **Non-Waiver.** No waiver by any party of any provision of this Agreement shall constitute a waiver by such party of such provision on any other occasion or a waiver by such party of any other provision of this Agreement.

g. **Severability.** Should any one or more of the provisions of this Agreement be determined to be invalid, unlawful, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be impaired or affected.

h. **Assignment or Delegation.** Except as otherwise specifically set forth in this Agreement, neither party shall assign all or any portion of its rights and obligations contained in this Agreement without the express prior written approval of the other party, which approval may not be unreasonably withheld.

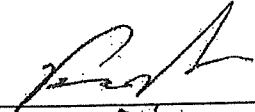
i. **Venue.** The parties agree that for purposes of any dispute in connection with this agreement, the Muskegon County Circuit Court shall have exclusive personal and subject matter jurisdiction and venue.

j. **Terms.** Nouns and pronouns will be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the person or persons, firm or corporation may in the context require.

k. **Fax Signatures.** The parties have agreed that fax copies of the signed Agreement shall constitute a valid, enforceable agreement. Each party will mail originals to the respective party upon their execution of this Agreement.

l. **Notices.** Any notice which either party may or is required to give, shall be given by mailing the same, postage prepaid, to Carlisle at the address shown above, or the City of Muskegon at the address shown above, or at other such places as may be designated by the parties from time to time. Notice shall be sent by regular first-class mail or by registered or certified mail, return receipt requested.

THE CITY OF MUSKEGON

By: 
Name: Frank Peterson
Title: President City Manager
Date: 3/31/2022, 2022

CARLISLE'S GOODS & LEISURE, LLC

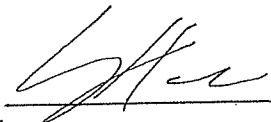
By: 
Name: _____
Title: Member
Date: 5/6/22, 2022

Exhibit A

Carlisle Space

Exhibit B
Carlisle Plans, Specifications and Fixtures

(attached)

Principal	\$650,000.00	Number of Payments	0	Total Interest
Term		Monthly Rate	.004166666666	\$508,814.06
Annual Rate	5.00%	Mortgage Payment		
Initial Date	5/1/2022			

Months	Date	BeginningBalance	Rent Credit	Rent	Credit Overage	Interest	Principal
1	9/1/2022	\$650,000.00	\$4,550.00	\$3,645.83	\$904.17	\$2,708.33	\$3,645.83
2	10/1/2022	\$649,966.67	\$4,549.77	\$3,645.83	\$903.94	\$2,708.19	\$3,645.83
3	11/1/2022	\$649,932.97	\$4,549.53	\$3,645.83	\$903.70	\$2,708.05	\$3,645.83
4	12/1/2022	\$649,898.90	\$4,549.29	\$3,645.83	\$903.46	\$2,707.91	\$3,645.83
5	1/1/2023	\$649,864.44	\$4,549.05	\$3,645.83	\$903.22	\$2,707.77	\$3,645.83
6	2/1/2023	\$649,829.60	\$4,548.81	\$3,645.83	\$902.98	\$2,707.62	\$3,645.83
7	3/1/2023	\$649,794.37	\$4,548.56	\$3,645.83	\$902.73	\$2,707.48	\$3,645.83
8	4/1/2023	\$649,758.75	\$4,548.31	\$3,645.83	\$902.48	\$2,707.33	\$3,645.83
9	5/1/2023	\$649,722.73	\$4,548.06	\$3,645.83	\$902.23	\$2,707.18	\$3,645.83
10	6/1/2023	\$649,686.31	\$4,547.80	\$3,645.83	\$901.97	\$2,707.03	\$3,645.83
11	7/1/2023	\$649,649.48	\$4,547.55	\$3,645.83	\$901.72	\$2,706.87	\$3,645.83
12	8/1/2023	\$649,612.24	\$4,547.29	\$3,645.83	\$901.46	\$2,706.72	\$3,645.83
13	9/1/2023	\$649,574.58	\$4,547.02	\$3,645.83	\$901.19	\$2,706.56	\$3,645.83
14	10/1/2023	\$649,536.50	\$4,546.76	\$3,645.83	\$900.93	\$2,706.40	\$3,645.83
15	11/1/2023	\$649,498.00	\$4,546.49	\$3,645.83	\$900.66	\$2,706.24	\$3,645.83
16	12/1/2023	\$649,459.07	\$4,546.21	\$3,645.83	\$900.38	\$2,706.08	\$3,645.83
17	1/1/2024	\$649,419.70	\$4,545.94	\$3,645.83	\$900.11	\$2,705.92	\$3,645.83
18	2/1/2024	\$649,379.90	\$4,545.66	\$3,645.83	\$899.83	\$2,705.75	\$3,645.83
19	3/1/2024	\$649,339.64	\$4,545.38	\$3,645.83	\$899.55	\$2,705.58	\$3,645.83
20	4/1/2024	\$649,298.94	\$4,545.09	\$3,645.83	\$899.26	\$2,705.41	\$3,645.83
21	5/1/2024	\$649,257.79	\$4,544.80	\$3,645.83	\$898.97	\$2,705.24	\$3,645.83
22	6/1/2024	\$649,216.17	\$4,544.51	\$3,645.83	\$898.68	\$2,705.07	\$3,645.83
23	7/1/2024	\$649,174.09	\$4,544.22	\$3,645.83	\$898.39	\$2,704.89	\$3,645.83
24	8/1/2024	\$649,131.54	\$4,543.92	\$3,645.83	\$898.09	\$2,704.71	\$3,645.83
25	9/1/2024	\$649,088.52	\$4,543.62	\$3,645.83	\$897.79	\$2,704.54	\$3,645.83
26	10/1/2024	\$649,045.02	\$4,543.32	\$3,645.83	\$897.49	\$2,704.35	\$3,645.83

Principal	\$650,000.00	Number of Payments	0	Total Interest			
Term		Monthly Rate	.004166666666	\$508,814.06			
Annual Rate	5.00%	Mortgage Payment					
Initial Date	5/1/2022						
Months	Date	Beginning Balance	Rent Credit	Rent	Credit Overage	Interest	Principal
27	11/1/2024	\$649,001.02	\$4,543.01	\$3,645.83	\$897.18	\$2,704.17	\$3,645.83
28	12/1/2024	\$648,956.54	\$4,542.70	\$3,645.83	\$896.87	\$2,703.99	\$3,645.83
29	1/1/2025	\$648,911.56	\$4,542.38	\$3,645.83	\$896.55	\$2,703.80	\$3,645.83
30	2/1/2025	\$648,866.08	\$4,542.06	\$3,645.83	\$896.23	\$2,703.61	\$3,645.83
31	3/1/2025	\$648,820.09	\$4,541.74	\$3,645.83	\$895.91	\$2,703.42	\$3,645.83
32	4/1/2025	\$648,773.59	\$4,541.42	\$3,645.83	\$895.59	\$2,703.22	\$3,645.83
33	5/1/2025	\$648,726.57	\$4,541.09	\$3,645.83	\$895.26	\$2,703.03	\$3,645.83
34	6/1/2025	\$648,679.02	\$4,540.75	\$3,645.83	\$894.92	\$2,702.83	\$3,645.83
35	7/1/2025	\$648,630.95	\$4,540.42	\$3,645.83	\$894.59	\$2,702.63	\$3,645.83
36	8/1/2025	\$648,582.33	\$4,540.08	\$3,645.83	\$894.25	\$2,702.43	\$3,645.83
37	9/1/2025	\$648,533.17	\$4,539.73	\$3,645.83	\$893.90	\$2,702.22	\$3,645.83
38	10/1/2025	\$648,483.47	\$4,539.38	\$3,645.83	\$893.55	\$2,702.01	\$3,645.83
39	11/1/2025	\$648,433.21	\$4,539.03	\$3,645.83	\$893.20	\$2,701.81	\$3,645.83
40	12/1/2025	\$648,382.38	\$4,538.68	\$3,645.83	\$892.85	\$2,701.59	\$3,645.83
41	1/1/2026	\$648,330.99	\$4,538.32	\$3,645.83	\$892.49	\$2,701.38	\$3,645.83
42	2/1/2026	\$648,279.03	\$4,537.95	\$3,645.83	\$892.12	\$2,701.16	\$3,645.83
43	3/1/2026	\$648,226.49	\$4,537.59	\$3,645.83	\$891.76	\$2,700.94	\$3,645.83
44	4/1/2026	\$648,173.36	\$4,537.21	\$3,645.83	\$891.38	\$2,700.72	\$3,645.83
45	5/1/2026	\$648,119.63	\$4,536.84	\$3,645.83	\$891.01	\$2,700.50	\$3,645.83
46	6/1/2026	\$648,065.31	\$4,536.46	\$3,645.83	\$890.63	\$2,700.27	\$3,645.83
47	7/1/2026	\$648,010.38	\$4,536.07	\$3,645.83	\$890.24	\$2,700.04	\$3,645.83
48	8/1/2026	\$647,954.83	\$4,535.68	\$3,645.83	\$889.85	\$2,699.81	\$3,645.83
49	9/1/2026	\$647,898.67	\$4,535.29	\$3,645.83	\$889.46	\$2,699.58	\$3,645.83
50	10/1/2026	\$647,841.88	\$4,534.89	\$3,645.83	\$889.06	\$2,699.34	\$3,645.83
51	11/1/2026	\$647,784.45	\$4,534.49	\$3,645.83	\$888.66	\$2,699.10	\$3,645.83
52	12/1/2026	\$647,726.38	\$4,534.08	\$3,645.83	\$888.25	\$2,698.86	\$3,645.83

Principal	\$650,000.00	Number of Payments	0	Total Interest
Term				\$508,814.06
Annual Rate	5.00%	Monthly Rate	.00416666666	
Initial Date	5/1/2022	Mortgage Payment		

Months	Date	BeginningBalance	Rent Credit	Rent	Credit Overage	Interest	Principal
53	1/1/2027	\$647,667.67	\$4,533.67	\$3,645.83	\$887.84	\$2,698.62	\$3,645.83
54	2/1/2027	\$647,608.30	\$4,533.26	\$3,645.83	\$887.43	\$2,698.37	\$3,645.83
55	3/1/2027	\$647,548.26	\$4,532.84	\$3,645.83	\$887.01	\$2,698.12	\$3,645.83
56	4/1/2027	\$647,487.56	\$4,532.41	\$3,645.83	\$886.58	\$2,697.86	\$3,645.83
57	5/1/2027	\$647,426.18	\$4,531.98	\$3,645.83	\$886.15	\$2,697.61	\$3,645.83
58	6/1/2027	\$647,364.11	\$4,531.55	\$3,645.83	\$885.72	\$2,697.35	\$3,645.83
59	7/1/2027	\$647,301.35	\$4,531.11	\$3,645.83	\$885.28	\$2,697.09	\$3,645.83
60	8/1/2027	\$647,237.89	\$4,530.67	\$4,229.17	\$301.50	\$2,696.82	\$4,229.17
61	9/1/2027	\$646,007.04	\$4,522.05	\$4,229.17	\$292.88	\$2,691.70	\$4,229.17
62	10/1/2027	\$644,762.44	\$4,513.34	\$4,229.17	\$284.17	\$2,686.51	\$4,229.17
63	11/1/2027	\$643,503.95	\$4,504.53	\$4,229.17	\$275.36	\$2,681.27	\$4,229.17
64 Op #1	12/1/2027	\$642,231.40	\$4,495.62	\$4,229.17	\$266.45	\$2,675.96	\$4,229.17
65	1/1/2028	\$640,944.65	\$4,486.61	\$4,229.17	\$257.44	\$2,670.60	\$4,229.17
66	2/1/2028	\$639,643.52	\$4,477.50	\$4,229.17	\$248.33	\$2,665.18	\$4,229.17
67	3/1/2028	\$638,327.87	\$4,468.30	\$4,229.17	\$239.13	\$2,659.70	\$4,229.17
68	4/1/2028	\$636,997.52	\$4,458.98	\$4,229.17	\$229.81	\$2,654.16	\$4,229.17
69	5/1/2028	\$635,652.32	\$4,449.57	\$4,229.17	\$220.40	\$2,648.55	\$4,229.17
70	6/1/2028	\$634,292.10	\$4,440.04	\$4,229.17	\$210.87	\$2,642.88	\$4,229.17
71	7/1/2028	\$632,916.69	\$4,430.42	\$4,229.17	\$201.25	\$2,637.15	\$4,229.17
72	8/1/2028	\$631,525.92	\$4,420.68	\$4,229.17	\$191.51	\$2,631.36	\$4,229.17
73	9/1/2028	\$630,119.62	\$4,410.84	\$4,229.17	\$181.67	\$2,625.50	\$4,229.17
74	10/1/2028	\$628,697.61	\$4,400.88	\$4,229.17	\$171.71	\$2,619.57	\$4,229.17
75	11/1/2028	\$627,259.73	\$4,390.82	\$4,229.17	\$161.65	\$2,613.58	\$4,229.17
76	12/1/2028	\$625,805.79	\$4,380.64	\$4,229.17	\$151.47	\$2,607.52	\$4,229.17
77	1/1/2029	\$624,335.61	\$4,370.35	\$4,229.17	\$141.18	\$2,601.40	\$4,229.17
78	2/1/2029	\$622,849.02	\$4,359.94	\$4,229.17	\$130.77	\$2,595.20	\$4,229.17

Principal Term	\$650,000.00		Number of Payments		0		Total Interest \$508,814.06
	Annual Rate Initial Date	5.00% 5/1/2022	Monthly Rate Mortgage Payment				
Months	Date	BeginningBalance	Rent Credit	Rent	Credit Overage	Interest	Principal
79	3/1/2029	\$621,345.83	\$4,349.42	\$4,229.17	\$120.25	\$2,588.94	\$4,229.17
80	4/1/2029	\$619,825.85	\$4,338.78	\$4,229.17	\$109.61	\$2,582.61	\$4,229.17
81	5/1/2029	\$618,288.90	\$4,328.02	\$4,229.17	\$98.85	\$2,576.20	\$4,229.17
82	6/1/2029	\$616,734.79	\$4,317.14	\$4,229.17	\$87.97	\$2,569.73	\$4,229.17
83	7/1/2029	\$615,163.32	\$4,306.14	\$4,229.17	\$76.97	\$2,563.18	\$4,229.17
84	8/1/2029	\$613,574.30	\$4,295.02	\$4,229.17	\$65.85	\$2,556.56	\$4,229.17
85	9/1/2029	\$611,967.54	\$4,283.77	\$4,229.17	\$54.60	\$2,549.86	\$4,229.17
86	10/1/2029	\$610,342.84	\$4,272.40	\$4,229.17	\$43.23	\$2,543.10	\$4,229.17
87	11/1/2029	\$608,699.99	\$4,260.90	\$4,229.17	\$31.73	\$2,536.25	\$4,229.17
88	12/1/2029	\$607,038.80	\$4,249.27	\$4,229.17	\$20.10	\$2,529.33	\$4,229.17
89	1/1/2030	\$605,359.06	\$4,237.51	\$4,229.17	\$8.34	\$2,522.33	\$4,229.17
90	2/1/2030	\$603,660.57	\$4,225.62	\$4,229.17	\$0.00	\$2,515.25	\$4,229.17
91	3/1/2030	\$601,946.65	\$4,213.63	\$4,229.17	\$0.00	\$2,508.11	\$4,229.17
92	4/1/2030	\$600,225.59	\$4,201.58	\$4,229.17	\$0.00	\$2,500.94	\$4,229.17
93	5/1/2030	\$598,497.36	\$4,189.48	\$4,229.17	\$0.00	\$2,493.74	\$4,229.17
94	6/1/2030	\$596,761.93	\$4,177.33	\$4,229.17	\$0.00	\$2,486.51	\$4,229.17
95	7/1/2030	\$595,019.27	\$4,165.13	\$4,229.17	\$0.00	\$2,479.25	\$4,229.17
96	8/1/2030	\$593,269.34	\$4,152.89	\$4,229.17	\$0.00	\$2,471.96	\$4,229.17
97	9/1/2030	\$591,512.13	\$4,140.58	\$4,229.17	\$0.00	\$2,464.63	\$4,229.17
98	10/1/2030	\$589,747.59	\$4,128.23	\$4,229.17	\$0.00	\$2,457.28	\$4,229.17
99	11/1/2030	\$587,975.71	\$4,115.83	\$4,229.17	\$0.00	\$2,449.90	\$4,229.17
100	12/1/2030	\$586,196.43	\$4,103.38	\$4,229.17	\$0.00	\$2,442.49	\$4,229.17
101	1/1/2031	\$584,409.75	\$4,090.87	\$4,229.17	\$0.00	\$2,435.04	\$4,229.17
102	2/1/2031	\$582,615.62	\$4,078.31	\$4,229.17	\$0.00	\$2,427.57	\$4,229.17
103	3/1/2031	\$580,814.01	\$4,065.70	\$4,229.17	\$0.00	\$2,420.06	\$4,229.17
104	4/1/2031	\$579,004.90	\$4,053.03	\$4,229.17	\$0.00	\$2,412.52	\$4,229.17

Principal	\$650,000.00	Number of Payments	0	Total Interest
Term		Monthly Rate	.004166666666	\$508,814.06
Annual Rate	5.00%	Mortgage Payment		
Initial Date	5/1/2022			

Months	Date	Beginning Balance	Rent Credit	Rent	Credit Overage	Interest	Principal
105	5/1/2031	\$577,188.25	\$4,040.32	\$4,229.17	\$0.00	\$2,404.95	\$4,229.17
106	6/1/2031	\$575,364.03	\$4,027.55	\$4,229.17	\$0.00	\$2,397.35	\$4,229.17
107	7/1/2031	\$573,532.22	\$4,014.73	\$4,229.17	\$0.00	\$2,389.72	\$4,229.17
108	8/1/2031	\$571,692.76	\$4,001.85	\$4,229.17	\$0.00	\$2,382.05	\$4,229.17
109	9/1/2031	\$569,845.65	\$3,988.92	\$4,229.17	\$0.00	\$2,374.36	\$4,229.17
110	10/1/2031	\$567,990.83	\$3,975.94	\$4,229.17	\$0.00	\$2,366.63	\$4,229.17
111	11/1/2031	\$566,128.29	\$3,962.90	\$4,229.17	\$0.00	\$2,358.87	\$4,229.17
112	12/1/2031	\$564,257.99	\$3,949.81	\$4,229.17	\$0.00	\$2,351.07	\$4,229.17
113	1/1/2032	\$562,379.89	\$3,936.66	\$4,229.17	\$0.00	\$2,343.25	\$4,229.17
114	2/1/2032	\$560,493.97	\$3,923.46	\$4,229.17	\$0.00	\$2,335.39	\$4,229.17
115	3/1/2032	\$558,600.20	\$3,910.20	\$4,229.17	\$0.00	\$2,327.50	\$4,229.17
116	4/1/2032	\$556,698.53	\$3,896.89	\$4,229.17	\$0.00	\$2,319.58	\$4,229.17
117	5/1/2032	\$554,788.93	\$3,883.52	\$4,229.17	\$0.00	\$2,311.62	\$4,229.17
118	6/1/2032	\$552,871.38	\$3,870.10	\$4,229.17	\$0.00	\$2,303.63	\$4,229.17
119	7/1/2032	\$550,945.84	\$3,856.62	\$4,229.17	\$0.00	\$2,295.61	\$4,229.17
120	8/1/2032	\$549,012.28	\$3,843.09	\$4,229.17	\$0.00	\$2,287.55	\$4,229.17
121	9/1/2032	\$547,070.66	\$3,829.49	\$4,666.67	\$0.00	\$2,279.46	\$4,666.67
122	10/1/2032	\$544,683.45	\$3,812.78	\$4,666.67	\$0.00	\$2,269.51	\$4,666.67
123	11/1/2032	\$542,286.30	\$3,796.00	\$4,666.67	\$0.00	\$2,259.53	\$4,666.67
124	OP #2 12/1/2032	\$539,879.15	\$3,779.15	\$4,666.67	\$0.00	\$2,249.50	\$4,666.67
125	1/1/2033	\$537,461.98	\$3,762.23	\$4,666.67	\$0.00	\$2,239.42	\$4,666.67
126	2/1/2033	\$535,034.74	\$3,745.24	\$4,666.67	\$0.00	\$2,229.31	\$4,666.67
127	3/1/2033	\$532,597.38	\$3,728.18	\$4,666.67	\$0.00	\$2,219.16	\$4,666.67
128	4/1/2033	\$530,149.86	\$3,711.05	\$4,666.67	\$0.00	\$2,208.96	\$4,666.67
129	5/1/2033	\$527,692.15	\$3,693.85	\$4,666.67	\$0.00	\$2,198.72	\$4,666.67
130	6/1/2033	\$525,224.20	\$3,676.57	\$4,666.67	\$0.00	\$2,188.43	\$4,666.67

Principal	\$650,000.00	Number of Payments	0	Total Interest
Term		Monthly Rate	.004166666666	\$508,814.06
Annual Rate	5.00%	Mortgage Payment		
Initial Date	5/1/2022			

Months	Date	BeginningBalance	Rent Credit	Rent	Credit Overage	Interest	Principal
131	7/1/2033	\$522,745.96	\$3,659.22	\$4,666.67	\$0.00	\$2,178.11	\$4,666.67
132	8/1/2033	\$520,257.40	\$3,641.80	\$4,666.67	\$0.00	\$2,167.74	\$4,666.67
133	9/1/2033	\$517,758.47	\$3,624.31	\$4,666.67	\$0.00	\$2,157.33	\$4,666.67
134	10/1/2033	\$515,249.13	\$3,606.74	\$4,666.67	\$0.00	\$2,146.87	\$4,666.67
135	11/1/2033	\$512,729.33	\$3,589.11	\$4,666.67	\$0.00	\$2,136.37	\$4,666.67
136	12/1/2033	\$510,199.03	\$3,571.39	\$4,666.67	\$0.00	\$2,125.83	\$4,666.67
137	1/1/2034	\$507,658.19	\$3,553.61	\$4,666.67	\$0.00	\$2,115.24	\$4,666.67
138	2/1/2034	\$505,106.76	\$3,535.75	\$4,666.67	\$0.00	\$2,104.61	\$4,666.67
139	3/1/2034	\$502,544.70	\$3,517.81	\$4,666.67	\$0.00	\$2,093.94	\$4,666.67
140	4/1/2034	\$499,971.97	\$3,499.80	\$4,666.67	\$0.00	\$2,083.22	\$4,666.67
141	5/1/2034	\$497,388.52	\$3,481.72	\$4,666.67	\$0.00	\$2,072.45	\$4,666.67
142	6/1/2034	\$494,794.30	\$3,463.56	\$4,666.67	\$0.00	\$2,061.64	\$4,666.67
143	7/1/2034	\$492,189.27	\$3,445.32	\$4,666.67	\$0.00	\$2,050.79	\$4,666.67
144	8/1/2034	\$489,573.39	\$3,427.01	\$4,666.67	\$0.00	\$2,039.89	\$4,666.67
145	9/1/2034	\$486,946.61	\$3,408.63	\$4,666.67	\$0.00	\$2,028.94	\$4,666.67
146	10/1/2034	\$484,308.88	\$3,390.16	\$4,666.67	\$0.00	\$2,017.95	\$4,666.67
147	11/1/2034	\$481,660.17	\$3,371.62	\$4,666.67	\$0.00	\$2,006.92	\$4,666.67
148	12/1/2034	\$479,000.41	\$3,353.00	\$4,666.67	\$0.00	\$1,995.84	\$4,666.67
149	1/1/2035	\$476,329.58	\$3,334.31	\$4,666.67	\$0.00	\$1,984.71	\$4,666.67
150	2/1/2035	\$473,647.62	\$3,315.53	\$4,666.67	\$0.00	\$1,973.53	\$4,666.67
151	3/1/2035	\$470,954.48	\$3,296.68	\$4,666.67	\$0.00	\$1,962.31	\$4,666.67
152	4/1/2035	\$468,250.12	\$3,277.75	\$4,666.67	\$0.00	\$1,951.04	\$4,666.67
153	5/1/2035	\$465,534.49	\$3,258.74	\$4,666.67	\$0.00	\$1,939.73	\$4,666.67
154	6/1/2035	\$462,807.55	\$3,239.65	\$4,666.67	\$0.00	\$1,928.36	\$4,666.67
155	7/1/2035	\$460,069.24	\$3,220.48	\$4,666.67	\$0.00	\$1,916.96	\$4,666.67
156	8/1/2035	\$457,319.53	\$3,201.24	\$4,666.67	\$0.00	\$1,905.50	\$4,666.67

Principal	\$650,000.00			Number of Payments	0	Total Interest
Term	5.00%			Monthly Rate	.004166666666	\$508,814.06
Annual Rate	5.00%			Mortgage Payment		
Initial Date	5/1/2022					
Months	Date	Beginning Balance	Rent Credit	Rent	Credit Overage	Interest
157	9/1/2035	\$454,558.36	\$3,181.91	\$4,666.67	\$0.00	\$1,893.99
158	10/1/2035	\$451,785.68	\$3,162.50	\$4,666.67	\$0.00	\$1,882.44
159	11/1/2035	\$449,001.45	\$3,143.01	\$4,666.67	\$0.00	\$1,870.84
160	12/1/2035	\$446,205.62	\$3,123.44	\$4,666.67	\$0.00	\$1,859.19
161	1/1/2036	\$443,398.14	\$3,103.79	\$4,666.67	\$0.00	\$1,847.49
162	2/1/2036	\$440,578.96	\$3,084.05	\$4,666.67	\$0.00	\$1,835.75
163	3/1/2036	\$437,748.04	\$3,064.24	\$4,666.67	\$0.00	\$1,823.95
164	4/1/2036	\$434,905.32	\$3,044.34	\$4,666.67	\$0.00	\$1,812.11
165	5/1/2036	\$432,050.75	\$3,024.36	\$4,666.67	\$0.00	\$1,800.21
166	6/1/2036	\$429,184.29	\$3,004.29	\$4,666.67	\$0.00	\$1,788.27
167	7/1/2036	\$426,305.89	\$2,984.14	\$4,666.67	\$0.00	\$1,776.27
168	8/1/2036	\$423,415.50	\$2,963.91	\$4,666.67	\$0.00	\$1,764.23
169	9/1/2036	\$420,513.06	\$2,943.59	\$4,666.67	\$0.00	\$1,752.14
170	10/1/2036	\$417,598.52	\$2,923.19	\$4,666.67	\$0.00	\$1,739.99
171	11/1/2036	\$414,671.85	\$2,902.70	\$4,666.67	\$0.00	\$1,727.80
172	12/1/2036	\$411,732.98	\$2,882.13	\$4,666.67	\$0.00	\$1,715.55
173	OP #3 1/1/2037	\$408,781.86	\$2,861.47	\$4,958.33	\$0.00	\$1,703.26
174	2/1/2037	\$405,526.79	\$2,838.69	\$4,958.33	\$0.00	\$1,689.69
175	3/1/2037	\$402,258.16	\$2,815.81	\$4,958.33	\$0.00	\$1,676.08
176	4/1/2037	\$398,975.90	\$2,792.83	\$4,958.33	\$0.00	\$1,662.40
177	5/1/2037	\$395,679.97	\$2,769.76	\$4,958.33	\$0.00	\$1,648.67
178	6/1/2037	\$392,370.31	\$2,746.59	\$4,958.33	\$0.00	\$1,634.88
179	7/1/2037	\$389,046.85	\$2,723.33	\$4,958.33	\$0.00	\$1,621.03
180	8/1/2037	\$385,709.55	\$2,699.97	\$4,958.33	\$0.00	\$1,607.12
181	9/1/2037	\$382,358.34	\$2,676.51	\$4,958.33	\$0.00	\$1,593.16
182	10/1/2037	\$378,993.17	\$2,652.95	\$4,958.33	\$0.00	\$1,579.14

Principal	\$650,000.00			0	.004166666666			Total Interest
Term	Number of Payments							\$508,814.06
Annual Rate	5.00%	Monthly Rate						
Initial Date	5/1/2022	Mortgage Payment						
Months	Date	BeginningBalance	Rent Credit	Rent	Credit Overage	Interest	Principal	
183	11/1/2037	\$375,613.98	\$2,629.30	\$4,958.33	\$0.00	\$1,565.06	\$4,958.33	
184	12/1/2037	\$372,220.71	\$2,605.54	\$4,958.33	\$0.00	\$1,550.92	\$4,958.33	
185	1/1/2038	\$368,813.30	\$2,581.69	\$4,958.33	\$0.00	\$1,536.72	\$4,958.33	
186	2/1/2038	\$365,391.69	\$2,557.74	\$4,958.33	\$0.00	\$1,522.47	\$4,958.33	
187	3/1/2038	\$361,955.83	\$2,533.69	\$4,958.33	\$0.00	\$1,508.15	\$4,958.33	
188	4/1/2038	\$358,505.65	\$2,509.54	\$4,958.33	\$0.00	\$1,493.77	\$4,958.33	
189	5/1/2038	\$355,041.09	\$2,485.29	\$4,958.33	\$0.00	\$1,479.34	\$4,958.33	
190	6/1/2038	\$351,562.10	\$2,460.93	\$4,958.33	\$0.00	\$1,464.84	\$4,958.33	
191	7/1/2038	\$348,068.61	\$2,436.48	\$4,958.33	\$0.00	\$1,450.29	\$4,958.33	
192	8/1/2038	\$344,560.57	\$2,411.92	\$4,958.33	\$0.00	\$1,435.67	\$4,958.33	
193	9/1/2038	\$341,037.91	\$2,387.27	\$4,958.33	\$0.00	\$1,420.99	\$4,958.33	
194	10/1/2038	\$337,500.57	\$2,362.50	\$4,958.33	\$0.00	\$1,406.25	\$4,958.33	
195	11/1/2038	\$333,948.49	\$2,337.64	\$4,958.33	\$0.00	\$1,391.45	\$4,958.33	
196	12/1/2038	\$330,381.61	\$2,312.67	\$4,958.33	\$0.00	\$1,376.59	\$4,958.33	
197	1/1/2039	\$326,799.87	\$2,287.60	\$4,958.33	\$0.00	\$1,361.67	\$4,958.33	
198	2/1/2039	\$323,203.21	\$2,262.42	\$4,958.33	\$0.00	\$1,346.68	\$4,958.33	
199	3/1/2039	\$319,591.56	\$2,237.14	\$4,958.33	\$0.00	\$1,331.63	\$4,958.33	
200	4/1/2039	\$315,964.86	\$2,211.75	\$4,958.33	\$0.00	\$1,316.52	\$4,958.33	
201	5/1/2039	\$312,323.05	\$2,186.26	\$4,958.33	\$0.00	\$1,301.35	\$4,958.33	
202	6/1/2039	\$308,666.07	\$2,160.66	\$4,958.33	\$0.00	\$1,286.11	\$4,958.33	
203	7/1/2039	\$304,993.84	\$2,134.96	\$4,958.33	\$0.00	\$1,270.81	\$4,958.33	
204	8/1/2039	\$301,306.32	\$2,109.14	\$4,958.33	\$0.00	\$1,255.44	\$4,958.33	
205	9/1/2039	\$297,603.43	\$2,083.22	\$4,958.33	\$0.00	\$1,240.01	\$4,958.33	
206	10/1/2039	\$293,885.12	\$2,057.20	\$4,958.33	\$0.00	\$1,224.52	\$4,958.33	
207	11/1/2039	\$290,151.31	\$2,031.06	\$4,958.33	\$0.00	\$1,208.96	\$4,958.33	
208	12/1/2039	\$286,401.94	\$2,004.81	\$4,958.33	\$0.00	\$1,193.34	\$4,958.33	

Principal	\$650,000.00				Number of Payments				0				Total Interest			
Term					Monthly Rate				.004166666666							
Annual Rate	5.00%				Mortgage Payment											
Initial Date	5/1/2022															
Months	Date	Beginning Balance	Rent Credit	Rent	Credit Overage	Interest	Principal									
209	1/1/2040	\$282,636.96	\$1,978.46	\$4,958.33	\$0.00	\$1,177.65	\$4,958.33								\$4,958.33	
210	2/1/2040	\$278,856.28	\$1,951.99	\$4,958.33	\$0.00	\$1,161.90	\$4,958.33								\$4,958.33	
211	3/1/2040	\$275,059.85	\$1,925.42	\$4,958.33	\$0.00	\$1,146.08	\$4,958.33								\$4,958.33	
212	4/1/2040	\$271,247.60	\$1,898.73	\$4,958.33	\$0.00	\$1,130.20	\$4,958.33								\$4,958.33	
213	5/1/2040	\$267,419.47	\$1,871.94	\$4,958.33	\$0.00	\$1,114.25	\$4,958.33								\$4,958.33	
214	6/1/2040	\$263,575.39	\$1,845.03	\$4,958.33	\$0.00	\$1,098.23	\$4,958.33								\$4,958.33	
215	7/1/2040	\$259,715.29	\$1,818.01	\$4,958.33	\$0.00	\$1,082.15	\$4,958.33								\$4,958.33	
216	8/1/2040	\$255,839.11	\$1,790.87	\$4,958.33	\$0.00	\$1,066.00	\$4,958.33								\$4,958.33	
217	9/1/2040	\$251,946.77	\$1,763.63	\$4,958.33	\$0.00	\$1,049.78	\$4,958.33								\$4,958.33	
218	10/1/2040	\$248,038.22	\$1,736.27	\$4,958.33	\$0.00	\$1,033.49	\$4,958.33								\$4,958.33	
219	11/1/2040	\$244,113.38	\$1,708.79	\$4,958.33	\$0.00	\$1,017.14	\$4,958.33								\$4,958.33	
220	12/1/2040	\$240,172.19	\$1,681.21	\$4,958.33	\$0.00	\$1,000.72	\$4,958.33								\$4,958.33	
221	1/1/2041	\$236,214.58	\$1,653.50	\$4,958.33	\$0.00	\$984.23	\$4,958.33								\$4,958.33	
222	2/1/2041	\$232,240.48	\$1,625.68	\$4,958.33	\$0.00	\$967.67	\$4,958.33								\$4,958.33	
223	3/1/2041	\$228,249.82	\$1,597.75	\$4,958.33	\$0.00	\$951.04	\$4,958.33								\$4,958.33	
224	4/1/2041	\$224,242.53	\$1,569.70	\$4,958.33	\$0.00	\$934.34	\$4,958.33								\$4,958.33	
225	5/1/2041	\$220,218.54	\$1,541.53	\$4,958.33	\$0.00	\$917.58	\$4,958.33								\$4,958.33	
226	6/1/2041	\$216,177.79	\$1,513.24	\$4,958.33	\$0.00	\$900.74	\$4,958.33								\$4,958.33	
227	7/1/2041	\$212,120.20	\$1,484.84	\$4,958.33	\$0.00	\$883.83	\$4,958.33								\$4,958.33	
228	8/1/2041	\$208,045.70	\$1,456.32	\$4,958.33	\$0.00	\$866.86	\$4,958.33								\$4,958.33	
229	9/1/2041	\$203,954.23	\$1,427.68	\$4,958.33	\$0.00	\$849.81	\$4,958.33								\$4,958.33	
230	10/1/2041	\$199,845.71	\$1,398.92	\$4,958.33	\$0.00	\$832.69	\$4,958.33								\$4,958.33	
231	11/1/2041	\$195,720.07	\$1,370.04	\$4,958.33	\$0.00	\$815.50	\$4,958.33								\$4,958.33	
232	12/1/2041	\$191,577.24	\$1,341.04	\$5,250.00	\$0.00	\$798.24	\$5,250.00								\$5,250.00	
233	1/1/2042	\$187,125.48	\$1,309.88	\$5,250.00	\$0.00	\$779.69	\$5,250.00								\$5,250.00	
234	2/1/2042	\$182,655.17	\$1,278.59	\$5,250.00	\$0.00	\$761.06	\$5,250.00								\$5,250.00	

Principal	\$650,000.00	Number of Payments	0	Total Interest
Term		Monthly Rate	.004166666666	\$508,814.06
Annual Rate	5.00%	Mortgage Payment		
Initial Date	5/1/2022			

Months	Date	BeginningBalance	Rent Credit	Rent	Credit Overage	Interest	Principal
261	5/1/2044	\$54,655.04	\$382.59	\$5,250.00	\$0.00	\$227.73	\$5,250.00
262	6/1/2044	\$49,632.77	\$347.43	\$5,250.00	\$0.00	\$206.80	\$5,250.00
263	7/1/2044	\$44,589.57	\$312.13	\$5,250.00	\$0.00	\$185.79	\$5,250.00
264	8/1/2044	\$39,525.36	\$276.68	\$5,250.00	\$0.00	\$164.69	\$5,250.00
265	9/1/2044	\$34,440.05	\$241.08	\$5,250.00	\$0.00	\$143.50	\$5,250.00
266	10/1/2044	\$29,333.55	\$205.33	\$5,250.00	\$0.00	\$122.22	\$5,250.00
267	11/1/2044	\$24,205.78	\$169.44	\$5,250.00	\$0.00	\$100.86	\$5,250.00
268	12/1/2044	\$19,056.63	\$133.40	\$5,250.00	\$0.00	\$79.40	\$5,250.00
269	1/1/2045	\$13,886.04	\$97.20	\$5,250.00	\$0.00	\$57.86	\$5,250.00
270	2/1/2045	\$8,693.90	\$60.86	\$5,250.00	\$0.00	\$36.22	\$5,250.00
271	3/1/2045	\$3,480.12	\$24.36	\$5,250.00	\$0.00	\$14.50	\$5,250.00

Ending Balance**Rent Owed**

\$649,966.67
\$649,932.97
\$649,898.90
\$649,864.44
\$649,829.60
\$649,794.37
\$649,758.75
\$649,722.73
\$649,686.31
\$649,649.48
\$649,612.24
\$649,574.58
\$649,536.50
\$649,498.00
\$649,459.07
\$649,419.70
\$649,379.90
\$649,339.64
\$649,298.94
\$649,257.79
\$649,216.17
\$649,174.09
\$649,131.54
\$649,088.52
\$649,045.02
\$649,001.02

Ending Balance**Rent Owed**

\$648,956.54
\$648,911.56
\$648,866.08
\$648,820.09
\$648,773.59
\$648,726.57
\$648,679.02
\$648,630.95
\$648,582.33
\$648,533.17
\$648,483.47
\$648,433.21
\$648,382.38
\$648,330.99
\$648,279.03
\$648,226.49
\$648,173.36
\$648,119.63
\$648,065.31
\$648,010.38
\$647,954.83
\$647,898.67
\$647,841.88
\$647,784.45
\$647,726.38
\$647,667.67

Ending Balance**Rent Owed**

\$647,608.30
\$647,548.26
\$647,487.56
\$647,426.18
\$647,364.11
\$647,301.35
\$647,237.89
\$646,007.04
\$644,762.44
\$643,503.95
\$642,231.40
\$640,944.65
\$639,643.52
\$638,327.87
\$636,997.52
\$635,652.32
\$634,292.10
\$632,916.69
\$631,525.92
\$630,119.62
\$628,697.61
\$627,259.73
\$625,805.79
\$624,335.61
\$622,849.02
\$621,345.83

Ending Balance	Rent Owed
\$619,825.85	
\$618,288.90	
\$616,734.79	
\$615,163.32	
\$613,574.30	
\$611,967.54	
\$610,342.84	
\$608,699.99	
\$607,038.80	
\$605,359.06	
\$603,660.57	
\$601,946.65	\$3.55
\$600,225.59	\$15.54
\$598,497.36	\$27.59
\$596,761.93	\$39.69
\$595,019.27	\$51.84
\$593,269.34	\$64.04
\$591,512.13	\$76.28
\$589,747.59	\$88.59
\$587,975.71	\$100.94
\$586,196.43	\$113.34
\$584,409.75	\$125.79
\$582,615.62	\$138.30
\$580,814.01	\$150.86
\$579,004.90	\$163.47
\$577,188.25	\$176.14

Ending Balance	Rent Owed
\$575,364.03	\$188.85
\$573,532.22	\$201.62
\$571,692.76	\$214.44
\$569,845.65	\$227.32
\$567,990.83	\$240.25
\$566,128.29	\$253.23
\$564,257.99	\$266.27
\$562,379.89	\$279.36
\$560,493.97	\$292.51
\$558,600.20	\$305.71
\$556,698.53	\$318.97
\$554,788.93	\$332.28
\$552,871.38	\$345.65
\$550,945.84	\$359.07
\$549,012.28	\$372.55
\$547,070.66	\$386.08
\$544,683.45	\$837.18
\$542,286.30	\$853.89
\$539,879.15	\$870.67
\$537,461.98	\$887.52
\$535,034.74	\$904.44
\$532,597.38	\$921.43
\$530,149.86	\$938.49
\$527,692.15	\$955.62
\$525,224.20	\$972.82
\$522,745.96	\$990.10

Ending Balance	Rent Owed
\$520,257.40	\$1,007.45
\$517,758.47	\$1,024.87
\$515,249.13	\$1,042.36
\$512,729.33	\$1,059.93
\$510,199.03	\$1,077.56
\$507,658.19	\$1,095.28
\$505,106.76	\$1,113.06
\$502,544.70	\$1,130.92
\$499,971.97	\$1,148.86
\$497,388.52	\$1,166.87
\$494,794.30	\$1,184.95
\$492,189.27	\$1,203.11
\$489,573.39	\$1,221.35
\$486,946.61	\$1,239.66
\$484,308.88	\$1,258.04
\$481,660.17	\$1,276.51
\$479,000.41	\$1,295.05
\$476,329.58	\$1,313.67
\$473,647.62	\$1,332.36
\$470,954.48	\$1,351.14
\$468,250.12	\$1,369.99
\$465,534.49	\$1,388.92
\$462,807.55	\$1,407.93
\$460,069.24	\$1,427.02
\$457,319.53	\$1,446.19
\$454,558.36	\$1,465.43

Ending Balance	Rent Owed
\$451,785.68	\$1,484.76
\$449,001.45	\$1,504.17
\$446,205.62	\$1,523.66
\$443,398.14	\$1,543.23
\$440,578.96	\$1,562.88
\$437,748.04	\$1,582.62
\$434,905.32	\$1,602.43
\$432,050.75	\$1,622.33
\$429,184.29	\$1,642.31
\$426,305.89	\$1,662.38
\$423,415.50	\$1,682.53
\$420,513.06	\$1,702.76
\$417,598.52	\$1,723.08
\$414,671.85	\$1,743.48
\$411,732.98	\$1,763.97
\$408,781.86	\$1,784.54
\$405,526.79	\$2,096.86
\$402,258.16	\$2,119.64
\$398,975.90	\$2,142.52
\$395,679.97	\$2,165.50
\$392,370.31	\$2,188.57
\$389,046.85	\$2,211.74
\$385,709.55	\$2,235.00
\$382,358.34	\$2,258.36
\$378,993.17	\$2,281.82
\$375,613.98	\$2,305.38

Ending Balance	Rent Owed
\$372,220.71	\$2,329.03
\$368,813.30	\$2,352.79
\$365,391.69	\$2,376.64
\$361,955.83	\$2,400.59
\$358,505.65	\$2,424.64
\$355,041.09	\$2,448.79
\$351,562.10	\$2,473.04
\$348,068.61	\$2,497.40
\$344,560.57	\$2,521.85
\$341,037.91	\$2,546.41
\$337,500.57	\$2,571.06
\$333,948.49	\$2,595.83
\$330,381.61	\$2,620.69
\$326,799.87	\$2,645.66
\$323,203.21	\$2,670.73
\$319,591.56	\$2,695.91
\$315,964.86	\$2,721.19
\$312,323.05	\$2,746.58
\$308,666.07	\$2,772.07
\$304,993.84	\$2,797.67
\$301,306.32	\$2,823.37
\$297,603.43	\$2,849.19
\$293,885.12	\$2,875.11
\$290,151.31	\$2,901.13
\$286,401.94	\$2,927.27
\$282,636.96	\$2,953.52

Ending Balance	Rent Owed
\$278,856.28	\$2,979.87
\$275,059.85	\$3,006.34
\$271,247.60	\$3,032.91
\$267,419.47	\$3,059.60
\$263,575.39	\$3,086.39
\$259,715.29	\$3,113.30
\$255,839.11	\$3,140.32
\$251,946.77	\$3,167.46
\$248,038.22	\$3,194.70
\$244,113.38	\$3,222.06
\$240,172.19	\$3,249.54
\$236,214.58	\$3,277.12
\$232,240.48	\$3,304.83
\$228,249.82	\$3,332.65
\$224,242.53	\$3,360.58
\$220,218.54	\$3,388.63
\$216,177.79	\$3,416.80
\$212,120.20	\$3,445.09
\$208,045.70	\$3,473.49
\$203,954.23	\$3,502.01
\$199,845.71	\$3,530.65
\$195,720.07	\$3,559.41
\$191,577.24	\$3,588.29
\$187,125.48	\$3,908.96
\$182,655.17	\$3,940.12
\$178,166.23	\$3,971.41

Ending Balance	Rent Owed
\$173,658.59	\$4,002.84
\$169,132.17	\$4,034.39
\$164,586.89	\$4,066.07
\$160,022.67	\$4,097.89
\$155,439.43	\$4,129.84
\$150,837.09	\$4,161.92
\$146,215.58	\$4,194.14
\$141,574.81	\$4,226.49
\$136,914.71	\$4,258.98
\$132,235.18	\$4,291.60
\$127,536.16	\$4,324.35
\$122,817.56	\$4,357.25
\$118,079.30	\$4,390.28
\$113,321.30	\$4,423.44
\$108,543.47	\$4,456.75
\$103,745.74	\$4,490.20
\$98,928.01	\$4,523.78
\$94,090.21	\$4,557.50
\$89,232.25	\$4,591.37
\$84,354.05	\$4,625.37
\$79,455.53	\$4,659.52
\$74,536.59	\$4,693.81
\$69,597.16	\$4,728.24
\$64,637.15	\$4,762.82
\$59,656.47	\$4,797.54
\$54,655.04	\$4,832.40

Ending Balance	Rent Owed
\$49,632.77	\$4,867.41
\$44,589.57	\$4,902.57
\$39,525.36	\$4,937.87
\$34,440.05	\$4,973.32
\$29,333.55	\$5,008.92
\$24,205.78	\$5,044.67
\$19,056.63	\$5,080.56
\$13,886.04	\$5,116.60
\$8,693.90	\$5,152.80
\$3,480.12	\$5,189.14
-\$1,755.38	\$5,225.64

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: November 8, 2022	Title: Amendment to Marihuana Overlay District – Drive Thru's/Signs
Submitted By: Mike Franzak	Department: Planning
Brief Summary: Staff-initiated request to amend Section 2331 of the zoning ordinance to reduce signage restrictions on marihuana businesses and to allow drive-thru marihuana facilities under certain conditions.	
Detailed Summary: After discussing the proposed ordinance at the Planning Commission meeting, the board decided to slightly modify the proposal and request that all drive thru's require a special use permit. The final language approved in the motion is as follows: Section 2331: B. Grower, Excess Grower, and Processor Requirements: 1. Signage. Signage shall follow the regulations set forth by the underlying zoning district. C. Provisioning Center, Retailer, Microbusiness and Designated Consumption Establishment Requirements: 1. Signage. Signage shall follow the regulations set forth by the underlying zoning district. 4. Curbside/Drive Thru. Curbside delivery is allowed at all retail sale locations with an approved site plan that does not impede traffic or pedestrian safety. Drive thru's are allowed as a special use permitted under the following conditions: a. The underlying zoning designation must be B-2, B-4, MC, I-1, I-2 or any Form Based Code designation/building type that allows for drive thru businesses. b. Drive-thru windows must be located on private property. Streets and alleys may only be used for the movement of traffic and may not be used for drive-thru vehicular stacking. c. A traffic study must be performed showing anticipated number of stacking spaces and where they would be located on site.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the request to amend Section 2331 of the zoning ordinance to reduce signage restrictions on marihuana businesses and to allow drive-thru marihuana facilities with the conditions listed as proposed.	

Planning Commission Excerpt:

SUMMARY

1. This Marihuana Facilities Overlay District currently restricts drive-thru's at retail facilities. Curbside sales are also prohibited, but enforcement was relaxed during the pandemic.
2. Staff has not received any complaints in the time that curbside sales have been allowed.
3. Many businesses have noted that they are in favor of allowing drive-thru's at retail facilities. The State of Michigan recently amended the statute to allow for them.
4. Staff recommends that drive-thru's are only allowed in areas with heavy vehicular traffic and not allowed in downtown, where drive-thru's are restricted.
5. Staff also recommends that there is proper maneuvering room for vehicles to be granted the special use permit. This will eliminate some of the existing marihuana retailers because of how their properties are already set up.

Existing Ordinance:

SECTION 2331: MARIHUANA FACILITIES OVERLAY DISTRICT

B. Grower, Excess Grower, and Processor Requirements:

1. Signage. Signage shall be limited to one sign, no larger than 25 square feet and shall not use the word marihuana/marijuana, cannabis or any other word or phrase which would depict marihuana/marijuana; nor may pictures of a leaf or leaves, green cross or any other rendering which would depict marihuana/marijuana be displayed on a sign or any part of the building.

C. Provisioning Center, Retailer, Microbusiness and Designated Consumption Establishment Requirements:

1. Signage. Signage shall be limited to one sign, no larger than 25 square feet and shall not use the word marihuana/marijuana, cannabis or any other word or phrase which would depict marihuana/marijuana; nor may pictures of a leaf or leaves, green cross or any other rendering which would depict marihuana/marijuana be displayed on a sign or any part of the building.
4. Indoor Activities. All activities of a provisioning center shall be conducted within the structure and out of public view. Walk-up and drive thru windows are not permitted.

Proposed Ordinance:

B. Grower, Excess Grower, and Processor Requirements:

1. Signage. Signage shall follow the regulations set forth by the underlying zoning district.

C. Provisioning Center, Retailer, Microbusiness and Designated Consumption Establishment Requirements:

1. Signage. Signage shall follow the regulations set forth by the underlying zoning district.
4. Curbside/Drive Thru. Curbside delivery is allowed at all retail sale locations with an approved site plan that does not impede traffic or pedestrian safety. Drive thru's are allowed under the following conditions:

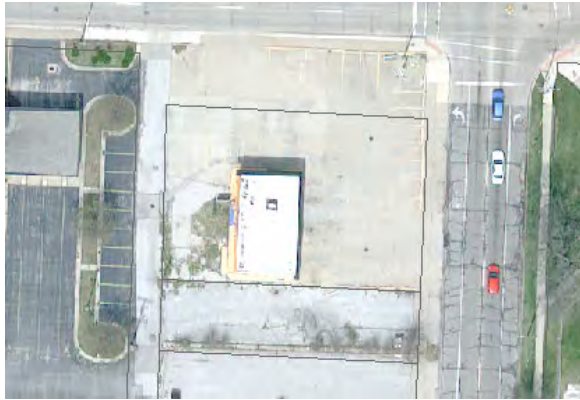
- a. The underlying zoning designation must be B-2, B-4, MC, I-1, I-2 or any Form Based Code designation/building type that allows for drive thru businesses.
- b. Drive-thru windows must be located on private property. Streets and alleys may only be used for the movement of traffic and may not be used for drive-thru vehicular stacking.
- c. There must be at least three vehicle stacking spaces on site that do not impede vehicular circulation or parking spaces.

Existing locations that are likely to meet the requirements (internal floor plans could also limit some of these locations):

420 Harvey St



1801 Peck St



313 W Laketon Ave



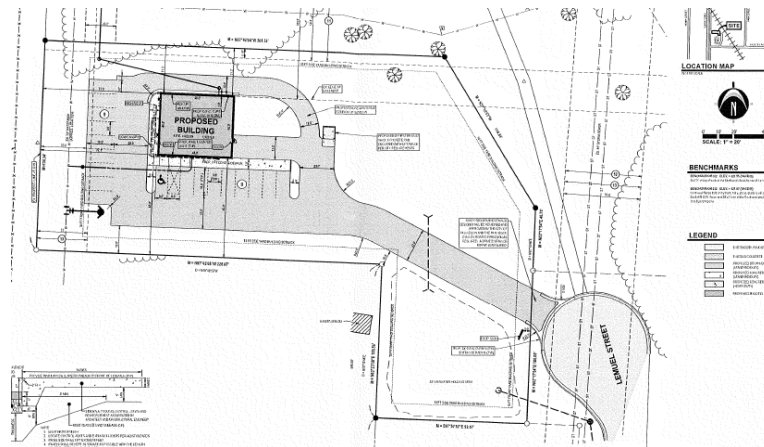
580 W Hackley Ave



1965 Peck St



2125 Lemuel St



1922 Park St



Example of a location that may not work:

1839 Peck St Suite B



CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend Section 2331 of the zoning ordinance to reduce signage restrictions on marihuana businesses and to allow drive-thru marihuana facilities under certain conditions.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

Section 2331:

- D. Grower, Excess Grower, and Processor Requirements:
 - 2. Signage. Signage shall follow the regulations set forth by the underlying zoning district.
- E. Provisioning Center, Retailer, Microbusiness and Designated Consumption Establishment Requirements:
 - 2. Signage. Signage shall follow the regulations set forth by the underlying zoning district.
 - 5. Curbside/Drive Thru. Curbside delivery is allowed at all retail sale locations with an approved site plan that does not impede traffic or pedestrian safety. Drive thru's are allowed as a special use permitted under the following conditions:
 - d. The underlying zoning designation must be B-2, B-4, MC, I-1, I-2 or any Form Based Code designation/building type that allows for drive thru businesses.
 - e. Drive-thru windows must be located on private property. Streets and alleys may only be used for the movement of traffic and may not be used for drive-thru vehicular stacking.
 - f. A traffic study must be performed showing anticipated number of stacking spaces and where they would be located on site.

This ordinance adopted:

Ayes: _____

Nayes: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____

Ann Meisch, MMC, City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 8th day of November 2022, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2006, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2022.

Ann Meisch, MMC

Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

CITY OF MUSKEGON
NOTICE OF ADOPTION

Please take notice that on November 8, 2022, the City Commission of the City of Muskegon adopted an ordinance to reduce signage restrictions on marihuana businesses and to allow drive-thru marihuana facilities under certain conditions

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten days from the date of this publication.

Published _____, 2022.

CITY OF MUSKEGON

By _____

Ann Meisch, MMC

City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE.

Account No. 101-80400-5354



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: November 7, 2022	Title: Landscaping RFP
Submitted By: Leo Evans	Department: Public Works
Brief Summary: Staff requests authorization to issue a request for proposals to obtain pricing to transition a number of downtown landscaping areas to private contract.	
Detailed Summary & Background: Staff has worked with the Downtown BID, DDA, Chamber of Commerce, Lakeside BID and other stakeholders to develop the attached RFP that covers a wide array of landscaping services currently provided through the City Parks Department. There is a desire among the stakeholders to improve the level of service being provided and a desire among city staff to free up staffing resources that are currently expended for the services to improve service in other areas of the city parks. Issuing the RFP will be the next step in exploring that prospect by obtaining prices from interested firms to further inform future decisions. The RFP proposes to obtain prices for nine (9) identified areas as follows, with each area having a distinct scope of work and a proposed assigned cost share. The baseline RFP proposes a 3-year contract with optional extensions for a 4th and 5th year. • Western Avenue • Hackley Park • 3rd Street (Midtown) • City Hall Grounds • Farmers Market Grounds • Shoreline Drive • Scatter Flower Pots / Planters • Citywide Irrigation Startup / Shutdown • Lakeside BID Once bids are obtained for the work the responsible entities will reconvene to review pricing and make a determination on future recommendations. Future decision may have cost implications for the City, DDA, BID, and established care funds at the Community Foundation; however there is no cost implication to issue the RFP and obtain bids.	
Goal/Focus Area/Action Item Addressed: Destination Community & Quality of Life – Enhanced Parks & Recreation Department and Services	
Amount Requested: \$0	Amount Budgeted: \$0

Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: Authorize staff to issue the RFP for Landscaping Services.	
Approvals: Immediate Division Head ☒ Information Technology ☐ Other Division Heads ☒ Communication ☒	Guest(s) Invited / Presenting Yes ☐ No ☒
For City Clerk Use Only: Commission Action:	

MUSKEGON



West Michigan's Shoreline City

www.shorelinecity.com

CITY OF MUSKEGON

NOTICE TO CONTRACTOR

REQUEST FOR PROPOSALS

PROJECT NAME:

Landscaping

DATE OF ISSUANCE:

August 1st, 2022

DATE PROPOSAL DUE:

August 30th, 2022

ISSUING OFFICE:

City of Muskegon
c/o Leo Evans
Department of Public Works
1350 Keating Ave.
Muskegon, MI 49442
Tel. (231) 724-6920
Leo.Evans@shorelinecity.com

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Note: Should any of the pages or documents listed above be missing from your packet, or if you have any questions regarding this RFP, please contact Leo Evans, Director of Public Works for the City of Muskegon at (231) 724-6920 or via E-mail at Leo.Evans@shorelinecity.com

PROPOSAL & AWARD

The undersigned having become thoroughly familiar with and understanding of all the proposal documents attached hereto, agrees to provide the services as specified herein, for the total fees as stipulated herein, subject to negotiation.

I hereby state that all of the information I have provided is true, accurate and complete. I hereby state that I have authority to submit this proposal which will become a binding contract if accepted by the City.

I hereby state that I have read, understand and agree to be bound by all of the terms of this proposal document.

Signature/Date _____

Title _____

Firm Name _____

Address _____

Telephone _____

E-Mail _____

INSTRUCTIONS TO CONSULTANTS

PROPOSALS

All proposals must be submitted following the proposal format supplied in this document and shall be subject to all requirements of this document.

The City may consider as irregular any proposal in which there is an alteration of or departure from the format stated in the RFP documents, and at its option may reject the same.

Each firm will include in their proposal a listing of each principal and the names of any proposed sub-consultant/contractor and the name and address of each office which may be involved in the project.

Before executing any subcontract, the successful firm shall submit the name and principals of any proposed subcontractor for prior approval.

SUBMITTAL OF PROPOSALS

Three (3) copies of the proposal documents shall be submitted in a sealed envelope to:

City of Muskegon
City Clerk's Office
933 Terrace Street
Muskegon, MI. 49440

The envelope shall be clearly marked on the exterior denoting the name of the firm submitting the proposal and the name of the particular professional services contract for which the proposal is offered.

The proposals shall be submitted by no later than **2:00 PM, Tuesday, August 30th, 2022**

AWARD / REJECTION OF PROPOSALS

The City reserves the right to reject any and all proposals and to waive any irregularity in proposals received whenever such rejection or waiver is in the best interest of the City. The firm to whom the Award is made will be notified at the earliest possible date. All firms submitting proposals will be notified when the award is made. Award will not be completed until confirmed and recommended by the city commission.

CITY RESPONSIBILITIES

The City will provide information as to the requirements for the project and make available pertinent information which may be useful in the project work.

The City will designate a person to act as the City's Project Manager with respect to the work to be performed. Such person will have the authority to transmit instructions, receive information, interpret and define the City policies and decisions with respect to elements pertinent to the project.

The Project Manager will examine all studies, reports, estimates, proposal, and other documents prepared by the firm and render in writing, if necessary, decisions pertinent thereto within a reasonable time.

The Project Manager will direct the consultant in writing to begin the work on each phase of the project upon receipt of written evidence from the firm of the appropriateness of such action.

The Project Manager will direct the firm in writing to furnish any special services, sub-consultants and/or extra work that may be required on the project upon receipt of written evidence from the firm detailing as to cost, time schedule, and reason for such special service or extra work.

SPECIFIC PROJECT INFORMATION

INTRODUCTION TO PROJECT & BACKGROUND INFORMATION

The City of Muskegon is seeking bids from landscaping firms to provide a variety of landscaping services within the core downtown area for an extended period of time. Reference the attached map and scope of work noted below for further information.

Bid Area #001 - Western Avenue

Limits

From 5th Street to Terrace Street (6 Blocks), inclusive of ½ block on all side streets. Also includes limited services at the Parking Lot behind the Hines Building / Russell Block and in Alcoa Square along Western Avenue as defined below.

Scope of Work

- Spring Cleanup
- Fertilization
- Nuisance Management
- Mowing
- Fall cleanup
- Additional Bid Area #001 Specific Items
 - o 200 Block West Western (Alcoa Square & Splashpad)
 - Clean and refresh the stone landscape beds, add/remove stone as needed
 - Provide nuisance management to the stone beds on the same schedule as other weed control items
 - o 387 & 401 Morris Avenue (Parking Lots)
 - Clean and refresh the stone landscape beds, add/remove stone as needed
 - Provide nuisance management to the stone beds on the same schedule as other weed control items
 - o 479, 489, 495 & 505 Western Avenue (Parking Lot)
 - Include landscaping on perimeter of parking lot with remainder of Western Avenue landscaping.
 - Include mowing of NE side terrace of 5th @ Clay for Monet Gardens

Bid Area #002 - Hackley Park

Limits

Entire boundary of Hackley Park bounded by Clay / 3rd / Webster / 4th Streets including the internal areas of the park and the street terraces.

Scope of Work

- Spring Cleanup
- Hanging Baskets / Flower Pots (Estimated Need = 30 Baskets)
- Fertilization
- Nuisance Management
- Mowing
- Fall cleanup
- Additional Bid Area #002 – Specific Items
 - Event Restoration
 - Restore the site following events. Work expected to include mowing and raking grass, additional watering, fertilization, topsoil and seeding of any damage, and similar work.
 - Estimated need for this service is 15 times annually.
 - Many of the landscape beds within Hackley Park are planted with annual plants in contrast to most other landscape beds which are majority perennial plantings

Bid Area #003 - Third Street

Limits

The raised planter beds along 3rd Street from Muskegon Avenue southeast to First Street. Project area includes five (5) irrigated raised planter beds.

Scope of Work

- Spring Cleanup
- Fertilization
- Nuisance Management
- Fall cleanup

Bid Area #004 - City Hall

Limits

The entire boundary of City Hall bounded by Terrace / Muskegon / Jefferson / Walton Streets including the internal areas of the campus and the street terraces.

Scope of Work

- Spring Cleanup
- Fertilization
- Nuisance Management
- Mowing
- Fall cleanup

Bid Area #005 - Farmers Market

Limits

The entire boundary of City Farmers Market bounded by Terrace / Morris / Western Streets and bounded by the Muskegon Poste Office. Including the internal areas of the site and the street terraces, less the Western Avenue Terrace which is included in a separate item.

Scope of Work

- Spring Cleanup
- Fertilization
- Nuisance Management
- Mowing
- Fall cleanup

Bid Area #006 - Shoreline Drive

Limits

Shoreline Drive from West Western Avenue north and east to Ottawa Street (Approximately 1.25 Miles in length). Work areas and items includes only the landscape items within the median and on shoulders. City staff will provide mowing and turf maintenance.

Scope of Work

- Spring Cleanup

- Fertilization
- Nuisance Management
- Fall cleanup

Bid Area #007 – Various Flower Pots and Planters

Limits

Spread throughout the entire core downtown area. Bid should be based on servicing the following quantity and size of flower pots

- 9 EA – Large Diameter Concrete Pots
- 18 EA – Small Diameter Concrete Pots
- 45 EA – Galvanized Troughs

Scope of Work

- Hanging Baskets / Flower Pots

Bid Area #008 – Irrigation Startup / Shutdown

Limits

Citywide as outlined in the attachments

Scope of Work

Includes the following work:

- Seasonal startup of identified irrigation systems prior to June 1 annually.
- Identification and completion of repairs needed upon startup. Repairs needed shall be reviewed with City staff prior to completion and can be invoiced separately on a time and material basis.
- Seasonal shutdown and winterization of identified irrigation systems prior to October 15th annually.

Bid Area #009 – Lakeside Commercial District

Limits

Lakeshore Drive from Robinson Street to Clifford Street

Scope of Work

- Spring Cleanup
- Fertilization
- Nuisance Management
- Mowing
- Fall cleanup
- Additional Bid Area #002 – Specific Items
 - Area includes three irrigated, raised landscape beds that are subject to all applicable maintenance tasks
 - Areas includes the turf terrace areas along Lakeshore Drive between the noted intersections

PURPOSE OF THE PROJECT

The proposed project seeks to provide more uniformed and routine maintenance to a wide variety of landscaped features in and around the core downtown area for the 2023-2025 calendar years with potential extensions for 2024 and 2025 (Base 3-Year / Max 5-Year). Currently the areas listed above are maintained by a variety of entities and there is a desire to consolidate the services.

BID FORM

BIDDER TO USE THE ATTACHED BID FORM

CONTENTS OF PROPOSAL SUBMITTAL

At a minimum, each proposal shall include the following items:

1. Signed and Completed Proposal & Award Page
2. Signed and Completed Bid Form
3. Listing of any identified Subcontractors
4. Copy of Insurance

EVALUATION

Staff will review the submitted proposals and make a recommendation to the City Commission and other controlling entities for award based on the current purchasing policies of the City.

TENTATIVE SCHEDULE FOR AWARD & IMPLEMENTATION

Issue RFP	November 1, 2022
Proposal Due Date	November 22, 2022 (2:00 PM)
City Commission Consideration of Bids	December 13 th , 2022
Start Date	January 1, 2023
Completion Date	December 31, 2025 (2027 with Extensions)

INSURANCE REQUIREMENTS

The Consultant will be required to comply with the following insurance and indemnity requirements BEFORE ANY AGREEMENTS CAN BE EXECUTED:

- a. **Hold Harmless Agreements:** To the fullest extent permitted by law, Consultant agrees to defend, pay on behalf of, indemnify, and hold harmless the City, its elected and appointed officials, employees, volunteers and others working on behalf of the City against any and all claims, demands, suits, or loss, including any costs connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City, its elected and appointed officials, employees, volunteers, or others working on behalf of the City, by reason of personal injury, including bodily injury and death, property damage, including loss of use thereof, and/or the effects of or release of toxic and/or hazardous material which arises out of or is in any way connected or associated with this contract. The obligation to defend and hold harmless extends to Consultant's employees, agents, subcontractors, assigns and successors.
- b. **Consultant Insurance Requirements:** Consultant shall not commence work under this contract until obtaining the insurance required under this paragraph. All coverage shall be with insurance companies licensed and admitted to do business in the State of Michigan and Best Rated A VIII. All coverage shall be with insurance carriers acceptable to the City.
- c. **Workers' Compensation Insurance:** The Consultant shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employer's Liability coverage, in accordance with all applicable Statutes of the State of Michigan.
- d. **General Liability Insurance:** The Consultant shall procure and maintain during the life of this contract, commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$500,000 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (a) Contractual Liability; (b) Products and Completed Operations; (c) Independent Contractor's Coverage; (d) Broad Form General Liability Extensions or equivalent.
- e. **Motor Vehicle Liability:** The Consultant shall procure and maintain during the life of this contract Motor Vehicle Liability Insurance, including Michigan no-fault coverage, with limits of liability of not less than \$500,000 per occurrence or combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles.

- f. Professional Liability Insurance: The Consultant shall procure and maintain during the life of this contract and during the performance of all services Professional Liability Insurance covering all performances from the beginning of the consultant's services on a "claims made basis" and shall maintain coverage from commencement of this contract until six (6) months following completion of the consultant's work with limits of liability not less than \$500,000 per claim.
- g. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be "Additional Insured": The CITY OF MUSKEGON, all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof.
- h. Cancellation Notice: Workers' Compensation Insurance, General Liability Insurance, Motor Vehicle Liability Insurance, and Professional Liability Insurance, as described above, shall include an endorsement stating the following: "It is understood and agreed that Thirty (30) Days Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be sent to: CITY OF MUSKEGON ENGINEERING DEPARTMENT.
- i. Proof of Insurance Coverage: The Consultant shall provide the City at the time the contracts are returned by him for execution, certificates and policies as listed below:
 - 1. Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance
 - 2. Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance
 - 3. Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance
 - 4. Two (2) copies of Certificate of Insurance for Professional Liability Insurance
 - 5. If so requested, certified copies of all policies mentioned above will be furnished.

If any of the above coverage expires during the term of this contract, the Consultant shall deliver renewal certificates and/or policies to the City at least ten (10) days prior to the expiration date.

Not Shown

Approximately 72 EA planter beds of various size and shape located throughout the downtown area, sample pictures attached.

Farmers Market

200 Block West Western
Alcoa Square & Splashpad
(Included with Western Avenue Bid Area)

387 Morris Ave & 401 Morris Ave
Parking Lots
(Included with Western Avenue Bid Area)

Shoreline Drive
(Western to
Ottawa)

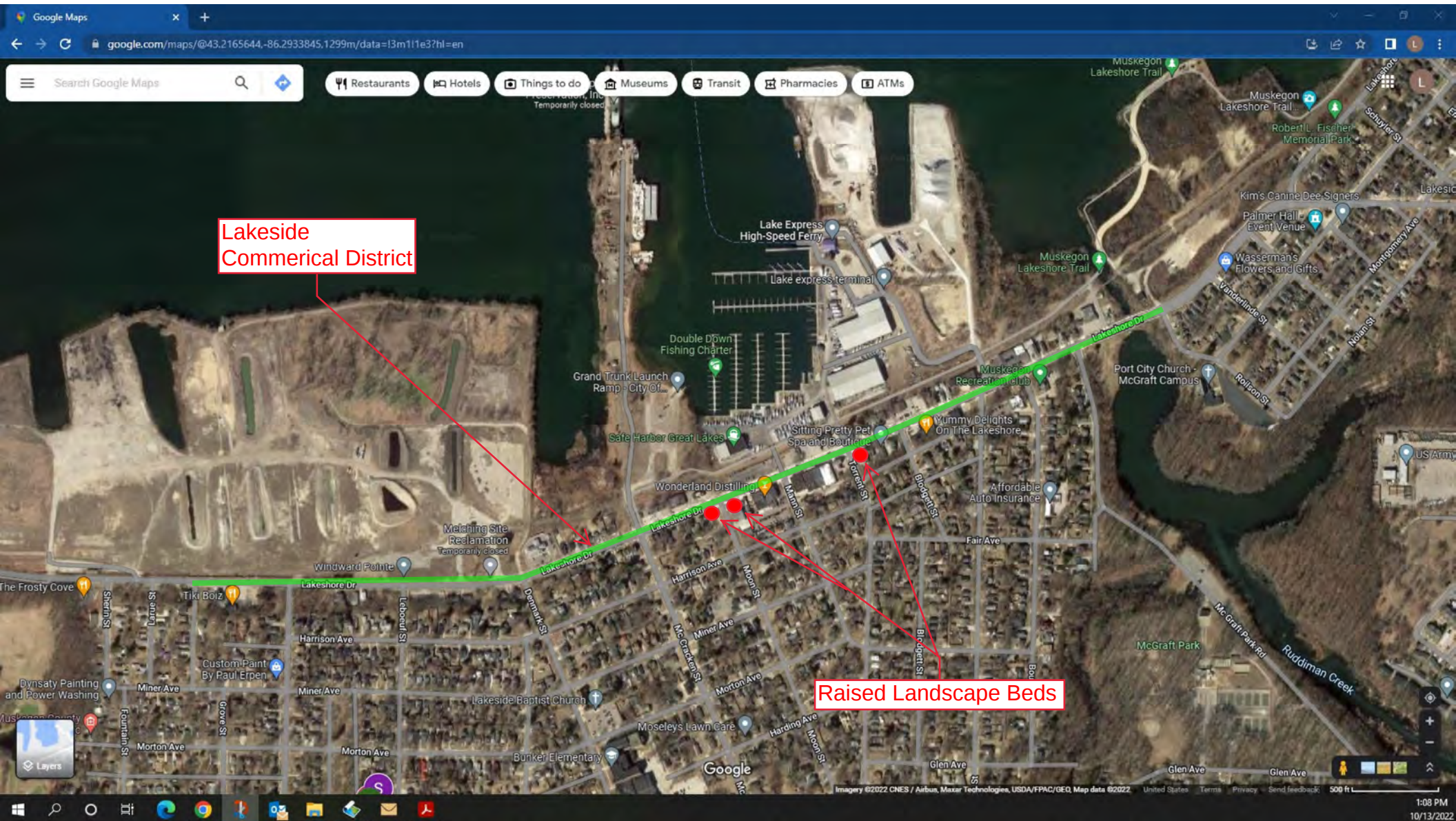
Hackley Park

Third Street
(Muskegon to First)

Western Avenue
Fifth to Terrace

City Hall





SCOPE OF WORK

Items defined below provide a general scope of work. Each individual bid area has unique needs and items specific to that area. Use this document as a general guidance document that covers many of the areas that are common and duplicated throughout multiple areas. Additional specific information for each area along with which general scope items apply are included in the Request for Bids document. Any variances (additions/subtractions/revisions from this document should be noted on the Bid Form in the notes section.

- **Spring Cleanup - To be completed prior to May 15 annually**
 - Thatch and aerate all turf areas as needed
 - Edge all turf areas where appropriate
 - Trim all ornamental grasses and annual plants to spring start height
 - Cleanout landscape beds of all trash, weeds, excess mulch, leaves and any other landscape debris
 - Trim and prune all shrubs, bushes and trees within the designated areas
 - Assess landscaping, shrub, tree, and all other plantings for condition and variety. Provide contract owner with recommendations and cost estimates to replace plantings for conditional reasons and to provide for broader color options and season long appeal. Contract owner will review recommendations and will provide authorization to proceed with approved plantings along with separate negotiated payment for new plantings.
 - Install new hardwood mulch in all mulched landscape beds to provide consistent and uniform coverage
 - Repair and recommend for replacement any landscape edging
 - Haul and dispose of all yard waste. Trash collected can be bagged and left for City staff to collect
 - Ensure that all sidewalks, streets, and curb lines are cleaned of all debris created during the process
 - Coordinate with DPW staff to activate irrigation at the appropriate time
- **Fertilization**

- o Four (4) fertilization applications on all turf areas and any other areas as recommended by the Contractor on the following schedule:
 - Spring (completed by June 1)
 - Early Summer (completed by July 30)
 - Late Summer (completed by September 30)
 - Fall/Winterized (completed by Nov. 30)
- o Contractor shall have discretion to recommend fertilizer product as appropriate and in compliance with all governing laws/ordinances
- o Fertilizer shall be appropriate for areas with expected human/animal contact
- **Nuisance Management**
 - o During the period of May 1 – October 31 provide weekly hand weeding and cleanup of all landscaped areas.
 - o During the period of May 1 – October 31 provide weekly hand weeding or equally effective herbicide to sidewalk and curb areas to keep them free of nuisance weed and grass growth.
 - o Four (4) applications of weed control, insecticide and fungicide to all turf areas and landscaping beds. Application rates and timing shall be at contractor discretion to ensure proper growth and maintenance.
 - o Contractor shall have discretion to recommend nuisance control product as appropriate and in compliance with all governing laws/ordinances
 - o Nuisance control products shall be appropriate for areas with expected human/animal contact and shall be applied by a licensed applicator.
- **Mowing**
 - o During the period of May 1 – October 31 provide weekly mowing of all turf areas
 - o All areas that can't be accomplished with a mower to be weed whipped on a similar schedule or have additional landscaping added to eliminate weed whipping
 - o Provide weekly edging at all locations where a hard surface meets a turf area.

- o Ensure that all sidewalks, streets, and curb lines are cleaned of all debris created during the process
- **Fall cleanup – To be completed prior to November 15 annually**
 - o Contractor shall have discretion to address items identified in the Seasonal Spring Cleanup section during the fall with Contract Owner approval. This is intended to ease spring operations and/or provide additional benefit to the areas
 - o Cleanout landscape beds of all trash, weeds, excess mulch, leaves and any other landscape debris
 - o Assess landscaping, shrub, tree, and all other plantings for condition and variety. Provide contract owner with recommendations and cost estimates to replace plantings for conditional reasons and to provide for broader color options and season long appeal. Contract owner will review recommendations and will provide authorization to proceed with approved plantings along with separate negotiated payment for new plantings.
 - o Coordinate with DPW staff to winterize irrigation at the appropriate time
- **Hanging Baskets / Flower Pots**
 - o Hanging baskets and flower pots shall be installed and actively maintained from May 15 – September 15 annually
 - o Install flowers within existing pots (Bid Area #008) or provide hanging baskets to fit the site (Bid Area #002)
 - o Recommend plantings for the hanging baskets and flower pots and work with the Contract Owner to obtain approval for the plantings to ensure broad variety, season long appeal, and themed uniformity.
 - o Provide frequent watering and any other services needed to the hanging baskets to ensure they remain vibrant and blooming throughout the growing season
 - o Recommend replacement of damaged baskets/pots
 - o Coordinate with the city on needed relocations annually. City staff intend to set the location prior to the Spring start date and only move planters as needed for specific projects/events with a goal to minimize movement throughout the season. Any additional work required to restore a planter related to mid-season relocations is paid separately.

DRAFT

IRRIGATION SYSTEM LOCATION & GENERAL INFORMATION

General Notes

- Approximate location map - https://earth.google.com/earth/d/1JNK-m4_iHKpD5zXqTVkQX9Woks9HtrVT?usp=sharing
- Check all locations for hose bibs or any other locations where water may be present
- Ensure all pumps are deactivated prior to starting blowout. Turn all irrigation controllers to off when done
- 1/4 turn all valves after shutoffs and when done with blowouts. Open all drains at lowest point of water lines in chases if possible
- Pits with meters that are shallow or pullable, disconnect and let drain, leave in pit

Locations For Inclusion In Bid Item

- **Aamodt (2 taps)**
 - Shutoff for E. half of park on Marquette by front of park. Close both valves in pit and open drain. Quick coupler by 3 valve boxes by controller. Can blow through pit or quick coupler.
 - Shutoff for W. half of park on Erickson. Can blow through quick coupler, or valve in pits.
- **City Hall (2 taps)**
 - *Median:* Shutoff for median in road on Terrace/Walton. ¼ turn valve in water meter box by big breaker in the median. Do not blow median just turn off and ¼ turn valve to drain.
 - *Building grounds:* Meter pit by vacuum breaker by building, shutoff and drain in pit. Blow point silver pipe in ground valve box sticking up.
- **Day of Caring**
 - Shutoff and drain in pit. Blowout on breaker – remove plug

- **Dog Park**
 - Shut off, meter drain and pull. Drain in valve box. Blowout in black panel behind brick wall.
- **Greenwood**
 - Shutoff in meter pit, blow out w/quick coupler by breaker, pull meter and let drain.
- **Hackley Park**
 - Pit by Clay on Northside of park. Shutoff ball valve and open drain when done. NO Gate Valve.
 - Vacuum breaker in center monument. Quick coupler for blowout next to it, ¼ turn when done.
- **Indian Cemetery**
 - Shutoff in road in front of Indian entrance. Pit only has drain, blowout on breaker, pull plug on white pvc. Controller in traffic box in bushes to east next to post office parking.
- **Joe Clifford**
 - Shutoff by sidewalk, pit in front of it.
 - 2 valves in pit – 1 shutoff for fountain (closest to road), 1 drain (closest to park). For main line open drain when done.
 - Blowout quick coupler in valve box in front of pit.
 - Metal case with lock may have to be lifted if no key, check under there to ensure blowout is complete. Be sure to open valve to blowout splash pad. Controller is in the back by electrical boxes and pavilion.
- **Lakeshore Dr. and Addison St.**
 - Shutoff at breaker and blowout. Manually turn on if necessary, 4 zones down by lagoon, 1 up by road across street by Lakeside sign. Solar controller further up Addison by guardrail, battery key needed to operate.
- **Lakeshore Dr. and Frisbie St. & Lakeshore Dr. North**
 - Controller on pole. Valves do not turn on, had to turn on manually. On Frisbee turn off valve by curb, manhole has drain, blow point on hose bib. (Lakeshore Dr. North) Across street by Amoco site behind wall shutoff closer to road and drain by backflow. 1 valve with controller on it.

- **Lakeshore Dr. (meter pit 1 and 2) (2 taps)**
 - 50-55psi. End of Mann St. pull meter, drain, leave. Blowout at breaker and also across street by Marine Tap, also can on southside Torrent St. flower bed.
- **Laketon Bike Path (3 taps)**
 - *By Mission:*
 - Manhole has shutoff and drain. Quick coupler is the blowout. From the mission to Southern.
 - *Elwood/Laketon:*
 - Pump-pit-controller
 - *Pine/Laketon:*
 - Controls Leahy to 1 block west of Wood St.
 - Shut off.
 - Take wire off pump start to deactivate pump – wired to controller.
 - Blowout in pump box, remove plug, close last valve. Pressure gauge, pull drain on pump.
- **Lighton**
 - Drain in curb stop by RPZ. In pit across from county building shutoff water. Either pull plug right after the meter, or blow from backside of second check on RPZ. 1 zone, puck by RPZ in valve box. Pull batteries and set to off when done.
- **McLaughlin Community Park**
 - Meter pit behind box, shutoff and pull meter. Get in irrigation box, controller in pavilion. Blowout from hose bib on side of box.
- **Monet**
 - Meter pit for shutoff by controller. Blow point on breaker. Do not do anything for pond other than blow out fill valve. 1 zone does not work and has a nelson puck (probably zone 2ish). Blow, turn off, and remove batteries. Puck in valve box on left side of sidewalk across from controller (may be covered). Not sure about drinking fountain.

- **Shoreline Drive (6 taps)**

- *Tap #1: (Southern to Western, median and sides)*
 - Just past Southern in median manhole by breaker, may have to pump out pit.
 - Shutoff and drain in pit by breaker. Quick coupler by base of breaker for blowout. Controller at end of Western ? (Zones 23 and higher)
- *Tap #2: (Western to 7th) (Zones 14-21?)*
 - Shutoff and drain in pit. Blow the same as the others.
- *Tap #3: (7th to 4th?) (9-13 or 1-8?)*
 - Tap in median across from the Amazon just past 7th. Deep pit, allow to air out. Same as others.
- *Tap #4: (4th to 3rd)*
 - Controller on light pole (6-8 stations?). Shutoff in water cover. Drain in curb stop by quick coupler. Valve by quick coupler and breaker.
- *Tap #5: (Between 3rd and 1st)*
 - Pull up from south side to prevent damage to irrigation. Pole has controller. Shutoff, blow point in pit.
- *Tap #6 at end of Terrace (1st to Moses J. Jones and medians on Terrace)*
 - Manhole, close ball valve, open drain. Blow point on breaker by ground, ¼ turn when done.

- **St. Joseph**

- Shutoff in meter pit. Pull meter if possible. Blow through breaker w/ ¼ inch adapter. Valve next to breaker for fountain. Remove y-strainer if possible from fountain to prevent freezing.

- **Terrace Point**

- Shutoff, meter, and drain across from Shoreline Inn parking lot. Shutoff, blow through RPZ. Open drain when done. Controller down the road in the trees.

- **Third St.**

- Shutoff and meter in pit in landscape. Blow point on breaker. Pull meter and drain when done. Drain in curb stop by meter pit.

- **Western Ave. (2 taps)**
 - o *Tap #1: (Terrace to 1st)*
 - Located at Jefferson and Western in landscape. Shutoff in pit and drain is blowout.
 - o *Tap #2: (1st to 3rd)*
 - Located at 2nd and Western in landscape. Shutoff is curb stop in sidewalk and drain by RPZ. Blowout from RPZ.
- **Young Park**
 - o Shutoff, pull meter from pit and drain. Controller on valve, blow from breaker.

BID FORM - DOWNTOWN LANDSCAPING

COMPANY NAME:

ADDRESS:

PHONE / EMAIL:

NAME / TITLE:

SIGNATURE / DATE:

Line Item	Description	Year #1 (2023 Season)	Year #2 (2024 Season)	Year #3 (2025 Season)	Year #4 (2026 Season) / Optional	Year #5 (2027 Season) / Optional
1	Bid Area #001 - Western Avenue					
2	Bid Area #002 - Hackley Park					
3	Bid Area #003 - Third Street					
4	Bid Area #004 - City Hall					
5	Bid Area #005 - Farmers Market					
6	Bid Area #006 - Shoreline Drive					
7	Bid Area #007 - Various Flower Pots and Planters					
8	Bid Area #008 - Irrigation Startup / Shutdown					
9	Bid Area #009 - Lakeside Commercial District					

BID NOTES / CONDITIONS

<i>Description</i>	<i>DT BID</i>	<i>LS BID</i>	<i>DDA</i>	<i>City GF</i>	<i>CFFMC</i>	<i>Farmers Market</i>	<i>TOTAL</i>
Bid Area #001 - Western Avenue	100%						100%
Bid Area #002 - Hackley Park					100%		100%
Bid Area #003 - Third Street	100%						100%
Bid Area #004 - City Hall				100%			100%
Bid Area #005 - Farmers Market						100%	100%
Bid Area #006 - Shoreline Drive				100%			100%
Bid Area #007 - Various Flower Pots and Planters			100%				100%
Bid Area #008 - Irrigation Startup / Shutdown	10%	10%		80%			100%
Bid Area #009 - Lakeside Commercial District		100%					100%

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: November 7, 2022	Title: MDEGLE High Water Infrastructure Grant
Submitted By: Leo Evans	Department: Public Works
Brief Summary: Staff requests a resolution of support and commitment of matching funds for submittal to MDEGLE through the 2023 High Water Infrastructure Grant Program.	
Detailed Summary & Background: The Michigan Legislature appropriated \$14.25 million to the Michigan Department of Environment, Great Lakes, and Energy (EGLE) for a grant program to provide infrastructure and planning grants that directly address the impacts and vulnerabilities presented by severe weather events, with a focus on projects that address flooding, coastline erosion, urban heat, and storm water management. Staff has identified restoration of the beach access at Kruse Park as a target for this program. Staff has previously conducted community engagement on this project and developed a master plan for the site that is available on our website here - https://www.muskegon-mi.gov/cresources/Kruse-Park-Master-Plan-compressed.pdf Staff has prepared an application to pursue funds to support the work identified in Phase 1 of the Master Plan as well as obtaining letters of support from our legislative contacts, the Muskegon Conservation District, WMSRDC, Beachwood-Bluffton Neighborhood Association, and Disability Network West Michigan. If successful as drafted the grant will provide \$700,000.00 towards the project and will require a commitment of matching cash/in-kind funds from the City in the amount of \$343,915.00 during the 23/24 fiscal year.	
Goal/Focus Area/Action Item Addressed: Destination Community & Quality of Life – Enhanced Parks & Recreation Department and Services	
Amount Requested: \$0	Amount Budgeted: \$0
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: Approve the Resolution of Support and Commitment of Matching Funds for the 2023 State High Water Infrastructure Grant and authorize the Clerk to sign.	
Approvals:	Guest(s) Invited / Presenting

Immediate Division Head	☒	Information Technology	☐	Yes	☐
Other Division Heads	☒	Communication	☒	No	☒
For City Clerk Use Only: Commission Action:					

City of Muskegon

RESOLUTION OF SUPPORT & COMMITMENT OF MATCHING FUNDS for

Kruse Park Beach Access Restoration

WHEREAS, Muskegon City Commission supports the submission of an application titled, “Kruse Park Beach Access Restoration” to the Michigan Department of Environment, Great Lakes and Energy within the 2023 State High Water Infrastructure Grant Program for completion of Phase 1 improvements at Kruse Park; and,

WHEREAS, the City of Muskegon desires to make improvements on the site to provide increased access to the shoreline and enhanced recreational activities; and,

WHEREAS, the proposed application is supported by the Community’s 5-year Approved Parks and Recreation Plan; and,

WHEREAS, funding is available from the State of Michigan through a legislative appropriation, and

WHEREAS, the City of Muskegon is hereby making a financial commitment to the project in the amount of \$343,915.00 matching funds in cash and in-kind services should the project be selected; and

NOW, THEREFORE LET IT BE RESOLVED, that Muskegon City Commissioners hereby authorizes and supports submission of a 2023 State high Water Infrastructure Grant for \$700,000.00 for completion of Phase 1 Kruse Park Beach Access Restoration, and further resolves to make available its financial obligation amount of \$343,915.00 for a total project cost of \$1,043,915.00 during the Cities 2023-2024 fiscal year.

Yeas:

Nays:

Absent:

I certify that the above Resolution was adopted by the City Commission of the City of Muskegon on November 7th, 2022.

BY: Ann Meisch, City Clerk

Signature

Date



MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
WATER RESOURCES DIVISION

State High Water Infrastructure Grant Program
2023 Grant Application

Proposed Grant Title: _____

Applicant Information

Name of Agency/Organization: _____

Address: _____ City: _____ ZIP: _____

Applicant Contact Name: _____

Title: _____

Phone Number: _____

Email Address: _____

Authorized Representative Name: _____

Title: _____

Phone Number: _____

Email Address: _____

List of counties work will take place in:

If your project is site-specific, please include the latitude and longitude coordinates of the site entrance location. Is your project site specific? ☐ Yes ☐ No

LAT: N _____ LONG: W _____

US Congressional District	_____	Fed ID#	_____
State Senate District	_____	UEI#	_____
State House District	_____	Grant Amount	_____
Great Lake or	_____	Match Amount	_____
Connecting Waterway	_____	Project Total	_____

Project Description

- A. Provide a concise description of project scope and how the project addresses the impacts and vulnerabilities presented by severe weather events, with a focus on projects that address flooding, coastline erosion, urban heat, and stormwater management.
- B. Provide a detailed description of the proposed project tasks, activities, outcomes, and work products. The description should fully explain the details of each task and provide greater context to information supplied in the Project Tasks and Schedule section. Descriptions should include details on project readiness and transferability of project results.
- C. Provide a description of the source of secured or committed (20%) match funds with letters of commitment from each source. A letter from each entity contributing match, with amount specified, must be received alongside the application.
- D. Provide a description of how the proposed project leverages other technical and/or financial resources.
- E. Provide a description of your organizational capability to administer the grant; including outlining the qualifications of all individuals anticipated to work on the project tasks with indication of their roles and responsibilities of oversight of contractual service providers.

F. Project Tasks and Schedule:

Please provide a Gantt Chart that outlines proposed tasks, the expected timeline that tasks are expected to be completed, and work products to be created from completion of tasks as an attachment with your application.

Project Budget

Download and use the Budget Form available on the MCMP's website, Michigan.gov/CoastalManagement.

When completing the Budget Form, select one of three cost accounting approaches for project indirect costs. Indirect accounting options include:

- 1) The applicant's federally negotiated indirect rate, which must be accompanied by a Negotiated Indirect Cost Rate Agreement (NICRA)
- 2) A 10 percent de minimis rate; or
- 3) Zero indirect expenses for projects that do not require any reimbursement of indirect costs.

Required Attachments

Please provide the following items as attachments with your application:

- Project location map for proposed project.
- Proof of Audit
 - Applicants must provide documentation of financial stability by providing proof of a financial audit within 24 months of the announcement of this GFO. The audit date is based on the audit period and not the date of the audit or audit letter.
- Resolution or Letters of Support
 - A Resolution of Support is required for applications from local units of government or other partner organizations. A sample Resolution of Support is available on the MCMP's website, Michigan.gov/CoastalManagement.
- Letters of Commitment
 - Provide any letters or commitments of support from partner organizations.

If you need this information in an alternate format, contact EGLE-Accessibility@Michigan.gov or 800-662-9278.

EGLE does not discriminate on the basis of race, sex, religion, age, national origin, color, marital status, disability, political beliefs, height, weight, genetic information, or sexual orientation in the administration of any of its programs or activities, and prohibits intimidation and retaliation, as required by applicable laws and regulations. Questions or concerns should be directed to the Nondiscrimination Compliance Coordinator at EGLE-NondiscriminationCC@Michigan.gov or 517-249-0906.

This form and its contents are subject to the Freedom of Information Act and may be released to the public.

Kruse Park Beach Access Restoration

SIMPLE GANTT CHART by Vertex42.com
<https://www.vertex42.com/ExcelTemplates/simple-gantt-chart.html>

City of Muskegon
Department of Public Works

Mon, 4/3/2023

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[illegible]

 MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY WATER RESOURCES DIVISION COASTAL MANAGEMENT PROGRAM PROJECT BUDGET Organization Name: City of Muskegon Project Name: Kruse Park Beach Access Restoration Project Number: TBD					
Staffing					
Name and Title of Staff	Hours	Rate	Grant Amount	Local Match Amount	Total
Leo Evans / DPW Director & City Engineer	100.00	\$ 56.99	\$ -	\$ 5,699.00	\$ 5,699.00
Dan VanderHeide / Deputy DPW Director	100.00	\$ 47.52	\$ -	\$ 4,752.00	\$ 4,752.00
Matt Schwemin / Parks Supervisor	100.00	\$ 31.12	\$ -	\$ 3,112.00	\$ 3,112.00
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
Staffing Subtotal			\$ -	\$ 13,563.00	\$ 13,563.00
Fringe Benefits					
Fringe		Rate	Grant Amount	Local Match Amount	Total
Leo Evans / DPW Director & City Engineer		40.00%	\$ -	\$ 2,279.60	\$ 2,279.60
Dan VanderHeide / Deputy DPW Director		40.00%	\$ -	\$ 1,900.80	\$ 1,900.80
Matt Schwemin / Parks Supervisor		40.00%	\$ -	\$ 1,244.80	\$ 1,244.80
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
Fringe Benefits Subtotal			\$ -	\$ 5,425.20	\$ 5,425.20
Staffing and Fringe Benefits Subtotal			\$ -	\$ 18,988.20	\$ 18,988.20
Contractual Services					
Name of Contractor	Hours or Units	Rate or Total	Grant Amount	Local Match Amount	Total

Engineer / Architect	1.00	\$ 84,627.00	\$ -	\$ 84,627.00	\$ 84,627.00
Contractors - Various	1.00	\$ 940,299.80	\$ 700,000.00	\$ 240,299.80	\$ 940,299.80
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
Contractual Services Subtotal			\$ 700,000.00	\$ 324,926.80	\$ 1,024,926.80
Supplies and Materials					
Itemized Supplies and Materials	Quantity	Cost	Grant Amount	Local Match Amount	Total
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
Supplies and Materials Subtotal			\$ -	\$ -	\$ -
Equipment (Any Item Over \$5,000)					
Itemized Equipment	Quantity	Cost	Grant Amount	Local Match Amount	Total
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
Equipment Subtotal			\$ -	\$ -	\$ -
Travel					
Mileage	Miles	Rate	Grant Amount	Local Match Amount	Total
		\$ -	\$ -	\$ -	\$ -
Lodging	Nights	Rate	Grant Amount	Local Match Amount	Total
		\$ -	\$ -	\$ -	\$ -
Meals	Quantity	Rate	Grant Amount	Local Match Amount	Total

		\$ -	\$ -	\$ -	\$ -
Other Travel (Tolls, Parking, Etc.)	Quantity	Rate	Grant Amount	Local Match Amount	Total
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
Travel Subtotal			\$ -	\$ -	\$ -
	Other				
Description	Quantity	Cost	Grant Amount	Local Match Amount	Total
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -
Other Subtotal			\$ -	\$ -	\$ -
Project Subtotal					
			Grant Amount	Local Match Amount	Total
Project Subtotal			\$ 700,000.00	\$ 343,915.00	\$ 1,043,915.00
Indirect					
Indirect Approach					
Rate	0.00%				
Indirect Subtotal			\$ -	\$ -	\$ -
What expense categories are included in the indirect calculation (e.g. salary and fringe, travel)?					
Grant and Match Budget					
Grant and Match Total			\$ 700,000.00	\$ 343,915.00	\$ 1,043,915.00
Project Percentage Split			67.06%	32.94%	
Sources of Match					
Organization		Dollar Value Committed			
		In Kind	Cash	Total	

City of Muskegon		\$ 18,988.20	\$ 324,926.80	\$ 343,915.00
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
Subtotal		\$ 18,988.20	\$ 324,926.80	
Total Match Must Equal Local Match Amount in Budget Sheet Above				\$ 343,915.00

If you need this information in an alternate format, call 800-662-9278 or contact: EGLE-Accessibility@Michigan.gov

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WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: November 7, 2022	Title: Roberts Street MDOT Agreement
Submitted By: Dan VanderHeide	Department: Public Works
Brief Summary: Staff is requesting approval of a contract with MDOT for the repaving of Roberts Street from Sherman Boulevard to Laketon Avenue, and approval of resolution authorizing the Mayor and Clerk to sign the contract.	
Detailed Summary & Background: This is the standard contract that governs construction contracts that use federal funds and/or are administered through MDOT. The estimated cost of the project is \$1,046,811.25, with \$371,340 of that being Category F Transportation Economic Development Fund (TEDF) grant dollars. The reminder of \$675,471.25 is accounted for in the City's FY22 Major Street fund capital budget. Of the \$825,000 budgeted for the project, \$31,880.07 has been spent on engineering and other design phase services. The project will be bid this fall and begin construction in the spring; the exact schedule is not known at this time but will be communicated to the businesses and residents in the area once known.	
Goal/Focus Area/Action Item Addressed: Key Focus Area: Sustainability in financial practices and infrastructure.	
Amount Requested: \$675,471.25	Amount Budgeted: \$825,000.00 Requested \$ 31,880.07 Expended \$793,119.93 Remaining
Fund(s) or Account(s): 202 (Major Streets)	Fund(s) or Account(s): 202 (Major Streets)
Recommended Motion: Approval of the Roberts Street MDOT Contract and a resolution authorizing the DPW Director and Clerk to sign the contract.	
Approvals: Immediate Division Head ☒ Information Technology ☐ Other Division Heads ☐ Communication ☐	Guest(s) Invited / Presenting: Yes ☐ No ☒
For City Clerk Use Only: Commission Action:	

RESOLUTION _____

RESOLUTION FOR APPROVAL OF A CONTRACT AGREEMENT BETWEEN THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND THE CITY OF MUSKEGON FOR ROADWAY RECONSTRUCTION WORK ALONG ROBERTS STREET FROM BARNEY AVENUE NORTH TO LAKETON AVENUE, INCLUDING HOT MIX ASPHALT SURFACING, CONCRETE CURB AND GUTTER, AND PERMANENT PAVEMENT MARKING WORK.

Moved by Commissioner _____ and supported by Commissioner _____ the following Resolution be adopted:

WHEREAS, entry by the City of Muskegon into Contract no. **22-5487** between the Michigan Department of Transportation and the City of Muskegon for the **Reconstruction of Roberts Street between Barney Avenue and Laketon Avenue** within the City is in the best interests of the City of Muskegon.

RESOLVED, that entry by the City into Contract Agreement Number **22-5487** be and the same is hereby authorized and approved and the DPW Director and Clerk are authorized to execute said contract for and on behalf of the City of Muskegon.

Adopted this 7TH day of November, 2022.

BY

Leo Evans, Director of Public Works

ATTEST

Ann Meisch, City Clerk

CERTIFICATION

This resolution was adopted at a meeting of the City Commission, held on November 7, 2022. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By _____
Ann Meisch, City Clerk

TED (F)
NON FED

COM
Control Section EDF 61000
Job Number 215087CON
Contract No. 22-5487

THIS CONTRACT is made by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT;" and the CITY OF MUSKEGON, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY;" for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in Muskegon, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I," dated October 6, 2022, attached hereto and made a part hereof:

Hot mix asphalt reconstruction along Roberts Street from Laketon Avenue to Barney Avenue, including earthwork, aggregate base, concrete curb and gutter, sidewalk and permanent pavement markings; and all together with necessary related work.

WITNESSETH:

WHEREAS, the State of Michigan is hereinafter referred to as the "State;" and

WHEREAS, the PROJECT has been approved for financing in part with funds from the State appropriated to the Transportation Economic Development Fund, hereinafter referred to as "TED FUNDS," qualifies for funding pursuant to PA 231, Section 11(2)(b); Public Act of 1987, as amended, and is categorized as:

CATEGORY "F" FUNDED PROJECT

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.
2. The term "PROJECT COST," as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT.

The costs incurred by the REQUESTING PARTY for preliminary engineering, construction engineering and inspection, and right-of-way are excluded from the PROJECT COST as defined by this contract.

The Michigan Department of Environment, Great Lakes, and Energy has informed the DEPARTMENT that it adopted new administrative rules (R 325.10101, et. seq.) which prohibit any governmental agency from connecting and/or reconnecting lead and/or galvanized service lines to existing and/or new water main. Questions regarding these administrative rules should be directed to the Michigan Department of Environment, Great Lakes, and Energy. The cost associated with replacement of any lead and/or galvanized service lines, including but not limited to contractor claims, will be the sole responsibility of the REQUESTING PARTY.

3. The DEPARTMENT is authorized by the REQUESTING PARTY to perform, at no cost to the PROJECT, such administration of the PROJECT covered by this contract as is necessary to assist the REQUESTING PARTY to qualify for funding. Such administration may include performing such review, legal, financing, any other PROJECT related activities as are necessary to assist the REQUESTING PARTY in meeting applicable State requirements.

The DEPARTMENT shall provide the REQUESTING PARTY with a notice to proceed with the award of the construction contract for the PROJECT.

The DEPARTMENT shall make a final acceptance inspection of the PROJECT as necessary to ensure the PROJECT meets State requirements. Failure to comply with State requirements may result in forfeiture of future distributions of the Michigan Transportation Fund as described in Section 5. No charges will be made by the DEPARTMENT to the PROJECT for any inspection work or construction engineering.

4. The REQUESTING PARTY, under the terms of this contract, shall advertise and award the PROJECT work in accordance with the following:

- A. The REQUESTING PARTY will, at no cost to the DEPARTMENT or the PROJECT, design, or cause to be designed, the PROJECT, and shall accept full responsibility for that design. Any review undertaken by the DEPARTMENT is for its own purposes and is not to nor does it relieve the REQUESTING PARTY of liability for any claims, causes of action or judgments arising out of the design of the PROJECT.
- B. The REQUESTING PARTY, hereby, certifies to the DEPARTMENT that the plans, specifications, and estimates for the PROJECT have been prepared in compliance with applicable State laws, standards, and regulations.
- C. The REQUESTING PARTY, hereby, certifies to the DEPARTMENT that the contracting procedures to be followed by the REQUESTING PARTY

in connection with the solicitation of the construction contract for the PROJECT shall be based on an open competitive bid process. It is understood that the proposal for the PROJECT shall be publicly advertised and the contract awarded on the basis of the lowest responsive and responsible bid in accordance with applicable State statutes and regulations.

- (1) The REQUESTING PARTY shall not award the construction contract prior to receipt of a notice to proceed from the DEPARTMENT.
- (2) Upon verification that contractor selection by the REQUESTING PARTY was made in accordance with the terms of this contract and upon receipt of the "Request for Payment" form from the REQUESTING PARTY, the DEPARTMENT will authorize payment to the REQUESTING PARTY for the eligible amount in accordance with Section 5.

- D. The REQUESTING PARTY will, at no cost to the PROJECT or the DEPARTMENT, comply with all applicable State statutes and regulations, including, but not limited to, those specifically relating to construction contract administration and obtain all permits and approvals with railway companies, utilities, concerned State, Federal, and local agencies, etc., and give appropriate notifications as may be necessary for the performance of work required for the PROJECT.

The REQUESTING PARTY agrees to comply with all applicable requirements of Part 91, Soil Erosion and Sedimentation Control of the Natural Resources and Environmental Protection Act, 1994 PA 451 as amended by 1995 PA 60 and 1996 PA 173, MCL 324.9101 et. seq., for all PROJECT work performed under this contract, and the REQUESTING PARTY shall require its contractors and subcontractors to comply with the same.

- E. All work in connection with the PROJECT shall be performed in conformance with the DEPARTMENT'S current Standard Specifications for Construction, special provisions, and the supplemental specifications and plans pertaining to the PROJECT. All materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. Any changes in the scope of work for the PROJECT will require approval by the DEPARTMENT.
- F. The REQUESTING PARTY shall, at no cost to the PROJECT or to the DEPARTMENT, appoint a project engineer who shall administer the

PROJECT and ensure that the plans and specifications are followed, and shall perform or cause to be performed the construction engineering and inspection services necessary for the completion of the PROJECT.

Should the REQUESTING PARTY elect to use consultants for construction engineering and inspection, the REQUESTING PARTY shall provide a full-time project manager employed by the REQUESTING PARTY who shall ensure that the plans and specifications are followed.

G. The REQUESTING PARTY shall require the contractor who is awarded the contract for the construction of the PROJECT to provide, as a minimum, insurance in the amounts specified in and in accordance with the DEPARTMENT'S current Standard Specifications for Construction, and to:

- (1) Maintain bodily injury and property damage insurance for the duration of the PROJECT.
- (2) Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other party with jurisdiction for the roadway being constructed as the PROJECT, and their employees, for the duration of the PROJECT and to provide copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume either ownership of any portion of the PROJECT or jurisdiction of any REQUESTING PARTY highway as a result of being named as an insured on the owner's protective liability insurance policy.
- (3) Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current Standard Specifications for Construction and to provide copies of notices and reports prepared to those insured.

5. The PROJECT COST shall be met in part by contributions by TED FUNDS. TED FUNDS Category F shall be applied to the eligible items of the PROJECT COST up to an amount not to exceed the lesser of: (1) 45 percent of the approved and responsible low bid amount, or (2) \$375,000, the grant amount. The balance, if any, of the PROJECT COST, after deduction of TED FUNDS, is the sole responsibility of the REQUESTING PARTY.

The REQUESTING PARTY shall be responsible for the payment of all costs and expenses incurred in the performance of PROJECT work.

Based upon the final cost of the PROJECT and/or a request by the REQUESTING PARTY, a payment adjustment may be initiated and/or authorized by the DEPARTMENT for eligible items of the PROJECT COST such that the total amount of TED FUNDS does not exceed the grant amount. The REQUESTING PARTY shall certify all actual costs incurred for work performed under this contract that are eligible for payment with TED FUNDS and will be required to repay any TED FUNDS it received in excess of 45 percent of the total of such costs.

6. The REQUESTING PARTY shall establish and maintain adequate records and accounts relative to the cost of the PROJECT. Said records shall be retained for a period of three (3) years after completion of construction of the PROJECT and shall be available for audit by the DEPARTMENT. In the event of a dispute with regard to allowable expenses or any other issue under this contract, the REQUESTING PARTY shall continue to maintain the records at least until that dispute has been finally decided and the time after all available challenges or appeals of that decision has expired.

The DEPARTMENT, or its representative, may inspect, copy, or audit the records at any reasonable time after giving reasonable notice.

The REQUESTING PARTY, within six (6) months of completion of the PROJECT and payment of all items of PROJECT COST related thereto, shall make a final reporting of construction costs to the DEPARTMENT and certify that the PROJECT has been constructed in accordance with the PROJECT plans, specifications, and construction contract.

In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported under this contract or questions the allowability of an item of expense, the DEPARTMENT shall promptly submit to the REQUESTING PARTY a Notice of Audit Results and a copy of the audit report which may supplement or modify any tentative findings verbally communicated to the REQUESTING PARTY at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense, and (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT shall make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the REQUESTING PARTY, the REQUESTING PARTY shall repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the REQUESTING PARTY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the REQUESTING PARTY agrees that the DEPARTMENT shall deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the REQUESTING PARTY under this contract or any other agreement, or payable to the REQUESTING PARTY under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The REQUESTING PARTY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT'S decision only as to any item of expense the disallowance of which was disputed by the REQUESTING PARTY in a timely filed RESPONSE.

The REQUESTING PARTY shall comply with the Single Audit Act of 1984, P.L. 998-502 and applicable State laws and regulations relative to audit requirements.

7. Upon completion of construction of the PROJECT, the REQUESTING PARTY will cause to be enacted and enforced such ordinances or regulations as may be necessary to prohibit parking in the roadway right-of-way throughout the limits of the PROJECT.

8. The REQUESTING PARTY certifies that it is not aware if and has no reason to believe that the property on which the work is to be performed under this agreement is a facility, as defined by the Michigan Natural Resources and Environmental Protection Act [(NREPA), PA 451, 1994, as amended 2012]; MCL 324.20101(1)(s). The REQUESTING PARTY also certifies that it is not a liable party pursuant to either Part 201 or Part 213 of NREPA, MCL 324.20126 et seq. and MCL 324.21323a et seq. The REQUESTING PARTY is a local unit of government that has acquired or will acquire property for the use of either a transportation corridor or public right-of-way and was not responsible for any activities causing a release or threat of release of any hazardous materials at or on the property. The REQUESTING PARTY is not a person who is liable for response activity costs, pursuant to MCL 324.20101 (vv) and (ww).

9. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either State or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Michigan Department of Environment, Great Lakes, and Energy , shall immediately

notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT. If the REQUESTING PARTY refuses to participate in the cost of remediation, the amount of TED FUNDS the REQUESTING PARTY received from Grant #1009 shall be forfeited back to the DEPARTMENT.

10. If State funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Michigan Department of Environment, Great Lakes, and Energy and the DEPARTMENT, shall make a diligent effort to recover such costs from all other possible entities. If recovery is made, the DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the amount paid by the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

11. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the State.

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT does not relieve the REQUESTING PARTY and the local agencies, as applicable, of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402 et seq., as amended.

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT is performing a governmental function, as that term is defined in MCL 691.1401 et seq. as amended, which is incidental to the completion of the PROJECT.

12. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402 et seq., as amended. Exclusive jurisdiction of such highway for the purposes of MCL 691.1402 et seq., as amended, rest with the REQUESTING PARTY and other local agencies having respective jurisdiction.

13. The REQUESTING PARTY shall approve all of the plans and specifications to be used on the PROJECT and shall be deemed to have approved all changes to the plans and specifications when put into effect. It is agreed that ultimate responsibility and control over the PROJECT rests with the REQUESTING PARTY and local agencies, as applicable.

Upon completion of the PROJECT, the REQUESTING PARTY shall accept the facilities constructed as built to specifications within the contract documents. It is understood that the REQUESTING PARTY shall own the facilities and shall operate and maintain the facilities in accordance with all applicable Federal and State laws and regulations, including, but not limited to, Title II of the Americans with Disabilities Act (ADA), 42 USC 12131 et seq., and its associated regulations and standards, and DEPARTMENT Road and Bridge Standard Plans and the Standard Specifications for Construction.

14. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

15. Each party to this contract will remain responsible for any and all claims arising out of its own acts and/or omissions during the performance of the contract, as provided by this contract or by law. In addition, this is not intended to increase or decrease either party's liability for or immunity from tort claims. This contract is also not intended to nor will it be interpreted as giving either party a right of indemnification, either by contract or by law, for claims arising out of the performance of this contract.

16. In connection with the performance of PROJECT work under this contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964 being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.

17. The REQUESTING PARTY and other local agencies, as applicable parties, understand and agree that the highway(s) or street(s) being improved under the terms of this agreement and funded with Transportation Economic Development Funds, shall not be subject to any restriction by local authorities in using certain commercial vehicles on such highway(s) or street(s). Such restrictions are in conflict with the basic concept of the Transportation Economic Development Program and Funding. The REQUESTING PARTY, by signing this agreement, agrees to obtain concurrence from other local governmental agencies within whose jurisdiction or control the highway(s) or street(s) are being improved.

18. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto and upon the adoption of the necessary resolution approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed as written below.

CITY OF MUSKEGON

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By _____
Title:

By _____
Department Director MDOT

By _____
Title:



October 6, 2022

EXHIBIT I

CONTROL SECTION	EDF 61000
JOB NUMBER	215087CON

ESTIMATED COST

Estimated PROJECT COST

Contracted Work	\$825,200
-----------------	-----------

ESTIMATED COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	\$825,200
Less TED FUNDS*	<u>\$371,340</u>
BALANCE (REQUESTING PARTY'S SHARE)	\$453,860

NO DEPOSIT

*TED FUNDS for the PROJECT are limited to an amount as described in Section 5.

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the contractor's commitments under this Appendix.
6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.

7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.
9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised June 2011

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: November 7, 2022	Title: Trash Compactors
Submitted By: Matt Schwemin, Parks Supervisor	Department: Parks
Brief Summary: Staff requests authorization to sign a three-year lease for 14 self-compacting trash receptacles at Pere Marquette and Margaret Drake Elliot parks.	
Detailed Summary & Background: These 50 gallon capacity, self-compacting units from Connect by BigBelly would enhance the shoreline look and be one direct result of the paid for parking benefit. Not only will the units look aesthetically pleasing as opposed to the current metal open face cans, but with a fully enclosed system, less trash would blow out of the units onto the beach. Current walkway pads allow for placement and not block those with ADA needs. The units are sturdy in nature and can handle the winds and sands at the beach location according to the manufacturer. The biggest goal with the three-year lease period is to not only see how much the cans get used, but also to see how the units stand up to the elements. We will have the ability to extend the lease or purchase units at the end of the three-year period. Local suppliers can provide liners for the units. The manufacture does have a subsidiary in Kentucky that can provide liners if need be. The units also provide options to advertise or brand; staff is still discussing the pros and cons of this option and will proceed carefully, if at all. The units do connect to the internet if available, and will notify staff of the need for emptying and include usage data. During the off season, roughly October through April, we have enclosed storage available at Margaret Drake Elliot for the units. Depending on how maneuverable they are and the installation needs, staff is considering locating them downtown during the off season. The three-year lease provides annual maintenance and troubleshooting, however placement of the units and removal each season would depend on Parks staff. The units are large and would require heavy machinery to move. Staff has performed a financial comparison, and while these units are about twice as expensive as traditional receptacles we calculate we will recoup that cost and more by reducing the times they need to be emptied and reducing litter cleanup in the area. The current budget includes \$10,000 for these units. The actual impact to this year's budget will be approximately \$4,549.11 (for three months of lease payments). Future budgets will include for the exact lease amounts per fiscal year.	
Goal/Focus Area/Action Item Addressed: Destination Community & Quality of Life – Enhanced Parks & Recreation Department and Services	
Amount Requested: \$ 4,549.11 (FY22) \$54,589.32 (Over 3 Years)	Amount Budgeted: \$10,000 (FY22) \$54,589.32 (Total Including Future Budgets)
Fund(s) or Account(s): 101-770-762 (Parks)	Fund(s) or Account(s): 110-770-762 (Parks)

Recommended Motion: Authorize staff to enter into a three-year lease agreement with Connect by BigBelly for a total of \$54,589.32 over three years for 14 self-compacting 50 gallon trash receptacles.

Approvals:

Immediate Division Head ☒ Information Technology ☒

Other Division Heads ☐ Communication ☐

Guest(s) Invited / Presenting

Yes ☐

No ☒

For City Clerk Use Only:

Commission Action:



Executive Summary Proposal

CITY OF MUSKEGON

Program Overview

Connect LX is Bigbelly's turnkey smart city solution which delivers a connected smart waste and recycling platform and provides Customers with a partner to help deploy, manage, and optimize their customized solution over a 36-month term. This subscription-based service was designed to deliver a flexible, scalable, smart platform that transforms waste operations today, and enables Customers to benefit from the technology innovations of the future.

Connect LX 36 Month Term	
System Software - CLEAN Management Console Licenses for Full Term - CLEAN Mobile Software Licenses for Full Term	Automated System Monitoring Automated System Diagnostics and Alerts
Equipment/Hardware Custom Configuration as Detailed Below	Cleaning and Inspection - Annual Comprehensive Station Cleaning - Annual Station Inspection
Station Installation On-Site Installation for Stations	Warranty - Hardware Parts Warranty for Full Term - Expanded Warranty Coverage for Battery End-of-Life Replacement and Network Communication Upgrades for Full Term
Setup and Training - CLEAN Software Account Setup - System Training & Onboarding	Customer Support Customer Support Hotline and Trained Field Service Professionals
Equipment/Hardware Configuration	
12 HC5 Single Station with Foot Pedal	
Total Monthly System Cost	\$1,502.28

One Time Fees	
(5) Boxes of HC Bags (Box of 50)	\$192.50
Shipping	\$2,130.00

¹Pricing is valid for 60 days from October 4, 2022.

²Sales Tax is NOT included in above pricing.

³Pricing is subject to Connect Program Terms and Conditions.



Executive Summary Proposal

CITY OF MUSKEGON

Program Overview

Connect LX is Bigbelly's turnkey smart city solution which delivers a connected smart waste and recycling platform and provides Customers with a partner to help deploy, manage, and optimize their customized solution over a 36-month term. This subscription-based service was designed to deliver a flexible, scalable, smart platform that transforms waste operations today, and enables Customers to benefit from the technology innovations of the future.

Connect LX 36 Month Term	
System Software - CLEAN Management Console Licenses for Full Term - CLEAN Mobile Software Licenses for Full Term	Automated System Monitoring Automated System Diagnostics and Alerts
Equipment/Hardware Custom Configuration as Detailed Below	Cleaning and Inspection - Annual Comprehensive Station Cleaning - Annual Station Inspection
Station Installation On-Site Installation for Stations	Warranty - Hardware Parts Warranty for Full Term - Expanded Warranty Coverage for Battery End-of-Life Replacement and Network Communication Upgrades for Full Term
Setup and Training - CLEAN Software Account Setup - System Training & Onboarding	Customer Support Customer Support Hotline and Trained Field Service Professionals
Equipment/Hardware Configuration	
2 HC5/SC5.5 Double Station with Hoppers and Foot Pedals	
Total Monthly System Cost	
\$432.96	

One Time Fees	
(1) Box of HC Bags (Box of 50)	\$38.50
(1) Box of SC Bags (Box of 100)	\$58.00
Shipping	\$980.00

¹Pricing is valid for 60 days from October 4, 2022.

²Sales Tax is NOT included in above pricing.

³Pricing is subject to Connect Program Terms and Conditions.



Bigbelly



THE GARMENT DISTRICT ALLIANCE

www.garmentdistrict.nyc

**Keep it
clean!**

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: November 7th, 2022	Title: LRS ARP Updated Construction Agreement
Submitted By: Jake Eckholm	Department: Development Services
Brief Summary: Staff is requesting that Commission amend the construction and development agreement with Mr. Rubin Briggs, LRS Enterprises to accommodate a Priority Related Investment Loan from the Community Foundation for Muskegon County.	
Detailed Summary & Background: Mr. Briggs proved capable of working with the city during the Jackson Hill Infill Housing Pilot, where 2 homes on Leonard were constructed. Commission awarded LRS Enterprises with an ARP agreement for 6 homes, with half the money from ARP and the other half from the developer's own financing. We have found this to be a hardship for smaller, minority owned builders who do not have the access to capital of some of our larger partners. In an effort to be equitable and not let a systemic barrier to our own program disqualify builders of color, staff has secured a Priority Related Investment Loan from the Community Foundation for Muskegon County to cover Mr. Briggs' \$750,000 of the original contract. This would be a loan in the city's name at prime (5.5%) plus 2 percent interest with a .5% increase on January 1, 2023, and would be paid back first as the homes sell. Any additional profits from sale would go the Public Improvement Fund. The updated purchase agreement reflects this PRI, which will return to the Commission for final approval and signatures. The Act 99 Installment Purchase Agreement agenda item on this docket is a precursor to the PRI approval.	
Goal/Focus Area/Action Item Addressed: Goal 1 (Image) Housing Focus Area, Goal 2 (Quality of Life) Housing Focus Area, Action Item 21-8 Expand Housing Options, Goal 3 (Revitalize Revenues) Social Equity Focus Area, Action Item 21-11 Increase Opportunities for Minorities in Economic Development, and Goal 3 (Revitalize Revenues) Housing Focus Area, Action Item 21-13 Increase Property Values in Urban Core and Eastside Neighborhoods	
Amount Requested: \$750,000	Amount Budgeted: N/A
Fund(s) or Account(s): (101) to (404)	Fund(s) or Account(s): N/A
Recommended Motion: Motion to accept the construction agreement as presented and to authorize the Mayor and Clerk to sign.	

Approvals:		Guest(s) Invited / Presenting:	
Immediate Division Head	☒ Information Technology	☐	Yes ☐
Other Division Heads	☒ Communication	☐	No ☒
For City Clerk Use Only:			
Commission Action:			

RESIDENTIAL CONSTRUCTION AGREEMENT

This Agreement is effective on _____, 2022 ("Effective Date") between LRS Enterprises of 525 South Dangl Street, Muskegon, MI 49442 ("Builder") and THE CITY OF MUSKEGON of 933 Terrace Street, Muskegon, MI 49440 ("Owner") with reference to the following facts:

Background

Builder and Owner (individually, a "Party" or collectively, "Parties") agree that Builder shall develop five (5) lots with six (6) owner-occupied housing units (collectively the "Residences") for Owner on the terms and conditions set forth in this Agreement and in the general conditions attached as **Exhibit A** ("General Conditions").

The parties agree as follows:

1. **Building Site.** Owner owns the building sites located at 754 Leonard, 750 Leonard, 740 Leonard, 730 Leonard, and 628 Mulder Street, Muskegon, Michigan 49442 and legally described on **Exhibit B** (the "Property"). Owner has agreed to hire Builder to build the Residences on the Property.

2. **The Residences.** Builder shall build the Residences in accordance with the plans and specifications attached as **Exhibit C** (the "Plans").

3. **Price.** The total price for constructing the Residences shall be One Million Five Hundred Thousand Dollars and 00/100 (\$1,500,000.00) ("Price").

4. **Estimated Completion Date.** Builder shall commence construction of the Residences within ____ days from the Effective Date ("Commencement Date"). Builder shall complete the Residences within ____ weeks of the Commencement Date ("Completion Date").

5. **General Conditions.** Owner and Builder agree to all of the General Conditions attached to this Agreement as **Exhibit A**.

Builder – LRS Enterprises

By: _____
Name: _____
Title: _____
Date: _____

Owner –THE CITY OF MUSKEGON

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT A

GENERAL CONDITIONS

1. **Payment of the Price.** The Price shall be paid in accordance with the following schedule (“Payment Schedule”):

- a. Foundation installed..... 20% of the Price
- b. Mechanicals installed..... 40% of the Price
- c. Certification of Occupancy..... 30% of the Price
- d. Completion of Punch List Items..... 10% of the Price

2. **Costs Included in Price.** Unless excluded by Section 3 or adjusted as set forth in Sections 4, the Price is fixed and includes all cost of labor and materials purchased, including all sales taxes incurred by Builder, for complete construction of the Residences. Price is not based on allowances or estimates of costs for items to be added to the Residences. The Price includes:

- a. A security system;
- b. A driveway;
- c. Curb cut (Builder may use existing curb cut unless damaged);
- d. Sod/seed over the entire front, back and side yards;
- e. A street tree;
- f. A small landscape package along each side of the Residences with street frontage;
- g. Edging and mulch;
- h. Builder fee in the amount of 10% of the Price.

3. **Costs Excluded From Price.** Owner shall be responsible for each of the following items and the cost of each item shall be excluded from the Price and the sole responsibility of Owner:

- a. Lot Lines. Prior to the Commencement Date Owner shall own the Property with new lot lines established as depicted on the Site Plan.
- b. Site Preparation. Prior to the Commencement Date, Owner will prepare the Property for construction of the Residence, including the removal of the following:
 - i. existing fences;
 - ii. community garden;
 - iii. existing sidewalks; and,
 - iv. debris.
- c. Water and Sewer Leads. Owner will provide water and sewer leads to the Residence.
- d. Permit and Connection Fees. Owner shall be responsible for any municipal permits, connection fees, tap fees or assessments, including sewer and water connection fees.
- e. Site Variance. Any abnormal site conditions discovered during excavation will be communicated to Owner along with an estimated cost to proceed with construction. Examples include such items as buried debris, bad soils, or rear yard drainage constraints. Any additional site work required will be corrected by Owner unless Owner authorizes Builder to correct any site variance issues in writing and the appropriate Change Order is fully executed.

f. Damaged Curb Cuts. Any damaged curb cuts will either be approved for use or removed by Owner.

g. Irrigation. Irrigation can be added for \$3,000, provided the appropriate Change Order is fully executed.

h. Future Security System Service Fees. Ongoing monitoring service fees will be the responsibility of Owner or subsequent owner.

4. **Modifications/Extras**. No modifications to the Plans ("Modifications") or requests for additional construction ("Extras") shall be binding upon either party, unless the Modifications or Extras are set forth on a written Change Order that is signed by Builder and Owner in substantially the form as attached **Exhibit E** ("Change Order"). The Change Order must provide a detailed description of the Modifications or Extras and the cost or credit to be charged. In those instances where a Change Order increases or decreases the Price by more than \$200 ("Adjusted Price"), the Adjusted Price shall be paid according to the remaining portion of the Payment Schedule.

5. **Payments, Sworn Statement and Lien Waivers**. Payments required by the Payment Schedule shall be made within 10 days of Builder's invoice by Owner to Transnation Title Insurance Company of 570 Seminole, Muskegon, Michigan 49441 (the "Title Company"). Builder will deliver to the Title Company a sworn statement showing all amounts due for labor and materials furnished in connection with construction of the Residences or other improvements to the Property through the date of Builder's invoice together with waivers of lien showing all amounts from any previous draw have been paid in full. The Title Company shall pay Builder per the Payment Schedule within 2 business days of approval by the Title Company of the last sworn statement provided proper partial unconditional waivers of lien from Builder and for each supplier and sub-contractor to whom payment has been made are received and approved by the Title Company.

6. **Possession**. Owner shall be entitled to possession of the Residences upon payment of the Price in full.

7. **Extension of Dates**. Any date may be extended by agreement of the Builder and Owner and the Commencement Date and the Completion Date may be extended as a result of circumstances beyond the control of Builder, including, but not limited to, delays caused by suppliers or subcontractors, delays for utility hook-ups, Acts of God, labor disputes, governmental inspections, regulations, or permit processes, material back orders, Owner's requests for Change Orders, fire, injury or disability to Builder, or weather.

8. **Builder's Warranties**. Builder shall complete the Residences and all improvements on the Property timely and in a first class manner. All building materials used in the construction of the Residences shall be new. Builder guarantees its workmanship for a period of 12 months from the date of sale or lease of the Residences to a party other than Owner or 24 months from the date of the Certificate of Occupancy, whichever first occurs ("Warranty Period"). This warranty is fully transferable by Owner and may be assigned to a 3rd party. Within the Warranty Period, Builder may replace, at its option, any materials incorporated into the Residences which are defective. To make a claim under this warranty, Owner or its successor must give Builder written notice of any such defect in the workmanship and/or materials promptly upon discovery and not later than expiration of the Warranty Period. This warranty does not apply to workmanship or materials requiring repair or replacement because of normal wear and tear, natural settling or mold. Builder shall turn over and transfer to Owner all manufacturers' warranties that are delivered directly to Builder by the manufacturer at the time of final payment by Owner. In addition to this warranty between Builder and Owner and successors of Owner, Builder shall also provide to Owner and successors of Owner at no cost to Owner the Ten Year Warranty for New Homes provided by Residential Warranty Company,

LLC attached as **Exhibit F** ("Long Term Warranty"). Nothing in the Long Term Warranty shall limit the scope of the warranties provided by Builder to Owner or its successors.

9. **Owner's Warranties.** Owner covenants and warrants that Owner owns the Property in fee simple, free and clear of all liens, except for those encumbrances specifically set forth on **Exhibit G**. Owner shall provide evidence satisfactory to Builder, such as a commitment for title insurance issued by the Title Company, which indicates such ownership. Owner shall locate the exact location of the Residences on the Property. All corners of the Property and the Residences shall be clearly marked with surveyor stakes. Owner covenants and agrees that such location is in compliance with all applicable federal, state, and local rules and regulations, including, but not limited to, building restrictions, set-back requirements and zoning ordinances.

10. **License.** Builder is a residential builder and a residential maintenance and alteration contractor and is required to be licensed under article 24 of Act 299 of the Public Acts of 1980, as amended, being sections 339.2401 to 399.2412 of the Michigan Compiled Laws. An electrician is required to be licensed under Act No. 217 of the Public Acts of 1956, as amended, being sections 338.881 to 338.892 of the Michigan Compiled Laws. A Plumber is required to be licensed under Act No. 266 of the Public Acts of 1929, as amended, being sections 338.901 to 338.917 of the Michigan Compiled Laws. Builder is licensed by the State of Michigan as a licensed Michigan Contractor and maintains its license in good standing. Builder's License number is 2101155717 respectively.

11. **Laws, Ordinances and Regulations.** In connection with the construction of the Residences, Builder shall meet and comply with all applicable laws, ordinances, and regulations, including the Muskegon Historical District rules.

12. **Notice of Commencement.** Owner shall deliver a Notice of Commencement in accordance with the Michigan Construction Lien Act within ten days of the Effective Date.

13. **Risk of Loss.** Until a Certificate of Occupancy is issued for the Residences the risk of loss for the Residences lies solely with Builder. Provided, Owner shall be solely responsible for building materials on Property and Owner shall reimburse Builder for the cost of building materials vandalized or stolen from the Property.

14. **Insurance.** Builder shall procure and maintain an "all risk" insurance policy and shall name Owner as an additional named insured. Builder shall maintain a policy of builder's insurance fully insuring the Residences from the date construction commences until the date of substantial completion. Owner may also maintain a policy of insurance on their interest in the Residences. Builder shall also carry public liability insurance with coverage limits not less than \$1,000,000 single-limit coverage and worker's compensation insurance in an amount not less than the statutory minimum. Such policies shall name Owner as an additional named insured. Builder shall provide Owner with evidence of such insurance upon request. Owner and Builder waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance provided under this paragraph.

15. **Diligent Pursuit.** Builder shall diligently pursue its obligations under this Agreement.

16. **Default.** If either Party believes that the other Party has failed to comply with this Agreement ("Default"), the non-defaulting Party shall provide the Defaulting Party not less than 10 days written notice of such non-compliance, a list of the non-defaulting Party's specific complaints, and a reasonable time within which the defaulting Party shall cure the Default ("Default Notice"). If the defaulting Party fails to cure the Default within the period of time specified in the Default Notice, the non-defaulting Party may pursue any and all remedies available, including specific performance in that there may not be an adequate remedy at law. In addition, Owner may replace Builder with

another party to complete construction and may deduct from the Price any amount paid by Owner to such third party to complete construction in accordance with the Plans. In the event either Party takes any action to enforce this Agreement, the prevailing Party shall reimburse the other Party for all expenses incurred by the prevailing Party, including attorney fees.

17. Cross Default. Contemporaneously with the execution of this Agreement, Owner and Builder are entering into ___ similar agreements for the construction of homes similar to the Residences on each of the ___ lots depicted on the Site Plan ("Other Agreements"). Owner and Builder agree that a default of this Agreement or any of the Other Agreements shall constitute a default of all Other Agreements and this Agreement.

18. Dispute Resolution. Any claim or demand of either party arising out of this Agreement, including without limitation, claims of fraud, misrepresentation, warranty or negligence and that exceeds \$5,500 in value shall be submitted to binding arbitration. The parties shall attempt to agree on a mutually agreeable independent arbitrator. If the parties are unable to mutually agree on an arbitrator, and arbitrator shall be selected in accordance with the rules of the American Arbitration Association. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association, Home Construction Arbitration Rules and Mediation Procedures. A Circuit Court judgment may render judgment upon the award made pursuant to this Agreement. This Agreement is specifically made subject to and incorporates the provisions of the Michigan Arbitration Act, MCL 600.5001 et seq. The cost of such arbitration shall be divided equally between both parties. Neither Party shall be required to submit to arbitration any claim or demand of a value less than \$5,500.

19. Miscellaneous.

a. Authority to Bind Owner. No approval, agreement or consent and no document signed in connection with this Agreement shall be binding on Owner unless made, given or signed by Frank Peterson, Cathy Brubaker-Clarke, or Derrick Smith.

b. Applicable Law. This Agreement is executed in, shall be governed by, and construed and interpreted in accordance with the laws of the State of Michigan.

c. Entire Agreement. This writing shall constitute the entire Agreement, and shall supersede any other Agreements, written or oral, that may have been made or entered into by the parties with respect to the subject matter hereof, and shall not be modified or amended, except in a subsequent writing signed by the party against whom enforcement thereof is sought.

d. Binding Effect. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, successors, assigns, officers, directors, employees, agents, heirs, executors, and administrators.

e. Full Execution. This Agreement requires the signature of both parties. Until fully executed on a single copy or in counterparts, this Agreement is of no binding force or effect, and if not fully executed, this Agreement is void.

f. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original as against any party whose signature appears thereon, and all of which together shall constitute one and the same instrument. This Agreement shall become binding upon the parties when one or more counterparts, individually or taken together, shall bear the signatures of all parties.

g. Non-Waiver. No waiver by any party of any provision of this Agreement shall constitute a waiver by such party of such provision on any other occasion or a waiver by such party of any other provision of the Agreement.

h. Severability. Should any one or more of the provisions of this Agreement be determined to be invalid, unlawful, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be impaired or affected.

i. No Discrimination. Discrimination on the basis of religion, race, creed, color, national origin, age, sex, marital status, or handicapped condition by either party in respect to the construction of the Residences is prohibited.

j. Assignment or Delegation. Neither Builder nor Owner may assign all or any part of this Agreement. Provided, that Builder may delegate all or any part of its obligations to perform the services under this Agreement, to any persons or entities that Builder, in its sole discretion, deems appropriate, including sub-contractors. Such delegation shall be at the sole expense of Builder unless otherwise provided.

k. Notices. Any notices required or permitted to be given under this Agreement must be in writing and sent to the address shown below (or such subsequent address as may be designated by either party in writing) by certified mail, return receipt requested and postage prepaid, a recognized courier service (Federal Express, UPS, or DHL), or by email with confirmation of delivery received. The notice will be effective upon receipt.

To Builder:

LRS Enterprises
525 South Dangel Street
Muskegon, MI 49442
Attn: Rubin Briggs
Phone: 231-855-3775
E-mail: Briggsbuilders210@gmail.com

To Owner:

City of Muskegon
933 Terrace Street
P.O. Box 536
Muskegon, MI 49443-0536
Attn: Jake Eckholm
Phone: 231-724-6780
Fax: 231-722-1214
E-mail: jake.eckholm@shorelinecity.com

With a contemporaneous copy to:

Parmenter Law
601 Terrace Street
P.O. Box 786
Muskegon, Michigan 49443-0786
Attn: John Schrier
Phone: 231-722-5401
Fax: 231-722-5501
Email: john@parmenterlaw.com

l. Time is of the Essence. Builder and Owner acknowledge and agree that the time related provisions set forth herein are critical and essential terms of this Agreement and that time is of the essence with regard to the transactions contemplated in this Agreement. Failure to strictly comply with the time related provisions of this Agreement will be considered a breach of the entire Agreement.

m. Pronouns. For convenience, Owner has been referred to this Agreement sometimes in the singular and at other times in the plural.

n. Notice of Sale or Lease. Upon the sale or lease of the Residences by Owner to a third party, Owner shall provide notice to Builder of such sale or lease and provide builder with all contact information for the buyer/tenant, including a phone number and an email address.

EXHIBIT B

LEGAL DESCRIPTION

EXHIBIT C

PLANS AND SPECIFICATIONS

EXHIBIT D

SITE PLAN

EXHIBIT E

CHANGE ORDERS

Owner has requested, and Builder agrees to the following Modifications to the Plans with the cost/credit set forth below:

MODIFICATION	COST	CREDIT	ADJUSTED PRICE

Builder -

By: _____

Name: _____

Title: _____

Date: _____

Owner – THE CITYOF MUSKEGON

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT F

LONG TERM WARRANTY

EXHIBIT G

PERMITTED ENCUMBRANCES

RESIDENTIAL CONSTRUCTION AGREEMENT

OWNER

THE CITY OF MUSKEGON

BUILDER

LRS Enterprises

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: November 7th, 2022	Title: LRS PRI Act 99 Installment Purchase Agreement
Submitted By: Jake Eckholm	Department: Development Services
Brief Summary: Staff is requesting that Commission authorize the statutorily required Act 99 Installment Purchase Agreement and Resolution.	
Detailed Summary & Background: Public Act 99 of 1933 is a statute which allows municipalities to borrow funds for real estate related endeavors. We have previously used this Act to partner with the Community Foundation for Muskegon County on the Jackson Hill Infill Pilot. The attached resolution covers the requirements laid out in the Act, and has the Agreement itself attached that is to be executed. This item is jointly presented for consideration along with the Amended LRS Enterprises ARP Agreement.	
Goal/Focus Area/Action Item Addressed: Goal 1 (Image) Housing Focus Area, Goal 2 (Quality of Life) Housing Focus Area, Action Item 21-8 Expand Housing Options, Goal 3 (Revitalize Revenues) Social Equity Focus Area, Action Item 21-11 Increase Opportunities for Minorities in Economic Development, and Goal 3 (Revitalize Revenues) Housing Focus Area, Action Item 21-13 Increase Property Values in Urban Core and Eastside Neighborhoods	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: Motion to adopt the Resolution Authorizing the Installment Purchase Agreement related to the Jackson Hill ARP Infill Housing Project as presented, and to authorize the Mayor and Clerk to sign.	
Approvals: Immediate Division Head ☒ Information Technology ☐ Other Division Heads ☒ Communication ☐	Guest(s) Invited / Presenting: Yes ☐ No ☒
For City Clerk Use Only:	

Commission Action:

INSTALLMENT PURCHASE AGREEMENT

THIS AGREEMENT, dated as of _____, 2022, by and among the City of Muskegon, County of Muskegon, State of Michigan (the "City"), LRS Enterprises, Muskegon, Michigan (the "Builder"), and the Community Foundation for Muskegon County, as assignee of the Builder (the "Lender"), is as follows:

1. Purchase Price, Title and Useful Life. The City agrees to purchase and the Builder agrees to construct, sell and deliver 6 single family residences on the property located at 754, 750, 740, 730, 720, and 716 Leonard Street (collectively, the "Property"), all as set forth in the Residential Construction Agreement between the City and the Builder, dated as of November 7th, 2022 (the "Construction Agreement") as attached hereto as Exhibit A, for the sum of \$1,500,000 (the "Purchase Price"). The City will finance \$750,000 of the Purchase Price by this Agreement (the "Financed Price" or the "Loan") and the balance of the Purchase Price will be paid by the City to the Builder from its available funds.

The Financed Price will be payable by the City to the Lender as assignee of the Builder in accordance with Section 3 hereof within three years from the anniversary date of the Loan. Upon sale of each home, the resulting net proceeds shall be paid to the Lender and applied to the outstanding Loan balance. If there remains a Loan balance after the sale of both homes, then the City shall pay equal monthly payments of principal and interest on the first day of each month, at the then applicable Interest Rate, amortized by the time remaining to three years from the anniversary date of the Loan. Notwithstanding the foregoing, the entire principal balance and accrued interest shall be due and payable in full on the three (3) year anniversary of the Loan. The Loan may be prepaid at any time, in whole or in part, without penalty.

The City shall pay interest on the unpaid balance of the Financed Price to the Lender as the assignee of the Builder in accordance with Section 3 hereof, at a rate of interest equal to the Federal prime interest rate (currently 5.50%) plus two (2.0%) percent per annum on the outstanding principle balance. Notwithstanding the foregoing, the interest rate will be adjusted annually, and determined in December for the forthcoming year, not to exceed .50% or 50 basis points change in any one year. The annual prime portion of the interest rate on the Note will be adjusted as defined above, plus two (2.0%) percent (the "Interest Rate"), and readjusted in a like manner thereafter.

Upon receipt by the Builder of the Purchase Price for the Property, title and occupancy to the Property shall vest in the City. The City agrees that the useful life of the Property is at least equal to or longer than the date of the final payment hereunder.

2. Incorporation by Reference. The Builder and the City agree to all the instructions, terms and conditions as may be outlined in the Construction Agreement and any supplements thereto, which are hereby incorporated by reference in full herein. In the event of a conflict in terms between this Agreement and the Construction Agreement regarding the financing of the Financed Price, the specific terms of this Agreement shall govern.

3. Assignment to the Lender; Disbursement of Funds. The Builder hereby irrevocably assigns this Agreement immediately to the Lender in consideration for and effective upon a payment from the Lender to the Builder of the first draw of funds under this Agreement. The City

shall make a written request for disbursement for each draw of funds of the Loan, with a written request by the City and submitted to the Lender at least 5 business days in advance of the disbursement. The request for a disbursement shall specify the amount of the draw. The date of receipt by the city of the first draw will mark the anniversary date of the Loan. Draws shall not be made more frequently than once per calendar month. The proceeds of the draw shall only be used to pay the Builder for the Property in accordance with the terms of the Construction Agreement with the Builder.

The City hereby consents to said assignment, except with respect to the warranties and other obligations of the Builder set forth in Section 2 and 5 of this Agreement, all of which shall remain the sole responsibility of the Builder and shall not be assignable. With respect to the Lender, the City hereby waives any defenses based upon warranty, failure, or inability of the Builder to perform its non-assignable obligations or the failure of the Property to perform its intended function. To the extent that funds are received by the City from the Lender in accordance with this paragraph, the City's obligation to the Lender is absolute and unconditional and shall remain in full force and effect until the amount of the payment to the City by the Lender as specified in this paragraph together with interest thereon shall have been paid by the City to the Lender, and such obligation shall not be affected, modified or impaired upon the happening from time to time of any event, including without limitation any of the following:

- (a) Any failure of title with respect to the Builder's or the City's interest in the Property specified herein or the invalidity, enforceability, or termination of this Agreement;
- (b) The modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in this Agreement;
- (c) The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshaling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment or other similar proceedings affecting the Builder or any of its assets or any allocation or contest of the validity of this Agreement, or the disaffirmance of this Agreement in any such proceeding;
- (d) To the extent permitted by law, any event or action which would, in the absence of this clause, result in release or discharge by operation of law of the Builder from the performance or observation of any obligation, covenant or agreement contained in this Agreement; or
- (e) The default or failure of the Builder fully to perform any of its obligations set forth in this Agreement.

The City shall make payments to the Lender when due and shall not withhold any such payments as a result of any disputes arising between the City and the Builder or any other person, nor shall the City assert any right of set-off or counterclaim against its obligation to make such

payments or be entitled to any abatement of such payments as a result of accident or unforeseen circumstances, or the Property being defective.

It is expressly agreed between the Builder, the City and the Lender, by acceptance of the assignment of this Agreement, that the City shall make all payments of principal and interest of the Financed Price directly to the Lender.

4. Reporting. The City covenants and agrees that until all payments of principal and interest under this Agreement have been paid in full, it will:

(a) Use the funds strictly in accordance with the terms of this Agreement.

(b) Permit the Lender to review and evaluate the Property funded by the Loan, including visits to the Project and discussions with the City's staff and City Council.

(c) Provide the Lender with a quarterly written progress report on the project.

5. Warranty. The Builder warrants its Property as set forth in the Construction Agreement. Any warranties with respect to the Property shall not be assigned, but shall remain enforceable by the City.

The Builder represents and warrants that the assignment to the Lender of this Agreement does not violate any agreement, contract or loan agreement to which it is a party, and that the Agreement has been duly executed and delivered by the Builder.

The Lender makes no warranty or representation, express or implied, as to any matter whatsoever, including, without limitation, as to the merchantability or fitness for any particular purpose of any of the Property or as to the value, design, condition, use, capacity or durability of any of the Property. The City agrees that (a) the Lender has no liability for the delivery or installation of the Property, (b) the Lender assumes no obligation with respect to any manufacturer's or Builder's product warranties or guaranties, (c) neither Builder nor any manufacturer or any representative of said parties is an agent of the Lender, and (d) any warranty, representation, guaranty or agreement made by any manufacturer or by the Builder or any representative of said parties shall not be binding upon the Lender.

6. Borrower Representations. The City makes the following representations to induce the Lender to make the Loan:

(a) The City is a duly created, validly existing and fully constituted political subdivision of the State of Michigan and has the power and authority to enter into the Agreement.

(b) The Agreement is a valid and binding obligation of the City enforceable against the City in accordance with its terms.

(c) There is no action, suit or proceeding pending or threatened against the City in any material respect that could adversely impact its repayment of the Loan.

(d) The City agrees that, in the performance of this Agreement, it will not unlawfully discriminate in its employment practices, volunteer opportunities, or the delivery of programs or services, on the basis of race, religion, gender, national origin, age, medical condition, handicap, veteran status, marital status, or sexual orientation.

7. Entire Agreement. This Agreement and the documents expressly incorporated by reference herein constitute the entire agreement of the parties with respect to the financing of the Property. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are hereby terminated.

8. Amendments. Any attempt to modify the terms of this Agreement or of any supporting document shall be ineffectual unless in writing, signed by all parties and the City agrees to secure the consent of the Lender to any such modifications, provided that the consent of the Builder to the modification of any of the terms of payment by the City to the Lender shall not be required.

9. Security. The obligation of the City to pay principal and interest under this Agreement is a limited tax general obligation of the City. The City shall include in its budget and pay each year, until this Agreement is paid in full, as a first budget obligation, such sum as may be necessary each year to make all payments hereunder, when due. In addition, the City hereby pledges to levy in each fiscal year ad valorem taxes on all taxable property in the City each year in an amount necessary to make its debt service payments under this Agreement, subject to applicable constitutional, statutory and charter tax rate limitations.

10. Legislative Authorization; Governing Law. This Agreement is made in accordance with and pursuant to Act 99, Public Acts of Michigan, 1933, as amended. This Agreement shall be construed in all respects in accordance with the laws of the State of Michigan.

10. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

11. Binding Effect. The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective successors and permitted assigns of the parties hereto.

12. Counterparts. This Agreement may be signed in any number of counterparts, which counterparts shall be considered as one and the same instrument. Facsimile copies of this Agreement shall have the full force and effect of an original document.

CITY OF MUSKEGON

By: _____
Its: Mayor

By: _____
Its: City Clerk

**COMMUNITY FOUNDATION FOR
MUSKEGON COUNTY**
as Lender

By: _____
Its: _____

LRS ENTERPRISES
as Builder

By: _____
Its: Authorized Representative

EXHIBIT A

36892771.1/063684.00048

**RESOLUTION AUTHORIZING
INSTALLMENT PURCHASE AGREEMENT**

CITY OF MUSKEGON
County of Muskegon, State of Michigan

Minutes of a regular meeting of the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, held on the 7th Day of November, 2022 at 5:30 p.m., prevailing Eastern Time.

PRESENT: Members _____

ABSENT: Members _____

The following preamble and resolution were offered by Member _____ and supported by Member _____:

WHEREAS, the City of Muskegon, County of Muskegon, State of Michigan (the “City”) desires to acquire six single family residences on the property located at 754, 750, 740, 730, 720, and 716 Leonard Street (collectively, the “Property”), all as set forth in the Residential Construction Agreement between the City and LRS Enterprises, Muskegon, Michigan (the “Builder”), dated as of November 7th, 2022 (the “Construction Agreement”); and

WHEREAS, under the provisions of Act No. 99, Public Acts of Michigan, 1933, as amended (“Act 99”), the City is authorized to enter into any contracts or agreements for the purchase of the Property to be paid for in installments over a period of not to exceed the useful life of the Property acquired as determined by resolution of the City; and

WHEREAS, an Installment Purchase Agreement (the “Agreement”) between the City, the Builder, and Community Foundation for Muskegon County (the “Lender”), for the installment purchase of the Property has been prepared; and

WHEREAS, the City shall acquire the Property for the sum of \$1,500,000 (the “Purchase Price”) of which amount the total of \$750,000 (the “Financed Price”) shall be financed through the execution of the Agreement; and

WHEREAS, the outstanding balance of all purchases by the City under Act 99, exclusive of interest, shall not exceed one and one quarter percent (1-1/4%) of the taxable value of the real and personal property in the City at the date of such contract or agreement; and

WHEREAS, purchase of the Property pursuant to an installment purchase agreement will not result in the outstanding balance of all such purchases in excess of the limitation contained within Act 99 as set forth above; and

WHEREAS, the Agreement is to be assigned to the Lender; and

WHEREAS, it is necessary to approve the Agreement and authorize the Mayor and City Clerk to execute the Agreement and authorize City officials to execute certain other documentation relative thereto.

NOW THEREFORE, BE IT RESOLVED THAT;

1. Approval of Agreement; Agreement Terms. The Agreement is hereby approved substantially in the form attached hereto as Exhibit A. The City shall incur the debt described in the Agreement through execution of the Agreement by the officers authorized below which debt shall consist of the Financed Price of \$750,000 which shall be payable within three years of the anniversary date of the first draw of the Financed Price, at a rate of interest equal to the federal prime interest rate (currently 5.5%) plus two percent (2.0%) per annum from the date funds are distributed by the Lender. The rate of interest on the Loan will be adjusted to the federal prime interest rate then in effect plus two percent (2.0%) and readjusted on the yearly anniversary date of the Loan, provided that the rate of interest will be adjusted annually on the yearly anniversary date of the Loan to the federal prime interest rate then in effect plus (2.0%) percent per annum. The Mayor, City Clerk and Finance Director are each hereby authorized to adjust the payment dates and final details set forth herein to the extent necessary or convenient to complete the transaction authorized herein, and in pursuance of the foregoing are each authorized to make determinations regarding the principal and interest payment dates.

2. Execution and Delivery of Agreement. The Mayor and City Clerk are hereby authorized and directed to execute the Agreement and deliver it to the Builder, substantially in the form attached hereto with such additions, changes and modifications as shall be approved by the City's Bond Counsel.

3. Useful Life of Property. The useful life of the Property is hereby determined to be not less than fifteen (15) years.

4. Authorization of Officers. The Mayor, City Clerk and City Treasurer are each hereby authorized and directed to execute such additional documentation and open such accounts as shall be necessary to effectuate the closing of the Agreement and the assignment thereof to the Lender within the parameters set forth in this resolution.

5. Assignment of Agreement. The assignment of the Agreement by the Builder to the Lender is hereby approved.

6. Security; Limited Tax Pledge. The City hereby agrees to include in its budget for each year, commencing with the present fiscal year, a sum which will be sufficient to pay the principal of and the interest coming due under the Agreement during such fiscal year. In addition, the City hereby pledges to levy ad valorem taxes on all taxable property in the City each year in an amount necessary to make its debt service payments under the Agreement, subject to applicable constitutional, statutory and charter tax rate limitations.

7. Rescission. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded to the extent of such conflict.

AYES: Members _____

NAYS: Members _____

RESOLUTION DECLARED ADOPTED.

Ann Marie Meisch
City Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held on December 8, 2020, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Ann Marie Meisch
City Clerk

Exhibit A

[Attach Form of Installment Purchase Agreement here]

36892841.1/063684.00048

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: November 7, 2022		Title: Sale of 1527 Hoyt Street
Submitted By: LeighAnn Mikesell		Department: City Manager
Brief Summary: Staff is requesting approval of the purchase agreement for 1527 Hoyt Street.		
Detailed Summary & Background: 1527 Hoyt Street was constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding.		
Goal/Focus Area/Action Item Addressed: Create an environment that effectively attracts new residents and retains existing residents by filling existing employment gaps, attracting new and diverse businesses to the city, and expanding access to a variety of high-quality housing options in Muskegon. Diverse housing types		
Amount Requested: N/A	Amount Budgeted: N/A	
Fund(s) or Account(s):	Fund(s) or Account(s):	
Recommended Motion: to approve the purchase agreement for 1527 Hoyt Street.		
Approvals: Immediate Division Head ☐ Information Technology ☐ Other Division Heads ☒ Communication ☐ Legal Review ☒		Guest(s) Invited / Presenting Yes ☐ No ☒
For City Clerk Use Only: Commission Action:		

WEST MICHIGAN REGIONAL PURCHASE AGREEMENT

1

DATE: 11/01/2022 (time) MLS #: 22025427

SELLING OFFICE: West Urban Realty BROKER LIC.#: 6505429509 REALTOR® PHONE: 616-366-2459

LISTING OFFICE: West Urban Realty REALTOR® PHONE: 6163662459

1. **Effective Date:** This Agreement is effective on the date of Seller's acceptance of Buyer's offer or Buyer's acceptance of any counteroffer, as the case may be, and this date shall hereafter be referred to as the "Effective Date". Further, any reference to "days" in this Agreement refers to calendar days. The first calendar day begins at 12:01 a.m. on the day after the Effective Date. Any reference to "time" refers to local time.

2. **Agency Disclosure:** The Undersigned Buyer and Seller each acknowledge that they have read and signed the Disclosure Regarding Real Estate Agency Relationships. The selling licensee is acting as (choose one):

- ☐ Agent/Subagent of Seller ☐ Buyer's Agent ☐ Dual Agent (with written, informed consent of both Buyer and Seller)
☐ Transaction Coordinator

Primary Selling Agent Name: Mariana Murillo VanDam Email: mariana@westurbanrealtymi.c Lic.#: 6506015435

Alternate Selling Agent Name: Email: Lic.#:

3. **Seller's Disclosure Statement:** (This paragraph applies to sales of one-to-four family residential units.)

- ☐ Buyer has received the Seller's Disclosure Statement, dated . Seller certifies to Buyer that the Property is currently in the same condition as Seller previously disclosed in that statement. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement.
☐ Buyer has not received the Seller's Disclosure Statement. Buyer may terminate this Agreement, in writing, any time prior to receipt of the Seller's Disclosure Statement. Once Buyer has received the Seller's Disclosure Statement, Buyer may terminate this Agreement, in writing, within 72 hours of receipt if the disclosure was received in person, or within 120 hours if received by registered mail. Exceptions:
☐ Seller is exempt from the requirements of the Seller Disclosure Act.

4. **Lead-Based Paint Addendum:** Transactions involving homes built prior to 1978 require a written disclosure which is hereby attached and will be an integral part of this Agreement.

5. **Property Description:** Buyer offers to buy the property located in the ☒ City ☐ Village ☐ Township of Muskegon, County of Muskegon, Michigan, commonly known as (insert mailing address: street/city/state/zip code) 1527 Hoyt Street, Muskegon, MI 49442

with the following legal description and tax parcel ID numbers:

DIST:24 SUBD:CITY OF MUSKEGON REVISED PLAT (OF 1903) SEC/TWN/RNG/MER:SEC 05 TWN 9N

PP# 61-24-205-280-0009-00

The following paragraph applies only if the Premises include unplatted land:

Seller agrees to grant Buyer at closing the right to make (insert number) division(s) under Section 108(2), (3), and (4) of the Michigan Land Division Act. (If no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or REALTOR® do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval on or before , of the proposed division to create the Premises.

6. **Purchase Price:** Buyer offers to buy the Property for the sum of \$ 189900 one hundred eighty-nine thousand nine hundred U.S. Dollars

7. **Seller Concessions,** if any: Seller concessions of \$10,000

8. **Terms:** The Terms of Purchase will be as indicated by "X" below: (Other unmarked terms of purchase do not apply.)
SOURCE OF FUNDS TO CLOSE: Buyer represents that the funds necessary to close this transaction on the terms specified below are currently available to Buyer in cash or an equally liquid equivalent.

If the Property's value stated in an appraisal obtained by Buyer or Buyer's lender is less than the Purchase Price, Buyer shall within three (3) days after receipt of the appraisal: 1) renegotiate with the Seller, 2) terminate the transaction, in which case Buyer shall receive a refund of Buyer's Earnest Money Deposit, or 3) proceed to close the transaction at the agreed Purchase Price.

☐ **CASH.** The full Purchase Price upon execution and delivery of Warranty Deed. Buyer Agrees to provide Buyer Agent/Dual Agent verification of funds within five (5) days after the Effective Date, and consents to the disclosure of such information to Seller and/or Seller's Agent. If verification of funds is not received within 5 days after the Effective Date, Seller may terminate this Agreement at any time before verification of funds is received by giving written notice to Buyer. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement.

☒ **NEW MORTGAGE.** The full Purchase Price upon execution and delivery of Warranty Deed, contingent upon Buyer's ability to obtain a fha type 30 (year) mortgage in the amount of 96.5 % of the Purchase Price bearing interest at a rate not to exceed 8 % per annum (rate at time of loan application), on or before the date the sale is to be closed. Buyer agrees to apply for a mortgage loan, and pay all fees and costs customarily charged by Buyer's lender to process the application, within 3 days after the Effective Date, not to impair Buyers' credit after the date such loan is offered. ☐ Seller ☐ Buyer will agree to pay an amount not to exceed \$ representing repairs required as a condition of financing. Buyer ☒ agrees ☐ does not agree to authorize Buyer's Agent/Dual Agent to obtain information from



Buyer's Initials



Seller's Initials

Buyer's lender regarding Buyer's financing, and consents to the disclosure of this information to Seller and/or Seller's Agent.
Exceptions:

☐ SELLER FINANCING (choose one of the following): ☐ CONTRACT or ☐ PURCHASE MONEY MORTGAGE

In the case of Seller financing, Buyer agrees to provide Seller with a credit report within 72 hours after the Effective Date. If the credit report is unacceptable to Seller, Seller shall have the right to terminate this offer within 48 hours of Seller's receipt, or if Buyer fails to provide said credit report to Seller within the time frame allotted, Seller shall have the right to terminate this offer within 48 hours. Seller is advised to seek professional advice regarding the credit report.

\$_____ upon execution and delivery of a _____ form (name or type of form and revision date), a copy of which is attached, wherein the balance of \$_____ will be payable in monthly installments of \$_____ or more including interest at _____ % per annum, interest to start on date of closing, and first payment to become due thirty (30) days after date of closing. The entire unpaid balance will become due and payable _____ months after closing. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ EQUITY (choose one of the following): ☐ Formal Assumption or ☐ Informal Assumption
Upon execution and delivery of: ☐ Warranty Deed subject to existing mortgage OR ☐ Assignment of Vendee Interest in Land Contract, Buyer to pay the difference (approximately \$_____) between the Purchase Price above provided and the unpaid balance (approximately \$_____) upon said mortgage or land contract, which Buyer agrees to assume and pay. Buyer agrees to reimburse Seller for accumulated funds held in escrow, if any, for payment of future taxes and insurance premiums, etc. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☒ OTHER: _____ Builders home warranty effective from date of occupancy permit issued by the city of muskegon
Paragraph 8- will provide a quit claim deed vs a warranty deed.

9. **Contingencies:** Buyer's obligation to consummate this transaction (choose one):

☒ IS NOT CONTINGENT - is not contingent upon the sale or exchange of any other property by Buyer.

☐ IS CONTINGENT UPON CLOSING - is contingent upon closing of an existing sale or exchange of Buyer's property located at:

A copy of Buyer's agreement to sell or exchange that property is being delivered to Seller along with this offer. If the existing sale or exchange terminates for any reason, Buyer will immediately notify Seller, and either party may terminate this Agreement in writing, within 3 days of Buyer's notice to Seller. If either party terminates, Buyer shall receive a refund of any applicable Earnest Money Deposit.

☐ IS CONTINGENT UPON THE SALE AND CLOSING - is contingent upon the execution of a binding agreement and the closing of a sale or exchange of Buyer's property located at _____ on or before _____. Seller will have the right to continue to market Seller's Property until Buyer enters into a binding agreement to sell or exchange Buyer's property and delivers a copy thereof to Seller. During such marketing period, Seller may enter into a binding contract for sale to another purchaser on such price and terms as the Seller deems appropriate. In such event, this Agreement will automatically terminate, Buyer will be notified promptly, and Buyer's Earnest Money Deposit will be refunded. Exceptions:

10. **Fixtures & Improvements:** The following is not intended to be an all-inclusive list of items included with the Property. All improvements and appurtenances are included in the Purchase Price, if now in or on the Property, unless rented, including the following: all buildings; landscaping; attached smart home devices; attached security systems; lighting fixtures and their shades and bulbs; ceiling fans; hardware for draperies and curtains; window shades and blinds; built-in kitchen appliances, including garbage disposal and drop-in ranges; wall to wall carpeting, if attached; all attached mirrors; all attached TV mounting brackets; all attached shelving; attached work benches; stationary laundry tubs; water softener; water heater; incinerator; sump pump; water pump and pressure tank; heating and air conditioning equipment (window units excluded); attached humidifiers; heating units, including add-on heating stoves and heating stoves connected by flue pipe; fireplace screens, inserts, and grates; fireplace doors, if attached; liquid heating and cooking fuel tanks; TV antenna and complete rotor equipment; satellite dish and necessary accessories and complete rotor equipment; all support equipment for inground pools; screens and storm windows and doors; awnings; installed basketball backboard, pole and goal; mailbox; flagpole(s); fencing, invisible inground fencing and all related equipment, including collars; detached storage buildings; underground sprinkling, including the pump; installed outdoor grills; all plantings and bulbs; garage door opener and control(s); and any and all items and fixtures permanently affixed to the Property; **and also includes:**

Fridge, Stove, Dishwasher, microwave, washer and dryer

but does not include:

1527 Hoyt Street, Muskegon, MI 49442
Subject Property Address/Description

Date

Time

11. Heating and Cooking Fuels: Liquid heating and cooking fuels in tanks are included in the sale and will transfer to Buyer at time of possession unless usage is metered (in which case it is not included in the sale). Sellers are responsible for maintaining heating and cooking liquid fuels at an operational level and shall not permit fuels to fall below 10% in the tank(s) at the time of possession, except that the tank(s) may be empty only if now empty. Further, Seller is precluded from removing fuel from tank(s) other than what is expended through normal use. Exceptions:

12. Assessments (choose one):

If the Property is subject to any assessments,

- ☒ Seller shall pay the entire balance of any such assessments that are due and payable on or before the day of closing (regardless of any installment arrangements), except for any fees that are required to connect to public utilities.
- ☐ Seller shall pay all installments of such assessments that become due and payable on or before day of closing. Buyer shall assume and pay all other installments of such assessments.

13. Property Taxes: Seller will be responsible for any taxes billed prior to those addressed below. Buyer will be responsible for all taxes billed after those addressed below.

Buyer is also advised that the state equalized value of the Property, principal residence exemption information and other real property tax information is available from the appropriate local assessor's office. Buyer should not assume that Buyer's future tax bills on the Property will be the same as Seller's present tax bills. Under Michigan law, real property tax obligations can change significantly when property is transferred.

☐ No proration. (Choose one):

- ☐ Buyer ☐ Seller will pay taxes billed summer _____ (year);
- ☐ Buyer ☐ Seller will pay taxes billed winter _____ (year);

☒ Calendar Year Proration (all taxes billed or to be billed in the year of the closing). Calendar year tax levies will be estimated, if necessary, using the taxable value and the millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying for January 1 through the day before closing.

☐ Fiscal Year Proration - Taxes will be prorated as though they are paid in (choose one): ☐ advance. ☐ arrears.

Fiscal Year will be assumed to cover a 12-month period from date billed, and taxes will be prorated to the date of closing. Fiscal year tax levies will be estimated, if necessary, using the taxable value and millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying through the day before closing. Exceptions:

14. Well/Septic: Within ten (10) days after the Effective Date, (choose one) ☐ Seller or ☐ Buyer will arrange for, at their own expense, an inspection of the primary well used for human consumption (including a water quality test for coliform bacteria and nitrates) and septic systems in use on the Property. The inspection will be performed by a qualified inspector in a manner that meets county (or other local governmental authority, if applicable) protocol.

If any report discloses a condition unsatisfactory to Buyer, or doesn't meet county standards that are a condition of sale, Buyer may, within three (3) days after Buyer has received the report, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the well/septic as-is. Seller will respond in writing within three (3) days to Buyer's request. If Seller fails to respond or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer will have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate the contract, Buyer will proceed to closing according to the terms and conditions of this Agreement.

Other:

15. Inspections & Investigations:

Inspections: Buyer, or someone selected by Buyer, has the right to inspect the buildings, premises, components and systems, at Buyer's expense. Any damage, misuse, abuse, or neglect of any portion of the Property or premises as a result of inspections will be Buyer's responsibility and expense.

Investigations: It is Buyer's responsibility to investigate (i) whether the Property complies with applicable codes and local ordinances and whether the Property is zoned for Buyer's intended use; (ii) whether Buyer can obtain a homeowner's insurance policy for the Property at price and terms acceptable to Buyer; (iii) and whether or not the Property is in a flood zone.

All inspections and investigations will be completed within 3 _____ days after the Effective Date. If the results of Buyer's inspections and investigations are not acceptable to Buyer, Buyer may, within the above referenced period, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be

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Buyer's Initials



Seller's Initials

Date

Time

deemed to have accepted the Property as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Inspections & Investigations and will proceed to closing according to the terms and conditions of this Agreement.

☒ Buyer has waived all rights under this Inspections & Investigations paragraph.

Exceptions:

16. **Municipal Compliances:** Seller will arrange and pay for current certificates of occupancy, sidewalk compliance, and smoke detector ordinances, if applicable.

17. **Title Insurance:** Seller agrees to convey marketable title to the Property subject to conditions, limitations, reservation of oil, gas and other mineral rights, existing zoning ordinances, and building and use restrictions and easements of record. An **expanded coverage** ALTA Homeowner's Policy of Title Insurance in the amount of the Purchase Price shall be ordered by Seller and furnished to Buyer at Seller's expense, and a commitment to issue a policy insuring marketable title vested in Buyer, including a real estate tax status report, will be made available to Buyer within **ten (10) days** after the Effective Date. If Buyer so chooses, or if an expanded policy is not applicable, then a **standard** ALTA Owners' Policy of Title Insurance shall be provided.

If Buyer objects to any conditions, Buyer may, within three (3) days of receipt of the Title Commitment, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the Title Commitment as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and shall receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Title Commitment as-is and will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

18. **Property Survey:** Broker advises that Buyer should have a survey performed to satisfy Buyer as to the boundaries of the Property and the location of improvements thereon.

☐ Buyer or ☒ Seller (choose one) shall within ten (10) days of the Effective Date, order, at their expense, a boundary survey with iron corner stakes showing the location of the boundaries, improvements and easements in connection with the Property. Upon receipt of the survey, Buyer will have three (3) days to review the survey. If the survey shows any condition, in Buyer's sole discretion, which would interfere with Buyer's intended use of the Property, the marketability of the title, or zoning non-compliance, then Buyer may, within said three (3) day period, terminate this Agreement, in writing, and Buyer will receive a full refund of Buyer's Earnest Money Deposit.

☐ No survey. Buyer has waived all rights under this paragraph.

When closing occurs, Buyer shall be deemed to have accepted the boundaries of the Property and the location of such improvements thereon. Exceptions:

19. **Home Protection Plan:** Buyer and Seller have been informed that home protection plans may be available. Such plans may provide additional protection and benefit to the parties. Exceptions:

20. **Prorations:** Rent; association dues/fees, if any; insurance, if assigned; interest on any existing land contract, mortgage or lien assumed by Buyer; will all be adjusted to the date of closing. For the purposes of calculating prorations, it is presumed that Seller owns the Property through the day before closing.

21. **Closing:** If agreeable to Buyer and Seller, the sale will be closed as soon as closing documents are ready, but not later than 11/30/2022. An additional period of fifteen (15) days will be allowed for closing to accommodate the correction of title defects or survey problems which can be readily corrected, or for delays in obtaining any lender required inspections/repairs. During this additional period, the closing will be held within 5 days after all parties have been notified that all necessary documents have been prepared. Buyer and Seller will each pay their title company closing fee, if applicable, **except in the case of VA financing where Seller will pay the entire closing fee**. Exceptions:

22. **Pre-Closing Walk-Through:** Buyer (choose one) ☒ reserves ☐ waives the right to conduct a final walk-through of the Property within three (3) days of the scheduled closing date. The purpose of the walk-through is to determine that the Property is in a substantially similar condition as of the Effective Date, any contractually agreed upon items have been fulfilled, and that any included personal property is still located at the Property. Buyer shall immediately report to Seller any objections to these conditions and Buyer's requested corrective action.

23. **Possession:** Seller will maintain the Property in its present condition until the completion of the closing of the sale. Possession to be delivered to Buyer, subject to rights of present tenants, if any.

☒ At the completion of the closing of the sale.

☐ At _____ ☐ a.m. ☐ p.m. on the _____ day **after** completion of the closing of the sale, during which time Seller

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Buyer's Initials



Seller's Initials

will have the privilege to occupy the Property and hereby agrees to pay Buyer \$_____ as an occupancy fee for this period payable at closing, WITHOUT PRORATION. Payment shall be made in the form of cash or certified funds.

If Seller fails to deliver possession to Buyer on the agreed date, Seller shall become a tenant at sufferance and shall pay to Buyer as liquidated damages \$_____ per day plus all of the Buyer's actual reasonable attorney's fees incurred in removing the Seller from the Property.

If Seller occupies the Property after closing, Seller will pay all utilities during such occupancy. Buyer will maintain the structure and mechanical systems at the Property. However, any repairs or replacements necessitated by Seller's misuse, abuse, or neglect of any portion of the Property will be Seller's responsibility and expense.

On the agreed delivery date, Seller shall deliver the Property free of trash and debris and in broom-clean condition, shall remove all personal property (unless otherwise stated in this or an additional written agreement), shall make arrangements for final payment on all utilities, and shall deliver all keys to Buyer. Exceptions:

24. **Earnest Money Deposit:** For valuable consideration, Buyer gives Seller until 5:00pm (time) on 11/02/2022 (date), to deliver the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding Agreement between Buyer and Seller. An Earnest Money Deposit in the amount of \$ \$1000 shall be submitted to _____ (insert name of broker, title Transnation Title)

company, other) within 72 hours of the Effective Date of this Agreement, and shall be applied against the Purchase Price. If the Earnest Money Deposit is not received within 72 hours of the Effective Date or is returned for insufficient funds, Seller may terminate this Agreement until such time as the Earnest Money Deposit is received. If Seller terminates this Agreement under this provision, Seller waives any claim to the Earnest Money Deposit. If the sale is not closed due to a failure to satisfy a contingency for a reason other than the fault of Buyer, the Earnest Money Deposit shall be refunded to Buyer. If the sale is not closed as provided in this Agreement and Buyer and Seller do not agree to the disposition of the Earnest Money Deposit, then Buyer and Seller agree that the Broker holding the Earnest Money Deposit may notify Buyer and Seller, in writing, of Broker's intended disposition of the Earnest Money Deposit. If Buyer and Seller do not object to such disposition in writing within fifteen (15) days after the date of Broker's notice, they will be deemed to have agreed to Broker's proposed disposition; if either Buyer or Seller object and no mutually agreeable disposition can be negotiated, Broker may deposit the funds by interpleader with a court of proper jurisdiction or await further actions by Buyer and Seller. In the event of litigation involving the deposit, in whole or in part, either the Seller or the Buyer that is not the prevailing party, as determined by the court, will reimburse the other for reasonable attorneys' fees and expenses incurred in connection with the litigation, and will reimburse the Broker for any reasonable attorneys' fees and expenses incurred in connection with any interpleader action instituted. If the entity holding the Earnest Money Deposit is not the Broker, then to the extent that the terms of any escrow agreement conflict with this paragraph, then the terms and conditions of the escrow agreement shall control.

25. **Professional Advice:** Broker hereby advises Buyer and Seller to seek legal, tax, environmental and other appropriate professional advice relating to this transaction. Broker does not make any representations or warranties with respect to the advisability of, or the legal effect of this transaction. Buyer further acknowledges that REALTOR® above named in the Agreement hereby recommends to Buyer that an attorney be retained by Buyer to pass upon the marketability of the title and to ascertain that the required details of the sale are adhered to before the transaction is consummated. Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether intentionally or negligently) regarding any aspect of the Property or this sale transaction, except as may be expressly set forth in this Agreement, a written amendment to this Agreement, or a disclosure statement separately signed by Seller.

26. **Disclosure of Information:** Buyer and Seller acknowledge and agree that the Purchase Price, terms, and other details with respect to this transaction (when closed) are not confidential, will be disclosed to REALTORS® who participate in the applicable Multiple Listing Service, and may otherwise be used and/or published by that Multiple Listing Service in the ordinary course of its business.

27. **Other Provisions:**

28. **Mergers and Integrations:** This Agreement is the final expression of the complete agreement of Buyer and Seller, and there are no oral agreements existing between Buyer and Seller relating to this transaction. This Agreement may be amended only in writing signed by Buyer and Seller and attached to this Agreement.

29. **Fax/Electronic Distribution and Electronic Signatures:** Buyer and Seller agree that any signed copy of this Agreement, and any amendments or addendums related to this transaction, transmitted by facsimile or other electronic means shall be competent evidence of its contents to the same effect as an original signed copy. Buyer and Seller further agree that an electronic signature is the legal equivalent of a manual or handwritten signature, and consent to use of electronic signatures. Buyer and Seller agree that any notice(s) required or permitted under this Agreement may also be transmitted by facsimile or other electronic means.

30. **Wire Fraud:** Seller and Buyer are advised that wire fraud is an increasingly common problem. If you receive any electronic

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communication directing you to transfer funds or provide nonpublic personal information (such as social security numbers, drivers' license numbers, wire instructions, bank account numbers, etc.), **even if that electronic communication appears to be from the Broker, Title Company, or Lender, DO NOT** reply until you have verified the authenticity of the email by direct communication with Broker, Title Company, or Lender. **DO NOT** use telephone numbers provided in the email. Such requests may be part of a scheme to steal funds or use your identity.

31. Buyer's Approval and Acknowledgment: Buyer approves the terms of this offer and acknowledges receipt of a copy of this offer.

Buyer 1 Address: X Alexandra Kristeen Wilson dotloop verified
11/02/22 2:15 PM EDT
Z75U-CGY3-M1N2-WIUB **Buyer**
Buyer 1 Phone: (Res.) _____ (Bus.) _____ Alexandra Wilson
Print name as you want it to appear on documents.
Buyer 2 Address: X Dominic Dominic Jones dotloop verified
11/02/22 3:49 PM EDT
RLLP-FCY3-J4W2-3M1V **Buyer**
Buyer 2 Phone: (Res.) _____ (Bus.) _____
Print name as you want it to appear on documents.

32. Seller's Response: The above offer is approved: ☒ As written. ☐ As written except:

Counteroffer, if any, expires _____, at _____ (time). Seller has the right to withdraw this counteroffer and to accept other offers until Seller or Seller's Agent has received notice of Buyer's acceptance.

33. Certification of Previous Disclosure Statement: Seller certifies to Buyer that the Property is currently in the same condition as disclosed in the Seller's Disclosure Statement dated _____ (choose one): ☐ Yes ☐ No. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement prior to closing.

34. Notice to Seller: Seller understands that consummation of the sale or transfer of the Property described in this Agreement will not relieve Seller of any liability that Seller may have under the mortgages to which the Property is subject, unless otherwise agreed to by the lender or required by law or regulation. Buyer and Seller are advised that a Notice to Seller & Buyer of Underlying Mortgage form is available from the respective agents via the West Michigan REALTOR® Boards.

35. Listing Office Address: 3478 Persimmon Ln, Holland, MI 49424 Listing Broker License # _____
Listing Agent Name: Mariana Murillo VanDam Listing Agent License # Mariana Murillo VanDam

36. Seller's Approval and Acknowledgment: Seller approves the terms of this Agreement and acknowledges receipt of a copy. If Seller's response occurs after Buyer's offer expires, then Seller's response is considered a counteroffer and Buyer's acceptance is required below.

X (Seller's Signature, Date, Time): LeighAnn Miksell dotloop verified
11/02/22 3:49 PM EDT
4XQD-ITRY-0Z1-HGBK
LeighAnn Miksell Is Seller a U.S. Citizen or Resident Alien? ☒ Yes ☐ No*
Print name as you want it to appear on documents.

X (Seller's Signature, Date, Time): _____
Is Seller a U.S. Citizen or Resident Alien? ☐ Yes ☐ No*
Print name as you want it to appear on documents.

Seller's Address: _____ Seller's Phone (Res.) _____ (Bus.) _____
* If Seller(s) is not a U.S. Citizen or Resident Alien, there may be tax implications and Buyer and Seller are advised to seek professional advice.

37. Buyer's Receipt/Acceptance: Buyer acknowledges receipt of Seller's response to Buyer's offer. In the event Seller's response constitutes a counteroffer, Buyer accepts said counteroffer. All other terms and conditions in the offer remain unchanged.

X (Buyer's Signature, Date, Time): _____
X (Buyer's Signature, Date, Time): _____

38. Seller's Receipt: Seller acknowledges receipt of Buyer's acceptance of counter offer.

X (Seller's Signature, Date, Time): LeighAnn Miksell dotloop verified
11/02/22 3:49 PM EDT
LZ2M-S5BG-P8T1-NC11
X (Seller's Signature, Date, Time): _____

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Subject Property Address/Description

Date _____ Time _____



Buyer's Initials



Seller's Initials

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: November 7, 2022		Title: Sale of 206 Irwin Avenue
Submitted By: LeighAnn Mikesell		Department: City Manager
Brief Summary: Staff is requesting approval of the purchase agreement and amendment for 206 Irwin Avenue.		
Detailed Summary & Background: 206 Irwin Avenue was constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding. After signing the purchase agreement, the buyer elected to update the purchase price and seller concessions which equate to a net zero change in funds to the city.		
Goal/Focus Area/Action Item Addressed: Create an environment that effectively attracts new residents and retains existing residents by filling existing employment gaps, attracting new and diverse businesses to the city, and expanding access to a variety of high-quality housing options in Muskegon. Diverse housing types		
Amount Requested: N/A	Amount Budgeted: N/A	
Fund(s) or Account(s):	Fund(s) or Account(s):	
Recommended Motion: to approve the purchase agreement and amendment for 206 Irwin Avenue.		
Approvals: Immediate Division Head ☐ Information Technology ☐ Other Division Heads ☒ Communication ☐ Legal Review ☒		Guest(s) Invited / Presenting Yes ☐ No ☒
For City Clerk Use Only: Commission Action:		

WEST MICHIGAN REGIONAL PURCHASE AGREEMENT

1

DATE: 10/25/2022 (time) MLS #: 22045125

SELLING OFFICE: West Urban Realty BROKER LIC.#: 6506015435 REALTOR® PHONE:

LISTING OFFICE: West Urban Realty REALTOR® PHONE: 6163662459

1. **Effective Date:** This Agreement is effective on the date of Seller's acceptance of Buyer's offer or Buyer's acceptance of any counteroffer, as the case may be, and this date shall hereafter be referred to as the "Effective Date". Further, any reference to "days" in this Agreement refers to calendar days. The first calendar day begins at 12:01 a.m. on the day after the Effective Date. Any reference to "time" refers to local time.

2. **Agency Disclosure:** The Undersigned Buyer and Seller each acknowledge that they have read and signed the Disclosure Regarding Real Estate Agency Relationships. The selling licensee is acting as (choose one):

☐ Agent/Subagent of Seller ☐ Buyer's Agent ☒ Dual Agent (with written, informed consent of both Buyer and Seller)
☐ Transaction Coordinator

Primary Selling Agent Name: Mariana Murillo VanDam Email: mariana@westurbanrealtymi. Lic.#: 6506015435

Alternate Selling Agent Name: Email: Lic.#:

3. **Seller's Disclosure Statement:** (This paragraph applies to sales of one-to-four family residential units.)

☐ Buyer has received the Seller's Disclosure Statement, dated. Seller certifies to Buyer that the Property is currently in the same condition as Seller previously disclosed in that statement. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement.

☐ Buyer has not received the Seller's Disclosure Statement. Buyer may terminate this Agreement, in writing, any time prior to receipt of the Seller's Disclosure Statement. Once Buyer has received the Seller's Disclosure Statement, Buyer may terminate this Agreement, in writing, within 72 hours of receipt if the disclosure was received in person, or within 120 hours if received by registered mail. Exceptions: Builder Warranty

☐ Seller is exempt from the requirements of the Seller Disclosure Act.

4. **Lead-Based Paint Addendum:** Transactions involving homes built prior to 1978 require a written disclosure which is hereby attached and will be an integral part of this Agreement.

5. **Property Description:** Buyer offers to buy the property located in the ☒ City ☐ Village ☐ Township of Muskegon,

County of Muskegon County, Michigan, commonly known as (insert mailing address: street/city/state/zip code)

206 Irwin Avenue, Muskegon, MI 49442

with the following legal description and tax parcel ID numbers:

City of Muskegon Revised Plat of 1903 Lot 5 Blk 266

PP# 24-205-266-0005-00

The following paragraph applies only if the Premises include unplatted land:

Seller agrees to grant Buyer at closing the right to make (insert number) division(s) under Section 108(2), (3), and (4) of the Michigan Land Division Act. (If no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or REALTOR® do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval on or before, of the proposed division to create the Premises.

6. **Purchase Price:** Buyer offers to buy the Property for the sum of \$ 180,000
 one hundred eighty thousand U.S. Dollars

7. **Seller Concessions,** if any: \$6800

8. **Terms:** The Terms of Purchase will be as indicated by "X" below: (Other unmarked terms of purchase do not apply.)
SOURCE OF FUNDS TO CLOSE: Buyer represents that the funds necessary to close this transaction on the terms specified below are currently available to Buyer in cash or an equally liquid equivalent.

If the Property's value stated in an appraisal obtained by Buyer or Buyer's lender is less than the Purchase Price, Buyer shall within three (3) days after receipt of the appraisal: 1) renegotiate with the Seller, 2) terminate the transaction, in which case Buyer shall receive a refund of Buyer's Earnest Money Deposit, or 3) proceed to close the transaction at the agreed Purchase Price.

☐ **CASH.** The full Purchase Price upon execution and delivery of Warranty Deed. Buyer Agrees to provide Buyer Agent/Dual Agent verification of funds within five (5) days after the Effective Date, and consents to the disclosure of such information to Seller and/or Seller's Agent. If verification of funds is not received within 5 days after the Effective Date, Seller may terminate this Agreement at any time before verification of funds is received by giving written notice to Buyer. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement.

☒ **NEW MORTGAGE.** The full Purchase Price upon execution and delivery of Warranty Deed, contingent upon Buyer's ability to obtain a FHA type 30 (year) mortgage in the amount of 96.5 % of the Purchase Price bearing interest at a rate not to exceed % per annum (rate at time of loan application), on or before the date the sale is to be closed. Buyer agrees to apply for a mortgage loan, and pay all fees and costs customarily charged by Buyer's lender to process the application, within 5 days after the Effective Date, not to impair Buyers' credit after the date such loan is offered. ☐ Seller ☐ Buyer will agree to pay an amount not to exceed \$ representing repairs required as a condition of financing. Buyer ☒ agrees ☐ does not agree to authorize Buyer's Agent/Dual Agent to obtain information from



Buyer's Initials



Seller's Initials

Buyer's lender regarding Buyer's financing, and consents to the disclosure of this information to Seller and/or Seller's Agent.
Exceptions:

☐ SELLER FINANCING (choose one of the following): ☐ CONTRACT or ☐ PURCHASE MONEY MORTGAGE

In the case of Seller financing, Buyer agrees to provide Seller with a credit report within 72 hours after the Effective Date. If the credit report is unacceptable to Seller, Seller shall have the right to terminate this offer within 48 hours of Seller's receipt, or if Buyer fails to provide said credit report to Seller within the time frame allotted, Seller shall have the right to terminate this offer within 48 hours. Seller is advised to seek professional advice regarding the credit report.

\$_____ upon execution and delivery of a _____
form (name or type of form and revision date), a copy of which is attached, wherein the balance of \$ _____
will be payable in monthly installments of \$ _____ or more including interest at _____ % per annum,
interest to start on date of closing, and first payment to become due thirty (30) days after date of closing. The entire unpaid balance
will become due and payable _____ months after closing. Any appraisal required by Buyer shall be arranged and
paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ EQUITY (choose one of the following): ☐ Formal Assumption or ☐ Informal Assumption
Upon execution and delivery of: ☐ Warranty Deed subject to existing mortgage OR ☐ Assignment of Vendee Interest
in Land Contract, Buyer to pay the difference (approximately \$ _____) between the Purchase Price above
provided and the unpaid balance (approximately \$ _____) upon said mortgage or land contract, which Buyer
agrees to assume and pay. Buyer agrees to reimburse Seller for accumulated funds held in escrow, if any, for payment of future
taxes and insurance premiums, etc. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten
(10) days after the Effective Date of this Agreement. Exceptions:

☐ OTHER: _____

9. **Contingencies:** Buyer's obligation to consummate this transaction (choose one):

- ☒ **IS NOT CONTINGENT** - is not contingent upon the sale or exchange of any other property by Buyer.
- ☐ **IS CONTINGENT UPON CLOSING** - is contingent upon closing of an existing sale or exchange of Buyer's property located at:

A copy of Buyer's agreement to sell or exchange that property is being delivered to Seller along with this offer. If the existing sale
or exchange terminates for any reason, Buyer will immediately notify Seller, and either party may terminate this Agreement in
writing, within 3 days of Buyer's notice to Seller. If either party terminates, Buyer shall receive a refund of any applicable Earnest
Money Deposit.

- ☐ **IS CONTINGENT UPON THE SALE AND CLOSING** - is contingent upon the execution of a binding agreement and the closing
of a sale or exchange of Buyer's property located at _____
_____ on or before _____. Seller will have the right to continue to
market Seller's Property until Buyer enters into a binding agreement to sell or exchange Buyer's property and delivers a copy
thereof to Seller. During such marketing period, Seller may enter into a binding contract for sale to another purchaser on such
price and terms as the Seller deems appropriate. In such event, this Agreement will automatically terminate, Buyer will be notified
promptly, and Buyer's Earnest Money Deposit will be refunded. Exceptions:

10. **Fixtures & Improvements:** The following is not intended to be an all-inclusive list of items included with the Property. All
improvements and appurtenances are included in the Purchase Price, if now in or on the Property, unless rented, including the
following: all buildings; landscaping; attached smart home devices; attached security systems; lighting fixtures and their shades and
bulbs; ceiling fans; hardware for draperies and curtains; window shades and blinds; built-in kitchen appliances, including garbage
disposal and drop-in ranges; wall to wall carpeting, if attached; all attached mirrors; all attached TV mounting brackets; all attached
shelving; attached work benches; stationary laundry tubs; water softener; water heater; incinerator; sump pump; water pump and
pressure tank; heating and air conditioning equipment (window units excluded); attached humidifiers; heating units, including add-on
heating stoves and heating stoves connected by flue pipe; fireplace screens, inserts, and grates; fireplace doors, if attached; liquid
heating and cooking fuel tanks; TV antenna and complete rotor equipment; satellite dish and necessary accessories and complete
rotor equipment; all support equipment for inground pools; screens and storm windows and doors; awnings; installed basketball
backboard, pole and goal; mailbox; flagpole(s); fencing, invisible inground fencing and all related equipment, including collars;
detached storage buildings; underground sprinkling, including the pump; installed outdoor grills; all plantings and bulbs; garage door
opener and control(s); and any and all items and fixtures permanently affixed to the Property; **and also includes:**
Microwave, Dishwasher

but does not include:

206 Irwin Avenue, Muskegon, MI 49442
Subject Property Address/Description

Date _____ Time _____



Buyer's Initials



Seller's Initials

11. Heating and Cooking Fuels: Liquid heating and cooking fuels in tanks are included in the sale and will transfer to Buyer at time of possession unless usage is metered (in which case it is not included in the sale). Sellers are responsible for maintaining heating and cooking liquid fuels at an operational level and shall not permit fuels to fall below 10% in the tank(s) at the time of possession, except that the tank(s) may be empty only if now empty. Further, Seller is precluded from removing fuel from tank(s) other than what is expended through normal use. Exceptions:

12. Assessments (choose one):

If the Property is subject to any assessments,

- ☒ Seller shall pay the entire balance of any such assessments that are due and payable on or before the day of closing (regardless of any installment arrangements), except for any fees that are required to connect to public utilities.
- ☐ Seller shall pay all installments of such assessments that become due and payable on or before day of closing. Buyer shall assume and pay all other installments of such assessments.

13. Property Taxes: Seller will be responsible for any taxes billed prior to those addressed below. Buyer will be responsible for all taxes billed after those addressed below.

Buyer is also advised that the state equalized value of the Property, principal residence exemption information and other real property tax information is available from the appropriate local assessor's office. Buyer should not assume that Buyer's future tax bills on the Property will be the same as Seller's present tax bills. Under Michigan law, real property tax obligations can change significantly when property is transferred.

☐ No proration. (Choose one):

- ☐ Buyer ☐ Seller will pay taxes billed summer _____ (year);
- ☐ Buyer ☐ Seller will pay taxes billed winter _____ (year);

☒ Calendar Year Proration (all taxes billed or to be billed in the year of the closing). Calendar year tax levies will be estimated, if necessary, using the taxable value and the millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying for January 1 through the day before closing.

☐ Fiscal Year Proration - Taxes will be prorated as though they are paid in (choose one): ☐ advance. ☐ arrears.

Fiscal Year will be assumed to cover a 12-month period from date billed, and taxes will be prorated to the date of closing. Fiscal year tax levies will be estimated, if necessary, using the taxable value and millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying through the day before closing. Exceptions:

14. Well/Septic: Within ten (10) days after the Effective Date, (choose one) ☐ Seller or ☐ Buyer will arrange for, at their own expense, an inspection of the primary well used for human consumption (including a water quality test for coliform bacteria and nitrates) and septic systems in use on the Property. The inspection will be performed by a qualified inspector in a manner that meets county (or other local governmental authority, if applicable) protocol.

If any report discloses a condition unsatisfactory to Buyer, or doesn't meet county standards that are a condition of sale, Buyer may, within three (3) days after Buyer has received the report, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the well/septic as-is. Seller will respond in writing within three (3) days to Buyer's request. If Seller fails to respond or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer will have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate the contract, Buyer will proceed to closing according to the terms and conditions of this Agreement.

Other:

Seller to include fridge, stove, washer, and dryer

15. Inspections & Investigations:

Inspections: Buyer, or someone selected by Buyer, has the right to inspect the buildings, premises, components and systems, at Buyer's expense. Any damage, misuse, abuse, or neglect of any portion of the Property or premises as a result of inspections will be Buyer's responsibility and expense.

Investigations: It is Buyer's responsibility to investigate (i) whether the Property complies with applicable codes and local ordinances and whether the Property is zoned for Buyer's intended use; (ii) whether Buyer can obtain a homeowner's insurance policy for the Property at price and terms acceptable to Buyer; (iii) and whether or not the Property is in a flood zone.

All inspections and investigations will be completed within _____ days after the Effective Date. If the results of Buyer's inspections and investigations are not acceptable to Buyer, Buyer may, within the above referenced period, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be

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Buyer's Initials



Seller's Initials

Date

Time

deemed to have accepted the Property as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Inspections & Investigations and will proceed to closing according to the terms and conditions of this Agreement.

☒ Buyer has waived all rights under this Inspections & Investigations paragraph.

Exceptions:

16. **Municipal Compliances:** Seller will arrange and pay for current certificates of occupancy, sidewalk compliance, and smoke detector ordinances, if applicable.
17. **Title Insurance:** Seller agrees to convey marketable title to the Property subject to conditions, limitations, reservation of oil, gas and other mineral rights, existing zoning ordinances, and building and use restrictions and easements of record. An **expanded coverage** ALTA Homeowner's Policy of Title Insurance in the amount of the Purchase Price shall be ordered by Seller and furnished to Buyer at Seller's expense, and a commitment to issue a policy insuring marketable title vested in Buyer, including a real estate tax status report, will be made available to Buyer within **ten (10) days** after the Effective Date. If Buyer so chooses, or if an expanded policy is not applicable, then a **standard** ALTA Owners' Policy of Title Insurance shall be provided.

If Buyer objects to any conditions, Buyer may, within three (3) days of receipt of the Title Commitment, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the Title Commitment as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and shall receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Title Commitment as-is and will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

Transnation Title

18. **Property Survey:** Broker advises that Buyer should have a survey performed to satisfy Buyer as to the boundaries of the Property and the location of improvements thereon.

☐ Buyer or ☒ Seller (choose one) shall within ten (10) days of the Effective Date, order, at their expense, a boundary survey with iron corner stakes showing the location of the boundaries, improvements and easements in connection with the Property. Upon receipt of the survey, Buyer will have three (3) days to review the survey. If the survey shows any condition, in Buyer's sole discretion, which would interfere with Buyer's intended use of the Property, the marketability of the title, or zoning non-compliance, then Buyer may, within said three (3) day period, terminate this Agreement, in writing, and Buyer will receive a full refund of Buyer's Earnest Money Deposit.

☐ No survey. Buyer has waived all rights under this paragraph.

When closing occurs, Buyer shall be deemed to have accepted the boundaries of the Property and the location of such improvements thereon. Exceptions:

19. **Home Protection Plan:** Buyer and Seller have been informed that home protection plans may be available. Such plans may provide additional protection and benefit to the parties. Exceptions:

20. **Prorations:** Rent; association dues/fees, if any; insurance, if assigned; interest on any existing land contract, mortgage or lien assumed by Buyer; will all be adjusted to the date of closing. For the purposes of calculating prorations, it is presumed that Seller owns the Property through the day before closing.

21. **Closing:** If agreeable to Buyer and Seller, the sale will be closed as soon as closing documents are ready, but not later than 11/30/2022. An additional period of fifteen (15) days will be allowed for closing to accommodate the correction of title defects or survey problems which can be readily corrected, or for delays in obtaining any lender required inspections/repairs. During this additional period, the closing will be held within 5 days after all parties have been notified that all necessary documents have been prepared. Buyer and Seller will each pay their title company closing fee, if applicable, **except in the case of VA financing where Seller will pay the entire closing fee**. Exceptions:

22. **Pre-Closing Walk-Through:** Buyer (choose one) ☒ reserves ☐ waives the right to conduct a final walk-through of the Property within three (3) days of the scheduled closing date. The purpose of the walk-through is to determine that the Property is in a substantially similar condition as of the Effective Date, any contractually agreed upon items have been fulfilled, and that any included personal property is still located at the Property. Buyer shall immediately report to Seller any objections to these conditions and Buyer's requested corrective action.

23. **Possession:** Seller will maintain the Property in its present condition until the completion of the closing of the sale. Possession to be delivered to Buyer, subject to rights of present tenants, if any.

☒ At the completion of the closing of the sale.

☐ At _____ ☐ a.m. ☐ p.m. on the _____ day **after** completion of the closing of the sale, during which time Seller

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Date

Time



11/26/22
2:46 PM EDT
dotloop verified

Buyer's Initials



11/26/22
3:16 PM EDT
dotloop verified

Seller's Initials

will have the privilege to occupy the Property and hereby agrees to pay Buyer \$_____ as an occupancy fee for this period payable at closing, WITHOUT PRORATION. Payment shall be made in the form of cash or certified funds.

If Seller fails to deliver possession to Buyer on the agreed date, Seller shall become a tenant at sufferance and shall pay to Buyer as liquidated damages \$_____ per day plus all of the Buyer's actual reasonable attorney's fees incurred in removing the Seller from the Property.

If Seller occupies the Property after closing, Seller will pay all utilities during such occupancy. Buyer will maintain the structure and mechanical systems at the Property. However, any repairs or replacements necessitated by Seller's misuse, abuse, or neglect of any portion of the Property will be Seller's responsibility and expense.

On the agreed delivery date, Seller shall deliver the Property free of trash and debris and in broom-clean condition, shall remove all personal property (unless otherwise stated in this or an additional written agreement), shall make arrangements for final payment on all utilities, and shall deliver all keys to Buyer. Exceptions:

24. **Earnest Money Deposit:** For valuable consideration, Buyer gives Seller until 10/26/2022 (date), to deliver the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding Agreement between Buyer and Seller. An Earnest Money Deposit in the amount of \$ \$1000 shall be submitted to _____ (insert name of broker, title company, other) within 72 hours of the Effective Date of this Agreement, and shall be applied against the Purchase Price. If the Earnest Money Deposit is not received within 72 hours of the Effective Date or is returned for insufficient funds, Seller may terminate this Agreement until such time as the Earnest Money Deposit is received. If Seller terminates this Agreement under this provision, Seller waives any claim to the Earnest Money Deposit. If the sale is not closed due to a failure to satisfy a contingency for a reason other than the fault of Buyer, the Earnest Money Deposit shall be refunded to Buyer. If the sale is not closed as provided in this Agreement and Buyer and Seller do not agree to the disposition of the Earnest Money Deposit, then Buyer and Seller agree that the Broker holding the Earnest Money Deposit may notify Buyer and Seller, in writing, of Broker's intended disposition of the Earnest Money Deposit. If Buyer and Seller do not object to such disposition in writing within fifteen (15) days after the date of Broker's notice, they will be deemed to have agreed to Broker's proposed disposition; if either Buyer or Seller object and no mutually agreeable disposition can be negotiated, Broker may deposit the funds by interpleader with a court of proper jurisdiction or await further actions by Buyer and Seller. In the event of litigation involving the deposit, in whole or in part, either the Seller or the Buyer that is not the prevailing party, as determined by the court, will reimburse the other for reasonable attorneys' fees and expenses incurred in connection with the litigation, and will reimburse the Broker for any reasonable attorneys' fees and expenses incurred in connection with any interpleader action instituted. If the entity holding the Earnest Money Deposit is not the Broker, then to the extent that the terms of any escrow agreement conflict with this paragraph, then the terms and conditions of the escrow agreement shall control.

25. **Professional Advice:** Broker hereby advises Buyer and Seller to seek legal, tax, environmental and other appropriate professional advice relating to this transaction. Broker does not make any representations or warranties with respect to the advisability of, or the legal effect of this transaction. Buyer further acknowledges that REALTOR® above named in the Agreement hereby recommends to Buyer that an attorney be retained by Buyer to pass upon the marketability of the title and to ascertain that the required details of the sale are adhered to before the transaction is consummated. Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether intentionally or negligently) regarding any aspect of the Property or this sale transaction, except as may be expressly set forth in this Agreement, a written amendment to this Agreement, or a disclosure statement separately signed by Seller.

26. **Disclosure of Information:** Buyer and Seller acknowledge and agree that the Purchase Price, terms, and other details with respect to this transaction (when closed) are not confidential, will be disclosed to REALTORS® who participate in the applicable Multiple Listing Service, and may otherwise be used and/or published by that Multiple Listing Service in the ordinary course of its business.

27. **Other Provisions:**

28. **Mergers and Integrations:** This Agreement is the final expression of the complete agreement of Buyer and Seller, and there are no oral agreements existing between Buyer and Seller relating to this transaction. This Agreement may be amended only in writing signed by Buyer and Seller and attached to this Agreement.

29. **Fax/Electronic Distribution and Electronic Signatures:** Buyer and Seller agree that any signed copy of this Agreement, and any amendments or addendums related to this transaction, transmitted by facsimile or other electronic means shall be competent evidence of its contents to the same effect as an original signed copy. Buyer and Seller further agree that an electronic signature is the legal equivalent of a manual or handwritten signature, and consent to use of electronic signatures. Buyer and Seller agree that any notice(s) required or permitted under this Agreement may also be transmitted by facsimile or other electronic means.

30. **Wire Fraud:** Seller and Buyer are advised that wire fraud is an increasingly common problem. If you receive any electronic

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Buyer's Initials



Seller's Initials

communication directing you to transfer funds or provide nonpublic personal information (such as social security numbers, drivers' license numbers, wire instructions, bank account numbers, etc.), **even if that electronic communication appears to be from the Broker, Title Company, or Lender, DO NOT** reply until you have verified the authenticity of the email by direct communication with Broker, Title Company, or Lender. **DO NOT** use telephone numbers provided in the email. Such requests may be part of a scheme to steal funds or use your identity.

31. Buyer's Approval and Acknowledgment: Buyer approves the terms of this offer and acknowledges receipt of a copy of this offer.

Buyer 1 Address: Phylicia Joseph dotloop verified 10/26/22 2:46 PM EDT 904W-35EJ-XCNH-EG2 **Buyer**
 Buyer 1 Phone: (Res.) _____ (Bus.) _____ Phylicia Joseph
 Print name as you want it to appear on documents.
 Buyer 2 Address: _____ **Buyer**
 Buyer 2 Phone: (Res.) _____ (Bus.) _____
 Print name as you want it to appear on documents.

32. Seller's Response: The above offer is approved: ☐ As written. ☒ As written except:

Seller to provide a quit claim deed

Counteroffer, if any, expires _____, at _____ (time). Seller has the right to withdraw this counteroffer and to accept other offers until Seller or Seller's Agent has received notice of Buyer's acceptance.

33. Certification of Previous Disclosure Statement: Seller certifies to Buyer that the Property is currently in the same condition as disclosed in the Seller's Disclosure Statement dated _____ (choose one): ☐ Yes ☐ No. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement prior to closing.

34. Notice to Seller: Seller understands that consummation of the sale or transfer of the Property described in this Agreement will not relieve Seller of any liability that Seller may have under the mortgages to which the Property is subject, unless otherwise agreed to by the lender or required by law or regulation. Buyer and Seller are advised that a Notice to Seller & Buyer of Underlying Mortgage form is available from the respective agents via the West Michigan REALTOR® Boards.

35. Listing Office Address: 3478 Persimmon Ln, Holland, MI 49424 Listing Broker License # _____
Listing Agent Name: Mariana Murillo VanDam Listing Agent License # Mariana Murillo VanDam

36. Seller's Approval and Acknowledgment: Seller approves the terms of this Agreement and acknowledges receipt of a copy. If Seller's response occurs after Buyer's offer expires, then Seller's response is considered a counteroffer and Buyer's acceptance is required below.

X (Seller's Signature, Date, Time): LeighAnn Miksell dotloop verified 10/26/22 3:16 PM EDT 7JY-6NDB-CYZB-P77M
LeighAnn Miksell Is Seller a U.S. Citizen or Resident Alien? ☐ Yes ☐ No*
 Print name as you want it to appear on documents.

X (Seller's Signature, Date, Time): _____
 _____ Is Seller a U.S. Citizen or Resident Alien? ☐ Yes ☐ No*
 Print name as you want it to appear on documents.

Seller's Address: _____ Seller's Phone (Res.) _____ (Bus.) _____
 * If Seller(s) is not a U.S. Citizen or Resident Alien, there may be tax implications and Buyer and Seller are advised to seek professional advice.

37. Buyer's Receipt/Acceptance: Buyer acknowledges receipt of Seller's response to Buyer's offer. In the event Seller's response constitutes a counteroffer, Buyer accepts said counteroffer. All other terms and conditions in the offer remain unchanged.

X (Buyer's Signature, Date, Time): _____
X (Buyer's Signature, Date, Time): _____

38. Seller's Receipt: Seller acknowledges receipt of Buyer's acceptance of counter offer.

X (Seller's Signature, Date, Time): LeighAnn Miksell dotloop verified 10/26/22 3:16 PM EDT JBC-NAYD-HJHN-BYCD
X (Seller's Signature, Date, Time): _____

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Buyer's Initials



Seller's Initials

Date _____ Time _____

**WEST MICHIGAN REGIONAL
ADDENDUM TO PURCHASE AGREEMENT**

MLS # <u>22045125</u>	Date: <u>11/03/2022</u>	(time)
Selling Office <u>West Urban Realty</u>	REALTOR® Phone <u>616-366-2459</u>	Email <u>mariana@westurbanrealtymi.com</u>
Listing Office <u>West Urban Realty</u>	REALTOR® Phone <u>616-366-2459</u>	Email <u>mariana@westurbanrealtymi.com</u>

1. Addendum # 1 to Purchase Agreement dated 10/26/2022 covering property at
206 Irwin Avenue, Muskegon, MI 49442

2. This Addendum shall be an integral part of the Purchase Agreement, which is amended as follows:
Purchase price to be increased to \$182900
Seller concessions to be \$8800.

3. The ☐ Seller ☒ Buyer (check one) gives the above-named REALTOR® 2 days to obtain the written acceptance of this Addendum to the Purchase Agreement. If accepted, this Addendum will constitute a binding change to the Purchase Agreement.

4. **RECEIPT IS ACKNOWLEDGED BY BUYER** of a copy of this Agreement.

Date _____

X Phylcia Joseph dotloop verified 11/03/22 6:39 PM EDT TQIE-AJSX-DVSK-SNI5 Buyer
(Note: Please sign as you wish your name to appear on final papers.)

X _____ Buyer
(Note: Please sign as you wish your name to appear on final papers.)

5. **RECEIPT IS ACKNOWLEDGED BY SELLER** of a copy of this Agreement.

Date _____

X LeighAnn Miksell dotloop verified 11/03/22 6:19 PM MST HMUR-GSCK-BTCX-KV21 Seller
(Note: Please sign as you wish your name to appear on final papers.)

X _____ Seller
(Note: Please sign as you wish your name to appear on final papers.)



WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: November 7, 2022		Title: Sale of 291 McLaughlin Avenue
Submitted By: LeighAnn Mikesell		Department: City Manager
Brief Summary: Staff is requesting approval of the purchase agreement for 291 McLaughlin Avenue.		
Detailed Summary & Background: 291 McLaughlin Avenue is being constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding. The home is under construction with a planned cost of \$235,000. The offer presented is for a sales price of \$172,500 with no seller concessions.		
Goal/Focus Area/Action Item Addressed: Create an environment that effectively attracts new residents and retains existing residents by filling existing employment gaps, attracting new and diverse businesses to the city, and expanding access to a variety of high-quality housing options in Muskegon. Diverse housing types		
Amount Requested: N/A	Amount Budgeted: N/A	
Fund(s) or Account(s):	Fund(s) or Account(s):	
Recommended Motion: to approve the purchase agreement for 291 McLaughlin Avenue.		
Approvals: Immediate Division Head ☐ Information Technology ☐ Other Division Heads ☒ Communication ☐ Legal Review ☒		Guest(s) Invited / Presenting Yes ☐ No ☒
For City Clerk Use Only: Commission Action:		

WEST MICHIGAN REGIONAL PURCHASE AGREEMENT

DATE: 10/26/2022, 6:00p.m. (time) MLS # _____ not currently listed
SELLING OFFICE: Five Star Real Estate Leaders BROKER LIC.#: 6501280679 REALTOR® PHONE: 616-638-1627
LISTING OFFICE: West Urban Realty REALTOR® PHONE: 616-366-2459

1. **Effective Date:** This Agreement is effective on the date of Seller's acceptance of Buyer's offer or Buyer's acceptance of any counteroffer, as the case may be, and this date shall hereafter be referred to as the "Effective Date". Further, any reference to "days" in this Agreement refers to calendar days. The first calendar day begins at 12:01 a.m. on the day after the Effective Date. Any reference to "time" refers to local time.
2. **Agency Disclosure:** The Undersigned Buyer and Seller each acknowledge that they have read and signed the Disclosure Regarding Real Estate Agency Relationships. The selling licensee is acting as (choose one):
☐ Agent/Subagent of Seller ☒ Buyer's Agent ☐ Dual Agent (with written, informed consent of both Buyer and Seller)
☐ Transaction Coordinator
Primary Selling Agent Name: Patti Styburski Email: pattistyburski1@gmail.com Lic.#:
Alternate Selling Agent Name: Randy Styburski Email: randystyburski@gmail.com Lic.#:
3. **Seller's Disclosure Statement:** (This paragraph applies to sales of one-to-four family residential units.)
☐ Buyer has received the Seller's Disclosure Statement, dated _____. Seller certifies to Buyer that the Property is currently in the same condition as Seller previously disclosed in that statement. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement.
☒ Buyer has not received the Seller's Disclosure Statement. Buyer may terminate this Agreement, in writing, any time prior to receipt of the Seller's Disclosure Statement. Once Buyer has received the Seller's Disclosure Statement, Buyer may terminate this Agreement, in writing, within 72 hours of receipt if the disclosure was received in person, or within 120 hours if received by registered mail. Exceptions:
☐ Seller is exempt from the requirements of the Seller Disclosure Act.
4. **Lead-Based Paint Addendum:** Transactions involving homes built prior to 1978 require a written disclosure which is hereby attached and will be an integral part of this Agreement.
5. **Property Description:** Buyer offers to buy the property located in the ☒ City ☐ Village ☐ Township of Muskegon, County of Muskegon, Michigan, commonly known as (insert mailing address: street/city/state/zip code)
291 McLaughlin Avenue, Muskegon, MI 49442
with the following legal description and tax parcel ID numbers:
CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 12 BLK 264 EX W 4 FT FOR ALLEY

PP# 24-31-29-182-00

The following paragraph applies only if the Premises include unplatted land:

Seller agrees to grant Buyer at closing the right to make (insert number) _____ division(s) under Section 108(2), (3), and (4) of the Michigan Land Division Act. (If no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or REALTOR® do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval on or before _____, of the proposed division to create the Premises.

6. **Purchase Price:** Buyer offers to buy the Property for the sum of \$ 172,500.00
one hundred seventy-two thousand five hundred U.S. Dollars
7. **Seller Concessions**, if any: none
0
8. **Terms:** The Terms of Purchase will be as indicated by "X" below: (Other unmarked terms of purchase do not apply.)
SOURCE OF FUNDS TO CLOSE: Buyer represents that the funds necessary to close this transaction on the terms specified below are currently available to Buyer in cash or an equally liquid equivalent.

If the Property's value stated in an appraisal obtained by Buyer or Buyer's lender is less than the Purchase Price, Buyer shall within three (3) days after receipt of the appraisal: 1) renegotiate with the Seller, 2) terminate the transaction, in which case Buyer shall receive a refund of Buyer's Earnest Money Deposit, or 3) proceed to close the transaction at the agreed Purchase Price.

- ☐ CASH. The full Purchase Price upon execution and delivery of Warranty Deed. Buyer Agrees to provide Buyer Agent/Dual Agent verification of funds within five (5) days after the Effective Date, and consents to the disclosure of such information to Seller and/or Seller's Agent. If verification of funds is not received within 5 days after the Effective Date, Seller may terminate this Agreement at any time before verification of funds is received by giving written notice to Buyer. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement.
- ☒ NEW MORTGAGE. The full Purchase Price upon execution and delivery of Warranty Deed, contingent upon Buyer's ability to obtain a FHA _____ type 30 _____ (year) mortgage in the amount of 97 % of the Purchase Price bearing interest at a rate not to exceed TBD % per annum (rate at time of loan application), on or before the date the sale is to be closed. Buyer agrees to apply for a mortgage loan, and pay all fees and costs customarily charged by Buyer's lender to process the application, within 3 days after the Effective Date, not to impair Buyers' credit after the date such loan is offered. ☐ Seller ☒ Buyer will agree to pay an amount not to exceed \$0 representing repairs required as a condition of financing. Buyer ☐ agrees ☐ does not agree to authorize Buyer's Agent/Dual Agent to obtain information from

Buyer's lender regarding Buyer's financing, and consents to the disclosure of this information to Seller and/or Seller's Agent.
Exceptions:

☐ SELLER FINANCING (choose one of the following): ☐ CONTRACT or ☐ PURCHASE MONEY MORTGAGE

In the case of Seller financing, Buyer agrees to provide Seller with a credit report within 72 hours after the Effective Date. If the credit report is unacceptable to Seller, Seller shall have the right to terminate this offer within 48 hours of Seller's receipt, or if Buyer fails to provide said credit report to Seller within the time frame allotted, Seller shall have the right to terminate this offer within 48 hours. Seller is advised to seek professional advice regarding the credit report.

\$_____ upon execution and delivery of a _____ form (name or type of form and revision date), a copy of which is attached, wherein the balance of \$_____ will be payable in monthly installments of \$_____ or more including interest at _____ % per annum, interest to start on date of closing, and first payment to become due thirty (30) days after date of closing. The entire unpaid balance will become due and payable _____ months after closing. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ EQUITY (choose one of the following): ☐ Formal Assumption or ☐ Informal Assumption
Upon execution and delivery of: ☐ Warranty Deed subject to existing mortgage OR ☐ Assignment of Vendee Interest in Land Contract, Buyer to pay the difference (approximately \$_____) between the Purchase Price above provided and the unpaid balance (approximately \$_____) upon said mortgage or land contract, which Buyer agrees to assume and pay. Buyer agrees to reimburse Seller for accumulated funds held in escrow, if any, for payment of future taxes and insurance premiums, etc. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ OTHER:

9. **Contingencies:** Buyer's obligation to consummate this transaction (choose one):

☒ **IS NOT CONTINGENT** - is not contingent upon the sale or exchange of any other property by Buyer.

☐ **IS CONTINGENT UPON CLOSING** - is contingent upon closing of an existing sale or exchange of Buyer's property located at:

A copy of Buyer's agreement to sell or exchange that property is being delivered to Seller along with this offer. If the existing sale or exchange terminates for any reason, Buyer will immediately notify Seller, and either party may terminate this Agreement in writing, within 3 days of Buyer's notice to Seller. If either party terminates, Buyer shall receive a refund of any applicable Earnest Money Deposit.

☐ **IS CONTINGENT UPON THE SALE AND CLOSING** - is contingent upon the execution of a binding agreement and the closing of a sale or exchange of Buyer's property located at _____ on or before _____. Seller will have the right to continue to market Seller's Property until Buyer enters into a binding agreement to sell or exchange Buyer's property and delivers a copy thereof to Seller. During such marketing period, Seller may enter into a binding contract for sale to another purchaser on such price and terms as the Seller deems appropriate. In such event, this Agreement will automatically terminate, Buyer will be notified promptly, and Buyer's Earnest Money Deposit will be refunded. Exceptions:

10. **Fixtures & Improvements:** The following is not intended to be an all-inclusive list of items included with the Property. All improvements and appurtenances are included in the Purchase Price, if now in or on the Property, unless rented, including the following: all buildings; landscaping; attached smart home devices; attached security systems; lighting fixtures and their shades and bulbs; ceiling fans; hardware for draperies and curtains; window shades and blinds; built-in kitchen appliances, including garbage disposal and drop-in ranges; wall to wall carpeting, if attached; all attached mirrors; all attached TV mounting brackets; all attached shelving; attached work benches; stationary laundry tubs; water softener; water heater; incinerator; sump pump; water pump and pressure tank; heating and air conditioning equipment (window units excluded); attached humidifiers; heating units, including add-on heating stoves and heating stoves connected by flue pipe; fireplace screens, inserts, and grates; fireplace doors, if attached; liquid heating and cooking fuel tanks; TV antenna and complete rotor equipment; satellite dish and necessary accessories and complete rotor equipment; all support equipment for inground pools; screens and storm windows and doors; awnings; installed basketball backboard, pole and goal; mailbox; flagpole(s); fencing, invisible inground fencing and all related equipment, including collars; detached storage buildings; underground sprinkling, including the pump; installed outdoor grills; all plantings and bulbs; garage door opener and control(s); and any and all items and fixtures permanently affixed to the Property; **and also includes:**
The following Stainless appliance package of a dishwasher and a microwave to be included, along with central air to be included. Laundry in the basement, with a gas dryer hook up. Same color interior as your new build located at 1227 Pine St. White cabinets in the kitchen and both bathrooms.

but does not include:

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- 11. Heating and Cooking Fuels:** Liquid heating and cooking fuels in tanks are included in the sale and will transfer to Buyer at time of possession unless usage is metered (in which case it is not included in the sale). Sellers are responsible for maintaining heating and cooking liquid fuels at an operational level and shall not permit fuels to fall below 10% in the tank(s) at the time of possession, except that the tank(s) may be empty only if now empty. Further, Seller is precluded from removing fuel from tank(s) other than what is expended through normal use. Exceptions:

natural gas

12. Assessments (choose one):

If the Property is subject to any assessments,

- ☒ Seller shall pay the entire balance of any such assessments that are due and payable on or before the day of closing (regardless of any installment arrangements), except for any fees that are required to connect to public utilities.
- ☐ Seller shall pay all installments of such assessments that become due and payable on or before day of closing. Buyer shall assume and pay all other installments of such assessments.

- 13. Property Taxes:** Seller will be responsible for any taxes billed prior to those addressed below. Buyer will be responsible for all taxes billed after those addressed below.

Buyer is also advised that the state equalized value of the Property, principal residence exemption information and other real property tax information is available from the appropriate local assessor's office. Buyer should not assume that Buyer's future tax bills on the Property will be the same as Seller's present tax bills. Under Michigan law, real property tax obligations can change significantly when property is transferred.

☐ No proration. (Choose one):

- ☐ Buyer ☐ Seller will pay taxes billed summer _____ (year);
- ☐ Buyer ☐ Seller will pay taxes billed winter _____ (year);

- ☒ Calendar Year Proration (all taxes billed or to be billed in the year of the closing). Calendar year tax levies will be estimated, if necessary, using the taxable value and the millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying for January 1 through the day before closing.

☐ Fiscal Year Proration - Taxes will be prorated as though they are paid in (choose one): ☐ advance. ☐ arrears.

Fiscal Year will be assumed to cover a 12-month period from date billed, and taxes will be prorated to the date of closing. Fiscal year tax levies will be estimated, if necessary, using the taxable value and millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying through the day before closing. Exceptions:

- 14. Well/Septic:** Within ten (10) days after the Effective Date, (choose one) ☐ Seller or ☐ Buyer will arrange for, at their own expense, an inspection of the primary well used for human consumption (including a water quality test for coliform bacteria and nitrates) and septic systems in use on the Property. The inspection will be performed by a qualified inspector in a manner that meets county (or other local governmental authority, if applicable) protocol.

If any report discloses a condition unsatisfactory to Buyer, or doesn't meet county standards that are a condition of sale, Buyer may, within three (3) days after Buyer has received the report, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the well/septic as-is. Seller will respond in writing within three (3) days to Buyer's request. If Seller fails to respond or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer will have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate the contract, Buyer will proceed to closing according to the terms and conditions of this Agreement.

Other:

City water and City sewer

15. Inspections & Investigations:

Inspections: Buyer, or someone selected by Buyer, has the right to inspect the buildings, premises, components and systems, at Buyer's expense. Any damage, misuse, abuse, or neglect of any portion of the Property or premises as a result of inspections will be Buyer's responsibility and expense.

Investigations: It is Buyer's responsibility to investigate (i) whether the Property complies with applicable codes and local ordinances and whether the Property is zoned for Buyer's intended use; (ii) whether Buyer can obtain a homeowner's insurance policy for the Property at price and terms acceptable to Buyer; (iii) and whether or not the Property is in a flood zone.

All inspections and investigations will be completed within 10 days after the Effective Date. If the results of Buyer's inspections and investigations are not acceptable to Buyer, Buyer may, within the above referenced period, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be

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Buyer's Initials

Seller's Initials

deemed to have accepted the Property as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Inspections & Investigations and will proceed to closing according to the terms and conditions of this Agreement.

☐ Buyer has waived all rights under this Inspections & Investigations paragraph.

Exceptions:

16. **Municipal Compliances:** Seller will arrange and pay for current certificates of occupancy, sidewalk compliance, and smoke detector ordinances, if applicable.

17. **Title Insurance:** Seller agrees to convey marketable title to the Property subject to conditions, limitations, reservation of oil, gas and other mineral rights, existing zoning ordinances, and building and use restrictions and easements of record. An **expanded coverage** ALTA Homeowner's Policy of Title Insurance in the amount of the Purchase Price shall be ordered by Seller and furnished to Buyer at Seller's expense, and a commitment to issue a policy insuring marketable title vested in Buyer, including a real estate tax status report, will be made available to Buyer within **ten (10) days** after the Effective Date. If Buyer so chooses, or if an expanded policy is not applicable, then a **standard** ALTA Owners' Policy of Title Insurance shall be provided.

If Buyer objects to any conditions, Buyer may, within three (3) days of receipt of the Title Commitment, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the Title Commitment as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and shall receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Title Commitment as-is and will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

Buyers side to be prepared by and closed with Star Title.

18. **Property Survey:** Broker advises that Buyer should have a survey performed to satisfy Buyer as to the boundaries of the Property and the location of improvements thereon.

☐ Buyer or ☐ Seller (choose one) shall within ten (10) days of the Effective Date, order, at their expense, a boundary survey with iron corner stakes showing the location of the boundaries, improvements and easements in connection with the Property. Upon receipt of the survey, Buyer will have three (3) days to review the survey. If the survey shows any condition, in Buyer's sole discretion, which would interfere with Buyer's intended use of the Property, the marketability of the title, or zoning non-compliance, then Buyer may, within said three (3) day period, terminate this Agreement, in writing, and Buyer will receive a full refund of Buyer's Earnest Money Deposit.

☒ No survey. Buyer has waived all rights under this paragraph.

When closing occurs, Buyer shall be deemed to have accepted the boundaries of the Property and the location of such improvements thereon. Exceptions:

Seller to provide an existing copy of the survey prior to closing.

19. **Home Protection Plan:** Buyer and Seller have been informed that home protection plans may be available. Such plans may provide additional protection and benefit to the parties. Exceptions:

20. **Prorations:** Rent; association dues/fees, if any; insurance, if assigned; interest on any existing land contract, mortgage or lien assumed by Buyer; will all be adjusted to the date of closing. For the purposes of calculating prorations, it is presumed that Seller owns the Property through the day before closing.

21. **Closing:** If agreeable to Buyer and Seller, the sale will be closed as soon as closing documents are ready, but not later than TBD. An additional period of fifteen (15) days will be allowed for closing to accommodate the correction of title defects or survey problems which can be readily corrected, or for delays in obtaining any lender required inspections/repairs. During this additional period, the closing will be held within 5 days after all parties have been notified that all necessary documents have been prepared. Buyer and Seller will each pay their title company closing fee, if applicable, **except in the case of VA financing where Seller will pay the entire closing fee**. Exceptions:

upon completion of the build and the appraisal and lender clear to close.

22. **Pre-Closing Walk-Through:** Buyer (choose one) ☒ reserves ☐ waives the right to conduct a final walk-through of the Property within three (3) days of the scheduled closing date. The purpose of the walk-through is to determine that the Property is in a substantially similar condition as of the Effective Date, any contractually agreed upon items have been fulfilled, and that any included personal property is still located at the Property. Buyer shall immediately report to Seller any objections to these conditions and Buyer's requested corrective action.

23. **Possession:** Seller will maintain the Property in its present condition until the completion of the closing of the sale. Possession to be delivered to Buyer, subject to rights of present tenants, if any.

☒ At the completion of the closing of the sale.

☐ At ☐ a.m. ☐ p.m. on the day after completion of the closing of the sale, during which time Seller

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will have the privilege to occupy the Property and hereby agrees to pay Buyer \$0 as an occupancy fee for this period payable at closing, WITHOUT PRORATION. Payment shall be made in the form of cash or certified funds.

If Seller fails to deliver possession to Buyer on the agreed date, Seller shall become a tenant at sufferance and shall pay to Buyer as liquidated damages \$100.00 per day plus all of the Buyer's actual reasonable attorney's fees incurred in removing the Seller from the Property.

If Seller occupies the Property after closing, Seller will pay all utilities during such occupancy. Buyer will maintain the structure and mechanical systems at the Property. However, any repairs or replacements necessitated by Seller's misuse, abuse, or neglect of any portion of the Property will be Seller's responsibility and expense.

On the agreed delivery date, Seller shall deliver the Property free of trash and debris and in broom-clean condition, shall remove all personal property (unless otherwise stated in this or an additional written agreement), shall make arrangements for final payment on all utilities, and shall deliver all keys to Buyer. Exceptions:

24. **Earnest Money Deposit:** For valuable consideration, Buyer gives Seller until 6:00p.m. (time) on 11/02/2022 (date), to deliver the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding Agreement between Buyer and Seller. An Earnest Money Deposit in the amount of \$ 5,000.00 shall be submitted to Five Star Real Estate Leaders (NON REFUNDABLE) (insert name of broker, title company, other) within 72 hours of the Effective Date of this Agreement, and shall be applied against the Purchase Price. If the Earnest Money Deposit is not received within 72 hours of the Effective Date or is returned for insufficient funds, Seller may terminate this Agreement until such time as the Earnest Money Deposit is received. If Seller terminates this Agreement under this provision, Seller waives any claim to the Earnest Money Deposit. If the sale is not closed due to a failure to satisfy a contingency for a reason other than the fault of Buyer, the Earnest Money Deposit shall be refunded to Buyer. If the sale is not closed as provided in this Agreement and Buyer and Seller do not agree to the disposition of the Earnest Money Deposit, then Buyer and Seller agree that the Broker holding the Earnest Money Deposit may notify Buyer and Seller, in writing, of Broker's intended disposition of the Earnest Money Deposit. If Buyer and Seller do not object to such disposition in writing within fifteen (15) days after the date of Broker's notice, they will be deemed to have agreed to Broker's proposed disposition; if either Buyer or Seller object and no mutually agreeable disposition can be negotiated, Broker may deposit the funds by interpleader with a court of proper jurisdiction or await further actions by Buyer and Seller. In the event of litigation involving the deposit, in whole or in part, either the Seller or the Buyer that is not the prevailing party, as determined by the court, will reimburse the other for reasonable attorneys' fees and expenses incurred in connection with the litigation, and will reimburse the Broker for any reasonable attorneys' fees and expenses incurred in connection with any interpleader action instituted. If the entity holding the Earnest Money Deposit is not the Broker, then to the extent that the terms of any escrow agreement conflict with this paragraph, then the terms and conditions of the escrow agreement shall control.

25. **Professional Advice:** Broker hereby advises Buyer and Seller to seek legal, tax, environmental and other appropriate professional advice relating to this transaction. Broker does not make any representations or warranties with respect to the advisability of, or the legal effect of this transaction. Buyer further acknowledges that REALTOR® above named in the Agreement hereby recommends to Buyer that an attorney be retained by Buyer to pass upon the marketability of the title and to ascertain that the required details of the sale are adhered to before the transaction is consummated. Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether intentionally or negligently) regarding any aspect of the Property or this sale transaction, except as may be expressly set forth in this Agreement, a written amendment to this Agreement, or a disclosure statement separately signed by Seller.

26. **Disclosure of Information:** Buyer and Seller acknowledge and agree that the Purchase Price, terms, and other details with respect to this transaction (when closed) are not confidential, will be disclosed to REALTORS® who participate in the applicable Multiple Listing Service, and may otherwise be used and/or published by that Multiple Listing Service in the ordinary course of its business.

27. **Other Provisions:**

This is a new build and is currently under construction.

This home will be a 2 bedroom 1 and 1/2 bath, with the laundry in the basement, Please install a gas line in the laundry room. includes dishwasher, microwave, and central air conditioning. This home is to have White Cabinets in the kitchen and both bathrooms. The front home to be styled like the front of 1527 Hoyt St. "door to be to the left like Hoyt street and the two front windows in the kitchen in the kitchen and dining room to be side by side". Siding to be light grey color with white trim.

#24 Non refundable Earnest Deposit of \$5000.00.

Builder to supply the buyer with a front design of the home and a floor plan drawing within 4 weeks of acceptance.

28. **Mergers and Integrations:** This Agreement is the final expression of the complete agreement of Buyer and Seller, and there are no oral agreements existing between Buyer and Seller relating to this transaction. This Agreement may be amended only in writing signed by Buyer and Seller and attached to this Agreement.

29. **Fax/Electronic Distribution and Electronic Signatures:** Buyer and Seller agree that any signed copy of this Agreement, and any amendments or addendums related to this transaction, transmitted by facsimile or other electronic means shall be competent evidence of its contents to the same effect as an original signed copy. Buyer and Seller further agree that an electronic signature is the legal equivalent of a manual or handwritten signature, and consent to use of electronic signatures. Buyer and Seller agree that any notice(s) required or permitted under this Agreement may also be transmitted by facsimile or other electronic means.

30. **Wire Fraud:** Seller and Buyer are advised that wire fraud is an increasingly common problem. If you receive any electronic

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communication directing you to transfer funds or provide nonpublic personal information (such as social security numbers, drivers' license numbers, wire instructions, bank account numbers, etc.), **even if that electronic communication appears to be from the Broker, Title Company, or Lender, DO NOT** reply until you have verified the authenticity of the email by direct communication with Broker, Title Company, or Lender. **DO NOT** use telephone numbers provided in the email. Such requests may be part of a scheme to steal funds or use your identity.

31. Buyer's Approval and Acknowledgment: Buyer approves the terms of this offer and acknowledges receipt of a copy of this offer.

Buyer 1 Address _____ X _____ Buyer
 Buyer 1 Phone: (Res.) _____ (Bus.) _____
 _____ Print name as you want it to appear on documents.
 Buyer 2 Address _____ X _____ Buyer
 Buyer 2 Phone: (Res.) _____ (Bus.) _____
 _____ Print name as you want it to appear on documents.

32. Seller's Response: The above offer is approved: ☐ As written. ☒ As written except:

front elevation has been predetermined per builder. Buyer has received front elevation and changes to the floorplan.

Counteroffer, if any, expires 11/08/2022, at 12pm (time). Seller has the right to withdraw this counteroffer and to accept other offers until Seller or Seller's Agent has received notice of Buyer's acceptance.

33. Certification of Previous Disclosure Statement: Seller certifies to Buyer that the Property is currently in the same condition as disclosed in the Seller's Disclosure Statement dated _____ (choose one): ☐ Yes ☐ No. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement prior to closing.

34. Notice to Seller: Seller understands that consummation of the sale or transfer of the Property described in this Agreement will not relieve Seller of any liability that Seller may have under the mortgages to which the Property is subject, unless otherwise agreed to by the lender or required by law or regulation. Buyer and Seller are advised that a Notice to Seller & Buyer of Underlying Mortgage form is available from the respective agents via the West Michigan REALTOR® Boards.

35. Listing Office Address: 3478 Persimmon Ln, Holland Mi 49424 Listing Broker License # _____
Listing Agent Name: Mariana Murillo VanDam Listing Agent License # _____

36. Seller's Approval and Acknowledgment: Seller approves the terms of this Agreement and acknowledges receipt of a copy. If Seller's response occurs after Buyer's offer expires, then Seller's response is considered a counteroffer and Buyer's acceptance is required below.

X (Seller's Signature, Date, Time): _____
 _____ Is Seller a U.S. Citizen or Resident Alien? ☒ Yes ☐ No*
 _____ Print name as you want it to appear on documents.

X (Seller's Signature, Date, Time): _____
 _____ Is Seller a U.S. Citizen or Resident Alien? ☐ Yes ☐ No*
 _____ Print name as you want it to appear on documents.

Seller's Address: _____ Seller's Phone (Res.) _____ (Bus.) _____
 * If Seller(s) is not a U.S. Citizen or Resident Alien, there may be tax implications and Buyer and Seller are advised to seek professional advice.

37. Buyer's Receipt/Acceptance: Buyer acknowledges receipt of Seller's response to Buyer's offer. In the event Seller's response constitutes a counteroffer, Buyer accepts said counteroffer. All other terms and conditions in the offer remain unchanged.

X (Buyer's Signature, Date, Time): _____
 X (Buyer's Signature, Date, Time): _____

38. Seller's Receipt: Seller acknowledges receipt of Buyer's acceptance of counter offer.

X (Seller's Signature, Date, Time): _____
 X (Seller's Signature, Date, Time): _____

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