CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 12, 2004

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- **CALL TO ORDER:**
- **PRAYER:**
- **PLEDGE OF ALLEGIANCE:**
- **ROLL CALL:**
- **HONORS AND AWARDS:**
- **INTRODUCTIONS/PRESENTATION:**
- **CONSENT AGENDA:**
    A. **Approval of Minutes.** CITY CLERK
    B. **Sale of Buildable Vacant Lot on Dowd Street.** PLANNING & ECONOMIC DEVELOPMENT
    C. **Renewal of Maintenance Contract with MDOT Trunkline Within the City of Muskegon.** PUBLIC WORKS
    D. **Amendment to the Special Assessment Policy.** ENGINEERING
- **PUBLIC HEARINGS:**
    A. **Amendments to Brownfield Plan – Former Muskegon Mall.** PLANNING & ECONOMIC DEVELOPMENT
- **COMMUNICATIONS:**
- **CITY MANAGER'S REPORT:**
- **UNFINISHED BUSINESS:**
- **NEW BUSINESS:**
    A. **Muskegon Boiler Works Study Committee Final Report.** PLANNING & ECONOMIC DEVELOPMENT
    B. **Request for Extension of Deadlines for Former Lakos Property.** PLANNING & ECONOMIC DEVELOPMENT

C. <u>Approval of Purchase of New Boiler-Central Fire Station.</u> PUBLIC SAFETY

- ANY OTHER BUSINESS:

- PUBLIC PARTICIPATION:

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

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

Date: October 12, 2004

To: Honorable Mayor and City Commissioners

From: Gail A. Kundinger, City Clerk

RE: Approval of Minutes

SUMMARY OF REQUEST: To approve the minutes of the Special Commission Meeting that was held on Wednesday, September 22, 2004; and the Regular Commission Meeting that was held on Tuesday, September 28, 2004.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 12, 2004

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, October 12, 2004.

Mayor Warmington opened the meeting with a prayer from Commissioner Gawron after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Bill Larson, Commissioner Clara Shepherd, Lawrence Spataro, Chris Carter, Kevin Davis, Stephen Gawron, City Manager Bryon Mazade, City Attorney John Schrier, and Deputy City Clerk Linda Potter.

INTRODUCTIONS: Tony Kleibecker introduced Mark Kincaid, the new Deputy Director of Public Safety for Fire Services.

2004-89 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Special Commission Meeting that was held on Wednesday, September 22, 2004; and the Regular Commission Meeting that was held on Tuesday, September 28, 2004.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Sale of Buildable Vacant Lot on Dowd Street. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant buildable lot at 2335 Dowd Street (Parcel #24-665-000-0520-00) to Fred Glomb, 1466 Ellis Road, Muskegon, MI. The lot is 123 x 125 ft. and is being offered to Mr. Glomb for $9,000. The single-family home will comply with the City's "Policy for Sale of City-

Owned Residential property. The True Cash Value (TCV) for the property listed in the Assessor's Office is $12,000, so our price is set at $9,000 which is 75% of that amount.

FINANCIAL IMPACT: The sale of this lot for construction of a new home will generate additional tax revenue for the City and will place the property back on the City's tax rolls thus relieving the City of continued maintenance costs.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign said resolution and deed.

C. **Renewal of Maintenance Contract with MDOT Trunkline Within the City of Muskegon.** PUBLIC WORKS

SUMMARY OF REQUEST: The Michigan Department of Transportation (MDOT) seeks to renew its contract with the City of Muskegon for road maintenance on State Highways located within the City of Muskegon. The City of Muskegon designates Robert Kuhn, its Public Works Director, as the Maintenance Superintendent on state trunkline highways, and authorizes him and Linda Potter, Deputy City Clerk, to execute this contract on the City's behalf. This is a five-year, renewable contract.

FINANCIAL IMPACT: Our annual contract with MDOT is approximately $221,000.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Recommend approval of five-year contract, the designation of Robert Kuhn as the Maintenance Superintendent, and authorize him and Linda Potter, Deputy City Clerk, to execute the contract on the City's behalf.

Motion by Commissioner Carter, second by Commissioner Shepherd to approve the Consent Agenda with the exception of item D.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, Shepherd

Nays: None

MOTION PASSES

2004-90 ITEM REMOVED FROM THE CONSENT AGENDA

D. **Amendment to the Special Assessment Policy.** ENGINEERING

SUMMARY OF REQUEST: As a result of a Legislative Committee meeting, it is respectfully requested that the special assessment policy be amended in the following form:

Sub-paragraph "a" (on page 6) of paragraph 10 of section "C" Part "V" of the special assessment policy be amended to read: In no case shall the assessments be in excess of benefits to abutting properties **nor shall the total assessments exceed 25% of the total project cost associated with pavement.**

This amendment applies only to those activities/improvements eligible under the table on page 4 of said policy. Furthermore, it is requested that if the amendment is adopted, implementation be limited to those projects where special assessment districts have been created after January 1st of 2005.

FINANCIAL IMPACT: None anticipated at this time.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Amend the special assessment policy.

2004-91 PUBLIC HEARINGS:

A. **Amendments to Brownfield Plan – Former Muskegon Mall.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To hold a public hearing and approve the resolution approving and adopting amendments for the Brownfield Plan. The amendments are for the inclusion of property owned by Downtown Muskegon Development Corporation (DMDC) in the Brownfield Plan.

FINANCIAL IMPACT: Brownfield Tax increment Financing would be used to reimburse the City, DMDC, and possibly developers for "eligible expenses" incurred in association with development of the Mall, starting in 2012, when the Renaissance Zone status of the Mall property will begin to expire. DMDC currently estimates that full development of the Mall property will involve approximately $60 million in private investment, resulting in a substantial increase in the local and school taxes generated by the property. "Eligible Expenses" would be reimbursed starting in 2012, including the payment of 4% interest annually. The estimated tax capture and payment schedule is included as Attachment L-4 in the proposed Brownfield Plan Amendment. The City is also authorized by law to capture up to $75,000/year to pay for "reasonable and actual administrative and operating costs of the Brownfield Redevelopment Authority. As such, $50,000/year of the local tax increment will be captured to reimburse the Brownfield Authority for its administrative costs, for a total of $550,000 over 11 years. After all eligible costs incurred by the various parties are reimbursed (estimated to be in 2017), the BRA is authorized to continue to capture local taxes for five more years for deposit into a Local Site Remediation Revolving Fund. Current estimates indicate that approximately $3,460,000 could be captured from the taxes on the Mall property for deposit into this local fund.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To hold the public hearing and approve the resolution and authorize the Mayor and Clerk to sign the resolution.

COMMITTEE RECOMMENDATION: The Muskegon City Commission set the public hearing for October 12, 2004, at their September 14, 2004 meeting. Since that time, a notice of the public hearing has been sent to taxing jurisdictions, and it has been published twice in the Muskegon Chronicle. In addition, the Brownfield Redevelopment Authority approved the Plan amendment on September 8, 2004 and further recommends that the Muskegon City Commission approve the Plan amendment.

The Public Hearing opened at 6:05 p.m. to hear and consider any comments from the public. No comments were heard.

Motion by Commissioner Spataro, second by Commissioner Gawron to close the Public Hearing at 6:06 p.m. and approve the amendment to the Brownfield Plan.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, Warmington

Nays: None

MOTION PASSES

2004-92 NEW BUSINESS:

A. **<u>FIRST READING: Muskegon Boiler Works Study Committee Final Report.</u>** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The Muskegon Boiler Works Study Committee, which was appointed by the City Commission on June 22, 2004 to study the historic significance of the Boiler Works property and make a recommendation regarding the establishment of an historic district, has developed a final report. The property is located at 1204 Eighth Street (described as City of Muskegon Revised Plat of 1903 Block 317, Lots 9-13). To finalize its duties, the Study Committee is forwarding the final report with a recommendation to the City Commission to establish the Boiler Works Historic District and to amend Chapter 11 of the Code of Ordinances concerning Historic Districts and the Historic District Commission, to reflect the addition of the new district.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To accept the Muskegon Boiler Works Study Committee report and recommendation and authorize the Clerk to sign the Ordinance amending Chapter 11 of the Code of Ordinances concerning Historic Districts and the Historic District Commission.

COMMITTEE RECOMMENDATION: The Muskegon Boiler Works Study Committee recommends approval of the establishment of an historic district for the Boiler Works property. The Planning Commission recommended approval to the City Commission at their August 12, 2004 meeting.

Motion by Vice Mayor Larson, second by Commissioner Shepherd to accept the

Muskegon Boiler Works Study Committee final report.

ROLL VOTE: Ayes: Larson, Shepherd, Warmington, Carter

Nays: Davis, Gawron, Spataro

***MOTION PASSES* (REQUIRES SECOND READING)**

B. <u>Request for Extension of Deadlines for Former Lakos Property.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: At the May 11, 2004 meeting, the City Commission granted an Amendment for an extension of time to the Agreement between Desiree Enterprises (Holiday Inn) and the City of Muskegon. The extension agreement allowed the owner of the property to have until October 1, 2004 to present plans for the development of the property to the City. Construction was to begin by April 1, 2005 and the project was to be completed by September 1, 2005. Recently, however, Mr. Elkhouly from the Holiday Inn, has made another request to extend the deadlines.

FINANCIAL IMPACT: Without development on the site, the amount of taxes paid to the City is limited.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: None (if the Commission desires to extend the deadline, again, staff can work with the City Attorney to prepare another amendment).

Motion by Vice Mayor Larson, second by Commissioner Shepherd to grant extension with construction to commence no later than September 1, 2005.

ROLL VOTE: Ayes: Larson, Shepherd, Warmington

Nays: Gawron, Spataro, Carter, Davis

MOTION FAILS

C. <u>Approval of Purchase of New Boiler-Central Fire Station.</u> PUBLIC SAFETY

SUMMARY OF REQUEST: Public Safety Division staff request that the Commission consider our request to purchase a new boiler for the Central Fire Station. This unit provides heat to this building. During our fall start-up, a crack was discovered in the unit. Temporary repairs have been made to the current boiler in order to provide some heat for staff.

Three companies inspected the unit and were asked to submit bids. They include Northern Boiler, Monarch Welding and Engineering and Bowen Heating. Bowen has advised us that they would not be able to provide us with a quote. Both Northern and Monarch did provide us with quotes. Both companies recommended replacement of the boiler due to its age and the fact that they will not guarantee that repairing this unit will prevent further failures.

FINANCIAL IMPACT: The cost of the new boiler (Monarch) and installation is $16,755.

BUDGET ACTION REQUIRED: This item is not provided for in the current budget. Funds will be drawn from the General Fund Contingency Account.

STAFF RECOMMENDATION: Awarding of the bid to Monarch Welding and Engineering.

Motion by Commissioner Spataro, second by Vice Mayor Larson to approve the purchase of a new boiler for the Central Fire Station.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, Gawron

Nays: None

MOTION PASSES

2004-93 ANY OTHER BUSINESS

Property on Western Avenue was discussed (former Muskegon Hotel).

Motion by Commissioner Spataro, second by Commissioner Gawron to request a legal opinion on the cost to reclaim the property.

ROLL VOTE: Ayes: Spataro, Davis, Gawron

Nays: Shepherd, Warmington, Carter, Larson

MOTION FAILS

The City Commission Meeting adjourned at 6:58 p.m.

Respectfully submitted,

Gail A. Kundinger

Gail A. Kundinger, MMC

City Clerk

Commission Meeting Date: October 12, 2004

Date: **September 24, 2004**

To: **Honorable Mayor & City Commission**

From: **Planning & Economic Development Department**

RE: **Sale of Buildable Vacant Lot on Dowd Street**

SUMMARY OF REQUEST:

To approve the sale of a vacant buildable lot at 2335 Dowd Street (Parcel #24-665-000-0520-00) to Fred Glomb, 1466 Ellis Road, Muskegon, MI. The lot is 123 x 125 ft. and is being offered to Mr. Glomb for $9,000. The single-family home will comply with the City's "Policy for Sale of City-Owned Residential Property. The True Cash Value (TCV) for the property listed in the Assessor's office is $12,000, so our price is set at $9,000 which is 75% of that amount.

FINANCIAL IMPACT:

The sale of this lot for construction of a new home will generate additional tax revenue for the City and will place the property back on the City's tax rolls thus relieving the City of continued maintenance costs.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the attached resolution and to authorize both the Mayor and the Clerk to sign said resolution and deed.

COMMITTEE RECOMMENDATION:

Resolution No. 2004-89(b)

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING THE SALE OF A BUILDABLE LOT AT 2335 DOWD STREET IN CAMPBELL FIELD NEIGHBORHOOD FOR $9,000.

WHEREAS, Fred Glomb has placed a $400 deposit for the parcel designated as parcel number 24-665-000-0520-00, located at 2335 Dowd Street; and

WHEREAS, the price for parcel number 24-665-000-0520-00 is set by the City at $9,000, which is 75% of the True Cash Value (TCV) listed in the City Assessor's Office; and

WHEREAS, the sale would generate additional tax revenue for the City and relieve the City of further maintenance costs; and

WHEREAS, the sale is consistent with City policy regarding the disposition of buildable lots.

NOW THEREFORE BE IT RESOLVED, that parcel number 24-665-000-0520-00, located at 2335 Dowd Street be sold to Fred Glomb for $9,000.

CITY OF MUSKEGON ORCHARD GROVE ADDITION LOTS 520 THRU 522 ALSO E 7-1/2 FT OF VAC ADJ ALLEY

Adopted this 12th day of October, 2004

Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, Shepherd

Nays: None

Absent None

By:
Stephen J. Warmington
Mayor

Attest: Gail Kundinger
Gail Kundinger, MMC
City Clerk

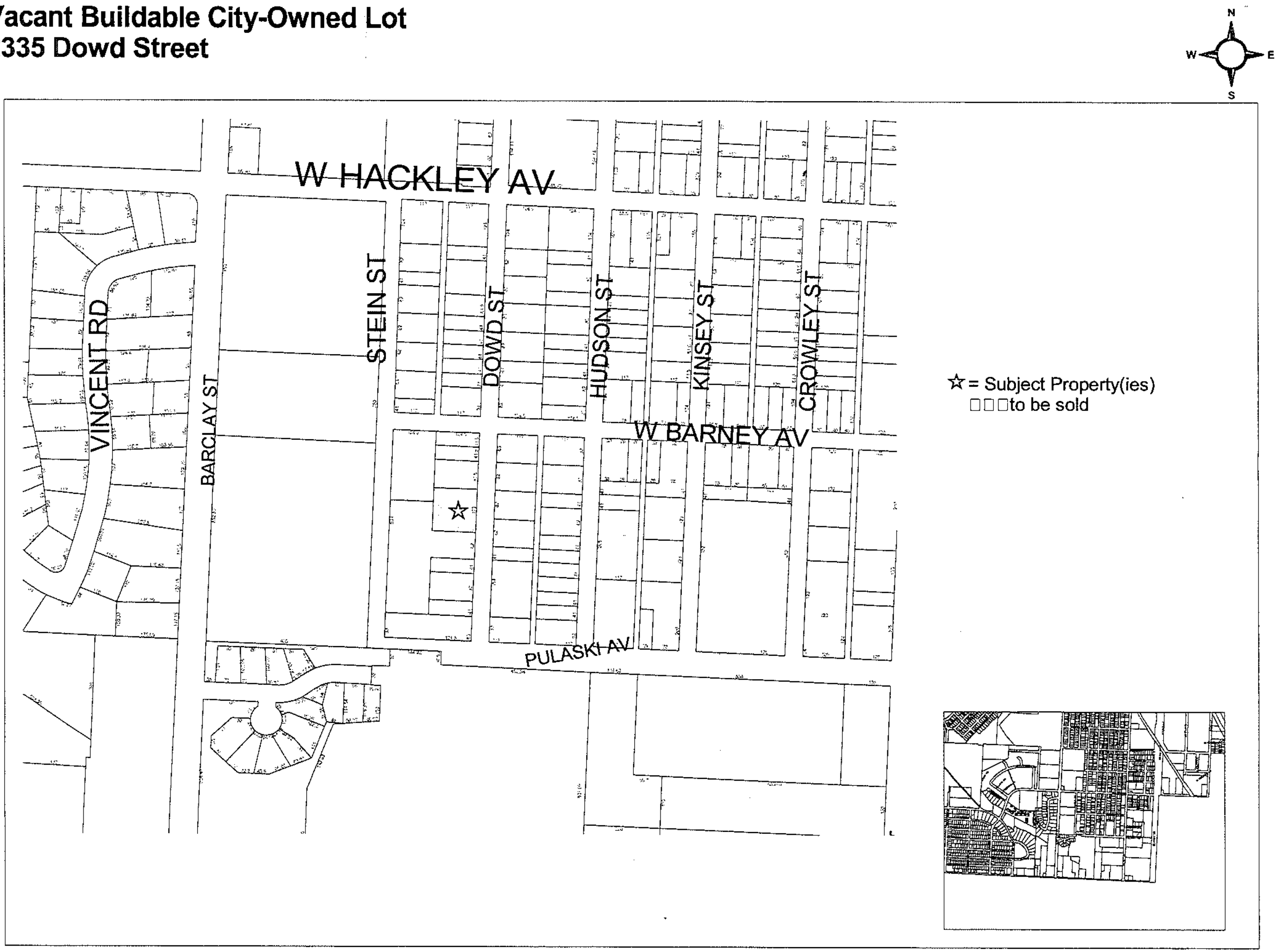
CERTIFICATION

I hearby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on October 12, 2004.

By: Gail Kundinger

Gail Kundinger, MMC
City Clerk

Vacant Buildable City-Owned Lot
2335 Dowd Street



QUIT-CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS: That the **CITY OF MUSKEGON**, a municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49440,

QUIT CLAIMS to **FRED GLOMB**, a married man, of 1466 Ellis Road, Muskegon, Michigan 49441,

the following described premises situated in the City of Muskegon, County of Muskegon, State of Michigan, to wit:

CITY OF MUSKEGON ORCHARD GROVE ADDITION, LOTS 520 THRU 522; ALSO THE EAST 7 ½ FEET OF VACANT ADJACENT ALLEY

for the sum of: Nine Thousand Dollars ($9,000.00)

PROVIDED, HOWEVER, Grantee, or its assigns, shall complete construction of one (1) single family home on the premises herein conveyed within eighteen (18) months after the date hereof. In default of such construction, title to that lot shall revert to the City of Muskegon free and clear of any claim of Grantee or its assigns. In addition, the City of Muskegon may retain the consideration for this conveyance free and clear of any claim of Grantee or its assigns. Buyer shall remove only those trees necessary for construction of the home and driveway. "Complete construction" means: (1) issuance of a residential building permit by the City of Muskegon; and, (2) in the sole opinion of the City of Muskegon's Deputy Director of Public Safety, substantial completion of the dwelling described in the said building permit. In the event of reversion of title, improvements made thereon shall become the property of Grantor. Provided, further, that Grantee covenants that the parcel described above shall be improved with one (1) single family home on each lot, and each lot shall be owner-occupied for five (5) years after the date of this deed. These covenants and conditions shall run with the land.

This deed is exempt from real estate transfer tax pursuant to the provisions of MCLA 207.505(h)(i) and MCLA 207.526 Sec. 6(h)(i).

Dated this 25th day of October, 2004.

Signed in the presence of:

Linda Potter
Linda Potter

JoAnn Krukowski
JoAnn Krukowski

CITY OF MUSKEGON

By [signature]
Stephen J. Warmington, Its Mayor

and Gail A. Kundinger
Gail A. Kundinger, MMC, Its Clerk

STATE OF MICHIGAN
COUNTY OF MUSKEGON

Signed and sworn to before me in Muskegon County, Michigan, on ~~September~~ October 25, 2004 by STEPHEN J. WARMINGTON and GAIL A. KUNDINGER, MMC, the Mayor and Clerk, respectively, of the CITY OF MUSKEGON, a municipal corporation, on behalf of the City.

Linda S. Potter
Linda S. Potter, Notary Public
Acting in the County of Muskegon
Muskegon County, Michigan
My Comm. Expires: 9-25-06

PREPARED BY: John C. Schrier
Parmenter O'Toole
175 W. Apple Avenue/P.O. Box 786
Muskegon, MI 49443-0786
Telephone: 231/722-1621

WHEN RECORDED RETURN TO: Grantee **SEND SUBSEQUENT TAX BILLS TO: Grantee**

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT is made ________________________, 2004, by and between the **CITY OF MUSKEGON**, a municipal corporation, with offices at 933 Terrace, Muskegon, Michigan 49440 ("Seller"), and **FRED GLOMB,** a married man, of 1466 Ellis Road, Muskegon, Michigan 49441 ("Buyer").

1. **General Agreement and Description of Premises.** Seller agrees to sell, and Buyer agrees to buy, marketable record title of real estate, and all improvements thereon, with all beneficial easements, and with all of Seller's right, title and interest in all adjoining public ways, the real property located in the City of Muskegon, Muskegon County, Michigan ("Premises"), and specifically described as:

CITY OF MUSKEGON ORCHARD GROVE ADDITION, LOTS 520 THRU 522; ALSO THE EAST 7 ½ FEET OF VACANT ADJACENT ALLEY

Subject to the reservations, restrictions and easements of record, provided said reservations, restrictions and easements of record are acceptable to Buyer upon disclosure and review of the same, and subject to any governmental inspections required by law.

2. **Purchase Price and Manner of Payment.** The purchase price for the Premises shall be Nine Thousand Dollars ($9,000.00).

3. **Taxes and Assessments.** All taxes and assessments that are due and payable at the time of Closing shall be paid by Seller prior to or at Closing. All taxes and special assessments that become due and payable after Closing shall be the responsibility of Buyer.

4. **Title Insurance.** Seller agrees to deliver to Buyer or Buyer's attorney, ten (10) days prior to closing, a commitment for title insurance, issued by Land America Transnation Title Insurance Company, for an amount not less than the purchase price stated in this Agreement, guaranteeing title on the conditions required herein. In the event the reservations, restrictions or easements of record disclosed by said title commitment is, in the sole discretion of Buyer, deemed unreasonable, Seller shall have forty-five (45) days from the date Seller is notified in writing of such unreasonableness of restriction and such unmarketability of title, to remedy such objections. If Seller resolves such restrictions and remedies the title (by obtaining satisfactory title insurance or otherwise) within the time specified, Buyer agrees to complete this sale as herein provided, within ten (10) days of written notification thereof. If Seller fails to resolve such restrictions or remedy the title within the time above specified or fails to obtain satisfactory title insurance, this Agreement will be terminated at Buyer's option. The premium for the owner's title policy shall be paid by Seller.

5. **Covenant to Construct Improvements and Use.** Buyer acknowledges that, as part of the consideration inuring to the City, Buyer covenants and agrees to construct on the premises a single-family home, up to all codes, within eighteen (18) months of the closing of this transaction. Buyer may only remove those trees necessary for construction of the home and driveway. The home shall be substantially completed within eighteen (18) months and, in the

event said substantial completion has not occurred, or the restriction of this paragraph relating to tree removal is violated, in the sole judgment of the City, the property and all improvements then installed shall revert in title to the City, without any compensation or credit to Buyer. Buyer further covenants that each home shall be owner occupied for five (5) years after the closing. The covenants in this paragraph shall survive the closing and run with the land.

6. **Survey.** Buyer at its own expense may obtain a survey of the Premises, and Buyer or its surveyor or other agents may enter the Premises for that purpose prior to Closing. If no survey is obtained, Buyer agrees that Buyer is relying solely upon Buyer's own judgment as to the location, boundaries and area of the Premises and improvements thereon without regard to any representations that may have been made by Seller or any other person. In the event that a survey by a registered land surveyor made prior to closing discloses an encroachment or substantial variation from the presumed land boundaries or area, Seller shall have the option of effecting a remedy within thirty (30) days after disclosure, or tendering Buyer's deposit in full termination of this Purchase Agreement, and paying the cost of such survey. Buyer may elect to purchase the Premises subject to said encroachment or variation.

7. **Condition of Premises and Examination by Buyer.** NO IMPLIED WARRANTIES OF HABITABILITY, QUALITY, CONDITION, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER IMPLIED WARRANTIES SHALL OPERATE BETWEEN SELLER AND BUYER, AND BUYER EXPRESSLY WAIVES ANY AND ALL SUCH IMPLIED WARRANTIES. BUYER UNDERSTANDS AND AGREES THAT THE PREMISES ARE TAKEN "AS IS," SUBJECT TO THE EXPRESS COVENANTS, CONDITIONS AND/OR EXPRESS WARRANTIES CONTAINED IN THIS PURCHASE AGREEMENT. BUYER FURTHER SAYS THAT HE HAS PERSONALLY INSPECTED THE PREMISES AND IS SATISFIED WITH THE CONDITION OF THE LAND, AND THE BUILDINGS AND IMPROVEMENTS THEREON, AND THAT THE PROPERTY IS BEING PURCHASED AS A RESULT OF SUCH INSPECTION AND INVESTIGATION AND NOT DUE TO ANY REPRESENTATIONS MADE BY OR ON BEHALF OF SELLER. SELLER KNOWS OF NO HAZARDOUS SUBSTANCES OR CONTAMINATION, AND BUYER WAIVES ANY CLAIM AGAINST SELLER IN THE EVENT SUCH STUBSTANCES ARE FOUND.

8. **Real Estate Commission.** Buyer and Seller both acknowledge and agree that neither has dealt with any real estate agents, brokers or salespersons regarding this sale, and that no agent, broker, salesperson or other party is entitled to a real estate commission upon the closing of this sale. Buyer and Seller both agree to indemnify and hold the other harmless from any liability, including reasonable attorney fees, occasioned by reason of any person or entity asserting a claim for a real estate commission arising from actions taken by the other party.

9. **Closing.** The closing date of this sale shall be on or before _________________, 200__ ("Closing"). The Closing shall be conducted at Land America Transnation Title Insurance Company, 570 Seminole Road, Ste. 102, Muskegon, MI 49444. If necessary, the parties shall execute an IRS closing report at the Closing.

10. **Delivery of Deed.** Seller shall execute and deliver a Quit Claim deed to Buyer at Closing for the Premises.

11. **Affidavit of Title.** At the Closing, Seller shall deliver to Buyer an executed Affidavit of Title.

12. **Date of Possession.** Possession of Premises is to be delivered to Buyer by Seller on the date of Closing.

13. **Costs.** Seller shall be responsible to pay the Michigan transfer tax, if any, in the amount required by law. In addition, Seller shall be responsible to pay for the recording of any instrument that must be recorded to clear title to the Premises, to the extent required by this Agreement.

Buyer shall pay for the cost of recording the deed to be delivered at Closing.

14. **General Provisions.**

a. **Paragraph Headings.** The paragraph headings are inserted in this Agreement only for convenience.

b. **Pronouns.** When applicable, pronouns and relative words shall be read as plural, feminine or neuter.

c. **Merger.** It is understood and agreed that all understandings and agreements previously made between Buyer and Seller are merged into this Agreement, which alone fully and completely expresses the agreement of the parties.

d. **Governing Law.** This Agreement shall be interpreted and enforced pursuant to the laws of the State of Michigan.

e. **Successors.** All terms and conditions of this Agreement shall be binding upon the parties, their successors and assigns.

f. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision(s) had never been contained herein.

g. **Survival of Representations and Warranties.** The representations, warranties, covenants and agreements contained in this Agreement and in any instrument provided for herein shall survive the Closing and continue in full force and effect after the consummation of this purchase and sale.

h. **Modification of the Agreement.** This Agreement shall not be amended except by a writing signed by Seller and Buyer.

The parties have executed this Real Estate Purchase Agreement the day and year first above written.

WITNESSES:

Linda Potter
Linda Potter

JoAnn Krukowski
JoAnn Krukowski

SELLER: CITY OF MUSKEGON

By ____________________
Stephen J. Warmington, Mayor

Gail A. Kundinger
Gail A. Kundinger, MMC, Clerk

BUYER:

Fred Glomb
Fred Glomb

SSN: 368-40-9507

PREPARED BY:
John C. Schrier (P36702)
PARMENTER O'TOOLE
175 W. Apple Avenue
Muskegon, Michigan 49440
Phone: (231) 722-1621

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DATE: October 4, 2004

TO: Honorable Mayor and City Commissioners

FROM: Public Works Department

RE: Renewal of Maintenance Contract with MDOT
Trunkline within the City of Muskegon

SUMMARY OF REQUEST: The Michigan Department of Transportation (MDOT) seeks to renew its contract with the City of Muskegon for road maintenance on State Highways located within the City of Muskegon.

The City of Muskegon designates Robert Kuhn, its Public Works Director, as the Maintenance Superintendent on state trunkline highways, and authorizes him and Linda Potter, Deputy City Clerk, to execute this contract on the City's behalf.

This is a five-year, renewable contract.

FINANCIAL IMPACT: Our annual contract with MDOT is approximately $221,000.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Recommend approval of five-year contract, the designation of Robert Kuhn as the Maintenance Superintendent, and authorize him and the Linda Potter, Deputy City Clerk, to execute the contract on the City's behalf.

COMMITTEE RECOMMENDATION:

(L/Trunkline/2004-2009 MDOT Contract)

Resolution No. 2004-89(c)

MUSKEGON CITY COMMISSION

RESOLUTION DESIGNATING MAINTENANCE SUPERINTENDENT
ON STATE TRUNK LINE HIGHWAYS
AND
OFFICIALS AUTHORIZED TO SIGN MICHIGAN DEPARTMENT OF
TRANSPORTATION MAINTENANCE CONTRACT

WHEREAS, the Michigan Department of Transportation has affirmatively found that contracting with municipalities for the maintenance of state trunk lines and bridges within its jurisdiction is in the best public interest; and

WHEREAS, 1925 PA 17 Section 2, MCL 250-61 et seq; MSA 9.902 authorizes the Michigan Department of Transportation MDOT to contract with municipalities for the construction, improvement, and/or maintenance of State trunk line highways; and

WHEREAS, the Michigan Department of Transportation has presented to the City of Muskegon a maintenance contract, the term of which is October 1, 2004 through September, 30, 2009; and

WHEREAS, the City of Muskegon desires to enter into this agreement; and

WHEREAS, the City of Muskegon must designate a Maintenance Superintendent on State trunk line highways, one who will supervise all work covered by the contract; and

WHEREAS, the City of Muskegon must designate City of Muskegon officials authorized to sign the maintenance contract.

NOW THEREFORE BE IT RESOLVED THAT, the Muskegon City Commission of the City of Muskegon, Michigan that:

1. Robert H. Kuhn, Director of Public Works, is designated as the Maintenance Superintendent on State trunk line highways, as applies to this contract.

2. Robert H. Kuhn, Public Works Director, and Linda Potter, Deputy City Clerk, are authorized to sign this contract.

Adopted this 12th day of October, 2004.

Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, Shepherd

Nays: None

Absent: None

By: ______________________
Stephen J. Warmington
Mayor

Attest: Linda Potter
Linda Potter
Deputy City Clerk, CMC

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission for the City of Muskegon, County of Muskegon, Michigan, at a regular meeting held on October 12, 2004.

Linda Potter
Linda Potter
Deputy City Clerk, CMC

10/4/04
(L/Trunkline/2004-2009 MDOT Contract)

MDOT NO. 2004-0693
ACCOUNT NO. 3841
REGION: GRAND
AGENDA: DAB

MICHIGAN DEPARTMENT OF TRANSPORTATION

STATE TRUNK LINE MAINTENANCE CONTRACT

CITY OF MUSKEGON

THIS CONTRACT is made and entered into this date of ____________________ 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 "MUNICIPALITY."

WITNESSETH:

WHEREAS, the DEPARTMENT has affirmatively found that contracting with this MUNICIPALITY for the maintenance of state trunk lines and bridges within its jurisdiction is in the best public interest; and

WHERES, 1925 PA 17 Section 2, MCL 250.61 et seq; MSA 9.902 authorizes the DEPARTMENT to contract with the MUNICIPALITY for the construction, improvement, and/or maintenance of State trunk line highways. The DEPARTMENT, subject to the approval of State Administrative Board, will do all acts or things necessary to carry out the purpose of 1925 PA 17 supra: and

WHEREAS, the DEPARTMENT has so advised the State Transportation Commission and the Appropriations Committee of the Senate and House of Representatives in accordance with 1951 PA 51 Section 11c, MCL 247.661c; MSA 9.1097(11c);

NOW, THEREFORE, in consideration of the premises and the mutual undertakings of the parties hereto, it is agreed as follows:

Section 1. ORGANIZATION, EQUIPMENT AND FACILITIES

The MUNICIPALITY will provide personnel, equipment and facilities to maintain the State trunk line highways and provide the services required under the terms of this Contract. The MUNICIPALITY will furnish the DEPARTMENT, upon request, with an organizational chart showing garage locations and names of supervisory personnel and any other information incidental to the performance of this maintenance contract.

Section 2. SCOPE OF WORK

A. The MUNICIPALITY will perform maintenance work at the direction of the DEPARTMENT'S REGION ENGINEER or a designee of the REGION ENGINEER hereinafter referred to as the "REGION ENGINEER" or, acting under the general direction of the Engineer of Maintenance of the DEPARTMENT, hereinafter referred to as the "ENGINEER OF MAINTENANCE," under the terms of this Contract and as covered by the Line Item Budget for each fiscal year, which is incorporated herein by reference. Work for the Maintenance Division, including permit issuance and inspection, under this Contract will be performed in accordance with accepted maintenance practices on those sections of State Trunk Line Highway shown in the current Municipal Maintenance Route Section Atlas, which may be amended by mutual agreement of the parties and which is incorporated herein by reference.

B. Whenever the MUNICIPALITY performs permit assistance and inspection on behalf of the DEPARTMENT:

i. The DEPARTMENT will require as a condition of the issuance of all permits as to which the MUNICIPALITY will perform services for the DEPARTMENT, pursuant to this Contract, that the Permittee save harmless the State of Michigan, the Transportation Commission, the Department of Transportation and all officers, agents and employees thereof and the MUNICIPALITY, its officials, agents and employees against any and all claims for damages arising from operations covered by the permit.

ii. The DEPARTMENT, for all permit activities for which it wishes the MUNICIPALITY to perform permit services for the DEPARMENT pursuant to this Contract, will further require that the Permittee, except as to permits issued to governmental entities and public utilities or unless specifically waived by the MUNICIPALITY in writing, provide comprehensive general liability insurance, including coverage for contractual liability, completed operations, and /or product liability, X, C, & U, and contractor's protective liability with a blasting endorsement when blasting is involved or commercial general liability insurance that includes all the above, naming as additional parties insured on all such policies the State of Michigan, the Michigan Transportation Commission, the Department of Transportation and all offices, agents and employees thereof, the MUNICIPALITY, its officials, agents and employees and that the Permittee provide to the DEPARTMENT written proof of said insurance.

iii. The amounts of such insurance will be no less than the following:

Comprehensive General Liability:

Bodily Injury	--	$500,000 each occurrence
	--	$500,000 each aggregate
Property Damage	--	$250,000 each occurrence
	--	$250,000 each aggregate

Commercial General Liability Insurance:

$500,000 each occurrence and aggregate

C. Special maintenance work, work not covered by the Line Item Budget and work for any other Division of the DEPARTMENT (non-maintenance work) may be performed under the terms of this Contract only upon written authorization approved by the REGION ENGINEER. Emergency work may be performed based on verbal approval given by the REGION ENGINEER and subsequently supported in writing. Work performed by the MUNICIPALITY for any Division other than the Maintenance Division will be supervised by the Division issuing a state trunkline work authorization. The MUNICIPALITY and the DEPARTMENT may enter into separate agreements for the shared payment of installation, maintenance and energy costs for traffic control devices.

D. The REGION ENGINEER is authorized to issue written orders, as are necessary, for the performance of maintenance work under the provisions of this Contract.

Section 3. INTEGRATION OF STATE AND MUNICIPAL WORK

The MUNICIPALITY will furnish sufficient personnel and equipment and approved material as needed to perform maintenance on state trunk line highways. Personnel and equipment will be used on municipal streets and state trunk line highways as conditions warrant.

Section 4. HIGHWAY MAINTENANCE SUPERINTENDENTS

The MUNICIPALITY hereby designates Robert Kuhn as Maintenance Superintendent on state trunk line highways, who will supervise all work covered by this Contract. In the event the MUNICIPALITY desires to replace the Maintenance Superintendent, the MUNICPALITY will notify the DEPARTMENT in writing.

Section 5. WAGE SCHEDULE

Wages paid by the MUNICIPALITY for work on state trunk line highways will be the same as on street work for the MUNICIPALITY.

Premium Pay and Overtime Pay (specify under what conditions and percentage of regular rate paid if not specified in the attached labor agreement).

____

____

____

____

____

Pay for "show-up time" (Specify under what conditions and number of hours, if a minimum number is used and is not specified in the attached labor agreement).

____

____

____

No "stand by at home" pay will be included in charges for work on state trunk line highways.

The DEPARTMENT will reimburse the MUNICIPALITY for Direct Labor Overhead costs on all labor costs properly chargeable to the DEPARTMENT, including but not limited to, vacation, sick leave, holiday pay, workers' compensation, retirement, social security, group life insurance, hospitalization, longevity, unemployment insurance, and military leave, hereinafter referred to as "EMPLOYEE BENEFITS," in accordance with Section 14.

Section 6. MATERIALS TO BE ACQUIRED AND SPECIFICATIONS

Material necessary for the performance of this Contract may, at the option of the MUNICIPALITY, be purchased by the MUNICIPALITY, unless otherwise directed by the REGION ENGINEER. The MUNICIPALITY shall advertise and receive competitive bids when such purchases exceed Ten Thousand Dollars ($10,000.00) or if required by Federal or State Law.

The MUNICIPALITY shall retain documentation that such bids were taken. Failure to retain documentation that such bids were taken may result in denial of reimbursement of the costs of such materials.

The following materials: bituminous pre-mixed materials, bituminous materials, aggregates (except ice control sand), and traffic control devices used on state trunk line highways by the MUNICIPALITY will conform to current or supplemental specifications approved by the DEPARTMENT, unless otherwise approved in advance by the REGION ENGINEER. The REGION ENGINEER may require approval by the DEPARTMENT'S Construction and Technology Division or by a laboratory approved by that MUNICPALITY and the REGION ENGINEER. If DEPARTMENT-owned materials are stored jointly with MUNICIPALITY-owned materials, proper and adequate inventory records must be maintained by the MUNICIPALITY, clearly indicating the portion that is DEPARTMENT-owned.

Section 7. PRICE SCHEDULE OF MATERIALS AND SERVICES

Materials supplied by the MUNICIPALITY, including aggregates and bituminous materials using raw materials either partially or wholly obtained from municipally owned property, municipally leased (in writing) property, or by written permit from state or privately owned property, may be furnished at a firm unit price, subject to approval of source and price by the REGION ENGINEER. Firm unit prices are not subject to unit price adjustment by audit.

The DEPARTMENT may audit all records necessary to confirm accuracy of quantities for which reimbursement is requested. Reimbursement for all materials supplied by the MUNICIPALITY that are not included in the firm unit price schedule will be in accordance with Subsection 14C. Firm unit prices may be changed, added or deleted upon written request by the MUNICIPALITY and approval by the REGION ENGINEER at least sixty (60) days prior to the effective date of the change, addition, or deletion.

FIRM UNIT PRICES

ITEM KIND	LOCATION NO.	UNIT PRICE	PRICE INCLUDES*	PER UNIT

Insert above, the following applicable number(s):

*Firm Unit Price Includes	Item Locations
1. Processing/or Mixing Costs	1. Pit Site
2. Stockpiling/or Hauling to Stockpile Costs	2. Yard
3. Royalty Costs	3. Other (Describe)
4. Municipal Supplied Salt or Calcium Chloride (when used in a winter salt/sand mixture)	
5. Winter Sand	
6. Bituminous Costs	
7. Other (Describe) ______________________	

The DEPARTMENT may audit all records necessary to confirm the accuracy of the material quantities for all materials on the Firm Unit Price List for which the MUNICIPALITY requests reimbursement.

Listed items purchased from a vendor source or vendor stockpile for direct use on the trunk lines are not eligible for firm unit price consideration and should be billed at vendor cost.

Section 8. SUBCONTRACTS

The DEPARTMENT, for cause and with prior notice to the MUNICIPALITY, may contract any portion of the work to be performed under this Contract. The MUNICIPALITY may subcontract any portion of the work to be performed under this Contract. Emergency work may be performed based on verbal approval given by the REGION ENGINEER and must be supported by the subsequent submission within seven (7) days of a Quotation Request for Services or Equipment (form 426). All subcontracts in excess of Twenty Thousand Dollars ($20,000.00) shall be advertised and awarded by competitive bid and must have the <u>prior approval</u> of the REGION ENGINEER and the State Administrative Board.

Those subcontracts that are $20,000 or less, but greater than $10,000, must be approved by the REGION ENGINEER in writing on a Quotation Request for Services or Equipment (form 426). Bid, price or rate quotations for these subcontracts must be solicited from three or more qualified sources. Documentation of the solicitations shall be retained.

Failure to obtain the necessary approvals or to maintain documentation that bids, prices, or rate quotations were solicited, as required herein, may result in denial of reimbursement of the costs.

All subcontracted work, including equipment rental, that is $10,000 or less requires the submission of a Quotation Request for Services or Equipment (form 426).

Section 9. NON-DISCRIMINATION

In connection with the performance of maintenance work under this contract, the MUNICIPALITY (hereinafter in Appendix A referred to as the "contractor") agrees 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 MUNICIPALITY further covenants that it will comply with the Civil Rights Act 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.

Section 10. ANTI-KICKBACK

No official or employee of the MUNICIPALITY or of the State of Michigan will receive direct or indirect remuneration from purchases of materials, supplies, equipment, or subcontracts required for trunk line highway maintenance purposes.

Section 11. SCOPE OF CONTRACT

It is declared that the work performed under this Contract is a governmental function that the MUNICIPALITY performs for the DEPARTMENT. This Contract does not confer jurisdiction upon the MUNICIPALITY over the state trunk line highways encompassed by this contract or over any other state trunk line highways. This Contract may not be construed to confer temporary or concurrent jurisdiction in the MUNICIPALITY over a state trunk line highway. Nothing inconsistent with the underlying statutory jurisdiction, duties, prerogatives, and obligations of the DEPARTMENT is herein intended. The parties hereto further declare that this contract is not made for the benefit of any third party.

Section 12. INSURANCE

A. The MUNICIPALITY will furnish the DEPARTMENT with a certificate of automobile liability insurance, which complies with the No-Fault Automobile Insurance laws of the State of Michigan. Insurance coverage shall include owned, non-owned and hired motor vehicles. Such insurance shall be not less than Two Hundred Fifty Thousand Dollars ($250,000.00) for bodily injury or death of any one person. Coverage for public liability, property damage, and combined single limit shall also comply with Michigan No-Fault Automobile Insurance laws. The MUNICIPALITY shall also provide thirty (30) days notice to the DEPARTMENT prior to cancellation, termination or material change of the policy. The certificate of said insurance on DEPARMENT Form 428 (Certificate of Insurance for State Highway Maintenance Contract) covering public liability and property damage, indicating thereon the policy number, the aforesaid thirty (30) days notice provisions and the limits of liability will be attached to this Contract.

   In the event the MUNICIPALITY is self-insured, a copy of the Secretary of State's certificate of self-insurance shall also be attached to this Contract.

B. In the event that the MUNICIPALITY receives a Notice of Intent to File Claim and/or any complaint filed by a person seeking to recover damages from the MUNICIPALITY for its alleged acts or omissions on a state trunk line highway, the MUNICIPALITY shall provide a copy of such notice within 15 days to the Assistant Attorney General in Charge of the Highway Negligence Division (hereinafter referred to as the ASSISTANT ATTORNEY GENERAL), Van Wagoner Building, 1st Floor, Lansing, Michigan, 48913. Thereafter, the MUNICIPALITY shall provide copies of pleadings and other information regarding the claims or lawsuits when requested by the ASSISTANT

ATTORNEY GENERAL and shall comply with all the obligations, duties and requirements of the general liability policy provided herein.

Section 13. WORKERS' DISABILITY COMPENSATION

The MUNICIPALITY will comply with the Michigan Workers' Disability Compensation Law as to all employees performing work under this Contract.

Section 14. REQUEST FOR REIMBURSEMENT

The DEPARTMENT will reimburse the MUNICPALITY for the following costs in the performance of routine maintenance, non-maintenance, and all other work covered by this Contract, except as set forth in Sections 15, 16, 17 and 18.

A. The DEPARTMENT'S share of the actual cost of all direct labor employed in the performance of this Contract, including the expense of permit inspection and field and office engineering and including auditing expenses in connection with projects on force account work by subcontractors.

B. The DEPARTMENT'S share of the cost of EMPLOYEE BENEFITS as referred to in Section 5 as a percentage of the payroll. The percentage shall be developed in conformance with the general accounts of the MUNICIAPLITY on the previous fiscal year's experience

C. The DEPARTMENT'S share of the actual cost of MUNICIPALITY owned or purchased energy.

D. The cost, after deduction of all discounts or rebates in excess of two percent (2%), of materials furnished by the MUNICIPALITY for use in the performance of this contract. In addition to the above costs of materials furnished by the MUNICIPALITY and materials furnished by the DEPARTMENT, the following may be charged by the MUNICIPALITY at its option:

   i. The direct expenses of handling, such as unloading, processing, stockpiling, heating or loading of materials measured by volume or weight in bulk, bags or drums such as aggregates, bituminous materials and chemicals, on condition that reimbursement of such expenses is not provided elsewhere herein, provided that these costs can be identified within the records of the MUNICIPALITY.

   ii. A five percent (5%) handling and storage charge may be added to the purchase price of all materials measured by area or count provided such materials are stocked in and distributed from approved storage facilities. When reported by the MUNICIPALITY, charges for handling and storage in excess of five percent (5%) will be reimbursed to the MUNICIAPLITY upon audit, provided that these charges can be identified and supported within the records of the MUNICIPALITY.

E. The rental of equipment used in the performance of this Contract. The rental rates will be those established in Schedule C, Report 375 Equipment Rental Rates issued annually by the DEPARTMENT.

F. The amounts paid by the MUNICIPALITY to a subcontractor, as provided for in Section 8.

G. The cost to the MUNICIPALITY for labor, materials, and equipment rental incurred in connection with engineering, supervision and inspection of subcontract work.

H. Overhead in Accordance with Attached Overhead Schedule. The appropriate percentage will apply to the amount payable under A, B, C, D, E and F and G, plus the same percentage of the cost of materials furnished by the DEPARTMENT to the extent that such materials are placed on State trunk line highways by the MUNICIPALITY. The MUNICIPALITY shall bill overhead during the fiscal year at the percentage determined by the overhead schedule in the contract, based on the total amount budgeted. The MUNICIPALITY shall adjust the overhead for the entire fiscal year in the fiscals year's final billing. In the final billing, an overhead adjustment shall reflect an adjustment of the total overhead for the fiscal year to the percentage in the overhead schedule based on the total actual cost for the fiscal year. At the time of audit, overhead will be adjusted to the percentage on the attached chart, based on actual expenditures for the audit period October 1, 2004 through September 30, 2005; October 1, 2005, through September 30, 2006; October 1, 2006, through September 30, 2007; October 1, 2007, through September 30, 2008 and October 1, 2008, through September 30, 2009.

I. The MUNICIPALITY is responsible for reporting the cost of the operation, maintenance and amortization (if provided for in the Chemical Storage Facility Contract) of all chemical storage facilities built with DEPARTMENT participation.

The amount payable under Paragraph H (overhead) is reimbursement to the MUNICIPALITY for all costs and expenses arising out of the performance of this Contract not specifically covered herein The costs include salary and expenses (including transportation) of Maintenance Superintendents, salaries of clerical assistants, including radio communication staff, office expense, storage rentals on municipally owned property, and the cost of small tools. The MUNICIPALITY will be reimbursed as a direct cost for work performed by the Maintenance Superintendent making regular inspections of state trunk line highways in accordance with written instructions from the REGION ENGINEER. This time shall be specifically recorded on daily time sheets and reported as a direct labor charge.

It is further agreed that in smaller municipalities, the Maintenance Superintendent designated above may at times be engaged in tasks other than those of a strictly supervisory nature, such as operator of a truck or other highway equipment. The MUNICIPALITY may be reimbursed for this time worked on state trunk lines, provided that all such time for non-supervisory work is specifically recorded on the daily time sheet and reported on the Maintenance Payroll Report Form 410A. The exact dates on which the Maintenance Superintendent so worked, the number of hours work and the number of hours worked under each classification shall be indicated on the Maintenance Payroll Report Form 410A.

To be eligible for reimbursement under this Section, costs must be submitted to the DEPARTMENT prior to the start of the audit for each respective year of the contract period.

Section 15. WINTER MAINTENANCE

The MUNICIPALITY will be compensated for winter maintenance on the basis of actual expenditures only. The DEPARTMENT will share in the cost of snow hauling when each snow hauling effort is approved by the REGION ENGINEER. The DEPARTMENT'S share of snow hauling will be determined based on the ratio of area designated for traffic movement to the total area of the State Trunk Line Highway Right of Way within the agreed upon area of snowhaul. The DEPARTMENT will subtract the area of parking lanes and sidewalks from the total area of the State Trunk Line Highway Right of Way to determine the area designated for traffic movement. The DEPARTMENT'S reimbursement for snow hauling from State Trunk Line Highways, based upon this calculation, is paid at the rate of _______ percent (%) of actual charges supported by proper documentation. The frequency (annually, each storm, etc.) will be at the discretion of each REGION ENGINEER. The MUNICIPALITY should show Snow hauling charges as Activity 149, "Other Winter Maintenance," on Trunk Line Maintenance Reports. A prior written authorization for each snow haul event from the REGION ENGINEER shall be required and kept on file for audit purposes.

The MUNICIPALITY agrees that it will prohibit additional snow from being deposited on the highway right of way from side streets. The above percentage represents the DEPARTMENT'S share of snow removal from all trunklines in the MUNICIPALITY, including that snow moved into the right of way from on-street parking areas and adjacent sidewalks by the MUNICIPALITY.

Section 16. PAVEMENT MARKING

Compensation for the item of "Pavement Marking" will be made on the basis of actual expenditure only, except in no case will the MUNICIPALITY be compensated for a total expenditure in excess of the amount designated for pavement marking in the Field Activity Budget for the appropriate state fiscal year. Compensation for Pavement Marking is limited to only painting authorized by the REGION ENGINEER. The MUNICIPALITY shall not include charges for curb painting in the routine maintenance cost for State Trunk Line Maintenance.

Section 17. COMPENSATION FOR AESTHETIC WORK ITEMS

Compensation for the items of Sweeping and Flushing (activity 132), Grass and Weed Control (activity 126) and Roadside Clean up (activity 124) will be made on the basis of actual expenditures only, except that in no case will the MUNICIPALITY be compensated for a total expenditure in excess of the budget amount designated each of these three work activities on the Summary of the Field Activity Budget for the appropriate State fiscal year.

The number of work operations for each of these three activities will be agreed upon between the MUNICIPALITY and REGION ENGINEER; and reflected in each line activity budget amount.

Section 18. TREES AND SHRUBS

Except for emergency work, the MUNICIPALITY will request the DEPARTMENT'S written approval to remove dead trees and/or trim trees prior to the start of work. The DEPARTMENT will pay all costs to remove dead trees. The DEPARTMENT and MUNICIPALITY shall equally share costs when state and local forces combine efforts to trim trees within the trunk line right-of-way as approved by the REGION ENGINEER.

Section 19. EQUIPMENT LIST

The MUNICIPALITY shall furnish the DEPARTMENT a list of the equipment it uses in the performance of the contract, on DEPARTMENT form 471 (Equipment Specifications and Rentals.) This form shall be furnished to the DEPARMTENT by February 28th of each year.

Section 20. RECORDS TO BE KEPT

The MUNICIPALITY will:

A. Establish an maintain accurate records, in accordance with generally accepted accounting principals, of all expenses incurred for which payment is sought or made under this Contract, said records to be hereinafter referred to as the "RECORDS." Separate accounts will be established and maintained for all costs incurred under this Contract. The RECORDS include, but are not limited to:

i. Daily time cards for employees and equipment signed by the employee and his immediate supervisor or by a timekeeper and the supervisor when a timekeeper is employed. The daily time cards shall also indicate the distribution to route sections and work items. Those MUNICIPALITIES using crew day cards may, if they prefer, retain crew day cards backed by a time record for the pay period signed as above in lieu of daily time cards detailing the distribution.

ii. Properly signed material requisitions (daily distribution slips) showing type of material, quantity, units and date issued and indicating distribution thereof to route sections and work items.

iii. Additional cost records as needed to support and develop unit cost charges and percentages applied to invoice cost. No such cost records are necessary in support of the overhead percentage or the five percent (5%) handling charge.

B. Maintain the RECORDS for at least 3 years from the date of the DEPARTMENT'S receipt of the statement of charges for the quarter ending September 30 of each year of this contract period. In the event of a dispute with regard to the allowable expenses or any other issue under this Contract, the MUNICIPALITY will thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

C. Allow the DEPARTMENT or its representative to inspect, copy, or audit the RECORDS at any mutually acceptable time. However, the MUNICIPALITY cannot unreasonably delay the timely performance of the audit.

Section 21. CERTIFIED STATEMENT OF CHARGES

The MUNICIPALITY hereby certifies that, to the best of the MUNICIPALITY'S knowledge, the costs reported to the DEPARTMENT for this Contract will represent only those items that are properly chargeable in accordance with the Contract. The MUNICIPALITY also hereby certifies that it has read the contract terms and is aware of the applicable laws, regulations, and terms of this Contract.

Requests for reimbursement to be made under Section 14 will be made quarterly on the basis of certified statements of charges prepared and submitted by the MUNICIPALITY within thirty (30) days from the end of each quarter on forms furnished by the DEPARTMENT or using an equivalent approved alternative format. Costs submitted beyond 60 (sixty) days from the end of each quarter will include written justification for the delay and will be paid only upon approval of the REGION ENGINEER. Upon written request to the REGION ENGINEER, payment may be made to the MUNICIPALITY on a monthly basis, after submission to the DEPARTMENT of certified statements of costs for each monthly payment period.

Section 22. AUDIT

The MUNICIPALITY'S records will be subject to audit. Charges by the MUNICIPALITY for maintenance of state trunkline highways and authorized no-maintenance work performed under this Contract will not be adjusted (increased or decreased) by audit after twenty-four (24) months subsequent to the date of the DEPARTMENT'S receipt of certified statement of charges for the quarter ending

September 30 of each year of this contract period. This limitation will not apply in case of fraud or misrepresentation of material fact or if mutually agreed to in writing.

The firm unit prices for aggregates and bituminous materials that are processed and furnished by the MUNICIPALITY will not be subject to adjustment.

If any adjustments are to be made, the MUNICIPALITY will be notified of the tentative exceptions and adjustments within the above twenty-four (24) month period. The twenty-four (24) month period is intended only as a limitation of time for making adjustments and does not limit the time for payment of such amounts. 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 will promptly submit to the MUNICIPALITY a Notice of Audit Results and a copy of the audit report, which may supplement or modify any tentative findings communicated to the MUNICIPALITY at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the MUNICIPALITY shall:

A. Repay the amount of any overpayment to the DEPARTMENT and/or,

B. Submit to the DEPARTMENT a written response, hereinafter referred to as the "RESPONSE", to the Notice of Audit Results explaining the nature and basis for any disagreement as to a disallowed item of expense and/or,

C. The "RESPONSE" shall also include a written explanation as to any questioned item of expense. The "RESPONSE" shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned item of expense. Where the documentation is voluminous, the MUNICIPALITY 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 MUNICIPALITY 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 decide to allow or disallow any items of questioned cost or no opinion expressed cost.

When the DEPARTMENT receives the "RESPONSE", the DEPARTMENT will notify the MUNICIPALITY it has an opportunity to appear before the DEPARTMENT'S Disputed Audit Review Team (DART) to explain and support their RESPONSE within one hundred twenty (120) days after the date of Notice of Audit Results unless the time has been extended by the DEPARTMENT. The DEPARTMENT shall make its decision regarding any disallowed or questioned cost items within 30 days after DART considers the appeal.

If after a DART decision, the DEPARTMENT determines that an overpayment has been made to the MUNICIPALITY, the MUNICIPALITY shall repay that amount to the

DEPARTMENT or notify the DEPARTMENT of the MUNICIPALITIES' intent to appeal to the three member panel, which is described in this section of the contract or file a lawsuit in the Court of proper jurisdiction to contest the DEPARTMENT'S decision. The DEPARTMENT shall not withhold or offset funds in dispute if the MUNICIPALITY appeals to the three member panel or files a lawsuit in the Court of proper jurisdiction. The appeal to the three member panel or the filing of a lawsuit in the Court of proper jurisdiction shall be initiated by the MUNICIPALITY within thirty (30) days of the receipt of the DEPARTMENT'S written notice that an overpayment has been made. If the MUNICIPALITY fails to repay the overpayment or reach an agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the MUNICIPALITY agrees that the DEPARTMENT will deduct all or a portion of the overpayment from any funds due the MUNICIPALITY by the DEPARTMENT under the terms of any maintenance contract. The MUNICIPALITY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to appeal to the three member panel or to file a lawsuit in the Court of proper jurisdiction to contest the DEPARTMENT'S decision only as to any item of expense the disallowance of which was disputed by the MUNICIPALITY in a timely filed RESPONSE. The MUNICIPALITY may ask the Court of proper jurisdiction to bar the DEPARTMENT from withholding or offsetting funds until the Court finally decides the dispute.

The individuals on the three member panel shall be selected from state agencies not directly associated with the DEPARTMENT. The MUNICIPALITY will appoint one (1) member and the DEPARTMENT will appoint one (1) member. The third member of the panel will be selected by the two (2) appointed panel members. The decision of the panel shall be binding unless appealed to the proper court by either party within one hundred twenty (120) days after the decision of the panel has been assured.

Section 23. TERM OF CONTRACT

The term of this Contract is October 1, 2004 through September 30, 2009.

Section 24. TERMINATION OF CONTRACT

Each party may terminate this contract upon written notice to the other party. Written notice of termination must be given to the other party no earlier than ninety (90) days prior to the date of contract termination. The date of contract termination can only occur during the months of April, May or June. This contract may be temporarily suspended by the DEPARTMENT when officially notified by the MUNICIPALITY that maintenance work can no longer be performed on a twenty four (24) hour, seven (7) day-a-week basis. At the time of suspension, the DEPARTMENT will assume all maintenance responsibilities with its own personnel, equipment and materials.

Section 25. STATE OF MICHIGAN ADMINISTRATIVE BOARD RESOLUTION

The provisions of the State of Michigan Administrative Board Resolution of May 1, 1979, as amended, attached hereto, are hereby made a part of this Contract.

Section 26. CONTRACT CONTENT

In the event of any conflict between the Contract body and any Exhibit(s), Attachment(s), Appendices, or Authorizations hereto, the body of the Contract will govern.

Section 27. EFFECTIVE DATE OF CONTRACT

This Contract will become binding on the parties hereto upon signing by the duly authorized officials for the MUNICIPALITY and for the DEPARTMENT and upon the adoption of a resolution approving said contract and authorizing the signature(s) thereto of the respective officials(s) of the MUNICIPALITY, a certified copy of which resolution will be attached to this contract, and with the approval of the State Administrative Board.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be awarded.

CITY OF MUSKEGON

BY: Robert H Kuhn

TITLE: Robert Kuhn
Public Works Director

BY: Linda Potter

TITLE: Linda Potter
Deputy City Clerk

MICHIGAN DEPARTMENT OF TRANSPORTATION

BY:______________________________

TITLE Department Director

MICHIGAN DEPARTMENT OF TRANSPORTATION

CONTRACT MUNICIPALITIES

OVERHEAD SCHEDULE

Following is the table of allowable percentages for Overhead, Supervision and Expense of small tools paid by the Michigan Department of Transportation in connection with State trunk line highways maintenance contracts. Small tool expense includes tarpaulin, barricades, hand sanders, torches, flags, picks, shovels, saws, axes, wheelbarrows and other tools up to seventy five dollars in value for each tool, except for those units presently classified in the Equipment Rental Rate Book.

Effective October 1, 2004, to September 30, 2009

Total amount paid under This contract to include Non-Maintenance & Routine, Maintenance & Heavy Maintenance	Percent Allowed for Overhead	Percent Allowed for Small Tools	Total Percent Allowed
Up to $25000	10.50	.50	11.00
25001 " 26000	10.40	"	10.90
26001 " 27000	10.30	"	10.80
27001 " 28000	10.20	"	10.70
28001 " 29000	10.10	"	10.60
29001 " 30000	10.00	"	10.50
30001 " 31000	9.90	"	10.40
31001 " 32000	9.80	"	10.30
32001 " 33000	9.70	"	10.20
33001 " 34000	9.60	"	10.10
34001 " 35000	9.50	"	10.00
35001 " 38000	9.40	"	9.90
38001 " 41000	9.30	"	9.80
41001 " 44000	9.20	"	9.70
44001 " 47000	9.10	"	9.60
47001 " 50000	9.00	"	9.50
50001 " 53000	8.90	"	9.40
53001 " 56000	8.80	"	9.30
56001 " 59000	8.70	"	9.20
59001 " 62000	8.60	"	9.10
62001 " 65000	8.50	"	9.00
65001 " 70000	8.28	"	8.78
70001 " 75000	8.07	"	8.57
75001 " 80000	7.86	"	8.36
80001 " 85000	7.64	"	8.14
85001 " 90000	7.43	"	7.93
90001 " 95000	7.21	"	7.71
95001 and over	7.00	"	7.50

STATE OF MICHIGAN

ADMINISTRATIVE BOARD RESOLUTION

OF

MAY 1, 1979

(As amended on December 2, 1980, April 7, 1981,
August 18, 1981, May 15, 1984, April 7, 1987,
December 15, 1987, January 5, 1988, May 2, 1989 and September 17, 1996)

DEPARTMENT OF TRANSPORTATION CONSTRUCTION AND MAINTENANCE CONTRACTS

WHEREAS, pursuant to the provisions of Section 2, Act 17, Public Acts of 1925, as amended, all contracts entered into by the Michigan State Transportation Commission or the Michigan Department of Transportation, hereinafter referred to as the "Commission" and the "Department" respectively, require approval of the State Administrative Board, hereinafter referred to as the "Board", except, the Commission or the Department, without the approval of the Board, is authorized to contract for an amount not exceeding $20,000.00 for each contract, for toilet vault cleaning, use of licensed sanitary landfills, pickup and disposal of refuse, pavement surfacing and patching, rental of equipment for emergency repairs and maintenance operations, curb replacement, maintenance of office equipment, installation of utility services and installation of traffic control devices and without such approval, may authorize Boards of County Road Commissioners, Township Boards, and Municipalities, under contracts for the maintenance of trunkline highways, to subcontract in amounts not to exceed $20,000.00 for each subcontract;

WHEREAS, modification of highway construction and maintenance contracts is sometimes necessary;

WHEREAS, extra work is defined as any work which is determined to be essential to the satisfactory completion of the contract but which neither appears therein as a specific item of work nor is included in the price bid for other items in the contract;

WHEREAS, it is sometimes necessary in order to avoid delays and increased costs for the Department to authorize extra work by modification of the contract without obtaining specific prior approval of the Board for such modifications;

THEREFORE, BE IT RESOLVED by the State Administrative Board of the State of Michigan as follows:

1. Pursuant to applicable Public Acts, the Department, without obtaining the approval of this Board, in connection with any construction or maintenance contract, may contract for extra work or labor, or both, not exceeding $48,000.00 per contract for contracts having a value of $800,000.00 or less and not exceeding 6% per contract for contracts having a value over $800,000.00 under a contract with a private agency authorized by law, and for an amount not exceeding $800,000.00 under a contract with Boards of County Road Commissioners, Township Boards, and Municipalities of this State, except that each job for extra or additional work or labor, or both, in excess of $100,000.00 shall require approval of the State Administrative Board.

2. All agreements by the Department to pay for extra work on either a negotiated price or force account basis in excess of the amounts shown in paragraph 1 must be approved by the Board.

3. No extra work which may cause an increase in the contract price in excess of the amount shown in paragraph 1 shall be authorized by the Department prior to Board approval, unless and until the Attorney General has approved the authorization as being in compliance with all legal requirements. Provided, however, that extra work costing not more than $25,000.00 may be authorized by the Department without prior approval of the Attorney General, if necessary to avoid construction delays or increased costs.

4. Department authorizations for extra work, requiring Board approval, given prior to Board approval shall be presented to the Board for subsequent approval or disapproval as quickly as possible, but in no case more than 60 days after the extra work has been authorized by the Department.

5. The Department shall not pay nor agree to pay any disputed claim for extra compensation for work already commenced or completed without approval of the Board.

6. No payments for extra work requiring Board approval shall be made until such Board approval has been obtained.

7. The Department is authorized to balance budgets for extra work recommendations or authorizations previously approved by the Board, by decreasing, in any amount, or increasing, not in excess of 15 percent, the original estimated amount without additional approval by this Board.

8. No payments for increased contract quantities shall be made by the Department unless and until the Board has given prior approval for such payments, except that payments for overruns may be made without Board approval if such payments do not exceed the following per cent of the original contract price: 10 percent on contracts of $50,000.00 or more; 15 percent on contracts of $25,000.00 to $49,999.99; and 25 percent on contracts of less than $25,000.00.

9. "The Department shall deduct from payments, and retain 2.5 percent of the total amount earned by a contractor. When the project reaches 90 percent completion, the amount of retainage may be reduced. Local units of government, performing as contractors to the Department, may be excluded from these retainage provisions.

In respect to contracts between the Department and Railroad companies, the 2.5 percent shall be retained until after final audit. The retainage provision may be waived for those Railroad companies the Department has determined to have had recent, acceptable history of both contract compliance and audit experience with the Department, and where there are no other circumstances indicating a need to maintain the retainage to reasonably protect the public interest."

10. The Department shall assess damages against any contractor who fails to have the job open to traffic or completed by the dates specified in the contract unless the contractor has been excused for such failure by the Department. The Department may, without approval of the Board, extend the time for opening to traffic or completion of the contract because of delays from unforeseen causes beyond the control and without the fault or negligence of the contractor, including and restricted to: acts of God; acts of public enemy; acts of Government, acts of the State or any political subdivision thereof; fires; floods; epidemics; strikes; or extraordinary delays in delivery of materials.

No excusal or waiver of damages, except as above provided, shall be final and binding upon the State unless and until approved by the Board, except excusals and waivers granted by the Department prior to the effective date of this Resolution pursuant to applicable specifications and other contract provisions.

11. The foregoing requirements established by the Board shall be made as express part of all construction and maintenance contracts entered into by the Commission, and the Department's standard and supplemental specifications shall be amended to reflect such requirements.

12. Policy Resolution A, approved by the Board on July 17, 1956, and the Resolutions of October 17, 1967, and May 6, 1975 as amended May 4, 1976, are hereby repealed, except that all rights, causes of action, claims, proceedings and suits existing on the effective date of this Policy Resolution shall continue unaffected.

13. Upon approval by the State Administrative Board, this Resolution shall be effective as of September 17, 1996.

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 Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an 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 shall 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 insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a 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, 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 will, 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 his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.

6. The contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.

7. The contractor will 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 himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which 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, and including the governing boards of institutions of higher education, until the contractor complies with said order of the 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 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 Civil Rights Commission to participate in such proceedings.

9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

March, 1998

Date: October 12, 2004

To: Honorable Mayor and City Commissioners

From: Engineering

RE: Amendment to the Special Assessment Policy

SUMMARY OF REQUEST:

As a result of a Legislative Committee meeting, it is respectfully requested that the special assessment policy be amended in the following form:

sub-paragraph "a" (on page 6) of paragraph 10 of section "C" Part "V" of the special assessment policy be amended to read: In no case shall the assessments be in excess of benefits to abutting properties **nor shall the total assessments exceed 25% of the total project cost associated with pavement.**

This amendment applies only to those activities/improvements eligible under the table on page 4 of said policy. Furthermore, it is requested that if the amendment is adopted, implementation be limited to those projects where special assessment districts have been created after January 1st of 2005.

FINANCIAL IMPACT:

None anticipated at this time.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Amend the special assessment policy.

COMMITTEE RECOMMENDATION:

Commission Meeting Date: October 12, 2004

Date: **October 5, 2004**

To: **Honorable Mayor & City Commission**

From: **Planning & Economic Development Department** CBC

RE: **Public Hearing for Amendments to Brownfield Plan- Former Muskegon Mall**

SUMMARY OF REQUEST: To hold a public hearing and approve the attached resolution approving and adopting amendments for the Brownfield Plan. The amendments are for the inclusion of property owned by Downtown Muskegon Development Corporation (DMDC) in the Brownfield Plan.

FINANCIAL IMPACT: Brownfield Tax increment Financing would be used to reimburse the City, DMDC, and possibly developers for "eligible expenses" incurred in association with development of the Mall, starting in 2012, when the Renaissance Zone status of the Mall property will begin to expire. DMDC currently estimates that full development of the Mall property will involve approximately $60 million in private investment, resulting in a substantial increase in the local and school taxes generated by the property.

"Eligible Expenses" would be reimbursed starting in 2012, including the payment of 4% interest annually. The estimated tax capture and payment schedule is included as Attachment L-4 in the proposed Brownfield Plan Amendment. The City is also authorized by law to capture up to $75,000/year to pay for "reasonable and actual administrative and operating costs of the Brownfield Redevelopment Authority. As such, $50,000/year of the local tax increment will be captured to reimburse the Brownfield Authority for its administrative costs, for a total of $550,000 over 11 years.

After all eligible costs incurred by the various parties are reimbursed (estimated to be in 2017), the BRA is authorized to continue to capture local taxes for five more years for deposit into a Local Site Remediation Revolving Fund. Current estimates indicate that approximately $3,460,000 could be captured from the taxes on the Mall property for deposit into this local fund.

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENDATION: The Muskegon City Commission set the public hearing for October 12, 2004, at their September 14, 2004 meeting. Since that time, a notice of the public hearing has been sent to taxing jurisdictions, and it has been published twice in the Muskegon Chronicle. In addition, the Brownfield Redevelopment Authority approved the Plan amendment on September 8, 2004 and further recommends that the Muskegon City Commission approve the Plan amendment.

RESOLUTION APPROVING THE BROWNFIELD PLAN AMENDMENT

FORMER MUSKEGON MALL

City of Muskegon

County of Muskegon, Michigan

Minutes of a Regular Meeting of the City Commission of the City of Muskegon, County of Muskegon, Michigan (the "City"), held in the City Commission Chambers, on the 12th day of October, 2004, at 5:30 o'clock p.m., prevailing Eastern Time.

PRESENT: Members Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson.

ABSENT: Members None.

The following preamble and resolution were offered by Member Spataro and supported by Member Gawron:

WHEREAS, in accordance with the provisions of Act 381, Public Acts of Michigan, 1996, as amended ("Act 381"), the City of Muskegon Brownfield Redevelopment Authority (the "Authority") has prepared and approved a Brownfield Plan Amendment to add the Former Muskegon Mall; and

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

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

WHEREAS, not less than 20 days has passed since the City Commission provided notice of the proposed Brownfield Plan to the taxing units; and

WHEREAS, a notice of the Public Hearing on the proposed Brownfield Plan Amendment was published twice in the Muskegon Chronicle, the first of which was not less than 20 days before the scheduled Public Hearing; and

WHEREAS, the City Commission held a public hearing on the proposed Brownfield Plan on October 12, 2004.

NOW, THEREFORE, BE IT RESOLVED, THAT:

1. Definitions. Where used in this Resolution the terms set forth below shall have the following meaning unless the context clearly requires otherwise:

   "Brownfield Plan" means the Brownfield Plan prepared by the Authority, as transmitted to the City Clerk by the Authority for approval, copies of which Brownfield Plan are on file in the office of the City Clerk.

   "Eligible Activities" means those activities as defined by Act 381.

   "Eligible Property" means the property designated in the Brownfield Plan as the Eligible Property, as described in Act 381.

   "Taxing Jurisdiction" shall mean each unit of government levying an ad valorem property tax on the Eligible Property.

2. Public Purpose. The City Commission hereby determines that the Brownfield Plan Amendment constitutes a public purpose.

3. Best Interest of the Public. The City Commission hereby determines that it is in the best interests of the public to promote the revitalization of eligible properties in the City to proceed with the Brownfield Plan Amendment.

4. Review Considerations. As required by Act 381, the City Commission has, in reviewing the Brownfield Plan Amendment, taking into consideration whether the Brownfield Plan Amendment meets the requirements set forth in Section 13 of Act 381.

5. Capture of Tax Increment Revenues by Authority. The Authority intends to capture Tax Increment Revenues on the Eligible Property, as described in the Brownfield Plan Amendment. The amount of captured taxable value estimated to result from adoption of the Brownfield Plan Amendment is reasonable, given the current information available. The financing of eligible activities as described by the Brownfield Plan appears to be feasible, and the Authority has the ability to arrange such financing.

6. Costs of Eligible Activities. The costs of eligible activities as described in the Brownfield Plan Amendment are reasonable and necessary to carry out the purposes of Act 381.

7. Approval and Adoption of Brownfield Plan Amendment. The Brownfield Plan Amendment as submitted by the Authority is hereby approved and adopted. A copy of the Brownfield Plan and all amendments thereto shall be maintained on file in the City Clerk's office.

8. Disclaimer. By adoption of this resolution and approval of the Brownfield Plan Amendment, the City assumes no obligation or liability to the owner,

developer or lessor of the Eligible Property for any loss or damage that may result to such persons from the adoption of this resolution and Brownfield Plan Amendment. The City makes no guarantees or representations as to the determinations of the appropriate state officials regarding the ability of the owner, developer or lessor to qualify for a single business tax credit pursuant to Act 228, Public Acts of Michigan, 1975, as amended, or as to the ability of the Authority to capture tax increment revenues from the State and local school district taxes for the Brownfield Plan.

9. Repealer. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Members Carter, Davis, Gawron, Larson, Shepherd, Spataro, and Warmington.

NAYS: Members None.

RESOLUTION DECLARED ADOPTED.

Gail A. Kundinger

Gail A. Kundinger, City Clerk

Stephen J. Warmington, Mayor

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held October 12, 2004, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Gail A. Kundinger

Gail A. Kundinger, City Clerk

Commission Meeting Date: October 12, 2004

Date: **September 29, 2004**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development** CBL

RE: **Muskegon Boiler Works Study Committee Final Report**

SUMMARY OF REQUEST:

The Muskegon Boiler Works Study Committee, which was appointed by the City Commission on June 22, 2004 to study the historic significance of the Boiler Works property and make a recommendation regarding the establishment of an historic district, has developed a final report. The property is located at 1204 Eighth Street (described as *City of Muskegon Revised Plat of 1903 Block 317, Lots 9-13)*. To finalize its duties, the Study Committee is forwarding on the final report with a recommendation to the City Commission to establish the Boiler Works Historic District and to amend Chapter 11 of the Code of Ordinances concerning Historic Districts and the Historic District Commission, to reflect the addition of the new district.

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To accept the Muskegon Boiler Works Study Committee report and recommendation and authorize the Clerk to sign the Ordinance amending Chapter 11 of the Code of Ordinances concerning Historic Districts and the Historic District Commission.

COMMITTEE RECOMMENDATION:

The Muskegon Boiler Works Study Committee recommends approval of the establishment of an historic district for the Boiler Works property. The Planning Commission recommended approval to the City Commission at their August 12, 2004 meeting.

Commission Meeting Date: October 12, 2004

Date:	**October 5, 2004**
To:	**Honorable Mayor & City Commission**
From:	**Planning & Economic Development Department** CBC
RE:	**Request for Extension of Deadlines for Former Lakos Property**

SUMMARY OF REQUEST: At the May 11, 2004 meeting, the City Commission granted an Amendment for an extension of time to the Agreement between Desiree Enterprises (Holiday Inn) and the City of Muskegon. The extension agreement allowed the owner of the property to have until October 1, 2004 to present plans for the development of the property to the City. Construction was to begin by April 1, 2005 and the project was to be completed by September 1, 2005. Recently, however, Mr. Elkhouly from the Holiday Inn, has made another request to extend the deadline (see letter attached).

FINANCIAL IMPACT: Without development on the site, the amount of taxes paid to the City is limited.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: None (if the Commission desires to extend the deadline, again, staff can work with the City Attorney to prepare another amendment).

COMMITTEE RECOMMENDATION: None.

Holiday Inn®
MUSKEGON HARBOR

September 23, 2004

Dear Honorable Major and City Commission

Re: Extension Of Construction Time Period For Former Lakos Property

Holiday Inn Muskegon Harbor / Desiree Enterprises Inc.

After careful consideration and deep thought to the growth of our community, we have decided in the best interest to all, that we are unable to pursue this project any further due to the delay of the Mall Project. At this point it is very difficult to start a new business and not to duplicate any project taken place at The New Development of Downtown Muskegon. We feel that we have valid reasons not to build at this time. We are asking to extend the deadline until the project of the New Downtown is more clear and there is a site plan that is set.

We are very committed to the success of our business and growth of our community. We appreciate your support and understanding in this important matter ahead of us. This is our only option at this time other than selling the property back to The City Of Muskegon. Please take our reasoning into consideration.

Sincerely,

Gamal Elkhouly, CHA
General Manager / Owner
Holiday Inn Muskegon Harbor

939 Third Street · Muskegon, Michigan 49440-1197
Telephone (616) 722-0100 · Fax (616) 722-5118

SECOND AMENDMENT AGREEMENT

2004-47(b)

THIS AGREEMENT is made, effective May 11, 2004 by and between the **CITY OF MUSKEGON**, a municipal corporation, with offices at 933 Terrace Street, Muskegon, Michigan 49440 ("Seller"), and **DESIREE ENTERPRISES, INC**. of 939 Third Street, Muskegon, Michigan 49440 ("Buyer"). This agreement constitutes an amendment to a certain Real Estate Purchase Agreement between the parties dated February 8, 2000, and a Land Contract between the parties dated March 1, 2000, a memorandum of which was recorded on March 6, 2000, at Liber 3020 Page 817, Muskegon County Register of Deeds and Amendment Agreement dated January 22, 2002. In all other respects the said agreements shall remain in full force and effect.

1. **Extension of Time for Completion of Improvements.** The Buyer shall have an extended period of time within which to construct the improvements contemplated by Section 9 of the Real Estate Purchase Agreement, so that the time for commencement of construction shall be April 1, 2005 and completion of construction shall now be September 1, 2005. This extension is made on the following conditions. The failure of the Buyer to observe any one of these conditions shall result in immediate reversion of the property to Seller as set forth in paragraph 9 of the Real Estate Purchase Agreement and further in this agreement:

1.1 The parking lot which has been constructed on the property shall be landscaped in compliance with a landscaping plan to be submitted to and approved by the City (Planning Department).

1.2 All zoning ordinance requirements, including variances, if granted, shall be complied with, including without limitation landscaping, setbacks, layout, lighting, and any other site plan requirements.

1.3 The entrance(s) and exit(s) for the parking area shall be on the alley.

1.4 Maintenance, repairs and cleaning of the parking lot shall be the responsibility of the Buyer or its successors or assigns.

1.5 The Buyer shall deposit with the City a written schedule of the construction activities and completion of buildings and structures appropriate for commercial uses permitted on the property, the said schedule to be filed with the City no later than October 1, 2004. Construction shall commence by April 1, 2005. Completion of the said improvements shall be accomplished by September 1, 2005, and the schedule shall so require.

1.6 **Reversion.** Failure to timely submit the appropriate plan, or if submitted, without **timely** commencement by April 1, 2005and completion by September 1, 2005, shall result in reversion to the City. Reversion to the City shall mean that without any further action by the City, the entire title to the property shall pass to the City without compensation to Buyer for the improvements or partial improvements made, including without limitation all parking, lighting, landscaping, infrastructure, ground cover, seeding, planting, fences or other installations, or for any expense of any kind. This reversion right of the City is supported by consideration, reflected in the original purchase price. **This reversion right survives delivery of a deed pursuant to the Land Contract.**

2. **Recording and Enforcement.** The provisions of this agreement shall constitute amendments to the Land Contract at paragraph 19 thereof, and the incorporated Real Estate Purchase Agreement at paragraph 9 thereof. This agreement may be recorded, and shall constitute record evidence of the City's right to reversion and enforcement of the agreement. The legal description of the property is:

> Lot 8, EXCEPT the Easterly four inches thereof, and all of Lots 9, 10 and 11; also Lot 12, EXCEPT the Southwesterly 6/10ths of a foot, of Block 566 of the Revised Plat of the City of Muskegon.

3. In all other respects the agreements between the parties shall remain in full force and effect. It is binding on the parties and their successors and assigns.

WITNESSES:

Linda S. Potter
Linda S. Potter

JoAnn Krukowski
JoAnn Krukowski

____

____

SELLER: CITY OF MUSKEGON

By ______________________
Stephen J. Warmington, Mayor

By Gail A. Kundinger
Gail A. Kundinger, Clerk

BUYER: DESIREE ENTERPRISES, INC..

By GAMAL ElKhouly

Its G.M/owner

Z:\WORD\Lakos.Purchase Agt.Extension 2 amended.doc

STATE OF MICHIGAN
COUNTY OF MUSKEGON

The foregoing instrument was acknowledged before me this 17th day of May, 2004 by Stephen J. Warmington and Gail A. Kundinger, Mayor and Clerk respectively, for and on behalf of the City of Muskegon.

Linda S. Potter
Linda S. Potter, Notary Public
State of Michigan, County of Muskegon
My commission expires: 9-25-06
Acting in the County of Muskegon

STATE OF MICHIGAN
COUNTY OF MUSKEGON

The foregoing instrument was acknowledged before me this _____ day of ___________, 2004 by __________________, ___________, for and on behalf of Desiree Enterprises, Inc., Inc.

____
, Notary Public
State of Michigan, County of Muskegon
My commission expires: _______________
Acting in the County of Muskegon

Drafted by and return to:
PARMENTER O'TOOLE
BY: John C. Schrier

Business Address:
175 W. Apple Avenue, P.O. Box 786
Muskegon, Michigan 49443-0786

CITY COMMISSION MEETING

TO: Honorable Mayor and City Commissioners

FROM: Anthony L. Kleibecker
Director of Public Safety

DATE: October 12, 2004

SUBJECT: Approval of Purchase of New Boiler-Central Fire Station

SUMMARY OF REQUEST:

Public Safety Division staff request that the Commission consider our request to purchase a new boiler for the Central Fire Station. This unit provides heat to this building. During our fall start-up, a crack was discovered in the unit. Temporary repairs have made to the current boiler in order to provide some heat for staff.

Three companies inspected the unit and were asked to submit bids. They include Northern Boiler, Monarch Welding and Engineering and Bowen Heating. Bowen has advised us that they would not be able to provide us with a quote. Both Northern and Monarch did provide us with quotes and you will find them attached. Both companies recommend replacement of the boiler due to its age and the fact that they will not guarantee that repairing this unit will prevent further failures.

FIANANCIAL IMPACT:

The cost of the new boiler (Monarch) and installation is $16,755.

BUDGET ACTION REQUIRED:

This item is not provided for in the current budget. Funds will be drawn from the General Fund Contingency Account.

STAFF RECOMMENDATION:

Awarding of the bid to Monarch Welding and Engineering.

NORTHERN BOILER
MECHANICAL CONTRACTORS
2025 LATIMER DRIVE • MUSKEGON, MI 49442
TELEPHONE: (231) 777-2525 • FAX: (231) 777-2853

September 30, 2004
Est #10731

Major Metcalf
CITY OF MUSKEGON FIRE DEPT
75 W Walton
Muskegon, MI 49440

Subject: Boiler Repair/Replacement

Dear Major:

Northern Boiler Mechanical Contractors will supply all labor, tools, equipment and material to perform the following boiler repairs/or replacement:

1. **Replacement**: Northern Boiler will remove and demo the existing boiler, then install (1) Columbia WL-90 Boiler. This installation will be complete with start-up and operator training included. The cost for this is $23,650.00 and the Manufacturer has only (2) in stock.

2. **Repair**: Northern Boiler will disassemble and replace (1) cracked section and reassemble for the sum of $17,890.00. (The section and gaskets cost $4,500.00), and has 3 – 4 day delivery. Northern Boiler will not guarantee the condition of any of the other existing sections, nor will we warranty anything but our labor. If damage is found to any other sections, the Muskegon Fire Department will have to decide to replace additional sections or replace the entire boiler. This will be an additional charge. Because of the age and unknown condition of the boiler, we do not recommend this option.

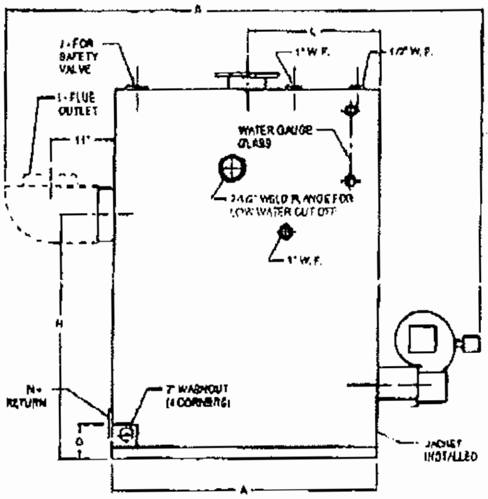
We thank you for considering Northern Boiler Mechanical Contractors for this project and look forward to working with you. If you have any questions, please feel free to give me a call.

Sincerely,
NORTHERN BOILER MECHANICAL CONTRACTORS

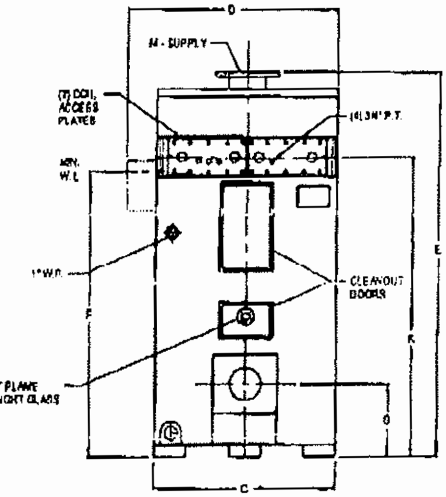
John Nic

John Nic
Project Manager

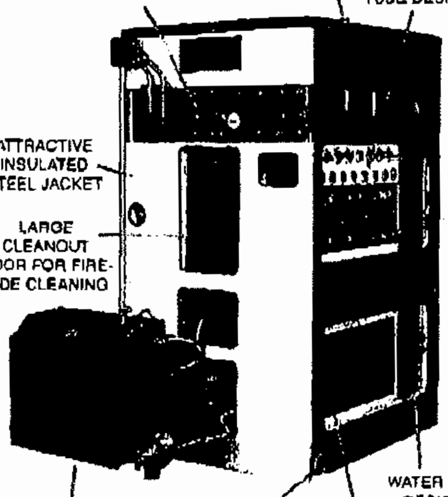
SPECIFICATIONS AND DATA



LEFT SIDE VIEW



FRONT VIEW



BOILER RATINGS AND DATA					
MODEL NO.	WL-80	WL-90	WL-120	WL-140	WL-180
SBI Firing Rate - No. 2 Oil GPH	6.00	9.00	12.00	14.00	18.00
Gas Input - BTUH	840,000	1,260,000	1,680,000	1,960,000	2,520,000
Gross SBI Output - BTUH	693,000	1,036,000	1,366,600	1,600,000	2,119,000
Gross Output - H.P.	20	30	40	47	60
Net SBI Steam - BTUH	521,052	778,198	1,020,000	1,203,000	1,593,885
Net SBI Steam - Sq. Ft.	2171	3243	4250	5013	6640
Net SBI Water - BTUH	602,608	900,000	1,179,600	1,391,300	1,843,130
Heating Surface - Sq. Ft.	71.0	100.0	124.0	132.0	190.0
Combustion Volume - Cu. Ft.	9.9	10.9	17.3	19.2	27.4
Water Capacity - Gal.	133	154	193	214	287
Dry Weight Bare Boiler	1,700	1,950,	2,450	2,950	3,350
Dry Weight Pkg. Boiler	1,950	2,250	2,800	3,000	3,750
TANKLESS COIL DATA					
Coil Model No. (1" Outlet)	N2	N3	N4	N4	N3
GPM Single Coil - 100° Rise	6.5	10.0	15.1	15.1	20.5
GPM Twin Coil - 100° Rise	13.00	20.2	25.1	30.1	41.0
BOILER DIMENSIONS					
A Base Length	39	43	51	55	63
B Length w/Smoke Hood & Burner[2]	71	76	84	95	104
C Boiler Width	32	34	34	34	40
D Width w/Low Water Cut Off[1]	38	38	38	38	44
E Height Overall	64	66	74	74	75
F Min. Safe Water Level	48	49	55	55	56
G Burner Opening to Floor	12	12	14	14	14
H Flue Outlet to Floor	42	41	47	47	47
I Flue Outlet[3]	10	10	12	12	14
J Safety Valve Opening	1-1/4	1-1/4	1-1/2	1-1/2	2
K Coil Connections to Floor	51	51	57	57	57
L Supply Outlet Size	20	22	30	27	35
M Supply Outlet Size	4 IPS	6 Flange	8 Flange	6 Flange	8 Flange
N Return Inlet Size	3 IPS	3 IPS	(2) 3 IPS	(2) 3 IPS	4 Flange
O Return Inlet to Floor	7	7	7	7	8

NOTES: 1 - McDonnell & Miller 767 2 - With STD Oil Burner 3 - Flue need only be vented

30 PSI WATER 15 PSI STEAM

COLUMBIA

Manufactured in USA by
COLUMBIA BOILER COMPANY
P.O. Box 1070, Pottstown, PA 19464
(610) 323-2700 FAX (610) 323-7292
www.columbiaboiler.com cbcsales@ptd.net

MADE IN THE USA

ASME Construction

CONSTRUCTED in accordance with Section IV, ASME Boiler & Pressure Vessel Code.

10m-MB-5/01

Monarch Welding & Engineering, Inc.

Boiler Repair • ASME Shop Fabrication • Structural Erection • Mechanical Installation

Date 10-5-04

FAX

Number of pages including cover sheet

TO: JR Gant

Phone: 724 6710

Fax Phone: 724 6028

FROM: Johan Bartels

Phone: 231-733-7222

Fax Phone: 231-737-2111

REMARKS:

☐ Urgent ☐ For your review ☐ Reply ASAP ☐ Please comment

JR

The following two options for the boiler repair at the fire station are both ment to be temporary repairs, in both cases the condition of the remainder of the boiler has not improved and replacement should still take place.

Option 1: Replace 1 Section $7,600 1 week
Option 2: Remove 1 Section $3,400

Option 2 will result in a 20% capacity loss and must be approved by the state boiler inspector.

Johan.

1566 Tech Park Drive
Bay City, MI 48706
517-684-3400 • Fax: 517-684-0344

519 W. Hackley Ave.
Muskegon, MI 49444
231-733-7222 • Fax: 231-737-2111

23538 Pinewood.
Warren, MI 48091
586-754-5400 • Fax: 586-754-9088

Monarch Welding & Engineering, Inc.

Boiler Repair • ASME Shop Fabrication • Structural Erection • Mechanical Installation

TRANSMITTED VIA:
FAX 1-231-724-6028

October 4, 2004

J.R. Gahn
City of Muskegon
933 Terrace
Muskegon, MI 49442

RE: Muskegon Fire Dept. Boiler Installation
Monarch Quote #M03-106

Dear Mr. Gahn

We thank you for your inquiry and are pleased to submit our quotation for your review and consideration. We propose to furnish the necessary labor, tools, equipment, supervision and certain material to mechanically install a new PG 588 S Weil McLain Boiler.

Lump sum price...$ 16,755.00

We trust you will find our price agreeable and hope to further hear from you. If you have any questions, please contact Bill Bishop at (231)-733-7222, he will be happy to discuss this in further detail.

Sincerely,

MONARCH WELDING & ENGINEERING, INC.

William J. Walker
Regional Manager

2004-92 (c)

CITY OF MUSKEGON

AGREEMENT FOR SERVICES OR CONSTRUCTION
Small and Limited Projects

THIS IS AN AGREEMENT between the CITY OF MUSKEGON ("City"), 933 Terrace Street, Muskegon, Michigan, and Monarch Welding & Engineering, Inc. ("Contractor"), of Muskegon, Michigan, for a small or limited project, and is made in the following terms:

Agreement and Performance

Contractor agrees to perform and supply all the services and materials set forth in the Statement of Work attached to this agreement, ("Performance"). Contractor's performance shall be accomplished in good and workmanlike manner, to the satisfaction of the City. Performance shall be completed on or before 11-19-04.

Price

Contractor will perform as set forth above for the complete contract price of $ 16,755.00.

Conditions and Covenants

Contractor will comply with all laws, rules and regulations of the City, and any other local government of the State of Michigan and the United States Government. Contractor will supply insurance as required by separate written document, naming the City as an additional insured, if appropriate, and shall carry such additional insurance coverage's as are required by the City. Contractor shall hold the City harmless against any and all claims for damages or costs made against the City arising from Contractor's performance, including all costs of defense, attorneys' fees, expenses and the amount of any damage determined against the City.

Contractor certifies that it is eligible for performance of government work and has not been cited or listed for failure to comply with Wage and Hour or prevailing wage regulations of the State of Michigan or the Federal Government.

Termination and Cancellation

This contract may be terminated for failure to perform in accordance herewith, and Contractor shall be liable for normal contractual remedies available to the City. In the event liquidated damages for nonperformance age agreed to, the following amounts constitute liquidated damages:

$ N/A per day of nonperformance.

Nondiscrimination Compliance

Contractor agrees to comply with all nondiscrimination laws, rules and regulations and policies of the City, State and Federal Governments including, but not limited to, the provisions of Executive Order 11246, Affirmative Action Requirements for Disabled Veterans and Veterans of the Viet Nam Era and for Handicapped Workers. If required by the City and appropriate for the services in this contract, Contractor shall comply with City oversight procedures. The provisions of all said policies, rules, executive orders and laws regarding nondiscrimination and affirmative action are available from the City by contacting the Affirmative Action Director of the City, City Hall, 933 Terrace Street, Muskegon, Michigan, telephone 724-6703. The City may supply a copy with this contract in its discretion.

The parties agree to performance of this contract by signing below. The effective date of this agreement is Oct.13, 2004.

Witnesses:	Contractor:
______________________	By ______________________
______________________	
	CITY OF MUSKEGON
______________________	By ______________________
______________________	and ______________________

CITY OF MUSKEGON

Contract Between
City of Muskegon
and
Monarch Welding & Engineering, Inc.

STATEMENT OF WORK

See attached scope of services.

Initials:

Contractor: W B [signature]

City: [signature]
(staff member)

Pett G-5121

Monarch Welding & Engineering, Inc.

Boiler Repair • ASME Shop Fabrication • Structural Erection • Mechanical Installation

TRANSMITTED VIA:
FAX 1-231-724-6028

October 4, 2004

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933 Terrace
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MONARCH WELDING & ENGINEERING, INC.

William J. Walker
Regional Manager