

**City of Muskegon  
City Commission Meeting  
Agenda**

**October 10, 2023, 5:30 pm**

**Muskegon City Hall**

**933 Terrace Street, Muskegon, MI 49440**

**AMERICAN DISABILITY ACT POLICY FOR ACCESS TO OPEN MEETINGS OF THE CITY OF MUSKEGON AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES**

To give comment on a live-streamed meeting the city will provide a call-in telephone number to the public to be able to call and give comment. For a public meeting that is not live-streamed, and which a citizen would like to watch and give comment, they must contact the City Clerk's Office with at least a two-business day notice. The participant will then receive a zoom link which will allow them to watch live and give comment. Contact information is below. For more details, please visit: [www.shorelinecity.com](http://www.shorelinecity.com)

The City of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting with twenty-four (24) hours' notice to the City of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the City of Muskegon by writing or by calling the following: Ann Marie Meisch, MMC – City Clerk, 933 Terrace Street, Muskegon, MI 49440; 231-724-6705; [clerk@shorelinecity.com](mailto:clerk@shorelinecity.com)

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**Pages**

- 1. Call To Order**
- 2. Prayer**
- 3. Pledge of Allegiance**
- 4. Roll Call**
- 5. Honors, Awards, and Presentations**
  - 5.a Memorial for Hope Griffith**
  - 5.b Recognition of Steve Hammond - Inspector of the Year**
- 6. Public Comment on Agenda Items**
- 7. Consent Agenda**

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# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                       |                                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: 10/10/23                                                                                                                                                                                                                     | Title: Approval of Minutes                                                                                        |
| Submitted By: Ann Marie Meisch, MMC                                                                                                                                                                                                                   | Department: City Clerk                                                                                            |
| Brief Summary: To approve the minutes of the September 26, 2023 Regular Meeting.                                                                                                                                                                      |                                                                                                                   |
| Detailed Summary & Background:                                                                                                                                                                                                                        |                                                                                                                   |
| Goal/Focus Area/Action Item Addressed:                                                                                                                                                                                                                |                                                                                                                   |
| Amount Requested:                                                                                                                                                                                                                                     | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>           |
| Fund(s) or Account(s):                                                                                                                                                                                                                                | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| Recommended Motion: To approve the minutes.                                                                                                                                                                                                           |                                                                                                                   |
| Approvals:<br>Immediate Division Head <input type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input type="checkbox"/><br>Communication <input type="checkbox"/><br>Legal Review <input type="checkbox"/> | Guest(s) Invited / Presenting:<br>Yes <input type="checkbox"/><br>No <input type="checkbox"/>                     |

**City of Muskegon**  
**City Commission Meeting**  
**Minutes**

**September 26, 2023, 5:30 pm**  
**Muskegon City Hall**  
**933 Terrace Street, Muskegon, MI 49440**

Present: Mayor Ken Johnson  
Commissioner Rebecca St.Clair  
Vice Mayor Willie German, Jr.  
Commissioner Michael Ramsey  
Commissioner Teresa Emory

Absent: Commissioner Rachel Gorman  
Commissioner Eric Hood

Staff Present: City Manager Jonathan Seyferth  
City Clerk Ann Meisch  
City Attorney John Schrier  
Deputy City Clerk Kimberly Young

**1. Call To Order**

Mayor Johnson called the Muskegon City Commission meeting to order 5:30 p.m.

**2. Prayer**

Pastor Michael McGee, Spring Street Missionary Baptist Church, opened the meeting with prayer.

**3. Pledge of Allegiance**

The Pledge of Allegiance to the Flag was recited by the Commission and the public.

**4. Roll Call**

As recorded above

**5. Honors, Awards, and Presentations**

**5.a Commendation Letter Presentation to Muskegon Fire Department from Lakeside Aerie #3306**

Mayor Johnson read and presented a Letter of Commendation to the City of Muskegon Fire Department for 150 years of tireless and heroic service to the City of Muskegon and its surrounding communities, from the Lakeside Aerie, #3306.

**5.b Memorial for Larry Spataro**

Mayor Johnson read and presented a Resolution of Respect and Remembrance for Lawrence O. Spataro. The Resolution was presented on behalf of the City Commission and citizens of Muskegon, recognizing and expressing deep gratitude for the public service of Lawrence O. Spataro and extending condolences to his family, friends, colleagues, and all who were touched by his life of service.

**6. City Manager Updates on Agenda**

City Manager Jonathan Seyferth announced that 7.o, Drivers License for All Resolution, would be added to the Consent Agenda, led out by Commission Ramsey. Manager Seyferth also announced that the Commission will not be taking action on New Business item 10.a, Rezoning of Properties in the Angel, McLaughlin, and Jackson Hill Neighborhoods - at tonight's meeting. However, public comments will be taken regarding the item.

**7. Public Comment on Agenda Items**

Public comments were received.

**8. Consent Agenda**

**Action No. 2023-99**

**Motion by:** Commissioner Ramsey

**Second by:** Commissioner St.Clair

To accept the Consent Agenda as presented, minus items 7b, 7e, 7j, 7l, 7m, 7n, and 7o.

Ayes: (5): Mayor Johnson, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (2): Commissioner Gorman, and Commissioner Hood

**MOTION PASSES (5 to 0)**

**8.a Approval of Minutes - City Clerk**

To approve the minutes of the September 11, 2023 Worksession and September 12, 2023 Regular Meeting.

STAFF RECOMMENDATION: To approve the minutes.

**8.c Amendment to the Zoning Ordinance - Residential Setback Requirements - 2nd Reading - Planning**

Staff-initiated request to amend Section 404 of the zoning ordinance to modify rear setback requirements and to create a front build-to zone in lieu of front setbacks in single-family residential zones. the Planning Commission recommended approval of the amendment by a 4-1 vote at their August 10 meeting.

STAFF RECOMMENDATION: To approve the request to amend Section 404 of the zoning ordinance as presented.

**8.d 2023 Justice Assistance Grant - Police Department**

The Police Department is seeking approval to enter into a Memorandum of Understanding (MOU) with the County of Muskegon and Muskegon Heights to apply for the allocated 2023 JAG grant funds.

The Police Department is seeking approval to enter into a MOU with the County of Muskegon and Muskegon Heights to apply for the allocated 2023 Edward Byrne Memorial Justice Assistance Grant (JAG) program funds. This year's local JAG allocations to disparate jurisdictions in our county totals \$43,247. The City of Muskegon will continue to act as the fiduciary and receive \$25,571, the City of Muskegon Heights would be a subawardee and receive \$17,676 and the County of Muskegon would not receive funding. Similar to past years, the City of Muskegon's portion of this grant will be used for the prosecution of city ordinance cases dealing primarily neighborhood issues.

STAFF RECOMMENDATION: Approve the 2023 JAG Program Award Memorandum of Understanding (MOU), authorize the Mayor to sign, and authorize staff to apply for the 2023 JAG grant funds.

**8.f Former General Fund Transfers for FY2022-23 - Finance**

During the close out of fiscal year 2022-23 and based on the financial results for the fiscal year ended June 30, 2023 we want to transfer \$90,000 from the General Fund to the Marina Fund to eliminate a fund balance deficit.

At the close of FY2022-23 the Marina fund requires a transfer from the General Fund. (1) The FY2022-23 budget called for a General Fund transfer of \$90,000 to the Marina Fund to avoid a fund balance deficit. The Marina fund despite initial transfer from \$450,000 General fund needs additional help to avoid a deficit. At the end of the 2022-23 year the current liabilities exceed current assets by approximately \$90,000.

AMOUNT REQUESTED: \$90,000

FUND OR ACCOUNT: Transfer \$90,000 from 101 to 594

STAFF RECOMMENDATION: To approve the General Fund transfers of \$90,000 to the Marina Fund.

**8.g Sale of 1530 Hoyt Street - Manager's Office**

Staff is seeking approval of the sale of 1530 Hoyt Street. 1530 Hoyt Street was constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding. The offer is a full price offer with no seller concessions.

STAFF RECOMMENDATION: To approve the purchase agreement for 1530 Hoyt Street.

**8.h Sale of 1647 Terrace Street - Manager's Office**

Staff is seeking approval of the sale of 1647 Terrace Street. 1647 Terrace Street was constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding. The offer is for \$18,000 over asking price with \$10,000 in sellers concessions and \$8,000 toward appliances and air conditioning. This results in a full price offer.

STAFF RECOMMENDATION: To approve the purchase agreement for 1647 Terrace Street.

**8.i First Amendment to Real Estate Purchase Agreement DMDC2-Splash Pad - Economic Development**

An amendment to the Real Estate Purchase Agreement between the Downtown Muskegon Development Center No. 2 Association (the "Seller")

and The City of Muskegon (the “Buyer”) for the purchase of Unit 10 ((the “Property”) referred to as the Western Avenue Splash Pad.

On June 27, 2023, this item was presented to the City Commission and was approved. The Seller and Buyer now wish to amend the Purchase Agreement, as detailed in the attached amendment. Both parties propose extending the closing date to no later than November 1, 2023.

AMOUNT REQUESTED: \$1,188.75

FUND OR ACCOUNT: Planning

STAFF RECOMMENDATION: To approve the Amendment to the Real Estate Purchase Agreement made between Downtown Muskegon Development Center No. 2, Association and The City of Muskegon for the purchase of Unit 10 (the “Property”) referred to as the Western Avenue Splash Pad authorizing the Deputy City Manager to sign.

**8.k Transmission Main Water Meter - DPW - Water Filtration**

Staff is requesting approval to award the transmission main water meter project to Wadel Stabilization.

A 30” water transmission main was recently constructed from the Water Filtration Plant to the Muskegon Channel. While the primary purpose of this water main is to provide a second connection to the Muskegon County Northside water system, it also serves the City of Muskegon’s water system. An existing water meter near the channel measures all water flow into the County water system, but it does not capture any water flow into the City. Installing a water meter near the Water Filtration Plant will measure all the water flowing through this main, including the currently unmetered water flowing into the City. Metering this water as it leaves the Water Filtration Plant is critical to overseeing water plant operations, managing the water fund, and ensuring regulatory compliance.

The Commission has already approved earlier stages of this project. At the September 27, 2022 meeting, the Commission approved contracting Prein&Newhof for engineering services for the design, bidding and construction phases of this project. At the August 22, 2023 meeting, the Commission approved an amendment to the agreement with Muskegon County to permit the installation of the meter on the County-owned water main.

An invitation to bid on the construction portion of this project was posted on the City’s website and four bids were received. Prein&Newhof reviewed

the bids and recommends the low bid of \$92,580.00 from Wadel Stabilization. This project is included in the Water Filtration Plant's budget for FY 23-24.

AMOUNT REQUESTED: \$92,580.00

FUND OR ACCOUNT: 591-901-801-092034

STAFF RECOMMENDATION: To award the transmission main water meter project to Wadel Stabilization.

**8.b Fireworks Display for NYE Ball Drop - City Clerk**

Pyrotecnico is requesting approval of a fireworks display permit for January 1, 2024, in a parking lot between 3<sup>rd</sup> and 4<sup>th</sup> street, west of Shoreline Drive. The fire Marshall will inspect the fireworks on the day of the event. Contingent upon approval of insurance.

STAFF RECOMMENDATION: To approve the fireworks display permit for Pyrotecnico, contingent upon inspection of the fireworks and approval of the insurance.

**Action No. 2023-100(b)**

**Motion by:** Commissioner Ramsey

**Second by:** Commissioner St.Clair

To approve the fireworks display permit for Pyrotecnico, contingent upon inspection of the fireworks and approval of the insurance.

Ayes: (5): Mayor Johnson, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (2): Commissioner Gorman, and Commissioner Hood

**MOTION PASSES (5 to 0)**

**8.e Former Employee Health Refund Calculation - City Manager**

Traditionally (and per all 5 union contracts) employees paid 10% of their health benefits (after 2017 this included three components Health Insurance, Co-insurance, and Deductibles). At some point, an error in the calculation occurred, and employees began paying more than 10%. This was brought to our attention in early 2023, and the insurance contributions have been corrected for all active employees. The commission must now

consider addressing this matter with former team members who left employment between the error starting and being corrected.

Starting in 2017 the City began using three different factors to determine employee contributions to their insurance premiums (a percent of actual monthly premiums and a percent of City Paid Benefits (co-insurance & deductibles)). Prior to 2017, just insurance premiums were used as a factor. This change was made because of cost increases in co-insurance and deductibles.

Sometime after 2017 a calculation error occurred and employee contributions increased above the 10% level.

Earlier this year the City Commission approved repayment of benefit overpayments to current employees. The administration is now asking the Commission to consider reimbursement of the overpayment to former employees who left the City between 2017 and the end of 2022 who also overpaid insurance premiums.

During that time period, we had 58 former team members who took health insurance and overpaid. Individual overpayment ranges from about \$3,200 to less than \$10. The total cost to repay these former team members the overpayment is \$51,696.83.

AMOUNT REQUESTED: \$52,696.83

FUND OR ACCOUNT: Various - the appropriate departments and funds will cover this cost.

STAFF RECOMMENDATION: To approve Repayment of overpaid insurance premiums to former team members.

**Action No. 2023-100(e)**

**Motion by:** Vice Mayor German

**Second by:** Commissioner St.Clair

To approve Repayment of overpaid insurance premiums to former team members.

Ayes: (5): Mayor Johnson, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (2): Commissioner Gorman, and Commissioner Hood

**MOTION PASSES (5 to 0)**

**8.j PM Restroom MNRTF Grant Agreement - Parks & Recreation**

Staff is requesting approval to execute the attached agreement for the MNRTF Grant for the construction of a new restroom building adjacent to the “kite shack,” as well as rehabilitation of the kite shack building.

The City of Muskegon has been awarded a \$300,000 Grant from the Michigan Natural Resources Trust Fund (MNRFT) administered by the Michigan Department of Natural Resources. The award includes a required City match amount of \$300,000, which is budgeted in this fiscal year. The City of Muskegon is required to execute the included agreement to meet funding requirements, which is of the standard MDNR form. The concept drawings of the improvements are included for reference.

AMOUNT REQUESTED: \$300,000

FUND OR ACCOUNT: 445(Public Improvement)

STAFF RECOMMENDATION: To approve the MNRTF Grant agreement including the approving resolution, and authorize the DPW Director to sign.

**Action No. 2023-100(j)**

**Motion by:** Commissioner Ramsey

**Second by:** Commissioner Emory

To approve the MNRTF Grant agreement including the approving resolution and to appropriate all funds necessary to complete the project during the project period and to provide \$400,000 to match the grant authorized by the department, and authorize the DPW Director to sign.

Ayes: (5): Mayor Johnson, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (2): Commissioner Gorman, and Commissioner Hood

**MOTION PASSES (5 to 0)**

**8.i Filter Plant Cell Tower Verizon Lease - DPW**

Staff requests authorization to enter into a lease with “Muskegon Cellular Partnership By: Cellco Partnership d/b/a Verizon Wireless” to grant Verizon space on the City’s cellular tower at the water filtration plant.

In early 2021 Commission authorized the construction of a cellular communications tower at the water filtration plant in the hope of spurring cellular companies to provide better service in the extreme western part of the City, including the beach. Since that time, staff has been working with Maralat Communications to entice a cellular provider to locate on the tower.

A lease has been negotiated with Verizon Wireless and is included for consideration and approval. The terms are \$3,500 per month for 25 years (including extensions) with a 2% annual escalator, a total income to the water fund of \$1,345,273 over the life of the lease. At the time of tower construction, it was anticipated we would achieve terms of \$1,800 per month with a 3% annual escalator. Over the 25-year term of the lease, the negotiated terms will bring in more than \$550,000 over expectations. Much of the credit goes to Maralat Communications and Parmenter Law for assisting with negotiations.

Several additional spaces on the tower are available, and staff hopes this lease will encourage other providers to locate on the tower soon, further improving service in the area. The construction cost of the tower will be paid back by the end of just the fourth year of this lease.

**STAFF RECOMMENDATION:** To approve the presented lease with Muskegon Cellular Partnership by: Cellco Partnership d/b/a Verizon Wireless, and authorize the Mayor to sign.

**Action No. 2023-100(L)**

**Motion by:** Commissioner Ramsey

**Second by:** Commissioner St.Clair

To approve the presented lease with Muskegon Cellular Partnership by: Cellco Partnership d/b/a Verizon Wireless, and authorize the Mayor to sign.

Ayes: (5): Mayor Johnson, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (2): Commissioner Gorman, and Commissioner Hood

**MOTION PASSES (5 to 0)**

**8.m Zencity Contract Approval - Manager's Office**

Staff is requesting approval of a 5-year contract with Zencity, the city's community engagement tool, Connect Muskegon, that has been in trial for the last 9 months.

In December 2022, staff began vetting several community engagement platforms. This platform will be the go-to source for our neighbors to engage with and provide feedback to city staff on projects or issues impacting the community.

The Manager signed an initial 1-year contract with Zencity to test the product and gather staff, commission and community experience. Since launching the product in March 2023, city staff from all divisions have used the forward-facing portion of Zencity, known publicly as "Connect Muskegon" for over 15 projects. The product is user friendly for staff, and has received several positive comments from community members on the depth and detail of each project.

AMOUNT REQUESTED: \$24,500 annually, for 5 years

FUND OR ACCOUNT: 101-103-801

STAFF RECOMMENDATION: To approve the 5-year contract with Zencity Technologies US, Inc and authorize the City Manager to sign.

**Action No. 2023-100(m)**

**Motion by:** Commissioner St.Clair

**Second by:** Vice Mayor German

To approve the 5-year contract with Zencity Technologies US, Inc and authorize the City Manager to sign.

Ayes: (5): Mayor Johnson, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (2): Commissioner Gorman, and Commissioner Hood

**MOTION PASSES (5 to 0)**

**8.n Community Relations Committee Recommendations - City Clerk**

To concur with the CRC recommendations to make the following appointments to the Parks & Recreation Advisory Board.

Representatives from Ward I:

- Sarah DeLarosa – Term expiring 2024

- Hillery Ross-Furse – Term expiring 2025

Representatives from Ward II:

- Anthony Olshansky – Term expiring 2024
- Jequan Brown – Term expiring 2026

Representatives from Ward III:

- Sidney Long – Term expiring 2026
- David Ruck – Term expiring 2024

Representatives from Ward IV:

- Aaron Botbyl-Mast – Term expiring 2025
- Leann Hayward – Term expiring 2024

Representatives At Large – (One as chair, non-voting member)

- John Burt – Term expiring 2024
- Roberta King – Term expiring 2025

Representative from Muskegon Public Schools

- Montrell Dockery – Term expiring 2024

STAFF RECOMMENDATION: To concur with the Community Relations Committee's recommended appointments as stated above.

**Action No. 2023-100(n)**

**Motion by:** Commissioner Ramsey

To concur with the Community Relations Committee's recommended appointments as stated above.

Ayes: (5): Mayor Johnson, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (2): Commissioner Gorman, and Commissioner Hood

**MOTION PASSES (5 to 0)**

**8.o Resolution in Support of Drive Safe Legislation - Manager's Office/Commissioner Ramsey**

Commissioner Ramsey introduced the topic of supporting Drive Safe Legislation at the September 10, 2023 Worksession Meeting. The state legislature is currently considering the Drive SAFE (Safety, Access, Freedom, and the Economy) Act, which would provide undocumented Michigan residents with the option to obtain a Michigan Driver's License. This is legislation that has been passed in 20 other state that allows for driver's licenses to be issued to undocumented residents. The group organizing the legislation feels that allowing licenses to be issued will have various positive impacts for both the state and the individuals obtaining the licenses. Before 2008, Michigan issued driver's licenses and IDs to undocumented individuals. More information can be found at [www.drivemichiganforward.com](http://www.drivemichiganforward.com)

**Action No. 2023-100(o)**

**Motion by:** Commissioner Ramsey

**Second by:** Commissioner Emory

To adopt a resolution in support of Drive Safe Legislation.

Ayes: (5): Mayor Johnson, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (2): Commissioner Gorman, and Commissioner Hood

**MOTION PASSES (5 to 0)**

**9. Public Hearings**

**9.a 2022 Consolidated Annual Performance Evaluation Report (CAPER) Hearing - Community & Neighborhood Services**

The CAPER is available on our website for citizen review and comment period of

15 days from September 14 -October 6, 2023. A public Hearing is another opportunity to comment about the Federal CDBG and HOME program activities performed during the fiscal year 2022 (July 1,

2022 - June 30, 2023). Click on the link to view the [CAPER](#)

STAFF RECOMMENDATION: To conduct a Public Hearing for the 2022 CAPER review.

Community and Neighborhood Services Director, Sharonda Carson, provided an overview of highlights of the 2022 Consolidated Annual

Performance Evaluation Report. Reporting on the CDBG and HOME funds.

PUBLIC HEARING COMMENCED: No public comments were received.

**Action No. 2023-101(a)**

**Motion by:** Commissioner Ramsey

**Second by:** Commissioner St.Clair

To close the public hearing.

Ayes: (5): Mayor Johnson, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (2): Commissioner Gorman, and Commissioner Hood

**MOTION PASSES (5 to 0)**

**10. Unfinished Business**

**11. New Business**

**11.a Rezoning of Properties in the Angel, McLaughlin, and Jackson Hill Neighborhoods - Planning - REMOVED**

Staff-initiated request to rezone all of the properties zoned R-1, R-2, R-3, and RT in the McLaughlin, Angell, and Jackson Hill neighborhoods to FBC-UR.

The Planning Commission held a public hearing on the case and voted 5-0 in favor of denying the request.

**11.b BSA Cloud Software - Information Technology/Finance Division**

Staff is requesting authorization to enter into an agreement with BS&A software to upgrade and migrate our BS&A Enterprise Resource Planning (ERP) software to the cloud.

Since 2006, the City has been utilizing BS&A software for financial management, payroll, utility management and billing, permitting and inspections, assessing, human resource management, and more. The City is at a point where our locally hosted BS&A solution needs to be upgraded. BS&A offers an enhanced cloud-based solution. BS&A has made it clear that they are focusing heavily on their cloud, and the on-prem version will eventually be retired. They are no longer adding new features to the on-prem solution. Knowing this, we would like to use this

upgrade point as an opportunity to move to the BS&A cloud, leveraging all the latest features it provides. The BS&A cloud will improve the City's efficiencies across the board by providing an always-on/available anywhere software solution.

BS&A software has a long list of municipalities (over 230) in line to be migrated to the cloud. The project timeline for full migration and user training is going to be 18-24 months. To enter into this agreement to upgrade to the cloud, we are responsible for \$30,800 this budget year, In FY 24-25, we will budget \$201,675 to cover the remaining upgrade costs due at project completion. Starting in FY 25-26, BS&A Cloud yearly support, maintenance, and hosting will cost \$132,800, budgeted annually.

We have \$10,000 budgeted in 23-24 for a BS&A upgrade. A budget amendment will happen in the first quarter re-forecast adding the additional \$20,800 to cover the initial cost.

AMOUNT REQUESTED: \$30,800

FUND OR ACCOUNT: 101-228-804

STAFF RECOMMENDATION: To authorize City staff to enter into an agreement with BS&A software for a cloud-hosted ERP solution and authorize the Mayor to sign.

**Action No. 2023-102(b)**

**Motion by:** Commissioner St.Clair

**Second by:** Commissioner Ramsey

To authorize City staff to enter into an agreement with BS&A software for a cloud-hosted ERP solution and authorize the Mayor to sign.

Ayes: (5): Mayor Johnson, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (2): Commissioner Gorman, and Commissioner Hood

**MOTION PASSES (5 to 0)**

**12. Any Other Business**

City Manager Jonathan Seyferth advised that the company providing our playground equipment is running a half-off grant sale and we will be looking to replace some equipment and will not be utilizing our normal procurement procedure.

Vice Mayor Willie German, Jr. commended the citizens for coming to the meeting, advised that their input is valued, and encouraged them to continue to come and be part of the process.

**13. Public Comment on Non-Agenda items**

Public comments were received.

**14. Closed Session**

**14.a Pending Litigation**

**Action No. 2023-103(a)**

**Motion by:** Commissioner St.Claire

**Second by:** Commissioner Ramsey

To go into closed session to consult with our attorneys regarding settlement strategy in connection with Kathleen Bisard versus City of Muskegon, Circuit Court for the County of Muskegon, Case No. 21-002528-NI because an open meeting would have a detrimental financial effect on the settlement position of the City of Muskegon.

Ayes: (5): Mayor Johnson, Commissioner St.Claire, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (2): Commissioner Gorman, and Commissioner Hood

**MOTION PASSES (5 to 0)**

**Motion by:** Commissioner Ramsey

**Second by:** Commissioner St.Claire

Adopt the approved settlement as agreed upon.

Ayes: (5): Mayor Johnson, Commissioner St.Claire, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (2): Commissioner Gorman, and Commissioner Hood

**MOTION PASSES (5 to 0)**

**15. Adjournment**

The City Commission meeting adjourned at 8:27 p.m.

**Motion by:** Commissioner Ramsey  
**Second by:** Commissioner Emory

To adjourn.

**MOTION PASSES**

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Respectfully Submitted,  
Ann Marie Meisch, MMC - City Clerk

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

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| Commission Meeting Date: 10/10/2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Title: LIHWAP Agreement Extension                                                                                            |
| Submitted By: Sarah Wilson                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Department: Treasurer                                                                                                        |
| Brief Summary: Staff is requesting approval to extend our current contract with Mid Michigan Community Action Agency to participate in the Low Income Household Water Assistance Program.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                              |
| <p>Detailed Summary &amp; Background: In December of 2021, we entered into a contract with Mid Michigan Community Action Agency (MMCAA) to participate in the Low Income Household Water Assistance Program (LIHWAP). The program consisted of funds made available by the State of Michigan, to be distributed to eligible low-income households, to pay water and sewer arrearages in order to avoid discontinuance of water service due to non-payment during the COVID emergency. Those funds were anticipated to be available through September 30, 2023; thus, the original contract ended on that date.</p> <p>It has been determined that there are still funds available, so MMCAA has provided us with a contract extension through 3/31/2024. Unfortunately, we did not receive notice or a copy of this contract extension until 9/28/2023, and it needed to be signed prior to 9/30/2023 in order to avoid a lapse in LIHWAP benefits for our residents. Due to the urgent need to protect this benefit for our residents, our Deputy City Manager has signed the contract, and we are bringing this item to the Commission today to get your approval for that extension.</p> |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Goal 4: Financial Infrastructure – Decrease infrastructure burden on residents                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                              |
| Amount Requested: N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s): N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| Recommended Motion: I move to approve the extension of our contract with Mid Michigan Community Action Agency in order to continue to receive funds through the Low Income Household Water Assistance Program through 3/31/2024.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                              |

Approvals:

Immediate Division Head ☒

Information Technology ☐

Other Division Heads ☐

Communication ☐

Legal Review ☐

Guest(s) Invited / Presenting:

Yes ☐

No ☒

**MEMORANDUM OF UNDERSTANDING NUMBER:****AMENDMENT NUMBER: LIHWMOU22-99029** 1

Between

**THE STATE OF MICHIGAN****DEPARTMENT OF HEALTH AND HUMAN SERVICES**

And

|                       |                                              |
|-----------------------|----------------------------------------------|
| PARTNER / ENTITY NAME | 18019 - Mid Michigan Community Action Agency |
| PRIMARY CONTACT       | Jill Sutton                                  |
| EMAIL                 | jsutton@mmcaa.org                            |

And

|                       |                                  |
|-----------------------|----------------------------------|
| PARTNER / ENTITY NAME | City Of Muskegon                 |
| PRIMARY CONTACT       | Frank Peterson                   |
| EMAIL                 | frank.peterson@shorelinecity.com |

|               |                           |
|---------------|---------------------------|
| MDHHS CONTACT | EMAIL                     |
| Ben Gulker    | MDHHS-LIHWAP@michigan.gov |

| MEMORANDUM OF UNDERSTANDING SUMMARY |                                                                                                                                                           |                         |            |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|------------|
| BRIEF DESCRIPTION OF PURPOSE        | Agreement between the water/wastewater provider, Community Action Agency and MDHHS for participation in the Low Income Household Water Assistance Program |                         |            |
| INITIAL EFFECTIVE DATE              | 12/14/2021                                                                                                                                                | CURRENT EXPIRATION DATE | 09/30/2023 |

| AMENDMENT DESCRIPTION  |                                         |                             |                                |
|------------------------|-----------------------------------------|-----------------------------|--------------------------------|
| EXTEND EXPIRATION DATE | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO | NEW EXPIRATION DATE 03/31/2024 |
| NATURE OF CHANGE       | Extension through 3/31/2024             |                             |                                |

The individual or officer signing this agreement certifies by his or her signature that he or she is authorized to sign this agreement on behalf of the responsible governing board, official or agency.

Michigan Department of Health and Human Services

*[Handwritten Signature]*

Signature of Director or Authorized Designee

Signature of Director or Authorized Designee

*Leigh Ann Miksehl Deputy City Manager*

Print Name / Title

Jeanette Hensler,  
Director-Grants Division, Bureau of Grants and Purchasing

Print Name / Title

*9.28.23*

Date

Date

Signature of Authorized Designee

Print Name / Title

Date

Memorandum of Understanding Number:  
Amendment Number: LIHWMOU22-99029 1

**STATE OF MICHIGAN  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

WHEREAS, the Michigan Department of Health and Human Services (hereinafter referred to as "MDHHS") entered into Memorandum of Understanding effective 12/14/2021, with 18019 - Mid Michigan Community Action Agency and City Of Muskegon (hereinafter referred to as "Partners"), for the provision of certain services as set forth therein; and,

WHEREAS, it is mutually desirable to MDHHS and to Partners to amend the aforesaid Agreement.

THEREFORE, in consideration of the promises and mutual covenants hereinabove and hereinafter contained, the parties hereto agree to the following amendment of said Agreement. This amendment shall be attached to the Agreement, said Agreement being hereby reaffirmed and made a part hereof.

**Article I**

This amendment shall be effective on the date of MDHHS signature or 10/1/2023, whichever is later.

**Article II**

Section 3. **Period of Agreement** shall be extended by six months, amending the agreement as follows:

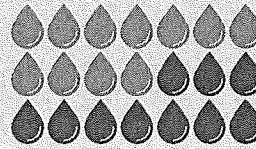
This MOU is effective from 12/14/2021 through 3/31/2024.

# Michigan Department of Health and Human Services Low Income Household Water Assistance Program Water/Wastewater Provider Information

Funding is administered through local MDHHS Offices and Community Action Agencies statewide until September 30, 2023, unless depleted prior to that date.

## Provider Participation

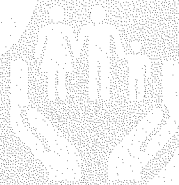
To be eligible for payment, providers must complete a LIHWAP Participation Agreement before receiving payments on behalf of eligible customers. The agreement is valid for the duration of the program. A LIHWAP payment shall guarantee service for at least 90 days after receipt of payment.



## Allowable Services

Direct payment assistance for household accounts in arrears or disconnect status, including reconnection fees when services have been disconnected.

For households that have had their water disconnected or are facing disconnection, LIHWAP funding may pay the full cost that will reconnect or prevent disconnection of service even if it includes costs other than water (e.g. trash, cable, etc.).



## Client Eligibility

Qualified account holders must:

- Be a residential account.
- Be in arrears or disconnect status.
- Be under 150% Federal Poverty Limit and/or actively receiving Temporary Assistance for Needy Families (TANF), Food Assistance Program/Supplemental Nutrition Assistance Program (FAP/SNAP), State Emergency Relief (SER), Social Security Supplemental Income (SSI).



## Outreach

It is the expectation that Community Action Agencies work with water and wastewater providers as well as other community partners in their service area to provide outreach to increase program awareness.

## For more information

Contact your local Community Action Agency or  
[MDHHS-LIHWAP@michigan.gov](mailto:MDHHS-LIHWAP@michigan.gov).



Michigan Department of Health & Human Services

## Memorandum of Understanding Number:

This Memorandum of Understanding (MOU) establishes the responsibilities and procedures for the Michigan Department of Health and Human Services (MDHHS), Mid Michigan Community Action Agency, Inc (Mid Michigan Community Action Agency, Inc.), and ( ) for the purpose described below.

### 1. Background

Access to safe and affordable drinking water and wastewater services is a fundamental element of health, safety, and well-being for households across America. Yet water affordability is a significant and growing concern in communities across the country, and many communities have faced significant challenges related to water safety, aging water infrastructure, and even water shortages due to drought. Moreover, water affordability concerns and the growing crisis of household indebtedness disproportionately impacting low-income individuals and communities of color can be related to multiple adverse household impacts in terms of service disconnections and lien sales, leading to home foreclosures and evictions.

For many low-income households across America, water affordability needs have been significantly exacerbated by the COVID-19 public health crisis, and while water is required to follow the federal guidance from the Centers for Disease Control and Prevention (CDC) advising washing hands frequently in order to reduce the transmission of Covid-19, the pandemic has made it significantly more difficult for individuals and families to pay their home drinking water and wastewater bills.

While water costs and accessibility vary significantly from state to state, the Low Income Household Water Assistance Program (LIHWAP) provides critical nationwide emergency support on behalf of low-income households so that these households are not forced to choose between paying for water services and other necessities like housing, food, and medicine.

### 2. Purpose

As recommended in Information Memorandum LIHPWAP-IM-2021-02 issued from the US Department of Health and Human Services, agreements are to be put into place between participating parties of the Low Income Household Water Assistance Program (LIHWAP) to ensure payments made on behalf of low-income households are processed efficiently and in the best interest of the household. Participating parties include MDHHS, the Community Action Agency (CAA) and Water/Wastewater Utility (Utility) referenced on Page 1 of this agreement.

### 3. Period of Agreement

This MOU becomes effective on the date signed by all parties through September 30, 2023.

### 4. Work Statement of Each Party

## Memorandum of Understanding Number:

- a. The utility, MDHHS and the CAA will:
  - 1) Follow Low-Income Water Assistance Program (LIHWAP) policies and procedures in the Community Services Policy Manual 1405.
  - 2) Agree to not release any private data, to any third party without written authorization from the subject of the data.
  - 3) Collaborate to ensure continuation or reconnection of service to households determined eligible for LIHWAP benefits.
  - 4) Establish a dispute resolution process to resolve issues arising during the term of this agreement.
  - 5) Encourage regular payments from the household.
  - 6) Work together to ensure LIHWAP payments are appropriately applied to accounts and used for LIHWAP services as designated by the CAA.
- b. The MDHHS and CAA will:
  - 1) Determine customer eligibility.
  - 2) Issue payment directly to the utility on behalf of the customer to resolve the arrearage and ensure continuation or reconnection of service.
- c. The utility will:
  - 1) Ensure LIHWAP eligible households are not treated adversely compared to other households.
  - 2) Not disconnect services for 90 days after payment is received on behalf of a customer. If the account is in arrears after 90 days, a new disconnection notice must be issued if applicable.
  - 3) Not charge the eligible household any more than the difference between the normal charge for the service and the payment amount received or expected from the Michigan Department of Health and Human Services (MDHHS) or Community Action Agency (CAA).
  - 4) Supply account number format to the CAA.
  - 5) Timely provide at the request of the customer, the CAA or MDHHS, information on applicant households' home water costs, bill payment history, or arrearage history. This information will be provided in the format requested.
  - 6) Register with the MDHHS in SIGMA Vendor Self Service to receive LIHWAP SER payments if not a currently registered vendor.
  - 7) Use the warrant or EFT date as the LIHWAP payment date.
  - 8) Apply all LIHWAP payments to the household's account within 5 business days of receipt of payment.
  - 9) Apply the assistance payments to arrears and applicable fees with reconnection services only. Payments resulting in a credit on the customer's account balance are not allowable.
  - 10) Process and refund any refunds requested by the CAA or MDHHS within 60 business days. The refund must include the client's name, service address, and the MDHHS case number, if available.
  - 11) Not charge an eligible household, the MDHHS, or CAA any administrative fees for providing services.
  - 12) Accept all customer payments.
  - 13) Use LIHWAP funds to pay for home water and sewer costs, as designated by the CAA

Memorandum of Understanding Number:

- and MDHHS.
- 14) Continue or reconnect service to households as negotiated by the CAA on behalf of the household.
  - 15) When addressing household water emergencies, accept early notification authorization by telephone, fax, or electronic communication.
  - 16) Notify the CAA or MDHHS if there is reason to believe LIHWAP funds have been misused.
  - 17) Comply with the provisions of Act 453, PA 1976, which prohibits discrimination on the basis of race, color, religion, national origin, age, sex, height, weight, or marital status.

Each party shall furnish all labor, equipment, materials, and supplies necessary for the performance of the MOU activities, and meet operational standards, unless otherwise specified above.

**5. Termination & Amendments**

A party may terminate this MOU at any time by giving 30 days prior written notice to the other parties. This MOU may be amended upon written approval of all parties at any time.

This MOU contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this MOU will be deemed to exist or to bind any of the parties.

**6. Notices**

All notices and other communications required or permitted under this MOU must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

|                                                                                 |                                                                     |
|---------------------------------------------------------------------------------|---------------------------------------------------------------------|
| If to MDHHS:                                                                    | If to Mid Michigan Community Action Agency, Inc.:                   |
| <i>Ben Gulker</i><br><i>MEAP Specialist</i><br><i>MDHHS-LIHWAP@michigan.gov</i> | <i>[Name]</i><br><i>[Title]</i><br><i>[Email]</i><br><i>[Phone]</i> |
| If to :                                                                         |                                                                     |
| <i>[Name]</i><br><i>[Title]</i><br><i>[Email]</i><br><i>[Phone]</i>             |                                                                     |

**7. Reserved**

**8. MDHHS Data**

All data and information provided to Mid Michigan Community Action Agency, Inc. and/or by or on behalf of MDHHS, and all data and information derived therefrom, is the exclusive property of MDHHS ("MDHHS Data"); this definition is to be construed as broadly as possible. Upon request, Mid Michigan Community Action Agency, Inc. and/or must provide to MDHHS, or a third party designated by MDHHS, all MDHHS Data within 10 calendar days of the request and in the format requested by MDHHS. Mid Michigan Community Action Agency, Inc. and/or will assume all costs incurred in compiling and supplying MDHHS Data. No MDHHS Data may be used for any marketing purposes.

Mid Michigan Community Action Agency, Inc. and shall comply with all MDHHS physical and IT security policies and standards which will be made available upon request.

**9. Non-Disclosure of Confidential Information**

The parties acknowledge that each party may be exposed to or acquire communication or data of the other parties that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this MOU.

- a. Meaning of Confidential Information. For the purposes of this MOU, the term "Confidential Information" means all information and documentation of the other parties that:
- 1) Has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party;
  - 2) If disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning;
  - 3) Should reasonably be recognized as confidential information of the disclosing party;
  - 4) Is unpublished or not available to the general public; or
  - 5) Is designated by law as confidential.

The term "Confidential Information" does not include any information or documentation that was:

- 1) Subject to disclosure under the Michigan Freedom of Information Act (FOIA);
- 2) Already in the possession of the receiving party without an obligation of confidentiality;
- 3) Developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights;

Memorandum of Understanding Number:

- 4) Obtained from a source other than the disclosing party without an obligation of confidentiality;
- 5) Publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party).

For purposes of this MOU, in all cases and for all matters, MDHHS Data is deemed to be Confidential Information.

- b. Obligation of Confidentiality. The parties agree that they will use Confidential Information solely for the purposes of this MOU. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this MOU or to use such Confidential Information for any purposes whatsoever other than the performance of this MOU. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible when all of the following are met:

- 1) Use of a subcontractor is authorized under this MOU;
- 2) The disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and
- 3) Mid Michigan Community Action Agency, Inc. or      obligates the subcontractor in a written contract to maintain MDHHS's Confidential Information in confidence.

At MDHHS's request, any employee of Mid Michigan Community Action Agency, Inc. and/or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.

- c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other parties in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Each party must notify the other parties within one business day after discovering any unauthorized use or disclosure of Confidential Information. Each party will cooperate with the other parties to regain possession of Confidential Information, to prevent further unauthorized use or disclosure of Confidential information, and to notify any appropriate person of the unauthorized use or disclosure of Confidential Information. In addition, each party must advise the other parties immediately in the event the party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this MOU and each party will cooperate with the other parties in seeking injunctive or other equitable relief against any such person.

- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other parties, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of MDHHS, at the sole election of MDHHS, the immediate termination, without liability to MDHHS, of this MOU or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination. Upon termination of this MOU or a Statement of Work, in whole or in part, each party must, within five calendar days from the date of termination, return to the other parties any and all Confidential Information received from the other parties, or created or received by a party on behalf of the other parties, which are in such party's possession, custody, or control; provided, however, that Mid Michigan Community Action Agency, Inc. and/or      must return MDHHS Data to MDHHS following the timeframe and procedure described further in this MOU. Should Mid Michigan Community Action Agency, Inc.,      , or MDHHS determine that the return of any non-MDHHS Data Confidential Information is not feasible, such party must destroy the non-MDHHS Data Confidential Information and must certify the same in writing within five calendar days from the date of termination to the other parties.

**10.      Compliance with Laws**

Mid Michigan Community Action Agency, Inc. and      must comply with all applicable federal, state, and local laws, administrative rules and regulations.

**11.      Nondiscrimination**

Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., Mid Michigan Community Action Agency, Inc.,      , and its subcontractors agree 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 race, color, religion, national origin, age, sex, height, weight, marital status or mental or physical disability. Breach of this covenant is a material breach of this MOU.

**12.      Unfair Labor Practice**

Under MCL 423.324, MDHHS may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.

**13. Governing Law**

This MOU is exclusively governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this MOU are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this MOU must be resolved in Michigan Court of Claims. Mid Michigan Community Action Agency, Inc. and      consent to venue in the Michigan Court of Claims, and waive any objections, such as lack of personal jurisdiction or forum non conveniens. Mid Michigan Community Action Agency, Inc. and      must appoint agents in Michigan to receive service of process.

**14. Force Majeure**

A party will not be in breach of this MOU because of any failure arising from any disaster or acts of God that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Mid Michigan Community Action Agency, Inc. and      will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, MDHHS may immediately contract with a third party.

**15. Dispute Resolution**

The parties will endeavor to resolve any MOU dispute in accordance with this provision. The dispute will be referred to the parties' respective Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' respective senior executive, and either senior executive concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit MDHHS's right to terminate the MOU.

**16. Media Releases**

News releases (including promotional literature and commercial advertisements) pertaining to the MOU or project to which it relates must not be made without prior written MDHHS approval, and then only in accordance with the explicit written instructions of MDHHS.

**17. Website Incorporation**

MDHHS is not bound by any content on the other parties' websites unless expressly incorporated directly into this MOU. MDHHS is not bound by any end user license agreement or terms of use unless specifically incorporated into this MOU or any other agreement signed by MDHHS.

**18. Severability**

If any part of this MOU is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this MOU and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining MOU will continue in full force and effect.

**19. Waiver**

Failure to enforce any provision of this MOU will not constitute a waiver.

**20. Survival**

The provisions of this MOU that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this MOU.

**21. Entire MOU**

This MOU is the entire agreement and replaces all previous agreements between the parties for the MOU Activities.

**MEMORANDUM OF UNDERSTANDING NUMBER:**  
**Between**  
**THE STATE OF MICHIGAN**  
**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
**And**

|                                                                    |                                |
|--------------------------------------------------------------------|--------------------------------|
| PARTNER / ENTITY NAME<br>Mid Michigan Community Action Agency, Inc | PRIMARY CONTACT<br>Jill Sutton |
| EMAIL<br>jsutton@mmcaa.org                                         | TELEPHONE<br>989-386-3805      |

**And**

|                                           |                                   |
|-------------------------------------------|-----------------------------------|
| PARTNER / ENTITY NAME<br>City of Muskegon | PRIMARY CONTACT<br>Frank Peterson |
| EMAIL<br>frank.peterson@shorelinecity.com | TELEPHONE<br>231-724-6705         |

|               |                    |                           |                                    |
|---------------|--------------------|---------------------------|------------------------------------|
| MDHHS CONTACT | NAME<br>Ben Gulker | TELEPHONE<br>517-285-8053 | EMAIL<br>MDHHS-LIHWAP@michigan.gov |
|---------------|--------------------|---------------------------|------------------------------------|

| MEMORANDUM OF UNDERSTANDING SUMMARY |                                                                                                                                                            |
|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| BRIEF DESCRIPTION OF PURPOSE        | Agreement between the water/wastewater provider, Community Action Agency and MDHHS for participation in the Low Income Household Water Assistance Program. |
| BEGIN DATE                          | END DATE<br>September 30, 2023                                                                                                                             |

The individual or officer signing this agreement certifies by his or her signature that he or she is authorized to sign this agreement on behalf of the responsible governing board, official or agency.

Mid Michigan Community Action Agency, Inc

Michigan Department of Health and Human Services

Signature of Authorized Designee

Signature of Director or Authorized Designee

Jill Sutton, Executive Director, MMCAA

Jeanette Hensler

Print Name / Title

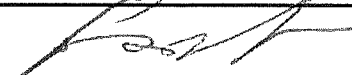
Director-Grants Division, Bureau of Grants and Purchasing

Print Name / Title

Date

Date

City of Muskegon



Signature of Authorized Designee

Frank Peterson City Manager

Print Name / Title

11/17/21  
Date

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                    | Title: Final Approval of the Flock LPR deployment                                                                            |
| Submitted By: Chief Kozal, Capt. Bahorski                                                                                                                                                                                                                                                                                                                                                                                                                    | Department: Public Safety                                                                                                    |
| <b>Brief Summary:</b><br>Staff is requesting final approval for the purchase and deployment of the FLOCK license plate reader system.                                                                                                                                                                                                                                                                                                                        |                                                                                                                              |
| <b>Detailed Summary &amp; Background:</b><br>On May 8 <sup>th</sup> Chief Kozal and Capt. Bahorski presented to the commission during a work session. The request was to move forward with the implementation of a 10-camera FLOCK license plate reader system. That request was supported by the Commission and funding was added to the budget. The Public Safety Department is prepared to enter into a 2-year agreement with FLOCK to deploy the system. |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Use of this system will assist the 2027 Goal 1 "Destination Community & Quality of Life". Staff believes that the use of this system is a proactive way to reduce the instances and perception of crime in the city thereby positively affecting the resident's quality of life and will help attract visitors to the city.                                                                                           |                                                                                                                              |
| Amount Requested: \$72,000                                                                                                                                                                                                                                                                                                                                                                                                                                   | Budgeted Item:<br>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>           |
| Fund(s) or Account(s): 101-301-977                                                                                                                                                                                                                                                                                                                                                                                                                           | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |
| <b>Recommended Motion:</b><br>I move to approve the purchase and deployment of the Flock camera system.                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                              |
| <b>Approvals:</b><br>Immediate Division Head <input checked="" type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input type="checkbox"/><br>Communication <input type="checkbox"/><br>Legal Review <input checked="" type="checkbox"/>                                                                                                                                                                           | <b>Guest(s) Invited / Presenting:</b><br>Yes <input type="checkbox"/><br>No <input checked="" type="checkbox"/>              |

## **Flock Safety + MI - Muskegon PD**

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Flock Group Inc.  
1170 Howell Mill Rd, Suite 210  
Atlanta, GA 30318

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MAIN CONTACT:  
Matt Wayne  
[matt.wayne@flocksafety.com](mailto:matt.wayne@flocksafety.com)  
7345586000

**flock safety**



**EXHIBIT A**  
**ORDER FORM**

Customer: MI - Muskegon PD  
Legal Entity Name: MI - Muskegon PD  
Accounts Payable Email: timothy.kozal@shorelinecity.com  
Address: 980 Jefferson Street Muskegon, Michigan 49440

Initial Term: 24 Months  
Renewal Term: 24 Months  
Payment Terms: Net 30  
Billing Frequency: 50% of Annual Contract + 100% of Implementation Invoiced at Signing. 25% of Annual Contract Invoiced at First Camera Validation. 25% of Annual Contract Invoiced at Last Camera Validation. Annual payments invoiced for remainder of subscription term.  
Retention Period: 30 Days

**Hardware and Software Products**

Annual recurring amounts over subscription term

| Item                                | Cost       | Quantity | Total              |
|-------------------------------------|------------|----------|--------------------|
| <b>Flock Safety Platform</b>        |            |          | <b>\$32,500.00</b> |
| <b>Flock Safety LPR Products</b>    |            |          |                    |
| Flock Safety Falcon ®               | Included   | 10       | Included           |
| <b>Flock Safety FlockOS Add Ons</b> |            |          |                    |
| Flock Safety Advanced Search        | \$2,500.00 | 1        | \$2,500.00         |

**Professional Services and One Time Purchases**

| Item                                                | Cost     | Quantity | Total      |
|-----------------------------------------------------|----------|----------|------------|
| <b>One Time Fees</b>                                |          |          |            |
| <b>Flock Safety Professional Services</b>           |          |          |            |
| Professional Services - Standard Implementation Fee | \$650.00 | 10       | \$6,500.00 |

**Subtotal Year 1:** \$39,000.00  
**Annual Recurring Subtotal:** \$32,500.00  
**Estimated Tax:** \$0.00  
**Contract Total:** \$71,500.00

*Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "Renewal Term") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

**Billing Schedule**

| Billing Schedule              | Amount (USD) |
|-------------------------------|--------------|
| Year 1                        |              |
| At Contract Signing           | \$22,750.00  |
| At First Device Installed     | \$8,125.00   |
| At Last Device Installed      | \$8,125.00   |
| Annual Recurring after Year 1 | \$32,500.00  |
| Contract Total                | \$71,500.00  |

\*Tax not included

Product and Services Description

| Flock Safety Platform Items | Product Description                                                                                                               | Terms                                                                             |
|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| Flock Safety Falcon ®       | An infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint® technology to capture vehicular attributes. | The Term shall commence upon first installation and validation of Flock Hardware. |

| One-Time Fees                                       | Service Description                                                                                                                                                                                            |
|-----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Installation on existing infrastructure             | One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.       |
| Professional Services - Standard Implementation Fee | One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief. |
| Professional Services - Advanced Implementation Fee | One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.       |

**By executing this Order Form, Customer represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms of Service located at <https://www.flocksafety.com/terms-and-conditions>**

The Parties have executed this Agreement as of the dates set forth below.

**FLOCK GROUP, INC.**

**Customer: MI - Muskegon PD**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

PO Number: \_\_\_\_\_

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Title: Samaritas Payment in Lieu of Taxes (PILOT) Agreement |
| Submitted By: Jake Eckholm                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Department: Development Services                            |
| <p>Brief Summary: City Staff has negotiated and reviewed a Payment in Lieu of Taxes agreement for commission consideration for an adaptive reuse project at Froebel School into affordable workforce housing apartments.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                             |
| <p>Detailed Summary &amp; Background:</p> <p>For several years staff have been attempting to find a partner that had interest and capacity in the adaptive reuse of the long-vacant Froebel School building. Since 2019, we have toured more than 10 entities through the school, and held a community meeting offering several touring opportunities for the public. Through these efforts we have developed interest from Samaritas for the potential installation of affordable housing units by application to the Michigan Statewide Housing Development Authority (MSHDA) Low Income Housing Tax Credit (LIHTC) Program. If awarded, then Samaritas proposes historical preservation and adaptive remodel of the school building into apartments for low to moderate income residents. The attached agreement establishes their payment in lieu of taxes as 2% of net shelter rents. <b>Note that this is the lowest proposed PILOT of our proposed MSHDA submissions. This is due to the facts that we are the owners of this facility and will incur significant costs to demolish or otherwise redevelop the site, and that Samaritas is a non-profit housing developer with limited capacity to finance and construct facilities compared with for-profit housing development firms.</b></p> <p>If approved by commission, Samaritas is also proposing a Municipal Services Agreement of 3% of net shelter rents, for a total annual payment of 5% of rents. The Municipal Services Agreement (MSA) stays completely with the city to defray costs of public service delivery to the site, while the PILOT payment is divided proportionally to the other taxing jurisdictions, similar to a traditional property tax payment.</p> <p>This item is connected to the Samaritas MSA agenda item, as well as the sales agreement item for Froebel School.</p> |                                                             |

Goal/Focus Area/Action Item Addressed: Goal 2.1: Diverse Housing Types, Goal 4.3 Increased Revenue

Amount Requested: N/A

Budgeted Item:

Yes ☐ No ☐ N/A ☒

Fund(s) or Account(s): N/A

Budget Amendment Needed:

Yes ☐ No ☒ N/A ☐

Recommended Motion: Motion to approve the Contract for Housing Exemption with Samaritas Affordable Living Froebel Limited Dividend Housing Association Limited Partnership and authorize the mayor and clerk to sign.

Approvals:

Immediate Division Head ☒

Information Technology ☐

Other Division Heads ☒

Communication ☐

Legal Review ☒

Guest(s) Invited / Presenting:

Yes ☒

No ☐

## CITY OF MUSKEGON

### CONTRACT FOR HOUSING EXEMPTION

This Agreement between **SAMARITAS AFFORDABLE LIVING FROEBEL LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP**, a Michigan limited partnership (the "Developer") and **CITY OF MUSKEGON**, 933 Terrace Street, Muskegon, Michigan (the "City") is made pursuant to the following terms:

#### RECITALS

A. The City has adopted Chapter 82, Article II "Taxation" of the City Code of Ordinances, providing for tax exemption (the "Ordinance and provide for a service charge in lieu of taxes for a housing project for low income persons and families to be financed with a Federally-aided Mortgage Loan or an advance or grant from the Authority pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, et seq.) (the "Act");

B. It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low-income senior persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City is authorized by this Act to establish or charge the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for low-income persons and families is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed with financing extended in reliance on such tax exemption.

The City acknowledges that the Sponsor (as defined below) has offered, subject to receipt of an allocation of Low Income Housing Tax Credits and/or receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to construct/acquire and rehabilitate, own and operate a housing project identified as Samaritas Affordable Living Froebel on certain property located at 417 Jackson Avenue, Muskegon, Michigan in the City (the "Project") to serve low income persons, and that the Sponsor has offered to pay the City on account of this housing project an annual service charge for public services in lieu of all *ad valorem* property taxes.

C. Developer has assumed an agreement to purchase a site in the City of Muskegon (417 Jackson Avenue) for the construction of a proposed low-income housing project as defined in City Section 82-46 of the Ordinance.

D. Developer and an affiliate of Developer, to be formed, have or will enter into an agreement to form a limited dividend housing association limited liability company to function as

owner of the proposed low-income housing Project. The owning entity to be formed will be identified as SAMARITAS AFFORDABLE LIVING FROEBEL LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP.

E. The City encourages construction and financing of the said low-income housing project which is identified by the working name of Samaritas Affordable Living Froebel.

F. To further enable and encourage the construction of the housing project, Developer and the City enter into this Agreement.

G. The legal description of the Project is set forth in Exhibit A attached to this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Definitions.

1.1 "Authority" means the Michigan State Housing Development Authority.

1.2. "Annual Shelter Rent" means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of Utilities.

1.3. "Contract Rents" means the total Contract Rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed annual period, exclusive of Utilities.

1.4. "Low Income Persons and Families" means persons and families eligible to move into a housing project.

1.5 "Low Income Housing Tax Credits" means credits allocated under Section 42 of the Internal Revenue Code ("LIHTC")

1.6. "Mortgage Loan" means a Federally-Aided Mortgage or loan or grant made or to be made by the Authority to the Sponsor for the construction and/or permanent financing of the housing project, and secured by a mortgage on the housing project.

1.7. "Net Shelter Rent" means all collected rents on the subject project property accounting for point-in-time vacancies.

1.8. "Sponsor" means SAMARITAS AFFORDABLE LIVING FROEBEL LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP, and any entity that receives or assumes a Mortgage Loan.

1.9. "Utilities" means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

1.9 “ Low Income” means persons and families whose is income eligible according to MSHDA income standards set by the AMI Limits for Muskegon County PMSA.

2. Grant of Exemption. As contemplated and pursuant to Act 346 of the Public Acts of 1966, as amended, the State Housing Development Authority (the "Act"), the City hereby grants an exemption from all ad valorem property taxes attributable to the buildings which consist of rental units offered to eligible Low-Income seniors and families as defined above.

3. Term of Exemption. This exemption shall continue for the period the housing units remain subject to income and rent restrictions pursuant to Section 42 of Internal Revenue Service Codes of 1986, as amended (IRS Codes), or the Authority Regulatory Agreement not to exceed 25 years. The City agrees to be contractually bound by this Agreement to honor the exemption status of the proposed project as provided herein and in this Agreement for the entire period during which the Project is financed by the Authority or receives low income housing tax credits under Section 42 of the IRS Codes, provided that the said Mortgage Loan or a loan originally financed by the low income housing tax credits continues outstanding as more particularly set forth in Section 82-50(3) of the Ordinance, not to exceed 25 years.

4. Responsibilities of the Developer. The Developer agrees to perform the following:

4.1 The Developer shall pay the service charge and payment in lieu of all ad valorem taxes on or before July 1, of each year during the time the exemption is in effect. The service charge shall equal two percent (2 %) percent of the net shelter rents charged for all of the LIHTC certified units in the exempt housing project for the preceding calendar year, exclusive of the utility charges paid by the project.

4.2 The Developer agrees to file all information required by the Ordinance and further to meet its obligations to the Authority in connection with the Authority's administration of the low income housing tax credit program.

4.3 In lieu of the requirement to submit a statement of annual shelter rents and/or contract rents within 30 days after December 31, as required by the Ordinance, Developer shall submit an annual audit by April 1<sup>st</sup>. If not timely filed, and 30 days after notice to Developer of said delinquency, a penalty of 1.25% of the service charge shall be imposed. This penalty shall be collectible in the same manner provided in Section 82-54 of the Ordinance.

5. Interpretation of Financing. The City agrees that the use of low income housing tax credits constitutes financing of the loan by the Authority in fulfillment of the requirements of Section 82-50(3) of the Ordinance.

6. Contractual Effect of Ordinance. Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

7. Payment of Service Charge. The annual service charge in lieu of taxes as determined under this Ordinance shall be payable in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before April 1st of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, et seq.).

8. Limitation on the Payment of Annual Service Charge. Notwithstanding Section 3, the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt but which is occupied by other than Low Income persons as defined in section 1.9 shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

9. Counterparts. This Agreement may be executed in several counterparts and an executed copy hereof may be relied upon as an original.

10. Binding and Benefit. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, personal representatives, successors and assigns.

11. Effective Date. The effective date of this Agreement is the date that Developer or its assignee completes construction and receives a temporary or permanent certificate of occupancy from the City for the Property.

12. Severability. The various sections and provisions of this Agreement shall be deemed to be severable, and should any section or provision of this Agreement be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Agreement as a whole or any section or provision of this Agreement, other than the section or provision so declared to be unconstitutional or invalid.

13. Inconsistent Ordinances. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Agreement are of no effect to the extent of such inconsistency or conflict.

14. Choice of Law; Venue. This Agreement is executed in accordance with, shall be governed by, and construed and interpreted in accordance with the laws of the State of Michigan. The parties agree that for purposes of any dispute in connection with this Agreement, the Muskegon County Circuit Court shall have exclusive personal and subject matter jurisdiction and venue.

IN WITNESS WHEREOF, the parties have signed this Agreement on the following page, on the dates indicated.

**CITY OF MUSKEGON**

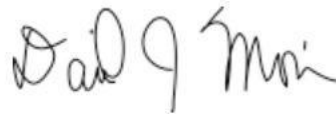
By: \_\_\_\_\_  
Ken Johnson  
Its: Mayor  
Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Ann Meisch  
Its: City Clerk  
Dated: \_\_\_\_\_

**SAMARITAS AFFORDABLE LIVING FROEBEL  
LIMITED DIVIDEND HOUSING ASSOCIATION  
LIMITED PARTNERSHIP,**  
a Michigan limited partnership

By: Samaritas Affordable Living Froebel GP, LLC, a  
Michigan limited liability company  
Its: General Partner

By: Samaritas, a Michigan non-profit corporation  
Its: Sole Member



By: \_\_\_\_\_  
Print: David J Morin  
Its: Interim CEO  
Dated: 09/29/23



By: \_\_\_\_\_  
Print: Cyndie Szczur  
Its: Interim CFO  
Dated: 10/2/2023

**EXHIBIT A**

LEGAL DESCRIPTION

A PORTION OF THE FOLLOWING DESCRIBED PARCEL TO BE DETERMINED BY A SURVEY:

CITY OF MUSKEGON REVISED PLAT OF 1903 BLKS 25 & 26 ALSO BLK 27 EXCEPT LOTS 6 & 7 ALSO BLK 24 EXCEPT S 12 FT OF W 1/2 LOT 2 BLK 24

61-24-205-024-0001-00



September 28, 2023

Muskegon City Commission  
933 Terrace St  
Muskegon, Michigan 49440  
Attn: Jake Eckholm, Economic Development Director and Jonathan Seyfreth, City Manager

**Re: Request to the City of Muskegon for a 20 Year, 2% PILOT and 3% MSA (Service Charge in Lieu of Ad Valorem Property Tax) to facilitate the award of Tax Credits**

To the Muskegon City Commission:

Samaritas, a leading human service and housing provider, is working to create the Samaritas Affordable Living (SAL) Froebel project. This project will be owned and operated by Samaritas Affordable Living Froebel Limited Dividend Housing Association, Limited Partnership. SAL Froebel will provide up to 46 desirable new units of housing for individuals and families by performing an adaptive reuse of the historical Froebel School building at 417 Jackson Avenue in the city of Muskegon. The two-story school building, in the Jackson Hill neighborhood near downtown Muskegon, will support and compliment the city's revitalization efforts that began several years ago. The project creates up to 46 needed units for residents seeking to live and work in a beautifully restored historic building on spacious grounds.

The SAL Froebel site offers numerous amenities. It has a 400 person auditorium that will be available to both residents and community members. The project will bring programs and partners into this restored theatre space for meaningful experiences and community building. It is located next to Smith Ryerson Park and boasts its own large green spaces. It is also near the downtown commercial district which provides retail, services, and restaurants. There is a public transportation stop on the northeast corner of the parcel. The location allows residents to easily slip into downtown where they can enjoy various features and attractions in the downtown area, such as the Muskegon Farmers Market, LC Walker Arena, and the shopping and dining district on Western Avenue.

The project helps to address the lack of housing in the transition area between the downtown and the outlying areas of the Muskegon. As an adaptive reuse project, SAL Froebel will restore a long vacant beautiful building otherwise slated for demolition. The surface parking area will provide ample spaces on the site. Residents can take advantage of available public transportation or para-transit opportunities as well as pedestrian and bicycle options.

SAL Froebel will be financed with equity from the sale of Low Income Housing Tax Credits, Historic Tax Credits, a permanent mortgage, a sponsor loan, and a portion of the developer fee will be deferred with repayment over thirteen years.

The SAL Froebel project is located within an Opportunity Zone census tract and is expected to create at least two ongoing jobs and at least 43 temporary jobs during the construction period based on projects of similar size and scope.

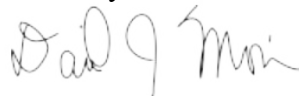
Samaritas has designed the project specifically for both individuals and couples of all ages, and families. Some of them may be working in local retail, service, restaurant, or commercial businesses and want easy access to their place of employment, along with entertainment in the vicinity. Some may be searching for housing but high-quality affordable housing simply is not available. Some may not have enough income to maintain a single-family home. The SAL Froebel project will provide housing for these residents and will also include shared community space to meet the need for socializing. By providing a high-quality, attractive independent living option for individuals and families in an affordable price range, the SAL Froebel project will have a positive impact on the housing market in the City of Muskegon.

Samaritas is already significantly involved in serving the Muskegon area by managing two affordable living communities for seniors, SAL Muskegon at 785 Spring Street and Christian Manor at 1480 McLaughlin, operating five facilities for persons with disabilities, providing Foster Care and Family Reunification Services, and having a corporate office located at the Frauenthal Center in downtown Muskegon.

To discuss the possibilities of this request, please contact Joel Lautenbach, Executive Director of Affordable Living Development at 616-916-0575 or by e-mail at [jlaut@samaritas.org](mailto:jlaut@samaritas.org).

The Samaritas development team thanks you for your consideration of our PILOT and MSA request which is a key component to being awarded by MSHDA in the competition for Low Income Housing Tax Credits and being able to completely finance the proposed project. The 2% Pilot and 3% MSA rate at 5% overall helps this blighted building project afford larger permanent loan and allows for operational funds to be used to maintain the considerable building being restored. We hope to continue to serve the Muskegon community and to create a new housing project that we can all be proud of.

Sincerely,



Dave Morin

Interim Chief Executive Officer

Samaritas

2080 Union Avenue

Grand Rapids, Michigan, 49507

### **About Samaritas:**

Samaritas, one of the state's largest faith-based nonprofits, has been sending ripples of positive change into Michigan communities since 1934. Samaritas serves people of all ages and backgrounds including providing resettlement services for New Americans, adoption and foster care, and at-home services, and residential communities for seniors and persons with disabilities, through assisted living, skilled nursing and memory care. Affordable living residential communities also are available for independent seniors, families and persons with disabilities.

More than safe harbor in crisis, Samaritas comes through, when others don't, with a path home. Samaritas connects all people based on their individual circumstances with the families and communities that will empower them to live their fullest life possible. Potential fulfilled, those served then promote the dignity of others, launching into the community an unending ripple effect of transformation.

For additional information, visit [www.samaritas.org](http://www.samaritas.org).

### **Qualifications and Experience**

Development Team members for this project will include:

Samaritas – Managing General Partner, Developer, Non-profit Sponsor and Management Agent

Pinnacle Construction Group, Inc. – West Michigan based General Contractor

KMG Prestige – Compliance Manager

Chesapeake Community Advisors – Tax Credit Housing Consultant

Samaritas is the Sponsor/Developer of the project. Samaritas, formerly known as Lutheran Social Services, is an experienced nonprofit developer with locations throughout Michigan including ownership in four LIHTC properties, five multifamily developments with HUD financing, and management of six additional independent living HUD properties. Samaritas also owns and operates four senior living campuses throughout the state that offer independent living, assisted living, skilled nursing or memory care. Samaritas has been providing social services in the City of Muskegon and Muskegon County for over forty years. Samaritas will be involved in all aspects of the project's development and operations. Samaritas has a successful and proven track records with both MSHDA and HUD and will provide a strong and experienced ownership team to provide quality housing. Samaritas has offices in downtown Muskegon at the Frauenthal Center. The Samaritas Director of Affordable Housing works from our newest community at 785 Spring Street.

## **Project Site and Unit Description**

The SAL Froebel site includes the school and grounds, along with an existing surface parking lot that will be repaved. The edges of the site are bound by Jackson Avenue, Wood Street, Sumner Avenue and Marshall Street. The historic exterior facade and windows will all be restored. The first floor includes the entrance vestibules, community room, reception area, management office, public restrooms and mail/package area. The first floor also contains a magnificent 400 person auditorium which will be restored and placed into service with community programming and partnerships. The building also has an interior courtyard for additional green space.

The first floor includes 25 units. The second floor includes 21 units. There will be 46 total units, a mix of 2 studio, 37 one and 7 two-bedroom apartments.

The project plans for seven project-based vouchers for veterans. All unit rents will be based on income, with six units at 30% of Area Median Income (AMI), seven units at 40% of AMI, seventeen units at 60% of AMI, and six at 70% of AMI and, seven units at 80% of AMI.

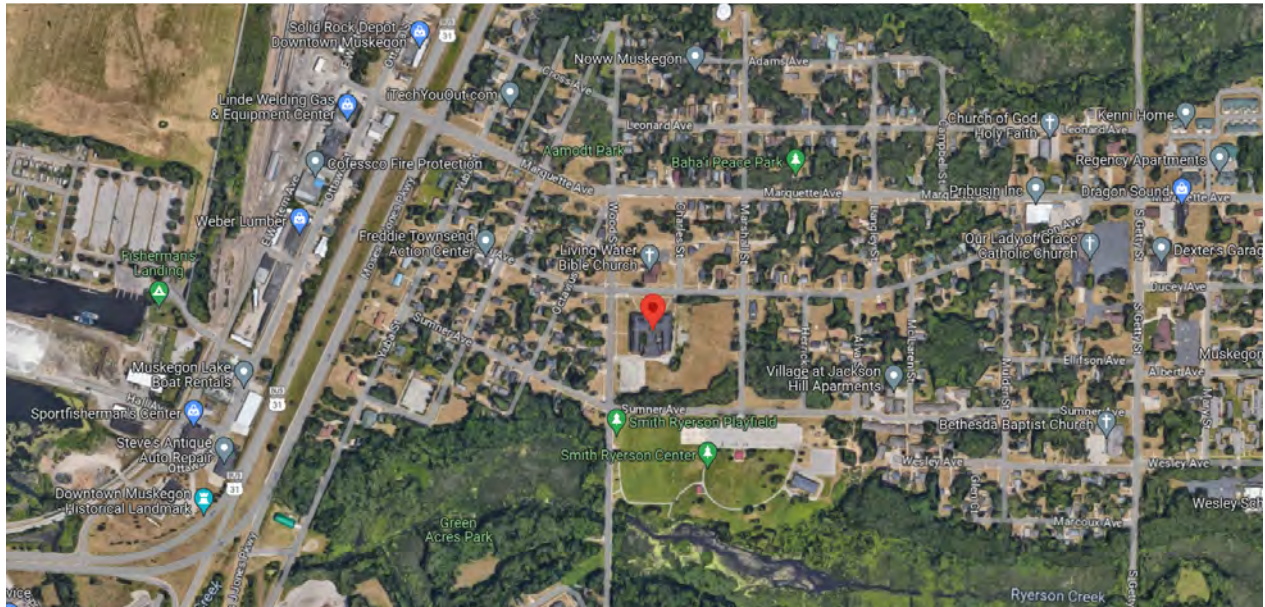
Project amenities include energy efficient construction and Energy Star rated appliances including dishwasher, garbage disposal, electric stove with self-cleaning oven and frost-free refrigerator; wall to wall carpeting in both the living room and bedroom; walk-in closet; in-unit heating/cooling system with individually controlled thermostat. The first floor includes a computer/business center, a library, and a coffee bar in the community room.

The site will provide independent living. However, Samaritas will help to provide outside services that facilitate the health and well-being of all residents. Although this is not permanent supportive housing, Samaritas will have staff on site and will work directly with residents on housing and life issues and will help locate outside resources within the community to assist residents, enabling them to maintain their independence.

Planned services include:

- Out-patient level substance use rehabilitation services
- Physical or behavioral health services
- Behavioral health services
- Youth programming in the theatre space
- Homeownership preparation classes
- Financial literacy classes

# Location Maps



## Site Plan

SAMARITAS AFFORDABLE LIVING FROBEL













## Agenda Item Review Form

### Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Title: Samaritas Municipal Services Agreement |
| Submitted By: Jake Eckholm                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Department: Development Services              |
| <p>Brief Summary: City Staff has negotiated and reviewed a Payment in Lieu of Taxes agreement for commission consideration for an adaptive reuse project at Froebel School into affordable workforce housing apartments.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                               |
| <p>Detailed Summary &amp; Background:</p> <p>For several years staff have been attempting to find a partner that had interest and capacity in the adaptive reuse of the long-vacant Froebel School building. Since 2019, we have toured more than 10 entities through the school, and held a community meeting offering several touring opportunities for the public. Through these efforts we have developed interest from Samaritas for the potential installation of affordable housing units by application to the Michigan Statewide Housing Development Authority (MSHDA) Low Income Housing Tax Credit (LIHTC) Program. If awarded, then Samaritas proposes historical preservation and adaptive remodel of the school building into apartments for low to moderate income residents. The attached agreement establishes their Municipal Services Agreement at 3% of shelter rents.</p> <p>If approved by commission, Samaritas is also proposing a PILOT payment of 2% of net shelter rents, for a total annual payment of 5% of rents. The Municipal Services Agreement (MSA) stays completely with the city to defray costs of public service delivery to the site, while the PILOT payment is divided proportionally to the other taxing jurisdictions, similar to a traditional property tax payment.</p> <p>This item is connected to the Samaritas PILOT agenda item, as well as the sales agreement item for Froebel School.</p> |                                               |
| Goal/Focus Area/Action Item Addressed: Goal 2.1: Diverse Housing Types, Goal 4.3 Increased Revenue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                               |

|                                                                                                                                                                                                                                                                                        |                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Amount Requested: N/A                                                                                                                                                                                                                                                                  | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s): N/A                                                                                                                                                                                                                                                             | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |
| Recommended Motion: Motion to approve the Municipal Services Agreement with Samaritas Affordable Living Froebel Limited Dividend Housing Association Limited Partnership and authorize the mayor and clerk to sign.                                                                    |                                                                                                                              |
| Approvals:<br>Immediate Division Head <input checked="" type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input checked="" type="checkbox"/><br>Communication <input type="checkbox"/><br>Legal Review <input checked="" type="checkbox"/> | Guest(s) Invited / Presenting:<br>Yes <input checked="" type="checkbox"/><br>No <input type="checkbox"/>                     |

## MUNICIPAL SERVICES AGREEMENT

**THIS MUNICIPAL SERVICES AGREEMENT** (“Agreement”) is entered into on this \_\_\_ day of O c t o b e r , 2023 between **SAMARITAS AFFORDABLE LIVING FROEBEL LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP, a Michigan limited partnership** its successors and/or assigns (the “Developer”) and the **CITY OF MUSKEGON**, 933 Terrace Street, Muskegon, MI 49440 (the “City”) is made pursuant to the following terms:

### RECITALS

A. Developer has assumed an agreement to purchase a site in the City of Muskegon known as 417 Jackson Avenue for the construction of a proposed low-income housing project (the “Project”).

B. The parties recognize that due to the high concentration of persons residing at the Project that the City will be providing a higher level and greater amount of Municipal Services (as defined in this Agreement) to the Project.

C. The City, through its Police and Fire Departments and otherwise, provides Municipal Services within the City. The Project will have special needs for these types of Municipal Services and Developer acknowledges that such needs may be greater than typically situated residential developments.

D. The Developer desires to guarantee that certain Municipal Services will be provided to the Project during the term that the Payment in Lieu of Tax (hereinafter referred to as the “Contract for Housing Exemption”) Ordinance for this Project is in place, such Municipal Services to include, but not be limited to:

1. Emergency services, including police and fire services specifically administered through the City, and, on public streets and sidewalks, maintenance, repair, snow removal, and street lighting; also to include other matters as the City deems necessary;
2. Other miscellaneous services as may, from time to time, be mutually agreed to for the benefit of the Project;
3. Said municipal services shall be provided in the customary way and in accordance with all laws, rules and regulations of the United States of America, State of Michigan, County of Muskegon and City of Muskegon or other applicable jurisdictions or bodies.

(All of the above collectively referred to as “Municipal Services”)

4. Nothing in this Agreement shall be deemed to waive any defense to claims based on sovereign or governmental immunity.

## **AGREEMENT**

The parties agree as follows:

1.     **Provision of Services.** The City will provide the Municipal Services.
2.     **Payment.** The Developer shall pay a service charge on or before July 1, of each year during the time the CONTRACT FOR HOUSING EXEMPTION is in effect. ("Municipal Services Fee"). The Municipal Service Fee shall be three (3%) percent of the net rent adjusted for vacancies received annually, excluding project paid utilities, starting during the calendar year that a unit in the Project is placed in service. The first year shall be pro-rated based on that portion of the City's fiscal year (July 1 – June 30) that any unit is ready to be placed in service.
3.     **Term.** Payment for Municipal Services shall commence during the calendar year the CONTRACT FOR HOUSING EXEMPTION Ordinance becomes effective and continue for as long as the CONTRACT FOR HOUSING EXEMPTION is in effect.
4.     **Audit.** Developer shall submit, upon request, a copy of the annual audit of the Project prepared by independent CPA's along with the payment of the service charge.
5.     **Exclusive Benefit.** The obligations of the Developer hereunder are imposed solely and exclusively for the benefit of the City and no other person or entity shall have the standing to enforce such obligations or be deemed to be beneficiaries of such obligations.
6.     **Remedies.** The Developer agrees that if it does not perform its obligations under this Agreement the City is entitled to pursue any and all remedies legal or equitable that it is entitled to under Michigan law. The Developer agrees to be liable for all costs of collection including reasonable attorney's fees and costs incurred by the City in the enforcement of the terms of this Agreement, if Developer is found to be in default of this Agreement by a court of competent jurisdiction.
7.     **Assignment.** Upon the written consent of the City, the Developer may transfer or assign its rights and obligations under this Agreement to a buyer ("Transferee") of the Project. The Transferee must agree to assume the Developer's obligations under this Agreement and the Development Agreement which has been executed by the Developer with the City. Upon assignment and assumption of this Agreement by the Transferee (or an affiliate, as provided below), the Developer shall be relieved of any further liabilities or obligations accruing under this Agreement or the Development Agreement. Notwithstanding the foregoing, the Developer may assign this Agreement, without the written consent of the City, to an affiliate of Developer (provided that such affiliate agrees to assume the Developer's obligations hereunder and provided that the Developer and assignee give prior notice of the assignment to the City with evidence that the assignee has agreed to assume the obligations of the Developer).

8. **Severability.** If any term or condition of this Agreement is found to be void, invalid, or unenforceable, the validity or enforceability of the remaining terms and conditions shall not be affected or impaired and will continue in full force and effect.

9. **Notices.** All notices under this Agreement must be in writing and sent to the respective parties as follows:

If to Developer:

SAMARITAS AFFORDABLE LIVING FROEBEL LIMITED DIVIDEND  
HOUSING ASSOCIATION LIMITED PARTNERSHIP

Attn: David Morin,  
Interim CEO Samaritas  
8131 E. Jefferson  
Detroit, MI 48214

with a copy to:

Matt B. Van Dyk, Attorney at Law  
Miller Johnson  
100 W. Michigan Ave., Suite 200  
Kalamazoo, MI 49007

If to the City:

City of Muskegon  
Attn: City Manager  
933 Terrace Street  
Muskegon, MI 49440

Every notice must be in writing and sent by one of the following methods:

- a. Personal delivery, in which case delivery shall be deemed to occur the day of the delivery;
- b. Certified or registered mail, postage prepaid, return receipt requested, in which case delivery shall be deemed to occur the day it is officially recorded by the U.S. Postal Service that it has delivered it to the intended recipient; or
- c. Next day delivery by a recognized private delivery service such as Federal Express, providing proof of mailing and delivery comparable to certified or registered mail, return receipt requested, in which case delivery shall be deemed to occur upon delivery as recorded by the delivery service.

Either party may change the address provided in this paragraph for itself or its attorney by providing notice of such change to the other party as required in this paragraph.

10. **No Waiver.** No delay, omission, or failure of the City to act under this Agreement or to insist upon strict compliance with any term and condition of this Agreement, and no custom or practice of the parties at variance with the terms and conditions of this Agreement shall constitute a waiver of City's right to demand exact compliance with this Agreement. No waiver of any right or remedy of City shall be construed as a bar to or a waiver of any such right or remedy on any future occasion.

11. **Headings.** The headings in this Agreement have only been inserted for convenience and shall not affect the meaning or interpretation of this Agreement. No heading shall have any legal significance of any nature whatsoever.

12. **Binding Effect.** This Agreement shall be binding on the parties, their heirs, successors, and assigns.

13. **Amendments.** There shall be no modification or amendments to this Agreement, including this section, unless they are in writing and signed by all the parties to this Agreement.

14. **Governing Law.** This Agreement has been executed in the State of Michigan, and shall be governed by Michigan law.

15. **Complete Agreement.** This Agreement contains the entire agreement between the parties and supersedes all prior oral or written representations, negotiations and agreement on the subject matter stated herein.

{Signatures on next page}

IN WITNESS WHEREOF, this Municipal Services Agreement is executed as of the day and year first written above.

**City of Muskegon**

Dated: \_\_\_\_, 2023

By: \_\_\_\_\_  
Ken Johnson, Mayor

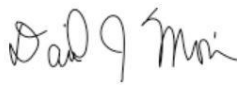
Dated: \_\_\_\_, 2023

By: \_\_\_\_\_  
Ann Meisch, City Clerk

**SAMARITAS AFFORDABLE LIVING FROEBEL  
LIMITED DIVIDEND HOUSING ASSOCIATION  
LIMITED PARTNERSHIP, a  
Michigan limited partnership**

**By:**  
**SAMARITAS AFFORDABLE LIVING  
FROEBEL GP, LLC a Michigan limited liability  
company**

**By: SAMARITAS,  
a Michigan non-profit corporation,  
Sole Member**

  
\_\_\_\_\_  
**Name: David Morin**  
**Its: Interim CEO**  
**Date: 09/29/23**\_\_\_\_\_

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Title: Spire Development, Allen Crossing PILOT Agreement                                                                     |
| Submitted By: Jake Eckholm                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Department: Development Services                                                                                             |
| Brief Summary: City Staff has negotiated and reviewed a Payment in Lieu of Taxes and Municipal Services agreement for commission consideration for a new construction 45 unit Senior workforce/family affordable housing complex at and around 148 Allen Avenue.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                              |
| <p>Detailed Summary &amp; Background:</p> <p>Pursuant to our 5 Year Housing Needs Assessments call for over 1,000 rental units priced under \$1,430 a month, staff has made overtures and established relationships with several new Low Income Housing Tax Credit (LIHTC) developers. Spire Development originally responded to our request for proposals at the former Catholic Charities site, and when they were not selected by commission for that project we immediately introduced them to the site owners of this subject property.</p> <p>Per their request letter, Spire is seeking a PILOT Agreement of 6% of net shelter rents. This should equal roughly \$20,000-24,000 per year for all taxing jurisdictions to split. Spire is also requesting a 3% Municipal Services Charge, which is detailed in another agenda item in the packet.</p> |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Goal 2.1: Diverse Housing Types, Goal 4.3 Increased Revenue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                              |
| Amount Requested: N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s): N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |

Recommended Motion: Motion to approve the Contract for Housing Exemption with Allen Crossing Limited Dividend Housing Association Limited Partnership and authorize the mayor and clerk to sign.

Approvals:

Immediate Division Head ☒

Information Technology ☐

Other Division Heads ☒

Communication ☐

Legal Review ☒

Guest(s) Invited / Presenting:

Yes ☒

No ☐

## CITY OF MUSKEGON

### CONTRACT FOR HOUSING TAX EXEMPTION

This Contract for Housing Tax Exemption (this "Agreement") is effective on the date of execution by the last party to execute this Agreement by and between **ALLEN CROSSING LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP**, a Michigan limited partnership, located at 330 West Spring Street, Suite 430, Columbus, Ohio 43215 (the "Developer"), and the **CITY OF MUSKEGON**, located at 933 Terrace Street, Muskegon, Michigan 49440-1397 (the "City") pursuant to the following terms.

#### RECITALS

A. The City has adopted Chapter 82 "Taxation", Article II "Ad Valorem Property Taxation", Division 2 "Residential Housing Projects and Payments in Lieu Of Taxes" of the City Code of Ordinances, providing for real property tax exemption (the "Ordinance") and to provide for a service charge in lieu of taxes for a housing project for low income persons and families to be financed with a Federally-aided Mortgage Loan or an advance or grant from the Authority pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, et seq.) (the "Act");

B. It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low-income seniors, individuals, and families and to encourage the development of such housing by providing for a service charge in lieu of real property taxes in accordance with the Act. The City is authorized by the Act and the Ordinance to establish or charge the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid by the Developer but for this Act. It is further acknowledged that such housing for low-income seniors, individuals, and families is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of the Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in the Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed with financing extended in reliance on such tax exemption.

The City acknowledges that the Sponsor (as defined below) has offered, subject to receipt of an allocation of Low Income Housing Tax Credits and/or receipt of a Mortgage Loan from the Michigan State Housing Development Authority (the "Authority"), to acquire, construct, own and operate a low income housing project identified as Allen Crossing on certain property located at and around 148 Allen Avenue, Muskegon, Michigan in the City (the "Project" or "Housing Project") to serve low income persons, and that the Sponsor has offered to pay the City on account of this housing project an annual service charge for public services in lieu of all ad valorem property taxes.

C. Developer has entered into purchase agreement to acquire the real property in the

City of Muskegon (148 Allen Avenue) for the construction of the proposed low-income Housing Project as defined in City Section 82-46 of the Ordinance.

D. Developer or an affiliate of Developer will cause to be formed with the Department of Licensing and Regulatory Affairs of the State of Michigan a limited dividend housing association limited partnership to function as the owner of the proposed Housing Project. The owning entity to be formed will be identified as ALLEN CROSSING LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP.

E. The City encourages construction and financing of the said low-income Housing Project which is identified by the working name of Allen Crossing.

F. To further enable and encourage the construction of the Housing Project, the Developer, and the City enter into this Agreement.

G. The legal description of the Housing Project is set forth in Exhibit A attached to this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Definitions.

1.1 "Authority" means the Michigan State Housing Development Authority.

1.2. "Annual Shelter Rent" means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges less the cost of Utilities.

1.3. "Contract Rents" means the total Contract Rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed annual period, exclusive of Utilities.

1.4. "Low Income Persons and Families" means persons and families eligible to move into a housing project whose head of household is at least 55 years of age and income eligible according to the U.S. Department of Housing & Urban Development ("HUD") area median income limits for the Muskegon, Michigan Metropolitan Statistical Area ("MSA").

1.5. "Low Income Housing Tax Credits" or "LIHTC" or "LIHTC Program" means tax credits allocated under Section 42 of the Internal Revenue Code of 1986, as amended.

1.6. "Mortgage Loan" means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the housing project.

1.7. "Sponsor" means ALLEN CROSSING LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP, and any entity that receives or assumes a Mortgage Loan.

1.8. "Utilities" means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

2. Class of Housing Projects. As contemplated and pursuant to the Act, it is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income persons and families that are financed with a Mortgage Loan. The City hereby grants an exemption from all ad valorem property taxes attributable to the Housing Project which consist of rental units offered to eligible Low-Income seniors and families as defined above. The City agrees that the use of LIHTC constitutes financing of the loan by the Authority in fulfillment of the requirements of Section 82-50(3) of the Ordinance. It is further determined that Allen Crossing will be of this class.

3. Establishment of Annual Service Charge.

The Housing Project identified Allen Crossing and the property on which it will be located shall be exempt from all ad valorem property taxes from and after the commencement of construction or rehabilitation. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of the Ordinance, and the qualification of the housing project for exemption from all ad valorem property taxes and a payment in lieu of taxes as established in the Ordinance. Therefore, in consideration of the Sponsor's offer to construct and operate the housing project, the City agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to 6% of the Annual Shelter Rents actually collected by the housing project during each operating year.

4. Responsibilities of the Developer. The Developer agrees to perform the following:

4.1 The Developer shall pay the annual service charge and payment in lieu of all ad valorem taxes in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before July 1 of the following year.

4.2 The service charge shall equal six percent (6%) of the Annual Shelter Rents actually collected by the Housing Project during each operating year.

4.3 The Developer agrees to file all information required by the Ordinance and further to meet its obligations to the Authority in connection with the Authority's administration of the LIHTC program.

4.4 In lieu of the requirement to submit a statement of Annual Shelter Rents within 30 days after December 31, as required by the Ordinance, Developer shall submit an annual audit by April 1<sup>st</sup>. If not timely filed, and 30 days after notice to Developer of said

delinquency, a penalty of 1.25% of the service charge shall be imposed. This penalty shall be collectible in the same manner provided in Section 82-54 of the Ordinance.

5. Contractual Effect of the Ordinance. Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the City and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of the Ordinance.

6. Limitation on the Payment of Annual Service Charge. Notwithstanding Section 3, the service charge to be paid each year in lieu of ad valorem taxes for the part of the housing project that is tax exempt but which is occupied by other than low income persons or families (as defined in Section 1.4) shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

7. Payment of Service Charge. The annual service charge in lieu of taxes as determined under the Ordinance shall be payable in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before April 1 of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, et seq.).

8. Duration. The Ordinance and this Agreement shall remain in effect and shall not terminate so long as a Mortgage Loan remains outstanding and unpaid and or the Housing Project remains subject to income and rent restrictions under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), or the Regulatory Agreement of the Authority not to exceed 25 years. The City agrees to be contractually bound by this Agreement to honor the exemption status of the proposed Project as provided herein for the entire period during which the Project is financed by the Authority or receives LIHTC under the Code, provided that said Mortgage Loan or a loan originally financed by the LIHTC continues outstanding as more particularly set forth in Section 82-50(3) of the Ordinance, not to exceed 25 years.

9. Severability. The various sections and provisions of the Ordinance and this Agreement shall be deemed to be severable, and should any section or provision of this Agreement be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the Ordinance and this Agreement, other than the section or provision so declared to be unconstitutional or invalid.

10. Inconsistent Ordinances. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Agreement are of no effect to the extent of such inconsistency or conflict.

11. Effective Date. The Ordinance is in full force and effect, and this Agreement shall become effective on the date of this Agreement is entered into, as provided in the City Charter.

12. Counterparts. This Agreement may be executed in several counterparts all of which

shall constitute one agreement, binding on all parties hereto, notwithstanding that all the parties are not signatories to the same counterpart.

13. Binding and Benefit. This Agreement shall inure to the benefit of, be binding upon, and be enforceable by and against the parties hereto, their heirs, executors, administrators, successors, and assigns.

14. Choice of Law; Venue. This Agreement is executed in accordance with, shall be governed by, and construed and interpreted in accordance with the laws of the State of Michigan. The parties agree that for purposes of any dispute in connection with this Agreement, the Muskegon County Circuit Court shall have exclusive personal and subject matter jurisdiction and venue.

[Remainder of page intentionally left blank.]

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement on the dates indicated below.

**CITY OF MUSKEGON**

By: \_\_\_\_\_  
Print Name: Ken Johnson  
Its: Mayor  
Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: Ann Meisch  
Its: City Clerk  
Dated: \_\_\_\_\_

**ALLEN CROSSING LIMITED DIVIDEND  
HOUSING ASSOCIATION LIMITED  
PARTNERSHIP,**  
a Michigan limited partnership

By: Allen Crossing GP, LLC,  
Its: General Partner

By: Spire Real Estate Holdings, LLC,  
Its: Sole Member

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: Authorized Member  
Dated: \_\_\_\_\_

## EXHIBIT A

### LEGAL DESCRIPTION

#### Exhibit 1

*Project Location: Vicinity 148 Allen Avenue, Muskegon, MI 49442*

*0.8 +/- acres*

*PIDN: 61-24-205-208-0010-00; 61-24-205-208-0012-00; 61-24-205-208-0013-00; 61-24-205-208-0014-00; 61-24-205-208-0014-10; 61-24-205-208-0003-00; 61-24-205-208-0005-00*





# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Title: Spire Development, Allen Crossing Municipal Services Agreement                                                        |
| Submitted By: Jake Eckholm                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Department: Development Services                                                                                             |
| Brief Summary: City Staff has negotiated and reviewed a Payment in Lieu of Taxes and Municipal Services agreement for commission consideration for a new construction 45 unit Senior workforce/family affordable housing complex at and around 148 Allen Avenue.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                              |
| <p>Detailed Summary &amp; Background:</p> <p>Pursuant to our 5 Year Housing Needs Assessments call for over 1,000 rental units priced under \$1,430 a month, staff has made overtures and established relationships with several new Low Income Housing Tax Credit (LIHTC) developers. Spire Development originally responded to our request for proposals at the former Catholic Charities site, and when they were not selected by commission for that project we immediately introduced them to the site owners of this subject property.</p> <p>Per their request letter, Spire is seeking a Municipal Services Agreement of 3% of net shelter rents. This should equal roughly \$10,000-\$12,000 per year. Spire is also requesting a 6% PILOT, which is detailed in another agenda item in the packet.</p> |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Goal 2.1: Diverse Housing Types, Goal 4.3 Increased Revenue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                              |
| Amount Requested: N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s): N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |

Recommended Motion: Motion to approve the Municipal Services Agreement with Allen Crossing Affordable Living Froebel Limited Dividend Housing Association Limited Partnership and authorize the mayor and clerk to sign.

Approvals:

Immediate Division Head ☒

Information Technology ☐

Other Division Heads ☒

Communication ☐

Legal Review ☒

Guest(s) Invited / Presenting:

Yes ☒

No ☐

## **MUNICIPAL SERVICES AGREEMENT**

**THIS MUNICIPAL SERVICES AGREEMENT** (this “Agreement”) is entered into on this \_\_\_\_ day of October, 2023 by and between **ALLEN CROSSING LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP**, a Michigan limited partnership, its successors and/or assigns (the “Developer”) and the **CITY OF MUSKEGON**, 933 Terrace Street, Muskegon, MI 49440 (the “City”) is made pursuant to the following terms:

### **RECITALS**

A. Developer has entered into contract(s) to purchase real property in the City of Muskegon, Muskegon County, Michigan known as 148 Allen Avenue for the acquisition, construction, and operation of a low-income housing project to be known as Allen Crossing (the “Project”).

B. The parties recognize that due to the increased concentration of persons residing at the Project that the City will provide a higher level and greater amount of Municipal Services (as defined below) to the Project.

C. The City through its Police Department, Fire Department, and otherwise, provides Municipal Services within the City. The Project will have special needs for these types of Municipal Services and Developer acknowledges that such needs may be greater than typically situated residential developments.

D. The Developer desires to guarantee by payment of a Municipal Services Fee (as defined below) that certain Municipal Services will be provided to the Project during the entire term and duration of that certain Contract for Housing Tax Exemption between the City and Developer pursuant to Chapter 82 of the City Code of Ordinances (the “PILOT Ordinance”).

E. The Municipal Services the City intends to provide shall include, but not be limited to the following:

1. Emergency services, including police and fire services specifically administered through the City, and, on public streets and sidewalks, maintenance, repair, snow removal, and street lighting; also to include other matters as the City deems necessary; City shall determine the level of municipal services in it’s sole discretion.
2. Other miscellaneous services as may, from time to time, be mutually agreed to for the benefit of the Project; and
3. Said Municipal Services shall be provided in the customary way and in accordance with all laws, rules and regulations of the United States of America, State of Michigan, County of Muskegon, and City of Muskegon or other applicable jurisdictions or bodies.

(All of the above are collectively referred to as “Municipal Services.”)

F. The parties acknowledge that nothing in this Agreement shall be deemed to waive any defense to claims based on sovereign or governmental immunity.

## **AGREEMENT**

The parties agree as follows:

1. **Incorporation of Recitals.** The Recitals to this Agreement are incorporated into and shall constitute a part of this Agreement.
2. **Provision of Services.** The City will provide the Municipal Services to the Project for the benefit of the Developer pursuant to the terms and conditions herein.
3. **Payment.** The Developer shall pay a service charge for the Municipal Services on or before July 1, of each year during the term and duration of the PILOT Contract for Housing Exemption. The service charge shall be three (3%) percent of the Annual Shelter Rents as defined in the PILOT Ordinance, excluding Project paid utilities, starting during the calendar year that the first unit in the Project is placed in service (“Municipal Services Fee”). The Developer shall pay a pro rata portion of the Municipal Services Fee for first year the Project is placed into service based upon the number of units actually in service during the fiscal year of the City (July 1 through June 30).
4. **Term.** Payment for the Municipal Services shall commence upon the placed in service date of the Project and continue for as long as the PILOT Ordinance is in effect.
5. **Audit.** Developer shall submit together with the payment of the Municipal Services Fee a copy of the annual audit of the Project prepared by an independent certified public accountant.
6. **Exclusive Benefit.** The obligations of the Developer and the City hereunder are imposed solely and exclusively for the benefit of one and other, and no other persons or entities shall have standing to enforce such obligations or be deemed to be third party beneficiaries of such obligations.
7. **Remedies.** If the Developer fails to perform its obligations under this Agreement, the City may declare the Developer is in default by providing written notice to the Developer. The Developer shall have 30 days to cure such default, or such additional time as necessary if the nature of the default cannot be cured within 30 days so long as the Developer is actively pursuing a cure to the reasonable satisfaction of the City. Upon the expiration of the cure period, the City may pursue any and all remedies, legal or equitable, that it is entitled to under the laws of the State of Michigan. Furthermore, the Developer will be liable for all costs of collection for unpaid Municipal Services Fee

including reasonable attorney's fees and actual costs incurred by the City in the enforcement of the terms of this Agreement if Developer adjudicated to be in default of this Agreement by a court of competent jurisdiction beyond the time for appeal. If the City fails to perform its obligations under this Agreement, the Developer may declare the City is in default by providing written notice to the City. The City shall have 30 days to cure such default, or such additional time as necessary if the nature of the default cannot be cured within 30 days so long as the City is actively pursuing a cure to the reasonable satisfaction of the Developer. Upon the expiration of the cure period, the Developer may pursue any and all remedies, legal or equitable, that it is entitled to under the laws of the State of Michigan.

8. **Assignment.** Upon the written consent of the City, the Developer may transfer or assign its rights and obligations under this Agreement to a third-party buyer ("Transferee") of the Project. The Transferee must agree to assume the Developer's obligations under this Agreement and the PILOT Ordinance which has been executed by the Developer and the City. Upon assignment and assumption of this Agreement by the Transferee (or an affiliate, as provided below), the Developer shall be relieved of any further liabilities or obligations accruing under this Agreement or the PILOT Ordinance. Notwithstanding the foregoing, the Developer may assign this Agreement, without the written consent of the City, to an affiliate of Developer (provided that such affiliate agrees to assume the Developer's obligations hereunder and provided that the Developer and assignee give prior notice of the assignment to the City with evidence that the assignee has agreed to assume the obligations of the Developer under this Agreement and the PILOT Ordinance).
9. **Severability.** If any term or condition of this Agreement is found to be void, invalid, or unenforceable, the validity or enforceability of the remaining terms and conditions shall not be affected or impaired and will continue in full force and effect.
10. **Notices.** All notices under this Agreement must be in writing and sent to the respective parties as follows:

If to Developer: Allen Crossing Limited Dividend Housing Association  
Limited Partnership  
330 West Spring Street, Suite 430  
Columbus, Ohio 43215  
Attn: Thomas A. Grywalski

If to the City: City of Muskegon  
933 Terrace Street  
Muskegon, MI 49440  
Attn: City Manager

Every notice must be in writing and sent by one of the following methods:

- a. Personal delivery, in which case delivery shall be deemed to occur the day

of the actual delivery;

- b. Certified or registered mail, postage prepaid, return receipt requested, in which case delivery shall be deemed to occur the day it is officially recorded by the U.S. Postal Service that it has delivered it to the intended recipient; or
- c. Next day delivery by a recognized private delivery service such as Federal Express, providing proof of mailing and delivery comparable to certified or registered mail, return receipt requested, in which case delivery shall be deemed to occur upon delivery as recorded by the delivery service.

Either party may change the address provided in this Section 10 by providing notice of such change to the other party as required in this paragraph.

- 11. **No Waiver.** No delay, omission, or failure of the City to act under this Agreement or to insist upon strict compliance with any term and condition of this Agreement, and no custom or practice of the parties at variance with the terms and conditions of this Agreement shall constitute a waiver of City's right to demand exact compliance with this Agreement. No waiver of any right or remedy of City shall be construed as a bar to or a waiver of any such right or remedy on any future occasion.
- 12. **Headings.** The headings in this Agreement have only been inserted for convenience and shall not affect the meaning or interpretation of this Agreement. No heading shall have any legal significance of any nature whatsoever.
- 13. **Binding Effect.** This Agreement shall inure to the benefit of, be binding upon, and be enforceable by and against the parties hereto, their heirs, executors, administrators, successors, and assigns.
- 14. **Amendments.** There shall be no modification or amendments to this Agreement, including this section, unless they are in writing and signed by all the parties to this Agreement.
- 15. **Governing Law.** This Agreement has been executed in the State of Michigan and shall be governed by the laws of the State of Michigan.
- 16. **Complete Agreement.** This Agreement contains the entire agreement between the parties and supersedes all prior oral or written representations, negotiations and agreement on the subject matter stated herein.
- 17. **Counterparts.** This Agreement may be executed in several counterparts all of which shall constitute one agreement, binding on all parties hereto, notwithstanding that all the parties are not signatories to the same counterpart.

[Remainder of page intentionally left blank, signatures on next page.]

Municipal Services Agreement  
Signature Page

IN WITNESS WHEREOF, this Municipal Services Agreement is executed as of the day  
and year first written above.

**CITY:**

CITY OF MUSKEGON

Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Ken Johnson, Mayor

Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Ann Meisch, City Clerk

**DEVELOPER:**

ALLEN CROSSING LIMITED DIVIDEND  
HOUSING ASSOCIATION LIMITED  
PARTNERSHIP,  
a Michigan limited partnership

By: Allen Crossing GP, LLC,  
Its General Partner

Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_

Print Name: \_\_\_\_\_  
Its: Authorized Agent

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Title: Spire Development, Amity Commons<br>PILOT Agreement                                                                   |
| Submitted By: Jake Eckholm                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Department: Development Services                                                                                             |
| Brief Summary: City Staff has negotiated and reviewed a Payment in Lieu of Taxes and Municipal Services agreement for commission consideration for a new construction 50-unit workforce/family affordable housing complex at and around 159 Amity Avenue.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                              |
| <p>Detailed Summary &amp; Background:</p> <p>Pursuant to our 5 Year Housing Needs Assessments call for over 1,000 rental units priced under \$1,430 a month, staff has made overtures and established relationships with several new Low Income Housing Tax Credit (LIHTC) developers. Spire Development originally responded to our request for proposals at the former Catholic Charities site, and when they were not selected by commission for that project we immediately introduced them to the site owners of this subject property.</p> <p>Per their request letter, Spire is seeking a PILOT Agreement of 5% of net shelter rents. This should equal roughly \$16,500-20,000 per year for all taxing jurisdictions to split. Spire is also requesting a 3% Municipal Services Charge, which is detailed in another agenda item in the packet.</p> |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Goal 2.1: Diverse Housing Types, Goal 4.3 Increased Revenue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                              |
| Amount Requested: N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s): N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |

Recommended Motion: Motion to approve the Contract for Housing Exemption with Amity Commons Limited Dividend Housing Association Limited Partnership and authorize the mayor and clerk to sign.

Approvals:

Immediate Division Head ☒

Information Technology ☐

Other Division Heads ☒

Communication ☐

Legal Review ☒

Guest(s) Invited / Presenting:

Yes ☒

No ☐

## CITY OF MUSKEGON

### CONTRACT FOR HOUSING TAX EXEMPTION

This Contract for Housing Tax Exemption (this "Agreement") is effective on the date of execution by the last party to execute this Agreement by and between **AMITY COMMONS LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP**, a Michigan limited partnership, located at 330 West Spring Street, Suite 430, Columbus, Ohio 43215 (the "Developer"), and the **CITY OF MUSKEGON**, located at 933 Terrace Street, Muskegon, Michigan 49440-1397 (the "City") pursuant to the following terms.

#### RECITALS

A. The City has adopted Chapter 82 "Taxation", Article II "Ad Valorem Property Taxation", Division 2 "Residential Housing Projects and Payments in Lieu Of Taxes" of the City Code of Ordinances, providing for real property tax exemption (the "Ordinance") and to provide for a service charge in lieu of taxes for a housing project for low income persons and families to be financed with a Federally-aided Mortgage Loan or an advance or grant from the Authority pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, et seq.) (the "Act");

B. It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low-income seniors, individuals, and families and to encourage the development of such housing by providing for a service charge in lieu of real property taxes in accordance with the Act. The City is authorized by the Act and the Ordinance to establish or charge the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid by the Developer but for this Act. It is further acknowledged that such housing for low-income seniors, individuals, and families is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of the Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in the Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed with financing extended in reliance on such tax exemption.

The City acknowledges that the Sponsor (as defined below) has offered, subject to receipt of an allocation of Low Income Housing Tax Credits and/or receipt of a Mortgage Loan from the Michigan State Housing Development Authority (the "Authority"), to acquire, construct, own and operate a low income housing project identified as Allen Crossing on certain property located at and around 148 Allen Avenue, Muskegon, Michigan in the City (the "Project" or "Housing Project") to serve low income persons, and that the Sponsor has offered to pay the City on account of this housing project an annual service charge for public services in lieu of all ad valorem property taxes.

C. Developer has entered into purchase agreement to acquire the real property in the

City of Muskegon (159 Amity Avenue) for the construction of the proposed low-income Housing Project as defined in City Section 82-46 of the Ordinance.

D. Developer or an affiliate of Developer will cause to be formed with the Department of Licensing and Regulatory Affairs of the State of Michigan a limited dividend housing association limited partnership to function as the owner of the proposed Housing Project. The owning entity to be formed will be identified as AMITY COMMONS LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP.

E. The City encourages construction and financing of the said low-income Housing Project which is identified by the working name of Amity Commons.

F. To further enable and encourage the construction of the Housing Project, the Developer, and the City enter into this Agreement.

G. The legal description of the Housing Project is set forth in Exhibit A attached to this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Definitions.

1.1 "Authority" means the Michigan State Housing Development Authority.

1.2. "Annual Shelter Rent" means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges less the cost of Utilities.

1.3. "Contract Rents" means the total Contract Rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed annual period, exclusive of Utilities.

1.4. "Low Income Persons and Families" means persons and families eligible to move into a housing project according to the U.S. Department of Housing & Urban Development ("HUD") area median income limits for the Muskegon, Michigan Metropolitan Statistical Area ("MSA").

1.5. "Low Income Housing Tax Credits" or "LIHTC" or "LIHTC Program" means tax credits allocated under Section 42 of the Internal Revenue Code of 1986, as amended.

1.6. "Mortgage Loan" means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the housing project.

1.7. "Sponsor" means AMITY COMMONS LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP, and any entity that receives or assumes a Mortgage Loan.

1.8. "Utilities" means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

2. Class of Housing Projects. As contemplated and pursuant to the Act, it is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income persons and families that are financed with a Mortgage Loan. The City hereby grants an exemption from all ad valorem property taxes attributable to the Housing Project which consist of rental units offered to eligible Low-Income seniors and families as defined above. The City agrees that the use of LIHTC constitutes financing of the loan by the Authority in fulfillment of the requirements of Section 82-50(3) of the Ordinance. It is further determined that Allen Crossing will be of this class.

3. Establishment of Annual Service Charge.

The Housing Project identified Allen Crossing and the property on which it will be located shall be exempt from all ad valorem property taxes from and after the commencement of construction or rehabilitation. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of the Ordinance, and the qualification of the housing project for exemption from all ad valorem property taxes and a payment in lieu of taxes as established in the Ordinance. Therefore, in consideration of the Sponsor's offer to construct and operate the housing project, the City agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to 5% of the Annual Shelter Rents actually collected by the housing project during each operating year.

4. Responsibilities of the Developer. The Developer agrees to perform the following:

4.1 The Developer shall pay the annual service charge and payment in lieu of all ad valorem taxes in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before July 1 of the following year.

4.2 The service charge shall equal three percent (3%) of the Annual Shelter Rents actually collected by the Housing Project during each operating year.

4.3 The Developer agrees to file all information required by the Ordinance and further to meet its obligations to the Authority in connection with the Authority's administration of the LIHTC program.

4.4 In lieu of the requirement to submit a statement of Annual Shelter Rents within 30 days after December 31, as required by the Ordinance, Developer shall submit an annual audit by April 1<sup>st</sup>. If not timely filed, and 30 days after notice to Developer of said

delinquency, a penalty of 1.25% of the service charge shall be imposed. This penalty shall be collectible in the same manner provided in Section 82-54 of the Ordinance.

5. Contractual Effect of the Ordinance. Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the City and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of the Ordinance.

6. Limitation on the Payment of Annual Service Charge. Notwithstanding Section 3, the service charge to be paid each year in lieu of ad valorem taxes for the part of the housing project that is tax exempt but which is occupied by other than low income persons or families (as defined in Section 1.4) shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

7. Payment of Service Charge. The annual service charge in lieu of taxes as determined under the Ordinance shall be payable in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before April 1 of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, et seq.).

8. Duration. The Ordinance and this Agreement shall remain in effect and shall not terminate so long as a Mortgage Loan remains outstanding and unpaid and or the Housing Project remains subject to income and rent restrictions under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), or the Regulatory Agreement of the Authority not to exceed 25 years. The City agrees to be contractually bound by this Agreement to honor the exemption status of the proposed Project as provided herein for the entire period during which the Project is financed by the Authority or receives LIHTC under the Code, provided that said Mortgage Loan or a loan originally financed by the LIHTC continues outstanding as more particularly set forth in Section 82-50(3) of the Ordinance, not to exceed 25 years.

9. Severability. The various sections and provisions of the Ordinance and this Agreement shall be deemed to be severable, and should any section or provision of this Agreement be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the Ordinance and this Agreement, other than the section or provision so declared to be unconstitutional or invalid.

10. Inconsistent Ordinances. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Agreement are of no effect to the extent of such inconsistency or conflict.

11. Effective Date. The Ordinance is in full force and effect, and this Agreement shall become effective on the date of this Agreement is entered into, as provided in the City Charter.

12. Counterparts. This Agreement may be executed in several counterparts all of which

shall constitute one agreement, binding on all parties hereto, notwithstanding that all the parties are not signatories to the same counterpart.

13. Binding and Benefit. This Agreement shall inure to the benefit of, be binding upon, and be enforceable by and against the parties hereto, their heirs, executors, administrators, successors, and assigns.

14. Choice of Law; Venue. This Agreement is executed in accordance with, shall be governed by, and construed and interpreted in accordance with the laws of the State of Michigan. The parties agree that for purposes of any dispute in connection with this Agreement, the Muskegon County Circuit Court shall have exclusive personal and subject matter jurisdiction and venue.

[Remainder of page intentionally left blank.]

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement on the dates indicated below.

**CITY OF MUSKEGON**

By: \_\_\_\_\_  
Print Name: Ken Johnson  
Its: Mayor  
Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: Ann Meisch  
Its: City Clerk  
Dated: \_\_\_\_\_

**AMITY COMMONS LIMITED DIVIDEND  
HOUSING ASSOCIATION LIMITED  
PARTNERSHIP,**  
a Michigan limited partnership

By: Amity Commons GP, LLC,  
Its: General Partner

By: Spire Real Estate Holdings, LLC,  
Its: Sole Member

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: Authorized Member  
Dated: \_\_\_\_\_

## EXHIBIT A

### LEGAL DESCRIPTION

#### Exhibit 1

*Project Location: Vicinity of 159 Amity Avenue, Muskegon, MI 49442*

*1.15 +/- acres*

*PIDN: 61-24-205-208-0005-00; 61-24-205-208-0003-00; 61-24-205-208-0002-00; 61-24-205-208-0001-00; 61-24-205-208-0001-10; 61-24-205-208-0012-00; 61-24-205-208-0013-00; 61-24-205-208-0014-00; 61-24-205-208-0014-10; 61-24-205-208-0015-00*



AMITY  
COMMONS/  
ALLEN  
CROSSING  
Muskegon, MI

© 2023 BY:  
BERARDI + PARTNERS, LLC  
ARCHITECTS AND ENGINEERS  
ALL RIGHTS RESERVED

THE ARRANGEMENTS DEPICTED HEREIN ARE THE  
SOLE PROPERTY OF BERARDI + PARTNERS, LLC  
ARCHITECTS AND ENGINEERS AND MAY NOT BE  
REPRODUCED WITHOUT ITS WRITTEN PERMISSION.

NOTE:  
1. ALL BIDDERS SHALL VISIT THE SITE AND  
BECOME FAMILIAR WITH THE EXISTING CONDITIONS  
AND REQUIREMENTS OF THE PROJECT AND  
SHALL NOTIFY THE ARCHITECT OF ANY ERRORS  
AND OMISSIONS SUBSEQUENTLY DISCOVERED IN  
THE CONTRACT DOCUMENTS.

2. THE CONTRACT DOCUMENTS ARE COMPOSED OF  
THE DRAWINGS AND THE PROJECT MANUAL. IN  
THEIR ENTIRETY, THE INFORMATION IN THESE  
DOCUMENTS IS DEEMED TO BE  
COMPLEMENTARY OF EACH OTHER.  
SEPARATION OF THE CONTRACT DOCUMENTS  
SHALL NOT BE PERMITTED. IF THE CONTRACTOR  
CHOOSES TO SEPARATE THE DOCUMENTS, THEY  
DO SO AT THEIR OWN RISK AND EXPENSE.  
3. ADDITIONALLY, SEE GENERAL INFORMATION ON  
"A" SHEETS.

4. THE CLIENT ACKNOWLEDGES THE CONSULTANTS  
(ARCHITECT, ENGINEER, AND SPECIALIST)  
INCLUDING ALL DOCUMENTS OR EXISTING  
MATERIALS AS INSTRUMENTS OF THE CONSULTANTS  
(ARCHITECT, ENGINEER, AND SPECIALIST). THE  
CLIENT SHALL NOT REUSE OR MAKE OR PERMIT  
TO BE MADE ANY MODIFICATION TO THE  
DRAWINGS AND SPECIFICATIONS WITHOUT THE  
PRIOR WRITTEN AUTHORIZATION OF THE  
CONSULTANT (ARCHITECT). THE CLIENT AGREES  
TO INDEMNIFY AND HOLD THE CONSULTANT  
HARMLESS FROM ALL CLAIMS, DAMAGES,  
LOSSES, EXPENSES, AND ATTORNEY'S  
FEES ARISING OUT OF THE MODIFICATION OR  
REUSE OF THESE MATERIALS.

5. ARCHITECT CANNOT GUARANTEE THE ACCURACY  
OF DATA CONTAINED HEREIN. ANY USE OR REUSE  
OF ORIGINAL OR A TRUE COPY THEREOF  
MATERIALS BY THE USER OR OTHER PARTIES  
WITHOUT THE REVIEW AND WRITTEN APPROVAL  
OF THE ARCHITECT SHALL BE AT THE USER'S RISK.  
THE USER, BY PROVIDING DATA, AGREES TO  
DEFEND, INDEMNIFY, AND HOLD ARCHITECT  
HARMLESS FROM ALL CLAIMS, DAMAGES,  
LOSSES, EXPENSES, AND ATTORNEY'S  
FEES ARISING OUT OF THE MODIFICATION OR  
REUSE OF THESE MATERIALS.

6. THESE DRAWINGS ARE PART OF THE CONTRACT  
DOCUMENTS AND DRAWINGS AND ARE NOT  
INTENDED TO DEFINE EXACT QUANTITIES.  
LOCATIONS OR COVERED REQUIREMENTS. THE  
DRAWINGS SHALL NOT BE SCALED EXACT.  
STATE AND LOCAL CODE REQUIREMENTS AND  
OTHER APPLICABLE CODE REQUIREMENTS  
SHALL BE IDENTIFIED BY AND THE RESPONSIBILITY  
OF THIS CONTRACTOR. ANY  
INFORMATION INCORPORATED INTO THE CONTRACT  
WITH ANY OF THESE CODES OR ANY DISCREPANCIES  
FOUND IN THE CONTRACT DOCUMENTS SHALL BE  
BRINGED TO THE ATTENTION OF THE PROJECT  
ARCHITECT.

SCHEMATIC  
DESIGN

PROJECT DATE: 07.11.2023  
PROJECT #: 23123

△ Description Date

ELEVATIONS

SD-  
103

BERARDI+

ARCHITECTURE ENGINEERING (E) (A) (S) (C) (E) (S)  
1000 GOSWOLD ROAD, SUITE 100, MUSKEGON, MI 49441  
P 231.221.1110 berardi@partners.com

9/21/2023 8:41:30 AM



UPPER FLOOR TRANSPARENCY:

**BUILDING A:**  
AREA: 3,215.28 SF  
GLAZING: 150.0 SF  
TRANSPARENCY: 4% - 23%

**BUILDING B:**  
AREA: 2,151.13 SF  
GLAZING: 150.0 SF  
TRANSPARENCY: 4% - 21%

amity commons building B elevation 1/8" = 1'-0"



amity commons building A elevation 1/8" = 1'-0"

NOT FOR CONSTRUCTION

# WATCH MUSKEGON

## Agenda Item Review Form

### Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Title: Spire Development, Amity Commons<br>Municipal Services Agreement                                                      |
| Submitted By: Jake Eckholm                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Department: Development Services                                                                                             |
| Brief Summary: City Staff has negotiated and reviewed a Payment in Lieu of Taxes and Municipal Services agreement for commission consideration for a new construction 50 unit workforce/family affordable housing complex at and around 159 Amity.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                              |
| <p>Detailed Summary &amp; Background:</p> <p>Pursuant to our 5 Year Housing Needs Assessments call for over 1,000 rental units priced under \$1,430 a month, staff has made overtures and established relationships with several new Low Income Housing Tax Credit (LIHTC) developers. Spire Development originally responded to our request for proposals at the former Catholic Charities site, and when they were not selected by commission for that project we immediately introduced them to the site owners of this subject property.</p> <p>Per their request letter, Spire is seeking a Municipal Services Agreement of 3% of net shelter rents. This should equal roughly \$10,000-\$12,000 per year. Spire is also requesting a 5% PILOT, which is detailed in another agenda item in the packet.</p> |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Goal 2.1: Diverse Housing Types, Goal 4.3 Increased Revenue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                              |
| Amount Requested: N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s): N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |

Recommended Motion: Motion to approve the Municipal Services Agreement with Amity Commons Affordable Living Froebel Limited Dividend Housing Association Limited Partnership and authorize the mayor and clerk to sign.

Approvals:

Immediate Division Head ☒

Information Technology ☐

Other Division Heads ☒

Communication ☐

Legal Review ☒

Guest(s) Invited / Presenting:

Yes ☒

No ☐

## MUNICIPAL SERVICES AGREEMENT

**THIS MUNICIPAL SERVICES AGREEMENT** (this “Agreement”) is entered into on this \_\_\_\_ day of October, 2023 by and between **AMITY COMMONS LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP**, a Michigan limited partnership, its successors and/or assigns (the “Developer”) and the **CITY OF MUSKEGON**, 933 Terrace Street, Muskegon, MI 49440 (the “City”) is made pursuant to the following terms:

### RECITALS

A. Developer has entered into contract(s) to purchase real property in the City of Muskegon, Muskegon County, Michigan known as 159 Amity Avenue for the acquisition, construction, and operation of a low-income housing project to be known as Amity Commons (the “Project”).

B. The parties recognize that due to the increased concentration of persons residing at the Project that the City will provide a higher level and greater amount of Municipal Services (as defined below) to the Project.

C. The City through its Police Department, Fire Department, and otherwise, provides Municipal Services within the City. The Project will have special needs for these types of Municipal Services and Developer acknowledges that such needs may be greater than typically situated residential developments.

D. The Developer desires to guarantee by payment of a Municipal Services Fee (as defined below) that certain Municipal Services will be provided to the Project during the entire term and duration of that certain Contract for Housing Tax Exemption between the City and Developer pursuant to Chapter 82 of the City Code of Ordinances (the “PILOT Ordinance”).

E. The Municipal Services the City intends to provide shall include, but not be limited to the following:

1. Emergency services, including police and fire services specifically administered through the City, and, on public streets and sidewalks, maintenance, repair, snow removal, and street lighting; also to include other matters as the City deems necessary; City shall determine the level of municipal services in its sole discretion.
2. Other miscellaneous services as may, from time to time, be mutually agreed to for the benefit of the Project; and
3. Said Municipal Services shall be provided in the customary way and in accordance with all laws, rules and regulations of the United States of America, State of Michigan, County of Muskegon, and City of Muskegon or other applicable jurisdictions or bodies.

(All of the above are collectively referred to as “Municipal Services.”)

F. The parties acknowledge that nothing in this Agreement shall be deemed to waive any defense to claims based on sovereign or governmental immunity.

## **AGREEMENT**

The parties agree as follows:

1. **Incorporation of Recitals.** The Recitals to this Agreement are incorporated into and shall constitute a part of this Agreement.
2. **Provision of Services.** The City will provide the Municipal Services to the Project for the benefit of the Developer pursuant to the terms and conditions herein.
3. **Payment.** The Developer shall pay a service charge for the Municipal Services on or before July 1, of each year during the term and duration of the PILOT Contract for Housing Exemption. The service charge shall be three (3%) percent of the Annual Shelter Rents as defined in the PILOT Ordinance, excluding Project paid utilities, starting during the calendar year that the first unit in the Project is placed in service (“Municipal Services Fee”). The Developer shall pay a pro rata portion of the Municipal Services Fee for first year the Project is placed into service based upon the number of units actually in service during the fiscal year of the City (July 1 through June 30).
4. **Term.** Payment for the Municipal Services shall commence upon the placed in service date of the Project and continue for as long as the PILOT Ordinance is in effect.
5. **Audit.** Developer shall submit together with the payment of the Municipal Services Fee a copy of the annual audit of the Project prepared by an independent certified public accountant.
6. **Exclusive Benefit.** The obligations of the Developer and the City hereunder are imposed solely and exclusively for the benefit of one and other, and no other persons or entities shall have standing to enforce such obligations or be deemed to be third party beneficiaries of such obligations.
7. **Remedies.** If the Developer fails to perform its obligations under this Agreement, the City may declare the Developer is in default by providing written notice to the Developer. The Developer shall have 30 days to cure such default, or such additional time as necessary if the nature of the default cannot be cured within 30 days so long as the Developer is actively pursuing a cure to the reasonable satisfaction of the City. Upon the expiration of the cure period, the City may pursue any and all remedies, legal or equitable, that it is entitled to under the laws of the State of Michigan. Furthermore, the Developer will be liable for all costs of collection for unpaid Municipal Services Fee

including reasonable attorney's fees and actual costs incurred by the City in the enforcement of the terms of this Agreement if Developer adjudicated to be in default of this Agreement by a court of competent jurisdiction beyond the time for appeal. If the City fails to perform its obligations under this Agreement, the Developer may declare the City is in default by providing written notice to the City. The City shall have 30 days to cure such default, or such additional time as necessary if the nature of the default cannot be cured within 30 days so long as the City is actively pursuing a cure to the reasonable satisfaction of the Developer. Upon the expiration of the cure period, the Developer may pursue any and all remedies, legal or equitable, that it is entitled to under the laws of the State of Michigan.

8. **Assignment.** Upon the written consent of the City, the Developer may transfer or assign its rights and obligations under this Agreement to a third-party buyer ("Transferee") of the Project. The Transferee must agree to assume the Developer's obligations under this Agreement and the PILOT Ordinance which has been executed by the Developer and the City. Upon assignment and assumption of this Agreement by the Transferee (or an affiliate, as provided below), the Developer shall be relieved of any further liabilities or obligations accruing under this Agreement or the PILOT Ordinance. Notwithstanding the foregoing, the Developer may assign this Agreement, without the written consent of the City, to an affiliate of Developer (provided that such affiliate agrees to assume the Developer's obligations hereunder and provided that the Developer and assignee give prior notice of the assignment to the City with evidence that the assignee has agreed to assume the obligations of the Developer under this Agreement and the PILOT Ordinance).
9. **Severability.** If any term or condition of this Agreement is found to be void, invalid, or unenforceable, the validity or enforceability of the remaining terms and conditions shall not be affected or impaired and will continue in full force and effect.
10. **Notices.** All notices under this Agreement must be in writing and sent to the respective parties as follows:

If to Developer: Amity Commons Limited Dividend Housing Association  
Limited Partnership  
330 West Spring Street, Suite 430  
Columbus, Ohio 43215  
Attn: Thomas A. Grywalski

If to the City: City of Muskegon  
933 Terrace Street  
Muskegon, MI 49440  
Attn: City Manager

Every notice must be in writing and sent by one of the following methods:

- a. Personal delivery, in which case delivery shall be deemed to occur the day

of the actual delivery;

- b. Certified or registered mail, postage prepaid, return receipt requested, in which case delivery shall be deemed to occur the day it is officially recorded by the U.S. Postal Service that it has delivered it to the intended recipient; or
- c. Next day delivery by a recognized private delivery service such as Federal Express, providing proof of mailing and delivery comparable to certified or registered mail, return receipt requested, in which case delivery shall be deemed to occur upon delivery as recorded by the delivery service.

Either party may change the address provided in this Section 10 by providing notice of such change to the other party as required in this paragraph.

- 11. **No Waiver.** No delay, omission, or failure of the City to act under this Agreement or to insist upon strict compliance with any term and condition of this Agreement, and no custom or practice of the parties at variance with the terms and conditions of this Agreement shall constitute a waiver of City's right to demand exact compliance with this Agreement. No waiver of any right or remedy of City shall be construed as a bar to or a waiver of any such right or remedy on any future occasion.
- 12. **Headings.** The headings in this Agreement have only been inserted for convenience and shall not affect the meaning or interpretation of this Agreement. No heading shall have any legal significance of any nature whatsoever.
- 13. **Binding Effect.** This Agreement shall inure to the benefit of, be binding upon, and be enforceable by and against the parties hereto, their heirs, executors, administrators, successors, and assigns.
- 14. **Amendments.** There shall be no modification or amendments to this Agreement, including this section, unless they are in writing and signed by all the parties to this Agreement.
- 15. **Governing Law.** This Agreement has been executed in the State of Michigan and shall be governed by the laws of the State of Michigan.
- 16. **Complete Agreement.** This Agreement contains the entire agreement between the parties and supersedes all prior oral or written representations, negotiations and agreement on the subject matter stated herein.
- 17. **Counterparts.** This Agreement may be executed in several counterparts all of which shall constitute one agreement, binding on all parties hereto, notwithstanding that all the parties are not signatories to the same counterpart.

[Remainder of page intentionally left blank, signatures on next page.]

Municipal Services Agreement  
Signature Page

IN WITNESS WHEREOF, this Municipal Services Agreement is executed as of the day  
and year first written above.

**CITY:**

CITY OF MUSKEGON

Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Ken Johnson, Mayor

Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Ann Meisch, City Clerk

**DEVELOPER:**

AMITY COMMONS LIMITED DIVIDEND  
HOUSING ASSOCIATION LIMITED  
PARTNERSHIP,  
a Michigan limited partnership

By: Amity Commons GP, LLC,  
Its General Partner

Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_

Print Name: \_\_\_\_\_  
Its: Authorized Agent

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10 <sup>th</sup> , 2023                                                                                                                                                                                                                                                                                          | Title: Sale of 1530 Hoyt Street                                                                                              |
| Submitted By: LeighAnn Mikesell                                                                                                                                                                                                                                                                                                                   | Department: City Manager's Office                                                                                            |
| Brief Summary: Staff is requesting approval of a purchase agreement for 1530 Hoyt Street.                                                                                                                                                                                                                                                         |                                                                                                                              |
| Detailed Summary & Background:<br>1530 Hoyt Street was constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding. The offer is over the full listing price with no seller concessions.                                                                                                                  |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Create an environment that effectively attracts new residents and retains existing residents by filling existing employment gaps, attracting new and diverse businesses to the city, and expanding access to a variety of high-quality housing options in Muskegon. Key Focus Area: Diverse Housing Types. |                                                                                                                              |
| Amount Requested: N/A                                                                                                                                                                                                                                                                                                                             | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s):                                                                                                                                                                                                                                                                                                                            | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| Recommended Motion: To approve the purchase agreement for 1530 Hoyt Street.                                                                                                                                                                                                                                                                       |                                                                                                                              |
| Approvals:<br>Immediate Division Head <input type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input checked="" type="checkbox"/><br>Communication <input type="checkbox"/><br>Legal Review <input checked="" type="checkbox"/>                                                                       | Guest(s) Invited / Presenting:<br>Yes <input type="checkbox"/><br>No <input checked="" type="checkbox"/>                     |

**WEST MICHIGAN REGIONAL PURCHASE AGREEMENT**

#

DATE: 09/08/2023, 11:00 AM (time) MLS # 71023031953

SELLING OFFICE: Pinnacle realty BROKER LIC.#: REALTOR® PHONE: 231-955-9545

LISTING OFFICE: West Urban Realty REALTOR® PHONE: 6163662459

1. **Effective Date:** This Agreement is effective on the date of Seller's acceptance of Buyer's offer or Buyer's acceptance of any counteroffer, as the case may be, and this date shall hereafter be referred to as the "Effective Date". Further, any reference to "days" in this Agreement refers to calendar days. The first calendar day begins at 12:01 a.m. on the day after the Effective Date. Any reference to "time" refers to local time.
2. **Agency Disclosure:** The Undersigned Buyer and Seller each acknowledge that they have read and signed the Disclosure Regarding Real Estate Agency Relationships. The selling licensee is acting as (choose one):  
☐ Agent/Subagent of Seller ☒ Buyer's Agent ☐ Dual Agent (with written, informed consent of both Buyer and Seller)  
☐ Transaction Coordinator
- Primary Selling Agent Name: Adrian Valdez Email: Homesbyvaldez@gmail.com Lic.#: 6501437937
- Alternate Selling Agent Name: Email: Lic.#:
3. **Seller's Disclosure Statement:** (This paragraph applies to sales of one-to-four family residential units.)  
☐ Buyer has received the Seller's Disclosure Statement, dated.  
☐ Buyer has not received the Seller's Disclosure Statement. Buyer may terminate this Agreement, in writing, any time prior to receipt of the Seller's Disclosure Statement. Once Buyer has received the Seller's Disclosure Statement, Buyer may terminate this Agreement, in writing, within 72 hours of receipt if the disclosure was received in person, or within 120 hours if received by registered mail. Exceptions:  
☐ Seller is exempt from the requirements of the Seller Disclosure Act.
4. **Lead-Based Paint Addendum:** Transactions involving homes built prior to 1978 require a written disclosure which is hereby attached and will be an integral part of this Agreement.
5. **Property Description:** Buyer offers to buy the property located in the ☒ City ☐ Village ☐ Township of Muskegon, County of Muskegon, Michigan, commonly known as (insert mailing address: street/city/state/zip code)  
 1530 Hoyt St, Muskegon, MI 49442  
 with the following legal description and tax parcel ID numbers:

CITY OF MUSKEGON REVISED PLAT OF 1903 S 35.7 FT LOT 2 BLK 281

PP# 24205281000210

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

Seller agrees to grant Buyer at closing the right to make (insert number) all division(s) under Section 108(2), (3), and (4) of the Michigan Land Division Act. (If no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or REALTOR® do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval on or before 10/16/2023, of the proposed division to create the Premises.

6. **Purchase Price:** Buyer offers to buy the Property for the sum of \$ 160,000 U.S. Dollars  
 one hundred sixty thousand
7. **Seller Concessions**, if any: N/A
8. **Terms:** The Terms of Purchase will be as indicated by "X" below: (Other unmarked terms of purchase do not apply.)  
**SOURCE OF FUNDS TO CLOSE:** Buyer represents that the funds necessary to close this transaction on the terms specified below are currently available to Buyer in cash or an equally liquid equivalent.

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

- ☐ **CASH.** The full Purchase Price upon execution and delivery of Warranty Deed. Buyer Agrees to provide Buyer Agent/Dual Agent verification of funds within five (5) days after the Effective Date, and consents to the disclosure of such information to Seller and/or Seller's Agent. If verification of funds is not received within 5 days after the Effective Date, Seller may terminate this Agreement at any time before verification of funds is received by giving written notice to Buyer. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement.
- ☒ **NEW MORTGAGE.** The full Purchase Price upon execution and delivery of Warranty Deed, contingent upon Buyer's ability to obtain a FHA type 30 (year) mortgage in the amount of 96.5 % of the Purchase Price bearing interest at a rate not to exceed 8 % per annum (rate at time of loan application), on or before the date the sale is to be closed. Buyer agrees to apply for a mortgage loan, and pay all fees and costs customarily charged by Buyer's lender to process the application, within N/A days after the Effective Date, not to impair Buyers' credit after the date such loan is offered. ☐ Seller ☒ Buyer will agree to pay an amount not to exceed \$ 0 representing repairs required as a condition of financing. Buyer ☐ agrees ☐ does not agree to authorize Buyer's Agent/Dual Agent to obtain information from



Buyer's Initials



Seller's Initials

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

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

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

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

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

☐ OTHER:

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

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

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

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

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

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

N/A

but does not include:

N/A

1530 Hoyt St, Muskegon, MI 49442  
Subject Property Address/Description

09/08/2023  
Date

11:00 AM  
Time



Buyer's Initials



Seller's Initials

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

N/A

12. **Assessments (choose one):**

**If the Property is subject to any assessments,**

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

☐ Seller shall pay all installments of such assessments that become due and payable on or before day of closing. Buyer shall assume and pay all other installments of such assessments.

Seller has an ongoing obligation through the Closing to disclose to the Buyer any known pending assessments, including, but not limited to, any mandatory utility connection requirements, and/or benefit charges, and condominium special assessments, that have not been previously disclosed in writing to Buyer.

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

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

☐ No proration. (Choose one):

☐ Buyer ☐ Seller will pay taxes billed summer \_\_\_\_\_ (year);  
☐ Buyer ☐ Seller will pay taxes billed winter \_\_\_\_\_ (year);

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

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

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

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

Other:

N/A

15. **Inspections & Investigations:**

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

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

All inspections and investigations will be completed within 10 days after the Effective Date. If the results of Buyer's inspections and investigations are not acceptable to Buyer, Buyer may, within the above referenced period, either (a) terminate this Agreement by written notice to Seller and receive a refund of Buyer's Earnest Money Deposit, or (b) make a written proposal to Seller to correct those unsatisfactory conditions, which proposal must be in the form of a proposed addendum and must be signed by Buyer in order for it to be effective. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have

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Time



Buyer's Initials



Seller's Initials

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

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

Exceptions:

N/A

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

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

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

N/A

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

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

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

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

Buyer will accept one if one exists

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

N/A

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

21. **Closing:** If agreeable to Buyer and Seller, the sale will be closed as soon as closing documents are ready, but not later than 10/17/2023. An additional period of fifteen (15) days will be allowed for closing to accommodate the correction of title defects or survey problems which can be readily corrected, or for delays in obtaining any lender required inspections/repairs. During this additional period, the closing will be held within 5 days after all parties have been notified that all necessary documents have been prepared. Buyer and Seller will each pay their title company closing fee, if applicable, **except in the case of VA financing where Seller will pay the entire closing fee**. Exceptions:

N/A

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

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

☒ At the completion of the closing of the sale.

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

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09/08/2023

Date

11:00 AM

Time



Buyer's Initials



Seller's Initials

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

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

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

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

N/A

24. **Earnest Money Deposit:** For valuable consideration, Buyer gives Seller until 1 PM (time) on 09/09/2023 (date), to deliver the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding Agreement between Buyer and Seller. An Earnest Money Deposit in the amount of \$ 500 shall be submitted to ATA National Title (insert name of broker, title company, other) within 72 hours of the Effective Date of this Agreement, and shall be applied against the Purchase Price. If the Earnest Money Deposit is not received within 72 hours of the Effective Date or is returned for insufficient funds, Seller may terminate this Agreement until such time as the Earnest Money Deposit is received. If Seller terminates this Agreement under this provision, Seller waives any claim to the Earnest Money Deposit. If the sale is not closed due to a failure to satisfy a contingency for a reason other than the fault of Buyer, the Earnest Money Deposit shall be refunded to Buyer. If the sale is not closed as provided in this Agreement and Buyer and Seller do not agree to the disposition of the Earnest Money Deposit, then Buyer and Seller agree that the Broker holding the Earnest Money Deposit may notify Buyer and Seller, in writing, of Broker's intended disposition of the Earnest Money Deposit. If Buyer and Seller do not object to such disposition in writing within fifteen (15) days after the date of Broker's notice, they will be deemed to have agreed to Broker's proposed disposition; if either Buyer or Seller object and no mutually agreeable disposition can be negotiated, Broker may deposit the funds by interpleader with a court of proper jurisdiction or await further actions by Buyer and Seller. In the event of litigation involving the deposit, in whole or in part, either the Seller or the Buyer that is not the prevailing party, as determined by the court, will reimburse the other for reasonable attorneys' fees and expenses incurred in connection with the litigation, and will reimburse the Broker for any reasonable attorneys' fees and expenses incurred in connection with any interpleader action instituted. If the entity holding the Earnest Money Deposit is not the Broker, then to the extent that the terms of any escrow agreement conflict with this paragraph, then the terms and conditions of the escrow agreement shall control.

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

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

27. **Other Provisions:**

N/A

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

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

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

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Subject Property Address/Description

09/08/2023

Date

11:00 AM

Time



Buyer's Initials



Seller's Initials

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

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

Buyer 1 Address: Elza Beard dotloop verified 09/08/23 1:57 PM EDT HHGK-SPLR-E4DV-X017 **Buyer**  
 Buyer 1 Phone: (Res.) \_\_\_\_\_ (Bus.) \_\_\_\_\_ Elza Beard  
 Print name as you want it to appear on documents.  
 Buyer 2 Address: \_\_\_\_\_ **Buyer**  
 Buyer 2 Phone: (Res.) \_\_\_\_\_ (Bus.) \_\_\_\_\_  
 Print name as you want it to appear on documents.

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

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

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

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

35. **Listing Office Address:** 3265 Walker Ave NW,, Suite D, Grand Rapids, MI 49544 Listing Broker License # \_\_\_\_\_  
**Listing Agent Name:** Mariana Murillo VanDam Listing Agent License # 6506015435

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

X (Seller's Signature, Date, Time): LeighAnn Mikesell dotloop verified 09/14/23 6:01 PM EDT VCQS-0XF8-AD55-UEJH  
 Is Seller a U.S. Citizen or Resident Alien? ☒ Yes ☐ No\*  
 \_\_\_\_\_  
 Print name as you want it to appear on documents.  
 X (Seller's Signature, Date, Time): \_\_\_\_\_  
 Is Seller a U.S. Citizen or Resident Alien? ☐ Yes ☐ No\*  
 \_\_\_\_\_  
 Print name as you want it to appear on documents.

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

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

X (Buyer's Signature, Date, Time): Elza Beard dotloop verified 09/14/23 6:37 PM EDT ZC4M-ACCT-FD5K-ZB7R  
 X (Buyer's Signature, Date, Time): \_\_\_\_\_

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

X (Seller's Signature, Date, Time): \_\_\_\_\_  
 X (Seller's Signature, Date, Time): \_\_\_\_\_

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 Date Time



Buyer's Initials



Seller's Initials

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10 <sup>th</sup> , 2023                                                                                                                                                                                                                                                                                          | Title: Sale of 1647 Terrace Street                                                                                           |
| Submitted By: LeighAnn Mikesell                                                                                                                                                                                                                                                                                                                   | Department: City Manager's Office                                                                                            |
| Brief Summary: Staff is requesting approval of a purchase agreement for 1647 Terrace Street.                                                                                                                                                                                                                                                      |                                                                                                                              |
| Detailed Summary & Background:<br>1647 Terrace Street was constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding. The offer is over the full listing price with \$10,000 in seller concessions.                                                                                                      |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Create an environment that effectively attracts new residents and retains existing residents by filling existing employment gaps, attracting new and diverse businesses to the city, and expanding access to a variety of high-quality housing options in Muskegon. Key Focus Area: Diverse Housing Types. |                                                                                                                              |
| Amount Requested: N/A                                                                                                                                                                                                                                                                                                                             | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s):                                                                                                                                                                                                                                                                                                                            | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| Recommended Motion: To approve the purchase agreement for 1647 Terrace Street.                                                                                                                                                                                                                                                                    |                                                                                                                              |
| Approvals:<br>Immediate Division Head <input type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input checked="" type="checkbox"/><br>Communication <input type="checkbox"/><br>Legal Review <input checked="" type="checkbox"/>                                                                       | Guest(s) Invited / Presenting:<br>Yes <input type="checkbox"/><br>No <input checked="" type="checkbox"/>                     |

# WEST MICHIGAN REGIONAL PURCHASE AGREEMENT

# 1

DATE: 09/11/2023, 7pm (time) MLS #

SELLING OFFICE: City2Shore Port City Associates BROKER LIC.#: 6505424129 REALTOR® PHONE: 2316552944

LISTING OFFICE: West Urban Realty REALTOR® PHONE: 616-366-2459

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

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

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

Primary Selling Agent Name: Emmersyn Sheaks Email: emmersyn.sheaks@city2shore. Lic.#: 6501451220

Alternate Selling Agent Name:  Email:  Lic.#:

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

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

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

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

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

1647 Terrace Street Muskegon Michigan 49442

with the following legal description and tax parcel ID numbers:

CITY OF MUSKEGON REVISED PLAT OF 1903 N 51 2/3 FT OF S 103 1/3 FT OF LOT 25 BLK 292

PP# 61-24-205-292-0025-10

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

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

6. **Purchase Price:** Buyer offers to buy the Property for the sum of \$ 178000  
one hundred seventy-eight thousand U.S. Dollars

7. **Seller Concessions**, if any: 10000  
concessions

8. **Terms:** The Terms of Purchase will be as indicated by "X" below: (Other unmarked terms of purchase do not apply.)

**SOURCE OF FUNDS TO CLOSE:** Buyer represents that the funds necessary to close this transaction on the terms specified below are currently available to Buyer in cash or an equally liquid equivalent.

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

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

☒ **NEW MORTGAGE.** The full Purchase Price upon execution and delivery of Warranty Deed, contingent upon Buyer's ability to obtain a VA type 30 (year) mortgage in the amount of 100 % of the Purchase Price bearing interest at a rate not to exceed 7.25 % per annum (rate at time of loan application), on or before the date the sale is to be closed. Buyer agrees to apply for a mortgage loan, and pay all fees and costs customarily charged by Buyer's lender to process the application, within 4 days after the Effective Date, not to impair Buyers' credit after the date such loan is offered. ☒ Seller ☐ Buyer will agree to pay an amount not to exceed \$ 500 representing repairs required as a condition of financing. Buyer ☒ agrees ☐ does not agree to authorize Buyer's Agent/Dual Agent to obtain information from

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

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

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

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

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

☐ OTHER:

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

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

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

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

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

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

GE Dishwasher, GE Fridge, GE Range, GE Microwave, GE washer and GE dryer.  
Also to include A/c.

**but does not include:**

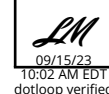
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Date

7pm  
Time



Buyer's Initials



Seller's Initials

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

N/A

12. **Assessments (choose one):**

**If the Property is subject to any assessments,**

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

Seller has an ongoing obligation through the Closing to disclose to the Buyer any known pending assessments, including, but not limited to, any mandatory utility connection requirements, and/or benefit charges, and condominium special assessments, that have not been previously disclosed in writing to Buyer.

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

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

☐ No proration. (Choose one):

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

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

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

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

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

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

Other:

15. **Inspections & Investigations:**

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

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

All inspections and investigations will be completed within 10 days after the Effective Date. If the results of Buyer's inspections and investigations are not acceptable to Buyer, Buyer may, within the above referenced period, either (a) terminate this Agreement by written notice to Seller and receive a refund of Buyer's Earnest Money Deposit, or (b) make a written proposal to Seller to correct those unsatisfactory conditions, which proposal must be in the form of a proposed addendum and must be signed by Buyer in order for it to be effective. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have

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Seller's Initials

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

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

Exceptions:

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

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

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

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

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

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

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

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

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

21. **Closing:** If agreeable to Buyer and Seller, the sale will be closed as soon as closing documents are ready, but not later than 10/11/2023. An additional period of fifteen (15) days will be allowed for closing to accommodate the correction of title defects or survey problems which can be readily corrected, or for delays in obtaining any lender required inspections/repairs. During this additional period, the closing will be held within 5 days after all parties have been notified that all necessary documents have been prepared. Buyer and Seller will each pay their title company closing fee, if applicable, **except in the case of VA financing where Seller will pay the entire closing fee.** Exceptions:

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

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

☒ At the completion of the closing of the sale.

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

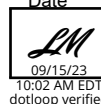
1647 Terrace Street Muskegon  
Subject Property Address/Description

09/11/2023  
Date

7pm  
Time



Buyer's Initials



Seller's Initials

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

If Seller fails to deliver possession to Buyer on the agreed date, Seller shall become a tenant at sufferance and shall pay to Buyer as liquidated damages \$ 300 per day plus all of the Buyer's actual reasonable attorney's fees incurred in removing the Seller from the Property.

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

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

24. **Earnest Money Deposit:** For valuable consideration, Buyer gives Seller until 12pm (time) on 09/13/2023 (date), to deliver the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding Agreement between Buyer and Seller. An Earnest Money Deposit in the amount of \$ 500 shall be submitted to City2Shore Port City Associates (insert name of broker, title company, other) within 72 hours of the Effective Date of this Agreement, and shall be applied against the Purchase Price. If the Earnest Money Deposit is not received within 72 hours of the Effective Date or is returned for insufficient funds, Seller may terminate this Agreement until such time as the Earnest Money Deposit is received. If Seller terminates this Agreement under this provision, Seller waives any claim to the Earnest Money Deposit. If the sale is not closed due to a failure to satisfy a contingency for a reason other than the fault of Buyer, the Earnest Money Deposit shall be refunded to Buyer. If the sale is not closed as provided in this Agreement and Buyer and Seller do not agree to the disposition of the Earnest Money Deposit, then Buyer and Seller agree that the Broker holding the Earnest Money Deposit may notify Buyer and Seller, in writing, of Broker's intended disposition of the Earnest Money Deposit. If Buyer and Seller do not object to such disposition in writing within fifteen (15) days after the date of Broker's notice, they will be deemed to have agreed to Broker's proposed disposition; if either Buyer or Seller object and no mutually agreeable disposition can be negotiated, Broker may deposit the funds by interpleader with a court of proper jurisdiction or await further actions by Buyer and Seller. In the event of litigation involving the deposit, in whole or in part, either the Seller or the Buyer that is not the prevailing party, as determined by the court, will reimburse the other for reasonable attorneys' fees and expenses incurred in connection with the litigation, and will reimburse the Broker for any reasonable attorneys' fees and expenses incurred in connection with any interpleader action instituted. If the entity holding the Earnest Money Deposit is not the Broker, then to the extent that the terms of any escrow agreement conflict with this paragraph, then the terms and conditions of the escrow agreement shall control.

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

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

27. **Other Provisions:**

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

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

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

1647 Terrace Street Muskegon  
Subject Property Address/Description

09/11/2023  
Date

7pm  
Time



Buyer's Initials



Seller's Initials

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

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

Buyer 1 Address: \_\_\_\_\_ X *Jermichael Tanner* dotloop verified  
09/12/23 11:36 AM EDT  
XGTU-GUWU-M00F-1920 **Buyer**

Buyer 1 Phone: (Res.) (321)960-0058 (Bus.)

|                 |   |       |
|-----------------|---|-------|
| Buyer 2 Address | X | Buyer |
|-----------------|---|-------|

Buyer 2 Phone: (Res.) \_\_\_\_\_ (Bus.) \_\_\_\_\_

Print name as you want it to appear on documents.

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

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

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

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

35. Listing Office Address: \_\_\_\_\_ Listing Broker License # \_\_\_\_\_  
Listing Agent Name: \_\_\_\_\_ Listing Agent License # \_\_\_\_\_

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

X (Seller's Signature, Date, Time): LeighAnn Micksell 09/15/23 10:02 AM EDT  
EQCS-93YX-S8KV-9GIM

Print name as you want it to appear on documents. \_\_\_\_\_ Is Seller a U.S. Citizen or Resident Alien? ☒ Yes ☐ No\*

**X (Seller's Signature, Date, Time):** \_\_\_\_\_

\_\_\_\_\_

Print name as you want it to appear on documents.

Is Seller a U.S. Citizen or Resident Alien? ☐ Yes ☐ No\*

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

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

|                                    |  |
|------------------------------------|--|
| X (Buyer's Signature, Date, Time): |  |
| X (Buyer's Signature, Date, Time): |  |

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

|                                     |  |
|-------------------------------------|--|
| X (Seller's Signature, Date, Time): |  |
| X (Seller's Signature, Date, Time): |  |

|                                      |
|--------------------------------------|
| 1647 Terrace Street Muskegon         |
| Subject Property Address/Description |

|            |      |
|------------|------|
| 09/11/2023 | 7pm  |
| Date       | Time |

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Title: Arena Solar Exemption Certificate Transfer                                                                            |
| Submitted By: Dan VanderHeide                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Department: DPW                                                                                                              |
| Brief Summary: Staff requests approval of the attached resolution, supporting the transfer of the PA 328 Exemption Certificate for the Arena Solar Project from New Energy Equity to Sunwealth LLC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                              |
| <p>Detailed Summary &amp; Background:</p> <p>In 2019 the Commission approved a Power Purchase Agreement (PPA) with New Energy Equity (NEE) to place solar on the arena roof. After the pause due to COVID restrictions, New Energy Equity was not interested in continuing the project, so a new agreement was secured with Sunwealth LLC and approved by this Commission earlier this year.</p> <p>As a part of the previous negotiation a Public Act 328 Personal Property Tax Exemption Certificate was obtained for the project, however it was issued with the system owner named as New Energy Equity. In order to allow the DDA (which would have received the taxes) to transfer the certificate into Sunwealth LLC's name, the City must pass a resolution supporting the transfer.</p> <p>The attached resolution indicates the City's support for the transfer, and will allow Sunwealth LLC to make formal application to the DDA for the transfer. This is an important component of the financial benefits to the City, since the tax exemption is a part of the calculations that allow the City to pay a reduced rate for the solar energy compared to grid energy.</p> |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Sustainability in Financial Practices & Infrastructure                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                              |
| Amount Requested: N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s): N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| Recommended Motion: I move approval of the attached resolution, supporting the transfer of the PA 328 Exemption Certificate for the Arena Solar Project from New Energy Equity to Sunwealth LLC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                              |
| Approvals:<br>Immediate Division Head <input checked="" type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input checked="" type="checkbox"/><br>Communication <input type="checkbox"/><br>Legal Review <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Guest(s) Invited / Presenting:<br>Yes <input type="checkbox"/><br>No <input checked="" type="checkbox"/>                     |

**RESOLUTION \_\_\_\_\_**  
**TRANSFERRING A NEW PERSONAL PROPERTY**  
**(PA 328) EXEMPTION CERTIFICATE**

WHEREAS, the City Commission of the City of Muskegon established a Downtown Development Authority in 1988 as required under PA 328 of 1998 after a public hearing held on July 12, 1988; and

WHEREAS, the City of Muskegon meets the definition of an “Eligible Local Assessing District” under PA 328 of 1998, Section 9(h), by virtue of containing an eligible distressed area as defined by Section 7(f)(i), in accordance with PA 346 of 1966, Section 11; and

WHEREAS, Sunwealth LLC has filed an application for a transfer of PA 328 Exemption Certificate 509-2021 with respect to \$1,163,214 of new personal property located in or to be located in Downtown Development Authority; and

WHEREAS, the applicant Sunwealth LLC meets the definition of an “Eligible Business” as defined by PA 328 of 1998 and is engaged primarily in manufacturing solar development at the location of 470 W Western Ave, Muskegon, MI 49440; and

WHEREAS, Sunwealth LLC has substantially met all the requirements under Public Act 328 of 1998, as amended, for the transfer of PA 328 Exemption Certificate 509-2021;

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

1. The application from Sunwealth LLC for a transfer of PA 328 Exemption Certificate 509-2021, with respect to new personal property on the following described parcel of real property situated within the Downtown Development Authority to wit: Property Number: 24-205-567-0001-30 be and the same is hereby approved.
2. The PA 328 Exemption Certificate when issued shall remain in force for the remaining years approved under PA 328 Exemption certificate 509-2021 with an end date of 12/30/2046.

Motion by \_\_\_\_\_, supported by \_\_\_\_\_.

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan, at a regular meeting held on October 10, 2023.

\_\_\_\_\_  
Ann Meisch, City Clerk

# WATCH MUSKEGON

## Agenda Item Review Form

### Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Title: City Hall Seagull Control System                                                                                      |
| Submitted By: Tim Harvey                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Department: Building Maintenance (DPW)                                                                                       |
| Brief Summary: Staff requests approval to enter into a contract with Seagull Control Systems of City Island, NY for a post-and-wire seagull control system in the amount of \$27,880.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                              |
| <p>Detailed Summary &amp; Background: City Hall has become an annual nesting ground for seagulls, with detrimental effects to the building and surrounding area. The seagulls get very territorial during nesting season and have been known to dive at employees and visitors in an attempt to drive them away. Once hatched the young seagulls are a protected species, so the key is to prevent the nesting behavior in the first place.</p> <p>Staff solicited proposals and recommends Seagull Control Systems from City Island, New York based on their proposal being the lowest cost post-and-wire system. Great Lakes Nuisance Animal Control is a local option, however they did not respond to our request for a proposal and staff understands the post-and-wire system to be more effective for our issues than the netting system GLNAC would use.</p> <ol style="list-style-type: none"><li>1. Seagull Control Systems (City Island, NY): \$27,880</li><li>2. Aviaway Bird Control Systems (Wall Township, NJ): \$36,500</li></ol> <p>Portions of the City Hall roof are planned for replacement in FY24-25, however this system will be able to be reinstalled after that process with minimal new parts. The effort would be paid for with funds budgeted for the boiler replacement project, which had bids come in under budget.</p> |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Destination Community & Quality of Life                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                              |
| Amount Requested: \$27,880                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Budgeted Item:<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>           |
| Fund(s) or Account(s): 445 (Public Improvement)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |
| Recommended Motion: I move to authorize staff to enter into a contract with Seagull Control Systems of City Island, NY for a post-and-wire seagull control system in the amount of \$27,880.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                              |
| Approvals:<br>Immediate Division Head <input checked="" type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input type="checkbox"/><br>Communication <input type="checkbox"/><br>Legal Review <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Guest(s) Invited / Presenting:<br>Yes <input type="checkbox"/><br>No <input checked="" type="checkbox"/>                     |



City Island, Bronx, NY 10464

[www.seagullcontrol.com](http://www.seagullcontrol.com) 347-389-5533 [info@seagullcontrol.com](mailto:info@seagullcontrol.com)

**Seagull Deterrent Proposal: Muskegon City Hall**

TO: Tim Harvey, Building Maintenance Supervisor

3/16/2023

FR: Barry Fast, President, Seagull Control Systems®

**Seagull Infestation Problem:** Seagulls are roosting, feeding, and nesting on the flat roofs of the Muskegon City Hall. The Center for Disease Control and Prevention states: Seagulls are a serious “disease vector.” Their feces can spread E. coli, salmonella and other pathogens. They pollute the public areas and shorten the life of the roofs. Their pollution can enter the HVAC, creating a potential health issue inside buildings. Feathers, nesting debris and food scraps can clog drains, and their polluted droppings on walkways can be tracked into workspaces and vehicles.

**The Solution:** To protect the flat roof sections, we design and install the SCS Grid Wire Deterrent System™ to permanently end the seagull infestation on the roof sections shown in the accompanying sketch. The US Dept. of Agriculture Wildlife Service recommends this as a permanently effective, non-harmful method for preventing seagulls from roosting and nesting on flat roofs, docks and other open areas you want to protect.

To permanently end the infestation on the upper roof perimeter, which is now severely stained with gull droppings, we will install the Flock Off Bird Deterrent System. This creates a narrow five-foot diameter electromagnetic field along this roof perimeter feature. When gulls enter the field their ability to navigate in the air is disrupted, causing them to avoid the area entirely. Long term roosting/nesting locations strongly attract gulls to return, but this technology mitigates the motivation to return, and in combination with the grid wire deterrent, the negative effect is powerful. Gulls cannot acclimate to this. The system does not harm them or other birds, does not interfere with any other electrical equipment, and has been certified safe around people.

**Cost: \$27,880** This includes design, delivery, installation of the SCS Grid Wire Seagull Deterrent System and the Flock Off Bird Deterrent. Seagulls will immediately cease landing and roosting on your roofs, and the effect is permanent.

**Note:** The grids are formed with 0.9mm thick Kevlar™ synthetic cord, coated with polyurethane for UV protection. This is marine-grade material, strong, non-stretch. The grids do not entangle seagulls, which would be upsetting to most people, nor do they act like a net. They create a threatening environment that seagulls will avoid.

**Details:** Poles are spaced 30-40 feet apart supporting the grids 6-8 feet above the roof surface to enable routine maintenance to take place. The poles are mounted in heavy gauge aluminum brackets with welded pole holders. These pole holders are attached to parapets with screws and sealed. Interior poles are stabilized with paving stones so there is no penetration of the roof membrane. The grids are strung on the pole tops in a pattern we design (see sketch for examples). The aluminum poles are only  $\frac{3}{4}$  inch diameter so not very noticeable, and the cords are virtually invisible from the street.

On the lower roof parapets another cord is strung pole to pole just a few inches above the parapet to prevent seagulls from landing there. This avoids the need for stainless steel seagull spikes around the roof perimeter where the deterrent effect of grid wires is weaker. The entire grid pattern is a design proprietary to us, that we developed and tested in hundreds of locations. We have never failed to permanently end seagull infestations with this deterrent system.

**Maintenance/Warranty:** A 5-year parts replacement warranty on the pole units. A one-year warranty of the Flock Off system. Once the system is installed it can easily be partially or completely removed temporarily for major roof maintenance or the installation of new roof-mounted equipment. Maintaining the entire system requires occasional inspection to tighten loose lines or fix a pole that has been damaged by a major storm or careless roof worker. There are no moving parts and the entire system is designed and installed for harsh roof top conditions.

Bracket supporting parapet mounted pole



Typical pole layout supporting grids on a large warehouse roof. No roof penetration.



## Muskegon, MI City Hall seagull deterrent design

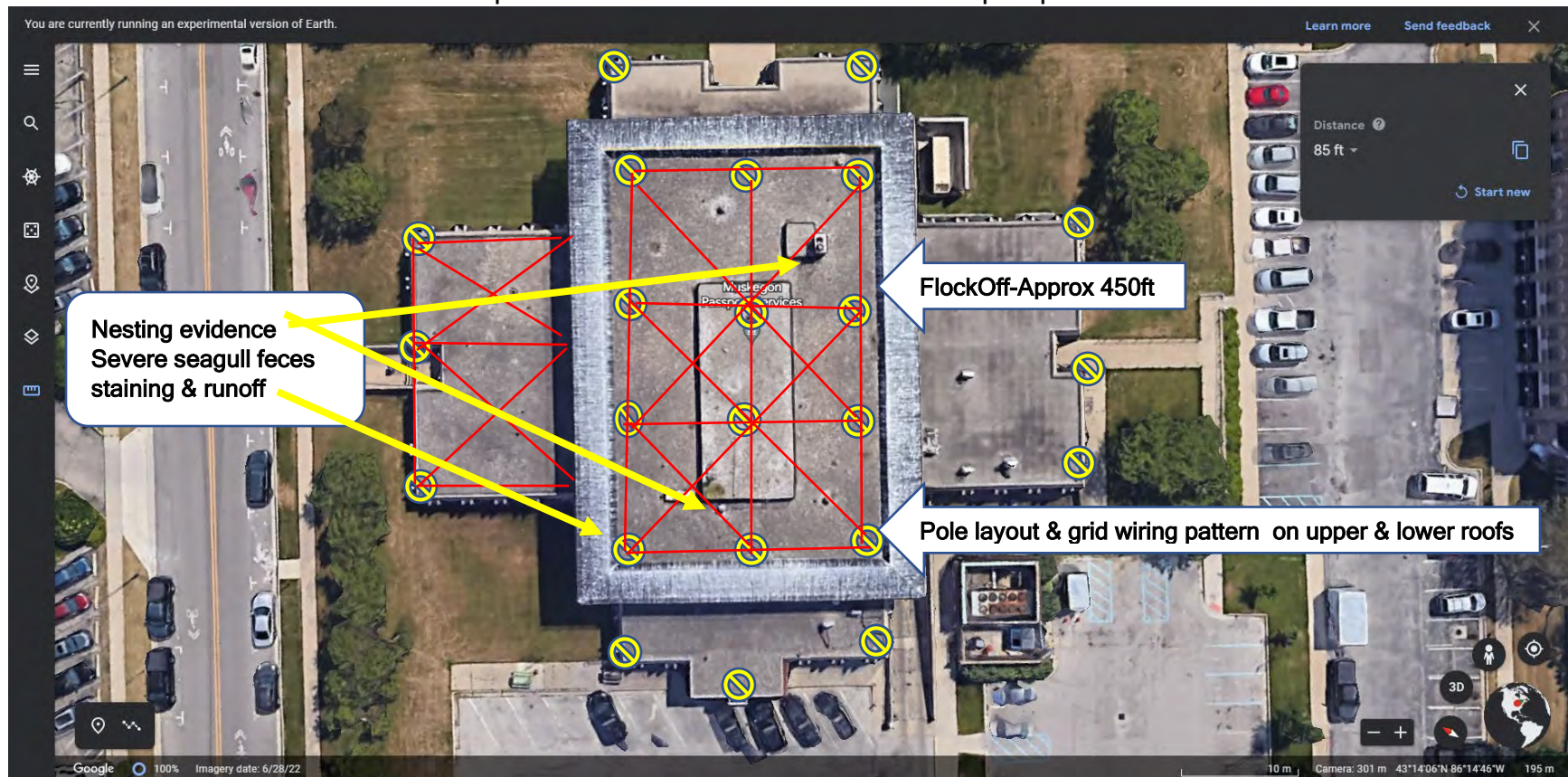
Install Flock Off on roof perimeter, creating a 5 ft wide electromagnetic field that disrupts gulls' ability to navigate in flight

Install SCS Grid Wire Seagull Deterrent on 23 poles (Ⓝ) as shown on upper & lower roofs

Upper roof pole holder brackets are stabilized with pavers—no roof membrane penetration

Install SCS Grid Wire Seagull Deterrent on lower roofs parapets, grids from poles to building wall

Lower roofs pole holder brackets are screwed into parapets and sealed



# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                 |                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                       | Title: Fireworks Agreement                                                                                                   |
| Submitted By: Kyle Karczewski                                                                                                                                                                                                                                                                                   | Department: Parks & Recreation                                                                                               |
| Brief Summary: Staff is requesting authorization to enter into an agreement with Pyrotecnico Fireworks for \$40,000 for the annual fireworks show in downtown Muskegon, and approval of the fireworks display permit for Pyrotecnico contingent upon inspection of the fireworks and approval of the insurance. |                                                                                                                              |
| Detailed Summary & Background:<br>The annual Fireworks contract of \$40,000 will be scheduled for July 4 <sup>th</sup> , 2024. The agreement is of the standard form with Pyrotecnico that the City has entered into for the past several years.                                                                |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Destination Community & Quality of Life (Events & Activities)                                                                                                                                                                                                            |                                                                                                                              |
| Amount Requested: \$40,000                                                                                                                                                                                                                                                                                      | Budgeted Item:<br>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>           |
| Fund(s) or Account(s): 101 (General)                                                                                                                                                                                                                                                                            | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |
| Recommended Motion:<br>I move to authorize staff to enter into an agreement with Pyrotecnico Fireworks for \$40,000 for the annual fireworks show in downtown Muskegon, and approval of the fireworks display permit for Pyrotecnico contingent upon inspection of the fireworks and approval of the insurance. |                                                                                                                              |
| Approvals:<br>Immediate Division Head <input checked="" type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input checked="" type="checkbox"/><br>Communication <input type="checkbox"/><br>Legal Review <input checked="" type="checkbox"/>                          | Guest(s) Invited / Presenting:<br><br>Yes <input type="checkbox"/><br>No <input type="checkbox"/>                            |

# ***PYROTECNICO FIREWORKS, INC.***

This Fireworks Display Agreement ("Agreement") entered into this on **September 19, 2023** by and between PYROTECNICO FIREWORKS, INC. ("Pyrotecnico") and **City of Muskegon, MI** (CUSTOMER).

Pyrotecnico, for and in consideration of the terms hereinafter mentioned, agrees to furnish to the CUSTOMER \_Fireworks Display(s) and related services ("Fireworks Display"), including the services of Pyrotecnico's on-site representative to take charge of and perform the Fireworks Display under the supervision and direction of the CUSTOMER. The Firework Display to be given on **July 4, 2024** (the "Display Date"), weather permitting.

Customer agrees to pay Pyrotecnico the sum of **\$40,000.00** (the "Contract Price"). Pyrotecnico will invoice CUSTOMER a deposit of **\$20,000.00** is due **April 4, 2024** and the final balance shall be due **Net 10** from the Display Date. A service fee of 1 ½% per month shall be added if the account is not paid in full within 30 days of the Display Date. CUSTOMER agrees to pay any and all collection costs, including reasonable attorney's fees and court costs incurred by Pyrotecnico for any amount due under this Agreement.

Pyrotecnico and CUSTOMER agree that should inclement weather prevent the performance of the Fireworks Display on the Display Date, the parties shall agree to a mutually convenient alternate date, within three (3) months of the Display Date. If the show is rescheduled prior to Pyrotecnico's truck leaving the facility, CUSTOMER shall remit to Pyrotecnico an additional **\$6,000.00** for additional expenses in presenting the Fireworks Display on an alternate date. If the show is rescheduled after Pyrotecnico's truck leaves the facility, CUSTOMER shall remit to Pyrotecnico an additional **\$16,000.00** for additional expenses incurred. The determination to cancel the show because of inclement or unsafe weather conditions shall rest within the sole discretion of Pyrotecnico. In the event the CUSTOMER does not choose to reschedule another date or cannot agree to a mutually convenient date, Pyrotecnico shall be entitled to **\$20,000.00.**

Pyrotecnico agrees to furnish all necessary fireworks display materials and personnel for fireworks display in accordance with the program approved by the parties. Quantities and varieties of products in the program are approximate. After final design, exact specifications will be supplied upon request. Should this display require any Union, permit, or fire department related costs; their fees are not included in the Contract Price.

CUSTOMER will timely secure and provide the following: (a) Sufficient area for the display, including a minimum spectator set back distance of **350 FEET** at all points from the discharge area reflective in the attached site diagram; (b) Funds for all permits, licenses, and approvals as required by local, state and federal laws for the Fireworks Display; (c) Protection of the display area by roping-off or similar facility; (d) Adequate police protection to prevent spectators from entering display area; (e) Search of the fallout area at first light following a nighttime display; and (f) Provide credit as "Fireworks by Pyrotecnico" in all advertising and marketing materials.

Pyrotecnico will maintain general liability, property damage, transportation and workers compensation insurance. All those entities/individuals who are listed on the certificate of insurance, provided by Pyrotecnico, will be deemed to be an additional insured on such policy. This insurance coverage specifically does not include coverage for any independent acts of negligence of any additional insured.

CUSTOMER shall indemnify, defend and hold harmless Pyrotecnico and its shareholders, directors, officers, employees, agents, representatives and insurers from any and all demands, claims, causes of action, judgments or liability (including the costs of suit and reasonable attorneys' fees) arising from damage to or destruction of property (including both real and personal) or bodily or personal injuries (including death), whether arising from tort, contract or otherwise, that occur directly or indirectly from (a) the negligence or willful misconduct of CUSTOMER or its employees, agents, contractors or representatives, (b) the failure of CUSTOMER to comply with its obligations under this Agreement, or (c) any claims or actions arising out of Pyrotecnico's use of the show site. This Agreement contains the entire agreement between the Parties for this show and any prior agreements are terminated. This Agreement may only be amended, revised or terminated in writing, executed by the Party against which enforcement is asserted. The parties hereto do mutually and severally guarantee terms, conditions, and obligations under this Agreement to be binding upon the parties, themselves, their successors and assigns.

PYROTECNICO :

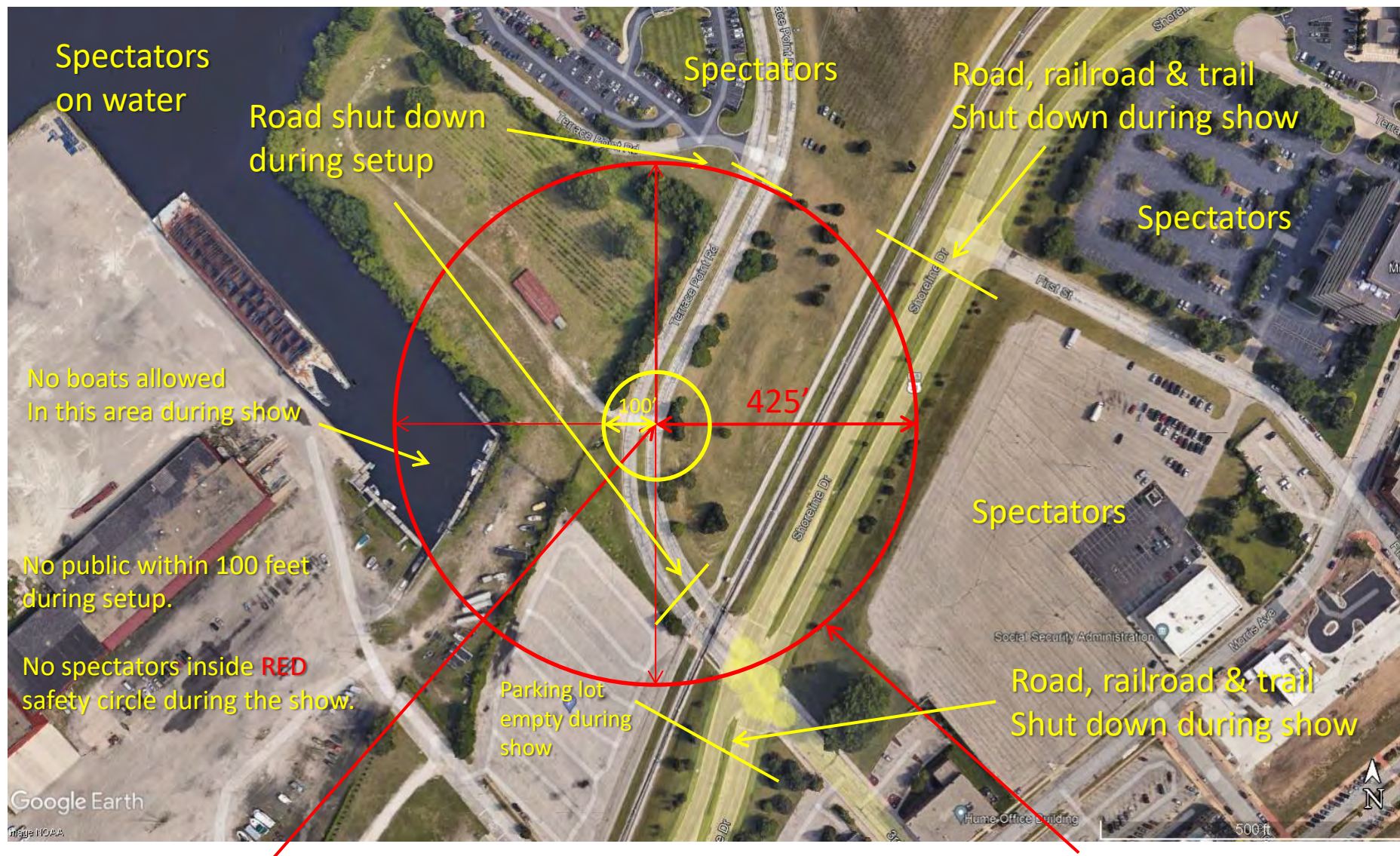
By (sign): \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Address: **PO Box 149**  
**New Castle PA 16103**  
Phone: **(724) 652-9555**  
Email: **contracts@pyrotecnico.com**

CUSTOMER:

By (sign)\_: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: : \_\_\_\_\_

Muskegon, MI  
Terrace Point & Nelson Rd, Muskegon MI 49440

Pyrotecnico Fireworks Inc.  
11/10/2021 Michael Falk



Launch Location

Setup area: 100' X 50'

Radius from setup area: 425'



**CONTACT/INSURANCE INFORMATION FORM**

**You must return this form with your signed Agreement for the Certificate of Insurance to be issued, and for the permit application to be completed and submitted. If information isn't applicable, please state such by indicating "N/A".**

Customer Name (Entity Contracting Pyrotecnico): \_\_\_\_\_

Primary Point of Contact Name: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Billing Address: \_\_\_\_\_

City, State & Zip: \_\_\_\_\_

Accounts Payable Contact: \_\_\_\_\_

Accounts Payable Email: \_\_\_\_\_

Date(s) of Show: \_\_\_\_\_ Display Start Time(s): \_\_\_\_\_

Rain/Postponed Date(s): \_\_\_\_\_

Day-of-Show Contact Name: \_\_\_\_\_

Day-of-Show Mobile Phone Number: \_\_\_\_\_

Day-of-Show Email: \_\_\_\_\_

Display Site Location(s) and  
Address(es): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If Pyrotecnico has produced a show at this site, has the geography changed (i.e, new structures, new terrain, etc.)? If yes, please describe:

\_\_\_\_\_

\_\_\_\_\_

Additionally Insured – If Applicable:

\_\_\_\_\_

\_\_\_\_\_



# Deposit Invoice

Pyrotecnico Fireworks Inc.  
Bin : 10  
PO Box 14470  
St. Louis MO 63178-4470  
United States

**Date:** 09/05/2023

**INV#:** SO-C51450

---

**Sold To:**

City of Muskegon, MI  
Muskegon City Hall  
933 Terrace Street  
Muskegon MI 49440  
United States

| Description                       | Amount       |
|-----------------------------------|--------------|
| Fireworks Display Date - 7/4/2024 | \$ 40,000.00 |
| Pre-Show Advance Due 04/04/2024   | \$ 20,000.00 |

We accept WIRE, ACH, and Check Payments.  
Wire Remit To:  
Busey Bank 100 W University Ave. Champaign IL 61820  
ABA: 071102568  
Account Number: 130586822088  
SWIFT/BIC Code: BUYEUS44

ACH Remit to:  
Busey Bank  
ACH Account: 130586822088  
Routing: 071102568

Check Remit to:  
Pyrotecnico Fireworks, Inc  
Bin : 10  
PO Box 14470  
St. Louis, MO 63178-4470

# WATCH MUSKEGON

## Agenda Item Review Form

### Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: 10/10/23                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Title: Amendment to Parks & Recreation Advisory Committee Sec 58-62                                                          |
| Submitted By: Ann Marie Meisch, MMC                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Department: City Clerk                                                                                                       |
| Brief Summary: To amend Sec. 58-62 of the Parks & Recreation Advisory Committee to reflect two Representative At-Large positions for a total of twelve members. To further amend the ordinance to reflect that the member appointed by and from the Commission will serve as chair and be a non-voting member.                                                                                                                                                                            |                                                                                                                              |
| Detailed Summary & Background: On Friday, October 22, 2023 the Community Relations Committee held a special meeting to discuss and make initial appointments to the recently established Parks & Recreation Advisory Committee. The Committee's discussion led to the necessity to amend the ordinance to include two At-large members instead of one At-Large Member and to clarify that the member appointed by and from the Commission will serve as chair and be a non-voting member. |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Goal 1: Establish a robust Parks & Recreation improvement plan.                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                              |
| Amount Requested:                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s):                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| Recommended Motion: To approve the amendment to Sec. 58-62 of the Parks & Recreation Advisory Committee Ordinance.                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                              |
| Approvals:<br>Immediate Division Head <input checked="" type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input checked="" type="checkbox"/><br>Communication <input type="checkbox"/><br>Legal Review <input checked="" type="checkbox"/>                                                                                                                                                                                                    | Guest(s) Invited / Presenting:<br>Yes <input type="checkbox"/><br>No <input checked="" type="checkbox"/>                     |

CITY OF MUSKEGON  
MUSKEGON COUNTY, MICHIGAN  
ORDINANCE NO. \_\_\_\_\_

**The purpose is to amend Sec. 58-62 of Article III – Parks and Recreation Advisory Committee**

**ARTICLE III. PARKS AND RECREATION ADVISORY COMMITTEE\***

**Sec. 68-61 Definition.**

As used in this article, the term “board” means the Parks and Recreation Advisory Committee created by this article.

**Sec. 58-62. Created; composition; appointment of members.**

There is hereby created a parks and recreation advisory committee consisting of ~~eleven~~ **twelve** members as follows:

- (1) One shall be a member of the city commission to be selected by and from the city commission that will serve as the board chair **and be a non-voting member.**
- (2) One shall be a member from Muskegon Public Schools.
- (3) ~~One~~ **Two** shall be a citizen who resides in the City of Muskegon.
- (4) Eight shall be citizens who reside in the City of Muskegon with two being representative of each of the four wards.

**Sec. 58-63. Terms of members; filling of vacancies.**

- (a) The term of any member of the board shall not exceed three years.
- (b) Notwithstanding subsection (a) of this section, any member of the board shall serve at the pleasure of the city commission.
- (c) Vacancies on the board shall be filled by mayoral appointment with the approval of the city commission.

**Sec. 58-64. Selection of officers; general powers and duties of board.**

- (a) The members of the board shall meet and organize by selecting such officers as may be necessary and adopt any rules or bylaws deemed necessary by the board to discharge in an orderly manner those duties hereafter assigned.
- (b) It shall be the duty of the board to advise the city commission upon those matters relating to the proper conduct of public recreation, programs and/or facilities within the city which shall be referred to such board from time to time, by the director of parks & recreation; provided, however, nothing contained in this article shall prohibit any member of the board from placing any item of business on the agenda of any board meeting. In addition, thereto, the board shall advise the city commission upon matters referred to the board from time to time by the city commission.

This ordinance adopted:

Ayes:

Nayes:

Adoption Date:

Effective Date:

First Reading:

Second Reading:

**CITY OF MUSKEGON**

By: \_\_\_\_\_

Ann Meisch, MMC - City Clerk

CERTIFICATE (Amend Sec. 58-62 of Article III - Parks & Recreation Advisory Committee)

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 10th day of October 2023, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, and that minutes were kept and will be or have been made available as required thereby.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Ann Meisch, MMC  
Clerk, City of Muskegon

Publish

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

CITY OF MUSKEGON  
NOTICE OF ADOPTION

Please take notice that on October 10, 2023 the City Commission of the City of Muskegon adopted an ordinance to amend Sec. 58-62 of Article III - Parks & Recreation Advisory Committee, summarized as follows:

1. The board shall consist of twelve members including a city commissioner that will serve as chair and be a non-voting member.
2. Two members shall be a citizen who resides in the City of Muskegon

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

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

Publish: \_\_\_\_\_

CITY OF MUSKEGON

By: Ann Meisch, MMC, City Clerk

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

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                             |                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: 10/10/23                                                                                                                                                                                                                                           | Title: Parks & Rec Advisory Committee –<br>Member Representing from Muskegon Public<br>Schools                               |
| Submitted By: Ann Marie Meisch, MMC                                                                                                                                                                                                                                         | Department: City Clerk                                                                                                       |
| Brief Summary: To replace the appointment of the Member Representing Muskegon Public Schools made on 9/22/23 and affirmed on 10/10/23 and to appoint Lynnette Marks, President of the Muskegon Public School Board to this position.                                        |                                                                                                                              |
| Detailed Summary & Background: Muskegon Public School Administration provided feedback on the appointment to this position and would like to have the School Board President appointed to represent the School District on this board.                                      |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Goal 1: Establish a robust Parks & Recreation improvement plan.                                                                                                                                                                      |                                                                                                                              |
| Amount Requested:                                                                                                                                                                                                                                                           | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s):                                                                                                                                                                                                                                                      | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| Recommended Motion: To replace the previous appointment and to appoint Lynnette Marks as member representing Muskegon Public Schools on the Parks and Recreation Advisory Committee.                                                                                        |                                                                                                                              |
| Approvals:<br>Immediate Division Head <input checked="" type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input checked="" type="checkbox"/><br>Communication <input type="checkbox"/><br>Legal Review <input type="checkbox"/> | Guest(s) Invited / Presenting:<br>Yes <input type="checkbox"/><br>No <input checked="" type="checkbox"/>                     |

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Title: Public Hearing- Establishment of an Industrial Development District- Beacon Recycling 1241 East Keating               |
| Submitted By: Contessa Alexander                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Department: Economic Development                                                                                             |
| Brief Summary: Beacon Recycling has requested the establishment of an Industrial Development District at 1241 East Keating in order to further their expansion plans in the City of Muskegon.                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                              |
| <p>Detailed Summary &amp; Background:</p> <p>On September 8, 2023, city staff received a letter from Beacon Recycling to request the establishment of an Industrial Development District. Beacon is pursuing an expansion project that will involve the purchase of a new shredder machine to support its existing metal recycling business and the creation of a new materials services division to support the re-use of certain metals. This project has a total capitol investment of \$17,500,000 and the creation of up to 36 new jobs. If the district is passed, Beacon will seek a PA 198 tax abatement to support its development in the City of Muskegon.</p> |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed:<br>Economic Development, Housing, And Business                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                              |
| Amount Requested: N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s): N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| Recommended Motion: I move to approve the resolution establishing an Industrial Development District at 1241 East Keating and authorize the City Mayor and Clerk to sign.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                              |
| Approvals:<br>Immediate Division Head <input type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input type="checkbox"/><br>Communication <input type="checkbox"/><br>Legal Review <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                    | Guest(s) Invited / Presenting:<br>Yes <input checked="" type="checkbox"/><br>No <input type="checkbox"/>                     |

**MUSKEGON CITY COMMISSION**

**RESOLUTION APPROVING AN INDUSTRIAL DEVELOPMENT DISTRICT AT 1241 EAST KEATON,**

**City of Muskegon**

**County of Muskegon, Michigan**

WHEREAS, pursuant to PA 198 of 1974, as amended, the City Commission of the City of Muskegon has the authority to establish an Industrial Development Districts within the City of Muskegon; and

WHEREAS, Beacon Recycling has petitioned the City Commission of the City of Muskegon to establish an Industrial Development District on its property located in the City of Muskegon hereinafter described; and

WHEREAS, construction, acquisition, alteration, or installation of a proposed facility has not commenced at the time of filing the request to establish this district; and

WHEREAS, written notice has been given by mail to all owners of real property located within the district, and to the public by newspaper advertisement in the Muskegon Chronicle and public posting of the hearing on the establishment of the proposed district; and

WHEREAS, on October 10, 2023 a public hearing was held at which all owners of real property within the proposed Industrial Development District and all residents and taxpayers of the City of Muskegon were afforded an opportunity to be heard thereon; and

WHEREAS, the City Commission of the City of Muskegon deems it to be in the public interest of the City of Muskegon to establish the Industrial Development District as proposed.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Muskegon that the following described parcel of land situated in the City of Muskegon, Muskegon County, and State of Michigan, to wit:

CITY OF MUSKEGON ALL THAT PART OF SW 1/4 NE 1/4 OF SEC 33 T10N R16W is established as an Industrial Development District pursuant to the provisions of PA 198 of 1974, as amended,

to be known as ( ) Industrial Development District.

Adopted this 10th Day of October 2023.

Ayes

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Nays

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---

BY: \_\_\_\_\_

Ken Johnson, Mayor

BY: \_\_\_\_\_

Ann Marie Meisch, Clerk

**CERTIFICATION**

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on October 10, 2023.

---

Ann Marie Meisch, Clerk



## Agenda Item Review Form

### Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Title: Public Hearing- Lakeside BID Special Assessment Tax Roll Approval                                                     |
| Submitted By: Contessa Alexander                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Department: Economic Development                                                                                             |
| Brief Summary: A public hearing has been scheduled to receive comment on a proposed Lakeside Business Improvement District special assessment roll for 2024-2026.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                              |
| <p>Detailed Summary &amp; Background:</p> <p>The Muskegon City Commission approved a three-year renewal of the Lakeside BID at its September 12, 2023 meeting, including the district and special assessment rate. The special assessment roll includes 41 parcels and annually would generate \$22,457.44 for the BID at a 20% reduction than the previous 3 years. There were no parcels that have objected to this renewal. The three-year BID budget would focus downtown work on seasonal landscaping, winter sidewalk snow removal, holiday decorations and marketing and events. The City Commission created a Board of Assessors that includes Commissioners Teresa Emory and Michael Ramsey, who will certify the special assessment roll. After hearing public comment, the attached resolution would confirm the BID's special assessment roll for three years.</p> |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed:<br>ECONOMIC DEVELOPMENT, HOUSING, AND BUSINESS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                              |
| Amount Requested: N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s): N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| Recommended Motion: To close the public hearing and approve the resolution to confirm the Lakeside Business Improvement District special assessment roll for the winter tax bills for 2024-2026 and authorize the Mayor and Clerk sign.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                              |
| Approvals:<br>Immediate Division Head <input type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Guest(s) Invited / Presenting:<br>Yes <input type="checkbox"/><br>No <input checked="" type="checkbox"/>                     |

Communication



Legal Review



**RESOLUTION CONFIRMING THE SPECIAL ASSESSMENT ROLL  
OF THE LAKESIDE BUSINESS IMPROVEMENT DISTRICT**

**2023-2026**

**City of Muskegon**

**County of Muskegon, Michigan**

Properties Assessed: See Exhibit A attached to this resolution

**RECITALS:**

1. The City Commission created a special assessment district covering the properties set forth in Exhibit A attached to this resolution on September 13, 2023, at a first public hearing.
2. The City Commission had a public hearing Oct. 10, 2023, at 5:30 p.m. at the City Commission Chambers to hear comments on the proposed BID special assessment roll. Notice was given by mail and publication as required by law.
3. The City has reviewed the special assessment roll which is based a special assessment in the district levying on "Class A" Properties, as defined in the BID Bylaws, shall be assessed an annual assessment of up to \$0.04/sf with no assessment to exceed \$1,600 and "Class B" Properties, as defined in the BID Bylaws, shall be assessed an annual assessment of up to \$0.02/sf with no assessment to exceed \$1,600.
4. The City Commission has heard all objections to the special assessment roll filed before or at the hearing.

**THEREFORE, BE IT RESOLVED:**

1. That the BID special assessment roll submitted by the Board of Assessors is hereby approved.
2. That the assessments levied will be placed on the Winter 2024-2026 property tax bills.
3. The Clerk is directed to endorse the certificate of this confirmation resolution and the Mayor to endorse the resolution bearing the date of this resolution which is the date of confirmation.

This resolution adopted.

Ayes

\_\_\_\_\_  
\_\_\_\_\_

Nays

\_\_\_\_\_  
\_\_\_\_\_

CITY OF MUSKEGON

By \_\_\_\_\_

Ken Johnson, Mayor

By \_\_\_\_\_

Ann Marie Meisch, Clerk

**CERTIFICATION**

This resolution was adopted at a meeting of the City Commission, held on October 10, 2023.  
The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public acts of 1976, as amended and modified by the governor's COVID-19 executive order and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

CITY OF MUSKEOGN

By \_\_\_\_\_

Ann Marie Meisch, City Clerk

**SPECIAL ASSESSMENT DISTRICT PROPERTIES**  
**EXHIBIT A**

| ADDRESS           | Name                               | Parcel Number      | S/F Pr Assessing | Amount       | Class |
|-------------------|------------------------------------|--------------------|------------------|--------------|-------|
| 1950 LAKESHORE DR | 1950 LAKESHORE DRIVE LLC           | 24-205-596-0004-20 | 15,060.50        | \$ 602.42    | A     |
| 1983 LAKESHORE DR | 1983 LAKESHORE LLC                 | 24-205-635-0001-00 | 13,171.88        | \$ 526.88    | A     |
| 2445 LAKESHORE DR | BLAKE TOM/EVANS BLAKE              | 24-205-677-0005-00 | 8,712.00         | \$ 348.48    | A     |
| 1991 LAKESHORE DR | BTBG INVESTMENTS LLC               | 24-205-635-0002-00 | 40,617.80        | \$ 1,600.00  | A     |
| 1700 LAKESHORE DR | STAG PROPERTIES LLC                | 24-205-609-0002-00 | 26,400.00        | \$ 1,056.00  | A     |
| 2182 LAKESHORE DR | CENTRAL PAPER EMPLOYEES FCU        | 24-205-597-0017-00 | 37,644.29        | \$ 1,505.77  | A     |
| 1794 LAKESHORE DR | CROW INVESTMENTS LLC               | 24-205-594-0001-00 | 19,694.80        | \$ 1,600.00  | A     |
| 1786 LAKESHORE DR | CROW INVESTMENTS LLC               | 24-205-609-0013-00 | 6,210.00         | \$ 248.40    | A     |
| 1756 LAKESHORE DR | RAANS PROPERTIES LLC               | 24-205-609-0010-00 | 19,800.00        | \$ 792.00    | A     |
| 2034 LAKESHORE DR | DONE BACH LLC                      | 24-900-251-1330-00 | 10,767.00        | \$ 215.34    | B     |
| 1930 LAKESHORE DR | SAMPLES GARY/LAUREEN F             | 24-900-251-4315-00 | 18,144.00        | \$ 725.76    | A     |
| 2054 LAKESHORE DR | FUNK EDWARD W TRUST                | 24-205-597-0004-00 | 8,600.00         | \$ 172.00    | B     |
| 1732 LAKESHORE DR | GARRETT LORIL                      | 24-205-609-0007-00 | 8,750.00         | \$ 350.00    | A     |
| 2020 LAKESHORE DR | GAWKOWSKI PROPERTIES LAKESHORE LLC | 24-205-596-0007-00 | 6,675.23         | \$ 267.01    | A     |
| 2017 LAKESHORE DR | GHEZZI RICHARD P                   | 24-900-251-4237-00 | 8,170.80         | \$ 326.83    | A     |
| 1812 LAKESHORE DR | GHEZZI RICHARD A ESTATE            | 24-205-596-0001-00 | 19,386.00        | \$ 775.44    | A     |
| 1937 LAKESHORE DR | GHEZZI RICHARD P                   | 24-205-627-0002-00 | 9,529.00         | \$ 381.16    | A     |
| 2033 LAKESHORE DR | WESTRA BRUCE                       | 24-205-636-0001-00 | 7,425.00         | \$ 297.00    | A     |
| 2341 LAKESHORE DR | H2O ENTERPRISES LLC                | 24-205-664-0011-00 | 7,700.00         | \$ 308.00    | A     |
| 1883 LAKESHORE DR | KORNDORFER PAUL R                  | 24-205-625-0001-00 | 7,078.00         | \$ 283.12    | A     |
| 1891 LAKESHORE DR | KORNDORFER PAUL R                  | 24-205-625-0002-00 | 7,407.00         | \$ 296.28    | A     |
| 2465 LAKESHORE DR | M J BLAIS LLC                      | 24-205-678-0001-02 | 16,665.00        | \$ 666.60    | A     |
| 2565 LAKESHORE DR | MOJI INC                           | 24-900-251-0980-00 | 39,275.00        | \$ 1,571.00  | A     |
| 1864 LAKESHORE DR | PPJ INVESTMENTS LLC                | 24-900-251-5485-00 | 13,600.00        | \$ 544.00    | A     |
| 1920 LAKESHORE DR | CITY OF MUSKEGON                   | 24-900-251-3938-00 | 344,124.00       | \$ 1,600.00  | A     |
| 2080 LAKESHORE DR | SHORELINE SERVICE INC              | 24-205-597-0005-00 | 16,920.00        | \$ 676.80    | A     |
| 2009 LAKESHORE DR | STEINBACH JOHN E ET AL             | 24-205-635-0006-00 | 5,321.00         | \$ 212.84    | A     |
| 2167 LAKESHORE DR | SWARVAR DANIEL C                   | 24-490-000-0004-00 | 3,825.00         | \$ 153.00    | A     |
| 2173 LAKESHORE DR | SWARVAR DANIEL C                   | 24-490-000-0005-00 | 4,165.00         | \$ 166.60    | A     |
| 2187 LAKESHORE DR | SWARVAR DANIEL C                   | 24-205-641-0005-00 | 10,795.00        | \$ 431.80    | A     |
| 1945 LAKESHORE DR | THORSEN SHEILA P TRUST             | 24-205-627-0003-00 | 5,445.00         | \$ 217.80    | A     |
| 1953 LAKESHORE DR | SKEGON LLC                         | 24-205-627-0004-00 | 8,170.80         | \$ 326.83    | A     |
| 1831 LAKESHORE DR | VERIZON INC                        | 24-205-624-0001-00 | 12,556.00        | \$ 251.12    | B     |
| 1927 LAKESHORE DR | VF VENTURES LLC                    | 24-205-627-0001-00 | 9,529.00         | \$ 381.16    | A     |
| 1845 LAKESHORE DR | VF VENTURES LLC                    | 24-205-624-0003-00 | 19,272.00        | \$ 770.88    | A     |
| 1595 LAKESHORE DR | WASSERMAN PROPERTY                 | 24-205-529-0004-00 | 8,976.00         | \$ 359.04    | A     |
| 1965 LAKESHORE DR | WILLIAM J GIBNER LLC               | 24-205-627-0005-00 | 8,167.00         | \$ 326.68    | A     |
| 1878 LAKESHORE DR | HRYNEWICH REED                     | 24-205-596-0002-30 | 8,642.00         | \$ 345.68    | A     |
| 2245 LAKESHORE DR | MCCALL WENDY                       | 24-205-658-0004-00 | 9,098.00         | \$ 363.92    | A     |
| 1824 LAKESHORE DR | HINTERMEISTER RENTALS              | 24-205-596-0001-10 | 4,240.00         | \$ 169.60    | A     |
| 1910 LAKESHORE DR | SAND DOCK PROPERTIES LLC           | 24-205-596-0003-20 | 6,105.00         | \$ 244.20    | A     |
| Total             |                                    |                    | 861,834.10       | \$ 22,457.44 |       |

|                   |             |  |  |  |  |
|-------------------|-------------|--|--|--|--|
| Assessment Amount |             |  |  |  |  |
| Class             | Amt per s/f |  |  |  |  |
| A                 | 0.04        |  |  |  |  |
| B                 | 0.02        |  |  |  |  |

**BOARD OF ASSESSORS:**

\_\_\_\_\_  
Michael Ramsey, City Commissioner

\_\_\_\_\_  
Teresa Emory, City Commissioner

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Title: City ARPA Community Grant – Pioneer Resources, Inc.                                               |
| Submitted By: Peter Wills                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Department: Manager's Office                                                                             |
| Brief Summary: To approve the City ARPA Community Grant proposal received from Pioneer Resources, Inc.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                          |
| <p>Detailed Summary &amp; Background:</p> <p>As part of the City's ARPA Community Grant program, a proposal from Pioneer Resources, Inc. was received and included within the initial slate of 22 projects recommended for approval by the Commission. It was tentatively removed from the formal motion by the Commission at the August 7<sup>th</sup> Regular Meeting pending completion of conflict of interest documentation.</p> <p>Current City Commissioner Rachel Gorman is a former employee of Pioneer Resources, Inc. Ms. Gorman was not involved in Pioneer's decision to apply, involved in discussions with either City staff or Pioneer staff concerning this project or involved in the discussion or decision by the City Commission concerning Pioneer's grant proposal.</p> <p>Staff has sent notice to the U.S. Department of Treasury that the city has followed the requirements for a waiver of the conflict of interest pursuant to the City Charter and state law. We are requesting their concurrence with the City's decision and waive any conflict.</p> |                                                                                                          |
| Goal/Focus Area/Action Item Addressed: Community Connection; Foster strong ties among government and community agencies.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                          |
| Amount Requested: \$150,000                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Budgeted Item:<br>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>                    |
| Fund(s) or Account(s): 482-901-982-                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>          |
| <p>Recommended Motion:</p> <p>I move to approve the City ARPA Community Grant proposal received from Pioneer Resources, Inc., subject to receiving acknowledgement from the U.S. Department of Treasury that they concur with the City's decision and waive any conflict.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                          |
| Approvals:<br>Immediate Division Head <input type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Guest(s) Invited / Presenting:<br>Yes <input type="checkbox"/><br>No <input checked="" type="checkbox"/> |

|               |   |  |
|---------------|---|--|
| Communication | ■ |  |
| Legal Review  | ■ |  |

## Pioneer Resources, Inc.

### Project Name

Pioneer Resources Walking Path in the Marquette Neighborhood

|                  |                  |                           |                     |
|------------------|------------------|---------------------------|---------------------|
| <b>Requested</b> | <b>\$200,000</b> | <b>Total Project Cost</b> | <b>\$209,690.00</b> |
|------------------|------------------|---------------------------|---------------------|

### Executive Summary

Pioneer Resources owns property at 1145 and 1175 East Wesley Street. This property is west of US 31 and borders ten acres of unused green space owned by the City of Muskegon. Both the City's and Pioneer Resources' properties border two acres in this area that are often the site of discarded tires and other large pieces of castoff garbage.

The Pioneer Resources front-facing three acres of property currently houses program site buildings for services for seniors, youth diagnosed with Autism and Adults with varying disabilities. Our agency is requesting ARPA grant to support the development of a paved, accessible, community walking path with quiet resting points and seating along the walkway that will bring residents through the wooded, hillside of the unused green space on the back two acres of the Pioneer Resources' Property that meets the City of Muskegon's unused wooded area. This paved walking path could potentially connect with the existing paved path that goes through Ryerson Creek.

This walking path would offer an immersion into nature, peaceful strolls, and a place for exercise. Our agency hopes to invite our community to utilize this walkway and join in creating natural gardens along the paths that are accessible to all. Further, our agency would encourage the path to be utilized by those who have dogs with our intent to provide path accessories that include dog waste bags and collection receptacles.

Creating opportunities for community is the mission of our organization and we feel the accessibility of this effort will benefit many while creating a wonderful ability to preserve this green space for our community. According to the US Census Bureau, Muskegon County has 19,000 residents with disabilities under the age of 65. If you include those over 65 it would include another 29,000 residents. Accessibility is key in meeting the needs of these 48,000 residents. Community is critical to our Culture at Pioneer Resources and this project can meet the needs to improve the unused property and create a benefit to 48,000 County residents. This project will improve the value of these properties and local properties while creating a way that all members of the community can come together in an accessible space where nature is the focus.

### Purpose of Grant

Creating opportunities for participation in the community for the participants and seniors is the mission of Pioneer Resources. This project will not only provide an accessible opportunity for participation for residents in the City of Muskegon, but also help preserve this green space in the City.

The participants served by Pioneer Resources and the residents in the Marquette Neighborhood need more outdoor recreational options and this is the target population this grant request aims to serve. Currently, the only parks and recreational opportunities in this neighborhood are Beukema Playfield, Ryerson Creek, and Fourmile Creek and at this time there are not any immediate additions included in the City of Muskegon Parks and Recreation 5 Year Plan. The proposed walking trail would address the gap between the limited recreational offerings presently available in the Marquette Neighborhood and the desire for more recreational options and connecting existing sidewalks walking route options.

Pioneer Resources is dedicated to working in partnership with the City of Muskegon to oversee the construction and production of this walking path. Our administrative staff is dedicated to maintain records of grant funding and to produce reporting to accurately reflect grant fund spent for the project that can be available to the public. Our qualified staff has capacity to help oversee the construction of the path. Once completed, our agency is committed to leading the efforts from our agency and with the neighborhood association to maintain that the path is clean, clear, and accessible.

Participants of Pioneer Resources' Senior Services, Leisure and Recreation Club, Community Living Support Services, and Applied Behavior Analysis Programs will directly benefit from access to this walking trail. Although these services are accessed through our agency, Pioneer Resources works in partnership with HealthWest, LifeCircles PACE, Michigan Rehabilitation Services, the MAISD, and Senior Resources to provide these services and these partners would be invited and encouraged to utilize this walking path for their programming!

The Community Foundation for Muskegon County has granted the agency with \$7,351 to support this project from the William Munroe Memorial Friends of the Disabled Fund.

Pioneer Resources recognizes the various walking trails and recreational opportunities throughout the City of Muskegon that add to the incredible quality of life for those that work and live in the City! Our agency views this new walking trail as a welcome addition to these important offerings and we hope it highlights the Marquette Neighborhood that does not currently have as many recreational parks and offerings as other neighborhoods within the City.

Additionally, if this project moves forward, we are excited for the opportunity to utilize the new Parks and Recreation Advisory Committee to explore opportunities to promote and support this new walking trail cooperatively alongside the other walking paths and recreational amenities in the City of Muskegon.

Renovations are underway at Pioneer Resources' Wesley Campus to bring all administrative teams to the Marquette Neighborhood and to restructure all primary services that have remained at this location the City of Muskegon. These renovations have been in progress since 2022 and despite the expected interruptions from an active construction site at the Wesley Campus, there was no interruption of services provided to over 300 participants location during the last year.

Pioneer Resources currently employs over 150 full time employees who, after construction, will all begin utilizing these renovated administrative offices at Wesley. In addition to the nearly 500 people mentioned from our agency, this walking path would be beneficial to the nearly 3,000 residents in the Marquette Neighborhood. This is a wonderful part of the City of Muskegon with many natural resources that can be better accessed with this walking path while supporting a healthy lifestyle to those mentioned.

Pioneer Resources is committed to offering the utilization of the agency's maintenance team to regularly monitor the walking path and path accessories for any needed repair, conservation, and safety.

Following the end of the grant period, our agency anticipates minimal costs related to the walking path maintenance. The capital needed to construct the walking path is the greatest financial need for this project.

Those living with a disability are regularly disproportionately supported in our community. Pioneer Resources works each day to provide opportunities for these individuals to participate in life alongside each of us with dignity and empowerment to help them reach their personal goals. During the COVID-19 pandemic, this population was disproportionately impacted and continues to still be more severely impacted post-pandemic. Although protections and restrictions are coming to an end, this population still needs greater protections than the general public from COVID-19 from our team that works with them each day.

This Walking Path project provides an accessible opportunity for them to gain recreation in their communities that is safe and naturally integrates with those that live and work in the Marquette Neighborhood.

## **Evaluation**

Pioneer Resources is committed to supporting efforts alongside the City of Muskegon to evaluate the use and satisfaction of the proposed walking path! Tracking the number of people utilizing the walking path during the first year will be critical in building the foundation of data to benchmark to in succeeding years. Ideally, we would present this data to the Marquette Neighborhood Association and Parks and Recreation Advisory Committee to promote the walking path and its use. These presentations would also offer constituents the opportunity to provide feedback about the walking path. Further, signage opportunities along the walking path could allow for options for users to provide feedback all year and for an annual survey.

## **Budget Narrative/Justification**

The Grant Budget reflects the costs associated to the Walking Path construction and path accessories. The Grant Budget Plan details how each budget items relates to the Walking Path and where how the listed costs were calculated. The Community Foundation for Muskegon County has granted the agency with \$7,351 to support this project from the William Munroe Memorial Friends of the Disabled Fund. The priority of items listed in the proposed budget is first the walking path construction and then the path accessories.

| RATED PROJECT PROPOSALS                                                                                                                                                                                                                                    |         | (45) Total Pts | Requested      | Recommended | Funded | \$0.00                   |                    |  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|----------------|----------------|-------------|--------|--------------------------|--------------------|--|
| Organization                                                                                                                                                                                                                                               | Average | \$2,875,000.00 | \$1,600,000.00 |             |        |                          |                    |  |
| AgeWell Services*                                                                                                                                                                                                                                          | 42.3    | \$25,000.00    | \$25,000.00    | 100.00%     |        | nonprofit                | 13 nonprofit's     |  |
| Every Woman's Place*                                                                                                                                                                                                                                       | 41.5    | \$120,000.00   | \$120,000.00   | 100.00%     |        | nonprofit (housing)      | 4 NA's             |  |
| MI Crossroads Council, BSA                                                                                                                                                                                                                                 | 40.2    | \$25,000.00    | \$25,000.00    | 100.00%     |        | non-profit (youth)       | 5 small businesses |  |
| Samaritas                                                                                                                                                                                                                                                  | 39.8    | \$250,000.00   | \$100,000.00   | 40.00%      |        | nonprofit (housing)      | 22 recommended     |  |
| NA McLaughlin                                                                                                                                                                                                                                              | 39.7    | \$250,000.00   | \$100,000.00   | 40.00%      |        | NA (youth)               |                    |  |
| Seaway to Southern LLC                                                                                                                                                                                                                                     | 39      | \$50,000.00    | \$0.00         | 0.00%       |        | created after March 2020 |                    |  |
| NA Nelson Neighborhood Improvement Association*                                                                                                                                                                                                            | 38.7    | \$168,000.00   | \$100,000.00   | 59.52%      |        | NA (youth)               |                    |  |
| West Michigan Concert WINDS                                                                                                                                                                                                                                | 38      | \$50,000.00    | \$50,000.00    | 100.00%     |        | non-profit (youth)       |                    |  |
| Pioneer Resources, Inc.*                                                                                                                                                                                                                                   | 37.3    | \$200,000.00   | \$150,000.00   | 75.00%      |        | nonprofit                |                    |  |
| Volunteer for Dental*                                                                                                                                                                                                                                      | 37.2    | \$50,000.00    | \$50,000.00    | 100.00%     |        | nonprofit                |                    |  |
| Muskegon Christian School                                                                                                                                                                                                                                  | 37.2    | \$175,000.00   | \$175,000.00   | 100.00%     |        | non-profit (youth)       |                    |  |
| West Michigan Symphony                                                                                                                                                                                                                                     | 37      | \$200,000.00   | \$100,000.00   | 50.00%      |        | non-profit (youth)       |                    |  |
| Unity Beauty Salon & Spa LLC*                                                                                                                                                                                                                              | 36.3    | \$50,000.00    | \$50,000.00    | 100.00%     |        | small business           |                    |  |
| Tiki Boiz LLC                                                                                                                                                                                                                                              | 36      | \$50,000.00    | \$50,000.00    | 100.00%     |        | small business           |                    |  |
| Rake Beer Project LLC                                                                                                                                                                                                                                      | 35      | \$25,000.00    | \$25,000.00    | 100.00%     |        | small business           |                    |  |
| Kids Food Basket*                                                                                                                                                                                                                                          | 34.8    | \$250,000.00   | \$100,000.00   | 40.00%      |        | non-profit (youth)       |                    |  |
| Mount Zion Church of God in Christ                                                                                                                                                                                                                         | 34.5    | \$37,000.00    | \$37,000.00    | 100.00%     |        | non-profit (youth)       |                    |  |
| Boys and Girls Club*                                                                                                                                                                                                                                       | 34.3    | \$250,000.00   | \$50,000.00    | 20.00%      |        | non-profit (youth)       |                    |  |
| Open Gates of Grace Ministries*                                                                                                                                                                                                                            | 33.3    | \$250,000.00   | \$100,000.00   | 40.00%      |        | nonprofit (housing)      |                    |  |
| Soul Filled Enterprises*                                                                                                                                                                                                                                   | 33.2    | \$100,000.00   | \$100,000.00   | 100.00%     |        | small business           |                    |  |
| Servicios De Esperanza LLC*                                                                                                                                                                                                                                | 33      | \$25,000.00    | \$25,000.00    | 100.00%     |        | small business           |                    |  |
| Mediation & Restorative Services                                                                                                                                                                                                                           | 31.7    |                |                |             |        | non-profit (youth)       |                    |  |
| Aldea Coffee LLC                                                                                                                                                                                                                                           | 31.3    |                |                |             |        | small business           |                    |  |
| HBCU Club of Muskegon LLC                                                                                                                                                                                                                                  | 30.8    |                |                |             |        | small business           |                    |  |
| MMA Foundation                                                                                                                                                                                                                                             | 30.5    |                |                |             |        | nonprofit                |                    |  |
| Forrest Tax & Accounting Services                                                                                                                                                                                                                          | 30.5    |                |                |             |        | small business           |                    |  |
| NA Sheldon Park Neighborhood Improvement Association                                                                                                                                                                                                       | 30      | \$25,000.00    | \$8,000.00     | 32.00%      |        | NA                       |                    |  |
| 490 Bakery LLC                                                                                                                                                                                                                                             | 29.7    |                |                |             |        | small business           |                    |  |
| Viking Custom Canvas                                                                                                                                                                                                                                       | 29.4    |                |                |             |        | small business           |                    |  |
| Fresh Coast Alliance                                                                                                                                                                                                                                       | 28.8    |                |                |             |        | nonprofit                |                    |  |
| Central United Methodist Church                                                                                                                                                                                                                            | 27.7    |                |                |             |        | nonprofit                |                    |  |
| NA Jackson Hill*                                                                                                                                                                                                                                           | 27.3    | \$250,000.00   | \$60,000.00    | 24.00%      |        | NA                       |                    |  |
| Muskegon Retirement Apts, Inc dba Jefferson Towers                                                                                                                                                                                                         | 26.5    |                |                |             |        | nonprofit (housing)      |                    |  |
| Stand Up Speak Out                                                                                                                                                                                                                                         | 25.2    |                |                |             |        | non-profit (youth)       |                    |  |
| Linda E. Dennie-Malone Community Center                                                                                                                                                                                                                    | 23.5    |                |                |             |        | nonprofit                |                    |  |
| Muskegon YMCA                                                                                                                                                                                                                                              | 23      |                |                |             |        | nonprofit                |                    |  |
| Embrace Muskegon_Books                                                                                                                                                                                                                                     | 21.2    |                |                |             |        | small business           |                    |  |
| USS Silverside Submarine Museum                                                                                                                                                                                                                            | 20.6    |                |                |             |        | nonprofit                |                    |  |
| Bethany Christian Services                                                                                                                                                                                                                                 | 16.3    |                |                |             |        | nonprofit                |                    |  |
| Elite Fine Foods and Catering                                                                                                                                                                                                                              | 14      |                |                |             |        | small business           |                    |  |
|                                                                                                                                                                                                                                                            |         |                |                |             |        |                          |                    |  |
|                                                                                                                                                                                                                                                            |         |                |                |             |        |                          |                    |  |
| NOTE* - women- and minority owned business/org                                                                                                                                                                                                             |         |                |                |             |        |                          |                    |  |
| NOTE - The Review Committee established a "cut off" line of funding between the Servicios De Esperanza LLC & Mediation and Restorative Services projects. It was at that point where there was more than (1) point of separation between applicant scores. |         |                |                |             |        |                          |                    |  |

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: October 10, 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Title: PRO Housing Grant Leverage Funds                                                                                      |
| Submitted By: Jake Eckholm                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Department: Economic Development/CNS                                                                                         |
| <b>Brief Summary:</b><br>The Development Services Division is seeking a firm commitment of \$2 million in Public Improvement funds to be used a match/leverage for the Pathways to Removing Obstacles to Housing (PRO Housing) Grant. The City is seeking \$10 million in grant funds through this program that is a unique extension of the Community Development Block Grant (CDBG) program from the US Department of Housing and Urban Development.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                              |
| <b>Detailed Summary &amp; Background:</b><br>The Pro Housing Grant is intended to identify and remove obstacles to the production and preservation of affordable housing such as: gaps in resources available for development, deteriorating infrastructure, challenges to preserving existing housing stock, and many more. The City is requesting \$10 million for the following eligible activities that will benefit only those residents at or below 80% of area median income: <ul style="list-style-type: none"><li>- <b>\$3.5 million to establish a Housing Preservation Fund</b><ul style="list-style-type: none"><li>o \$1.5 million for rental rehabilitation</li><li>o \$2 million for owner-occupied housing</li></ul></li><li>- <b>\$6 million to finance the construction or rehabilitation of affordable housing</b><ul style="list-style-type: none"><li>o \$1 million for acquisition/rehabilitation/resale projects and nonprofit capacity building</li><li>o \$5 million for construction of new units</li></ul></li><li>- <b>\$500,000 for homebuyer down payment assistance</b></li></ul><br>Committed leverage funds would allow the application to have an additional 4 points awarded when being considered and ranked for this opportunity. It will serve as proof of the city's investment in affordable housing and maximize the use of the grant funds. |                                                                                                                              |
| <b>Goal/Focus Area/Action Item Addressed:</b><br><i>2027 Goal 2 Action item 2022-2.4</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                              |
| Amount Requested: \$2 million commitment of public improvement funds                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Budgeted Item:<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>           |
| Fund(s) or Account(s):                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |
| Recommended Motion: To approve the commitment of \$2 million in Public Improvement funds as leverage for the PRO Housing Grant.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                              |

Approvals:

Immediate Division Head ☐

Information Technology ☐

Other Division Heads ☐

Communication ☐

Legal Review ☐

Guest(s) Invited / Presenting:

Yes ☐

No ☒

# WATCH MUSKEGON

## Agenda Item Review Form Muskegon City Commission

|                                                                                                                                                                                                                                                                             |                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Commission Meeting Date: 10/10/23                                                                                                                                                                                                                                           | Title: Parks & Rec Advisory Committee – Chair Appointment                                                                    |
| Submitted By: Ann Marie Meisch, MMC                                                                                                                                                                                                                                         | Department: City Clerk                                                                                                       |
| Brief Summary: Pursuant to the Parks & Recreation Advisory Committee Ordinance the composition of the board shall include one member of the City Commission to be selected by and from the City Commission that will serve as board chair and be a non-voting member.       |                                                                                                                              |
| Detailed Summary & Background:                                                                                                                                                                                                                                              |                                                                                                                              |
| Goal/Focus Area/Action Item Addressed: Goal 1: Establish a robust Parks & Recreation improvement plan.                                                                                                                                                                      |                                                                                                                              |
| Amount Requested:                                                                                                                                                                                                                                                           | Budgeted Item:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>           |
| Fund(s) or Account(s):                                                                                                                                                                                                                                                      | Budget Amendment Needed:<br>Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| Recommended Motion: To appoint a member of the City Commission to serve on the Parks & Recreation Advisory Committee as chair to the committee, as a non-voting member.                                                                                                     |                                                                                                                              |
| Approvals:<br>Immediate Division Head <input checked="" type="checkbox"/><br>Information Technology <input type="checkbox"/><br>Other Division Heads <input checked="" type="checkbox"/><br>Communication <input type="checkbox"/><br>Legal Review <input type="checkbox"/> | Guest(s) Invited / Presenting:<br>Yes <input type="checkbox"/><br>No <input checked="" type="checkbox"/>                     |