CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 10, 2006

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- **CALL TO ORDER:**
- **PRAYER:**
- **PLEDGE OF ALLEGIANCE:**
- **ROLL CALL:**
- **HONORS AND AWARDS:**

  A. Annual Service Awards. CIVIL SERVICE

- **INTRODUCTIONS/PRESENTATION:**
- **CONSENT AGENDA:**

  A. Approval of Minutes. CITY CLERK

  B. Accept Resignations and Make Appointments to Various Boards and Committees. CITY CLERK

  C. SECOND READING: Rezoning Request for Property Located at 699 Pulaski Avenue. PLANNING & ECONOMIC DEVELOPMENT

  D. SECOND READING: Rezoning Request for Property Located at 236 Monroe Avenue. PLANNING & ECONOMIC DEVELOPMENT

  E. SECOND READING: Rezoning Request for Property Located at 1745 Madison Street. PLANNING & ECONOMIC DEVELOPMENT

  F. Sale of Buildable Vacant Lot at 1259 Marquette Avenue. PLANNING & ECONOMIC DEVELOPMENT

  G. Ordinance Amendment – Clarification of Delay Between Historic District Commission and Demolition. PLANNING & ECONOMIC DEVELOPMENT

  H. Budgeted Vehicle Purchases. PUBLIC WORKS

  I. Repair of Middle Roof Section - Public Service Building. PUBLIC WORKS

  J. Request to Purchase Video Enhancement Software. PUBLIC SAFETY

  K. West Michigan Metropolitan Transportation Plan (WestPlan). CITY MANAGER

L. <u>**Quit Claim Deed to CSX Transportation for Shoreline Dr.**</u> ENGINEERING

- **PUBLIC HEARINGS:**

  A. **Amendment to Brownfield Plan – Redevelopment of the Century Club & Daniels and Redevelopment of Muskegon Savings Bank.** PLANNING & ECONOMIC DEVELOPMENT

  B. **Amendment to Brownfield Plan – Vida Nova at Edison Landing.** PLANNING & ECONOMIC DEVELOPMENT

- **COMMUNICATIONS:**

- **CITY MANAGER'S REPORT:**

- **UNFINISHED BUSINESS:**

- **NEW BUSINESS:**

  A. **Plan to End Homelessness – Continuum of Care Resolution.** PLANNING & ECONOMIC DEVELOPMENT

  B. **Financial Policies.** FINANCE

  C. **Sale of Public Improvement Bonds.** FINANCE

  D. **Cell Tower Lease.** PUBLIC WORKS

  E. **Request for Flow Transfer.** PUBLIC WORKS

  F. **Sale of Parcel in Seaway Industrial Park.** PLANNING & ECONOMIC DEVELOPMENT

  G. **Agreement to Trade Used Shotguns for Rifle Lighting Systems.** PUBLIC SAFETY

- **ANY OTHER BUSINESS:**

- **PUBLIC PARTICIPATION:**

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

- **ADJOURNMENT:**

ADA POLICY: THE CITY OF MUSKEGON WILL PROVIDE NECESSARY AUXILIARY AIDS AND SERVICES TO INDIVIDUALS WHO WANT TO ATTEND THE MEETING UPON TWENTY FOUR HOUR NOTICE TO THE CITY OF MUSKEGON. PLEASE CONTACT LINDA POTTER, ACTING CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TDD: (231) 724-4172.

Civil Service Department

Memo

To: Mayor Warmington and City Commissioners

From: Karen Scholle, Civil Service Personnel Director

CC: B. Mazade, L. Slaughter, L. Potter

Date: September 20, 2006

Re: **October 10, 2006 City Commission Meeting and 2006 Employee Service Awards**

At the October 10 City Commission meeting, the "Honors and Awards" portion will include recognition of City employees incurring five-year milestone anniversaries in 2006 and presentation of longevity awards to them. There are 42 employees eligible for awards this year. Attached is your invitation to the reception. If possible, please stop in to congratulate our employees as your acknowledgment is meaningful to them.

This is the plan for the 10th:

- You are invited to attend a light reception with the awardees and their significant others, which will take place from 4:00 – 5:15 p.m. in Room 103.
- Service award recipients received invitations for presentation of their certificates during the "Honors and Awards" portion of the City Commission meeting. RSVP's for this are now in process, with plans to update the Civil Service President and the Mayor on employee attendance on the 9th of October.
- During award presentations, will the Mayor, City Commissioners and Civil Service Commissioners please stand down in front of the Commission seating and congratulate the awardees.
- When the "Honors and Awards" segment of the Commission meeting begins, will the Mayor please announce the names of employees receiving the various longevity awards of 5, 10, 15, 20, and 25 years of service to the City. The Civil Service President will hand out each employee's award.
- Staff will be present to take photos.

(While we continuously strive for an increased employee presence, historically a disappointingly small number of people participate in the reception and presentations.)

If you have any questions concerning this event, please contact me at phone number 724-6719.

Thank you.

Date: **October 10, 2006**

To: **Honorable Mayor and City Commissioners**

From: **City Clerk**

RE: **Approval of Minutes**

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, September 26, 2006.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 10, 2006

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, October 10, 2006.

Mayor Warmington opened the meeting with a prayer from Elder George Monroe from the Evanston Avenue Baptist Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

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

2006-82 HONORS AND AWARDS:

A. Annual Service Awards. CIVIL SERVICE

Mayor Warmington and the Commissioners presented the Service Awards to the City employees thanking them for their years of service.

2006-83 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, September 26, 2006.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Accept Resignations and Make Appointments to Various Boards and Committees. CITY CLERK

SUMMARY OF REQUEST: To accept resignations from Andrea Riegler, Aime Brown, Tom Russo, Charles Nelson and Ronald Allen; and to appoint Roger Morgenstern to Public Relations; Linda Wood and Karen Panozzo to Historic

District Commission; Louis Spyke to Board of Canvassers and Election Commission; and Steven Lague to Construction Code Board of Appeals.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval

COMMITTEE RECOMMENDATION: The Community Relations Committee recommended the appointments at their October 2nd meeting.

C. SECOND READING: Rezoning Request for Property Located at 699 Pulaski Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the property located at 699 Pulaski Avenue, from I-1, Light Industrial district to B-4, General Business district.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their September 14th meeting. The vote was unanimous with T. Michalski and B. Larson absent.

D. SECOND READING: Rezoning Request for Property Located at 236 Monroe Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the property located at 236 Monroe Avenue, from R-1, One Family Residential district to B-2, Convenience and Comparison Business district.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their September 14th meeting. The vote was unanimous with T. Michalski and B. Larson absent.

E. SECOND READING: Rezoning Request for Property Located at 1745 Madison Street. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the property located at 1745 Madison Street, from I-1, Light Industrial district to R-1, One Family Residential district.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their September 14th meeting. The vote was unanimous with T. Michalski and B. Larson absent.

F. <u>Sale of Buildable Vacant Lot at 1259 Marquette Avenue.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant buildable lot at 1259 Marquette Avenue to Vernon and Dorothy Harris. The lot is 116.45 x 132 ft. and is being offered to Mr. and Mrs. Harris for $9,000. A single family home will be constructed. The home will have a two stall attached garage, three bedrooms, two bathrooms, and a basement. The square footage of the home will exceed what is required by the policy.

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

BUDGET ACTION REQUIRED: None

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

G. <u>Ordinance Amendment – Clarification of Delay Between Historic District Commission and Demolition.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the ordinance amendment clarifying the delay between Historic District Commission and demolition. The current ordinance is not clear on when there is a six-month delay and when a structure can be demolished immediately. The amended ordinance makes it clear that there is only a six-month delay on structures that are of historic or architectural worth.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the ordinance amendment.

I. <u>Repair of Middle Roof Section - Public Service Building.</u> PUBLIC WORKS

SUMMARY OF REQUEST: Bids were taken to repair the middle roof section of the Public Service Building on September 22, 2006. This project is to eliminate leakage and extend the roof warranty for another 10 years. The low bidder was East Muskegon Roofing & Sheet Metal for $21,715.

FINANCIAL IMPACT: $50,000 was budgeted in the Public Service Building Fund for middle section (shop area) roof repair or replacement in 2006.

BUDGET ACTION REQUIRED: None is needed.

STAFF RECOMMENDATION: Accept the low bid of $21,715 and authorize staff to execute an agreement with the successful bidder to complete the project.

J. Request to Purchase Video Enhancement Software. PUBLIC SAFETY

SUMMARY OF REQUEST: Police Department staff is requesting that the Commission approve an agreement between the City and Cognitech, Inc., of Pasadena, California. In return, Cognitech will provide the department with video enhancement software. This software will provide officers with the capability of enhancing still photographs which can be obtained from videotape. Increasingly, businesses and homeowners are utilizing video for security reasons. There is no local assistance available and on occasion we have had to transport videos to a state police lab in Lansing. Therefore we feel that it is important for us to obtain and use this technology. Cognitech is also the vendor utilized by the Michigan State Police. Cognitech submitted a bid of $15,723.40 for software, support and training. We did receive a quote from one other company. Salient Stills of Boston, Massachusetts submitted a bid of $18,000 for software, support and training.

FINANCIAL IMPACT: Funds from the Criminal Forfeiture Account will be used to purchase this software.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the agreement.

K. West Michigan Metropolitan Transportation Plan (WestPlan). CITY MANAGER

SUMMARY OF REQUEST: To approve the City of Muskegon's portion of the WestPlan dues. This organization determines projects and distributes federal transportation funds.

FINANCIAL IMPACT: $16,040

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve this request.

L. Quit Claim Deed to CSX Transportation for Shoreline Dr. ENGINEERING

SUMMARY OF REQUEST: Authorize the Mayor & Clerk to execute the Quit Claim Deed transferring property to CSX. This transaction would conclude the obligation of both parties under which CSX had to relinquish their rights to the properties needed for the construction of Shoreline Drive.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To authorize the Mayor and Clerk to sign off on the quit claim deed and direct staff to record both deeds, the one from CSX to the City and the one from the City to CSX.

Motion by Vice Mayor Gawron, second by Commissioner Shepherd to approve the Consent Agenda as read minus item H.

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

Nays: None

MOTION PASSES

2006-84 ITEMS REMOVED FROM THE CONSENT AGENDA:

H. Budgeted Vehicle Purchases. PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase two Ford Rangers from Tony Betten & Sons Ford.

FINANCIAL IMPACT: Total Cost $26,385

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve purchase.

Motion by Commissioner Carter, second by Commissioner Spataro to approve the purchase of two Ford Rangers from Tony Betten & Sons Ford.

ROLL VOTE: Ayes: Gawron and Spataro

Nays: Wierengo, Carter, Davis, Shepherd and Warmington

MOTION FAILS

Motion by Commissioner Carter, second by Commissioner Wierengo to award the purchase of two Ford Rangers to Great Lakes Ford for $13,226 each.

ROLL VOTE: Ayes: Carter, Davis, Shepherd, Warmington, and Wierengo

Nays: Gawron and Spataro

MOTION PASSES

2006-85 PUBLIC HEARINGS:

A. Amendment to Brownfield Plan – Redevelopment of the Century Club & Daniels and Redevelopment of Muskegon Savings Bank. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To hold a public hearing and approve the resolution approving and adopting amendments for the Brownfield Plan. The amendments are for the inclusion of property owned by Western Avenue Properties, LLC and Port City Construction & Development Services, LLC in the Brownfield Plan.

FINANCIAL IMPACT: There is no direct financial impact in approving the

Brownfield Plan amendments, although the redevelopment of the property into a mixed-use development will add to the tax base of the City of Muskegon.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To hold the Public Hearing and approve the resolution and authorize the Mayor and Clerk to sign the resolution.

COMMITTEE RECOMMENDATION: The Muskegon City Commission set the public hearing for October 10, 2006, at their September 12, 2006, meeting. Since that time, a notice of the public hearing has been sent to taxing jurisdictions, and it has been published twice in the Muskegon Chronicle. In addition, the Brownfield Redevelopment Authority approved the Plan amendment on September 5, 2006, and further recommends that the Muskegon City Commission approve the Plan amendment.

The Public Hearing opened at 5:59 p.m. to hear and consider any comments from the public. No public comments were heard.

Motion by Commissioner Carter, second by Commissioner Spataro to close the Public Hearing at 6:04 p.m. and approve the amendments to the Brownfield Plan redevelopment of the Century Club & Daniels and redevelopment of Muskegon Savings Bank.

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

Nays: None

MOTION PASSES

B. Amendment to Brownfield Plan – Vida Nova at Edison Landing. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To hold a public hearing and approve the resolution approving and adopting amendments for the Brownfield Plan. The amendments are for the inclusion of property owned by DDLH, LLC in the Brownfield Plan.

FINANCIAL IMPACT: There is no direct financial impact in approving the Brownfield Plan amendments, although the redevelopment of the property into a residential condominium project will add to the tax base of the City of Muskegon.

BUDGET ACTION REQUIRED: None

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

COMMITTEE RECOMMENDATION: The Muskegon City Commission set the public hearing for October 10, 2006, at their September 12, 2006, meeting. Since that time, a notice of the public hearing has been sent to taxing jurisdictions, and it has been published twice in the Muskegon Chronicle. In addition, the Brownfield Redevelopment Authority approved the Plan amendment on September 5, 2006, and further recommends that the Muskegon City Commission approve the Plan amendment.

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

Motion by Commissioner Spataro, second by Commissioner Davis to close the Public Hearing at 6:07 p.m. and adopt the amendment to the Brownfield Plan for Vida Nova at Edison Landing.

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

Nays: None

MOTION PASSES

2006-86 NEW BUSINESS:

A. Plan to End Homelessness – Continuum of Care Resolution. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Judy Kell, Continuum of Care Coordinator, has requested that the City Commission endorse the Ten Year Plan to end homelessness.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution and authorize the Mayor and Clerk's signatures.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the resolution for Continuum of Care and authorize the Mayor and Clerk to sign.

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

Nays: None

MOTION PASSES

B. Financial Policies. FINANCE

SUMMARY OF REQUEST: Periodically the Financial Policies of the City are reviewed and revised to include policy changes or revisions adopted by the Commission or necessitated to come into compliance with state or federal law since the last update. The last time the Policies were updated was March 2002. Included with this update are two policies not previously adopted by the Commission, the Cell Phone Policy created to comply with IRS regulations and the Pensions and Other Post Employment Benefits Policy created to follow

Governmental Accounting Standards Board guidelines.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve the City of Muskegon Financial Policies as updated October 2006.

Motion by Vice Mayor Gawron, second by Commissioner Carter to approve the City of Muskegon Financial Policies as updated October 2006.

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

Nays: None

MOTION PASSES

C. <u>Sale of Public Improvement Bonds.</u> FINANCE

SUMMARY OF REQUEST: Bids will be opened at 2:30 p.m. on Tuesday, October 10, 2006, for sale of $5,400,000 public improvement bonds as previously authorized by the City Commission. Proceeds of the bond sale will be used to finance construction of a new Central Fire Station and various recreation projects. The City Commission is asked to adopt the awarding resolution assuming acceptable bids are received.

FINANCIAL IMPACT: Interest costs will be known at the time bids are opened and the Commission will be provided with a summary.

BUDGET ACTION REQUIRED: Debt service costs will be included in the City's budget for the life of the bonds.

STAFF RECOMMENDATION: Approval of the awarding resolution.

Motion by Vice Mayor Gawron, second by Commissioner Davis to approve the awarding resolution for the sale of the public improvement bonds to Morgan Keegan for 4.149%.

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

Nays: None

MOTION PASSES

D. <u>Cell Tower Lease.</u> PUBLIC WORKS

SUMMARY OF REQUEST: Verizon Wireless has proposed to construct a monopole cellular tower on City property at the location of the Harvey Street surface water reservoir. By redesigning how we use this piece of property, sufficient land was made available to accommodate the request for a cellular tower. The cellular tower overlay district that was previously located at the Public Service Building was relocated to the Water Reservoir site by the Zoning Board. The revenues generated from the rental of this site, which begin at $1,500 per month and escalate at a rate of 3% per year starting in 2008, shall be used to offset expenses of maintaining the five-million gallon water reservoir.

Motion by Commissioner Carter, second by Commissioner Spataro to approve the cell tower lease to Verizon Wireless.

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

Nays: None

MOTION PASSES

E. <u>Request for Flow Transfer.</u> PUBLIC WORKS

SUMMARY OF REQUEST: That the City of Muskegon grant a request to transfer .05 Million Gallons Per Day of its allocation of 10.84 Million Gallons Per Day to Cedar Creek Township.

Motion by Commissioner Spataro, second by Commissioner Shepherd to approve the request for the flow transfer with Cedar Creek Township for .05 Million Gallons Per Day.

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

Nays: None

MOTION PASSES

F. <u>Sale of Parcel in Seaway Industrial Park.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of Lot #2 in Seaway Industrial Park to Dan Hoe Excavating, 13664 Ruckys Road, Holland, MI 49424. The purchase price is $135,000 (asking price $144,000). This company is currently located in Holland, but due to increased business in Muskegon, they would like to locate a satellite plant here. They plan to invest $125,000 to $150,000 in a building and other site improvements. Expected employment is at least two full-time employees, possibly more, depending on the season.

FINANCIAL IMPACT: The sale of this lot, while it is located in a Renaissance Zone, will still generate City of Muskegon income tax.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign said resolution, deed, and all other necessary documents.

Motion by Commissioner Shepherd, second by Commissioner Carter to approve the sale of Lot #2 in the Seaway Industrial Park to Dan Hoe Excavating for $135,000.

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

Nays: None

MOTION PASSES

G. <u>Agreement to Trade Used Shotguns for Rifle Lighting Systems.</u> PUBLIC SAFETY

SUMMARY OF REQUEST: Police Department staff is requesting that the Commission approve an agreement between the City and Gary's Guns, 4021 East Apple, Muskegon, MI. This agreement will allow the department to obtain 20 new Streamlight Tactical LED Lights and mounts for the AR-15 patrol rifles which are now in service. In return, Gary's would receive 35 used Remington 870 Shotguns. The department has also received an offer from Michigan Police Equipment, 6521 Lansing Road, Charlotte, MI. The offer equates to $69 per shotgun as proposed by Gary's and $80 per shotgun as proposed by Michigan Police Equipment. As there is no actual money exchange occurring, staff would like to accept the bid from the Muskegon-area business.

FINANCIAL IMPACT: No expenditure of funds to purchase the lighting systems. No staff time needed to market the used shotguns.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the agreement.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the agreement to trade used shotguns for rifle lighting systems with Gary's Guns.

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

Nays: None

MOTION PASSES

H. <u>Lease Agreement – Central Dispatch.</u> CITY MANAGER

SUMMARY OF REQUEST: To approve a lease agreement with Muskegon Central Dispatch for space in the new Central Fire Station.

FINANCIAL IMPACT: The agreement requires Central Dispatch to pay their share of the debt service and operations costs of the fire station.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the lease agreement.

Motion by Commissioner Spataro, second by Commissioner Shepherd to approve the lease agreement with Central Dispatch to use the new Central Fire Station.

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

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Commission discussed various items.

PUBLIC PARTICIPATION: Various comments were heard from the public.

ADJOURNMENT: The City Commission Meeting adjourned at 6:36 p.m.

Respectfully submitted,

Linda Potter

Linda Potter, CMC
Acting City Clerk

Date: **October 10, 2006**

To: **Honorable Mayor and City Commissioners**

From: **City Clerk**

RE: **Accept Resignations and Make Appointments to Various Boards and Committees**

SUMMARY OF REQUEST: To accept resignations from:

Andrea Riegler – Public Relations

Aime Brown and Tom Russo – Historic District Commission

Charles Nelson – Board of Canvassers/Election Commission

Ronald Allen – Land Reutilization Committee

To make the following appointments:

Roger Morgenstern – Public Relations

Linda Wood and Karen Panozzo – Historic District Commission

Louis Spyke – Board of Canvassers/Election Commission

Steven Lague – Construction Code Board of Appeals

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: The Community Relations Committee recommended the appointments at their October 2nd meeting.

2nd Reading

Commission Meeting Date: September 26, 2006

Date:	**September 15, 2006**
To:	**Honorable Mayor and City Commissioners**
From:	**Planning & Economic Development** CBC
RE:	**Rezoning request for property located at 699 Pulaski Ave.**

SUMMARY OF REQUEST:

Request to rezone the property located at 699 Pulaski Avenue, from I-1, Light Industrial district to B-4, General Business district.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the request.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the request at their 9/14 meeting. The vote was unanimous, with T. Michalaski and B. Larson absent.

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. 2202

An ordinance to amend the zoning map of the City to provide for a zone change for certain properties from I-1 "Light Industrial" to B-4 "General Business".

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

The zoning map of the City of Muskegon is hereby amended to change the zoning of the following described property from I-1, "Light Industrial" to B-4 "General Business":

CITY OF MUSKEGON SEC 31 T10N R16W COM @ NW COR OF SW FRL 1/4 OF SW FRL 1/4 OF SEC 31 T10N R16W TH E 489.76 FT FOR POB TH E 250 FT TH S 163 FT TH W 250 FT TH N 163 FT TO POB

This ordinance adopted:

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

Nayes: None

Adoption Date: October 10, 2006

Effective Date: October 24, 2006

First Reading: September 26, 2006

Second Reading: October 10, 2006

CITY OF MUSKEGON

By: Linda S. Potter

Linda S. Potter, CMC
Acting City Clerk

CERTIFICATE (Rezoning of 699 Pulaski Avenue I-1 to B-4)

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, 2006, 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, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: October 10, 2006.

Linda S. Potter

Linda S. Potter, CMC
Acting 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, 2006, the City Commission of the City of Muskegon adopted an ordinance amending the zoning map to provide for the change of zoning of the following property from I-1, "Light Industrial" to B-4 "General Business":

CITY OF MUSKEGON SEC 31 T10N R16W COM @ NW COR OF SW FRL 1/4 OF SW FRL 1/4 OF SEC 31 T10N R16W TH E 489.76 FT FOR POB TH E 250 FT TH S 163 FT TH W 250 FT TH N 163 FT TO POB

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

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

Published October 14, 2006

CITY OF MUSKEGON

By ____________________
Linda S. Potter, CMC
Acting City Clerk

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

Account No. 101-80400-5354

Staff Report [EXCERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

September 14, 2006

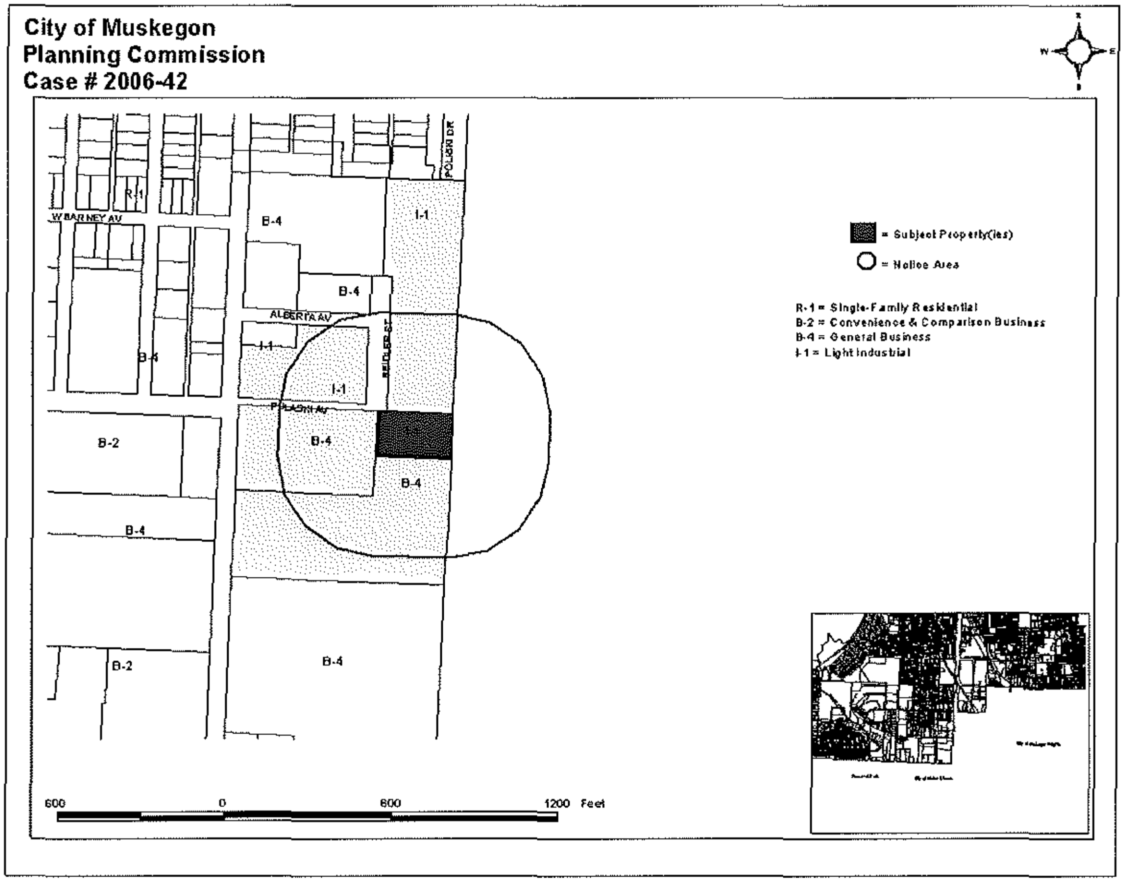
Hearing; Case 2006-42: Request to rezone the property at 699 Pulaski Avenue from I-1, Light Industrial District, to B-4, General Business District, by Anthony Tidswell, Instrio, LLC.

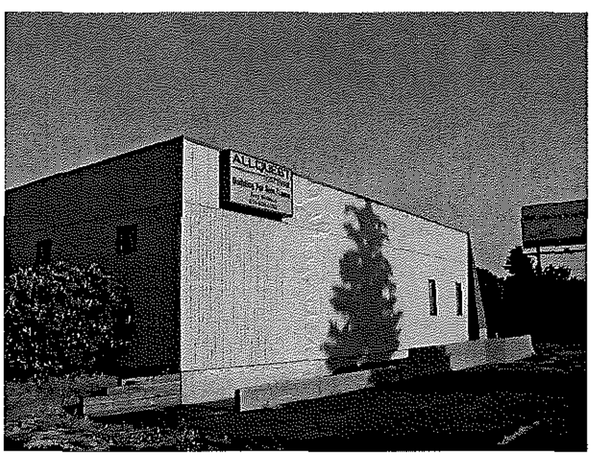
BACKGROUND

Applicant:	Anthony Tidswell, Instrio, LLC
Property Address/Location:	699 Pulaski Avenue
Request:	Rezone from I-1, General Industrial district to B-4, General Business district
Present Land Use:	Vacant building
Zoning:	B-4, General Business

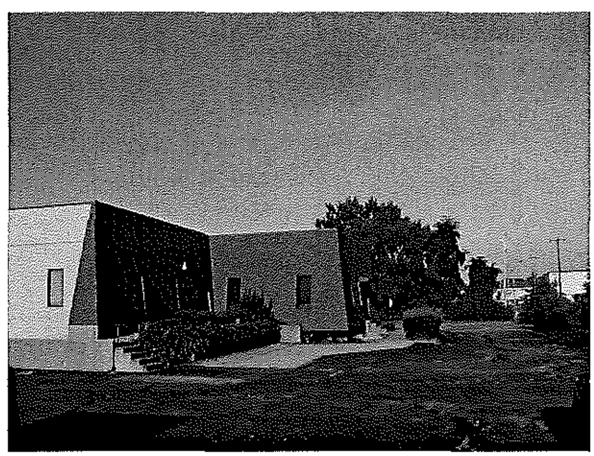
STAFF OBSERVATIONS

1. This property was recently occupied by Allquest, a business that did insurance restoration work. Several other commercial uses were in the building in previous years. The building has been empty for several years, and lost it legal nonconforming status.
2. The current owner wishes to operate a spray-on truck bed liner business, which requires a B-4 zoning, rather than I-1.
3. The property to the south and west is B-4, General Business, while the zoning to the north is I-1, Light Industrial. To the east is the City limits at Seaway Drive.
4. The 1997 Master Plan's Future Land Use Map indicates that this property should be commercial.
5. The 1997 Mast Land Use Plan, in reference to this sub-area states: "Complete the full commercial development of that area lying between Henry Street, Laketon Avenue, Seaway Drive, and Sherman Boulevard".
6. Staff has received no comments regarding this request.





View from Seaway Drive.



View from Pulaski Avenue.

STAFF RECOMMENDATION

Staff recommends approval of the request to rezone the subject properties from I-1 to B-4 because the request conforms to the goals and recommendation of the City's 1997 Master Plan.

DELIBERATION

Criteria-based questions typically asked during a rezoning include:

1. **What**, if any, identifiable **conditions** related to the petition **have changed which justify** the petitioned **change in zoning**.

2. **What** are the **precedents and the possible effects** of precedent that might result from the approval **or denial** of the petition?

3. What is the **impact** of the amendment on the ability of the city to provide **adequate public services** and **facilities and/or programs** that might reasonably be required in the future if the petition is approved?
4. Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?

5. Does the petitioned zoning change generally **comply with the adopted Future Land Use Plan of the City**?

6. Are there any **significant negative environmental impacts** which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:

a. **Surface water** drainage problems
b. **Waste water** disposal problems
c. Adverse effect on surface or subsurface **water quality**
d. The **loss of valuable natural resources** such as **forest, wetland, historic sites, or wildlife areas.**

7. Is the proposed zoning change a "**Spot Zone**"?

a. Is the parcel **small in size relative to its surroundings?**
b. Would the zoning change allow uses that are **inconsistent with those allowed in the vicinity?**
c. Would the zoning change confer a **benefit to the property owner** that is **not generally available to other properties** in the area?
d. A spot zone is **appropriate if it complies with the Master Plan.**

DETERMINATION

The following motion is offered for consideration:

I move that the request to rezone the property located at 699 Pulaski Avenue from I-1, Light Industrial district to B-4, General Business district, as described in the public notice, be recommended for (**approval/denial**) to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of (**compliance/lack of compliance**) with the intent of the City Master Land Use and zoning district intent.

2nd Reading

Commission Meeting Date: September 26, 2006

Date:	**September 15, 2006**
To:	**Honorable Mayor and City Commissioners**
From:	**Planning & Economic Development** CBC
RE:	**Rezoning request for property located at 236 Monroe Ave.**

SUMMARY OF REQUEST:

Request to rezone the property located at 236 Monroe Avenue, from R-1, One Family Residential district to B-2, Convenience and Comparison Business district.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the request.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the request at their 9/14 meeting. The vote was unanimous, with T. Michalaski and B. Larson absent.

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. 2203

An ordinance to amend the zoning map of the City to provide for a zone change for certain properties from R-1 "One Family Residential" to B-2 "Convenience and Comparison Business".

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

The zoning map of the City of Muskegon is hereby amended to change the zoning of the following described property from R-1, "One Family Residential" to B-2 "Convenience and Comparison Business":

CITY OF MUSKEGON REVISED PLAT OF 1903 E 1/2 LOT 10 BLK 367

This ordinance adopted:

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

Nayes: None

Adoption Date: October 10, 2006

Effective Date: October 24, 2006

First Reading: September 26, 2006

Second Reading: October 10, 2006

CITY OF MUSKEGON

By: Linda S. Potter

Linda S. Potter, CMC
Acting City Clerk

CERTIFICATE (Rezoning of 236 Monroe Avenue R-1 to B-2)

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, 2006, 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, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: October 10, 2006.

Linda S. Potter

Linda S. Potter, CMC
Acting 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 , 2006, the City Commission of the City of Muskegon adopted an ordinance amending the zoning map to provide for the change of zoning of the following property from R-1, "One Family Residential" to B-2 "Convenience and Comparison Business":

CITY OF MUSKEGON REVISED PLAT OF 1903 E 1/2 LOT 10 BLK 367

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

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

Published October 14, 2006

CITY OF MUSKEGON

By ______________________
Linda S. Potter, CMC
Acting City Clerk

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

Account No. 101-80400-5354

Staff Report [EXCERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

September 14, 2006

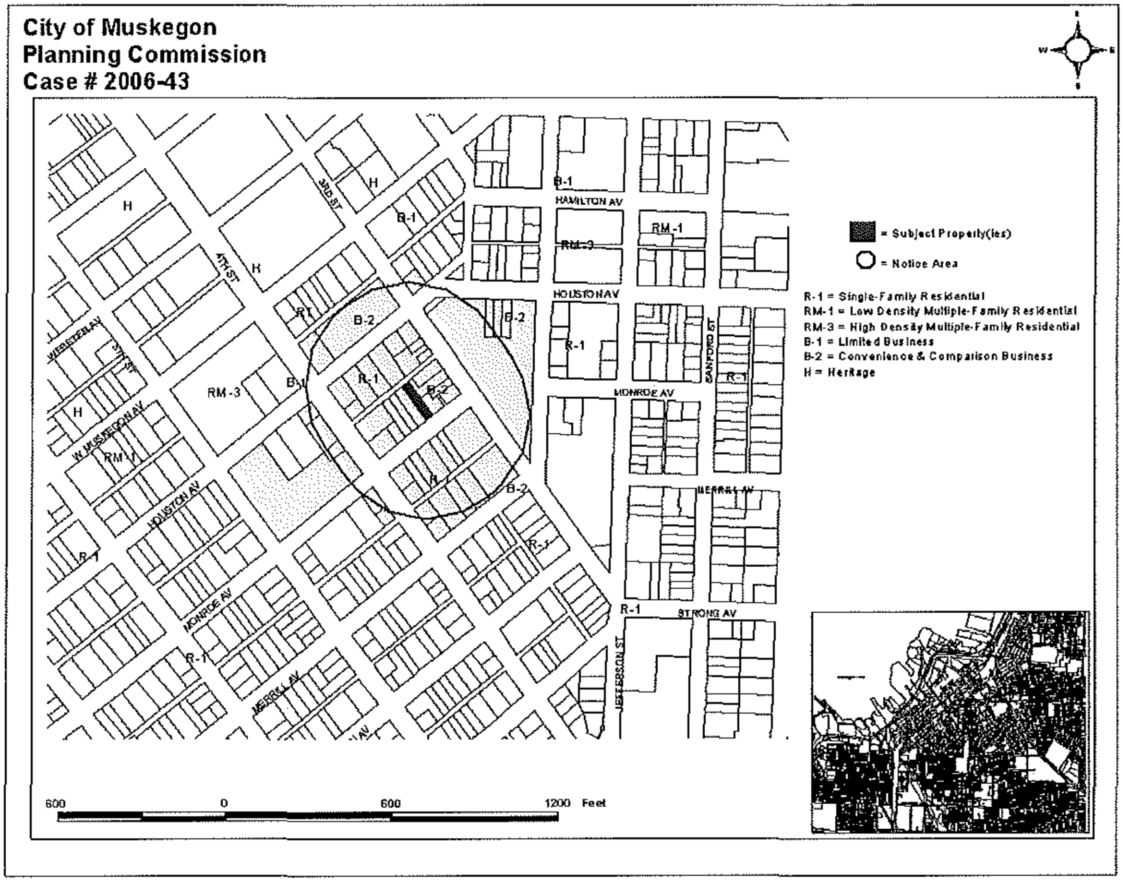
Hearing; Case 2006-43: Request to rezone the property at 236 Monroe Avenue from R-1, One Family Residential District to B-2, Convenience and Comparison Business District, by Dennis Thornley.

BACKGROUND

Applicant:	Dennis Thornley, DAT Holding
Property Address/Location:	236 Monroe Avenue
Request:	Rezone from R-1, One Family Residential District to B-2, Convenience and Comparison Business District
Present Land Use:	Vacant
Zoning:	R-1, One Family Residential

STAFF OBSERVATIONS

1. The property in questions is an unbuildable lot measuring 33 feet wide by 132 feet deep. The house previously located on this property was torn down a few years ago. Since then the property has been used as a cut-through from Monroe Avenue to the alley.
2. DAT Holding has purchased this property with plans to develop it into a parking lot to accommodate the residential units on the second floor of 1133 Third Street. At the present time, the residents of 1133 Third Street have no parking available to them except on neighboring property or on the street.
3. The property owner has future plans for the main floor of the building, which includes commercial uses. Since the building is located in the Downtown Overlay Parking Zone, parking for these uses will need parking agreements within 1,000 feet of the property.
4. The properties to the south and west are zoned R-1, the properties to the north and east are zoned B-2.
5. This area is identified in the 1997 Master Land Use Plan/Downtown Redevelopment Plan as "Neighborhood Retail".
6. Residential uses are allowed as part of a building in B-2 zones.
7. Staff has received no comments regarding this request



View looking northwest at 236 Monroe.

View looking southeast from the alley.

STAFF RECOMMENDATION

Staff recommends approval of the rezoning request.

DETERMINATION

The following motion is offered for consideration:

I move that the request to rezone the property located at 236 Monroe Avenue from R-1, One Family Residential district, to B-2, Convenience and Comparison Business district as described in the public notice, be recommended for (**approval/denial**) to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of (**compliance/lack of compliance**) with the intent of the City Master Land Use and zoning district intent.

2nd Reading

Commission Meeting Date: September 26, 2006

Date: **September 15, 2006**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development** CBC

RE: **Rezoning request for property located at 1745 Madison St.**

SUMMARY OF REQUEST:

Request to rezone the property located at 1745 Madison Street, from I-1, Light Industrial district to R-1, One Family Residential district.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the request.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the request at their 9/14 meeting. The vote was unanimous, with T. Michalaski and B. Larson absent.

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. 2204

An ordinance to amend the zoning map of the City to provide for a zone change for certain properties from I-1 "Light Industrial" to R-1 " One Family Residential".

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

The zoning map of the City of Muskegon is hereby amended to change the zoning of the following described property from I-1, "Light Industrial" to R-1 "One Family Residential":

CITY OF MUSKEGON SEC 28 T10N R16W W 132 FT OF E 165 FT OF N 99.55 FT OF S 419.09 FT OF SW 1/4 OF SW 1/4

This ordinance adopted:

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

Nayes: None

Adoption Date: October 10, 2006

Effective Date: October 24, 2006

First Reading: September 26, 2006

Second Reading: October 10, 2006

CITY OF MUSKEGON

By: Linda S. Potter

Linda S. Potter, CMC
Acting City Clerk

CERTIFICATE (Rezoning of 1745 Madison Street I-1 to R-1)

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, 2006, 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, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: October 10, 2006.

Linda S. Potter

Linda S. Potter, CMC
Acting 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 , 2006, the City Commission of the City of Muskegon adopted an ordinance amending the zoning map to provide for the change of zoning of the following property from I-1, "Light Industrial" to R-1 "One Family Residential":

CITY OF MUSKEGON SEC 28 T10N R16W W 132 FT OF E 165 FT OF N 99.55 FT OF S 419.09 FT OF SW 1/4 OF SW 1/4

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

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

Published October 14, 2006

CITY OF MUSKEGON

By ____________________
Linda S. Potter, CMC
Acting City Clerk

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

Account No. 101-80400-5354

Staff Report [EXCERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

September 14, 2006

Hearing; Case 2006-41: Request to rezone the property at 1745 Madison Street from I-1, Light Industrial District, to R-1,One Family Residential District, by Ross Alsobrooks.

BACKGROUND

Applicant: Ross Alsobrooks

Property Address/Location: 1745 Madison Street

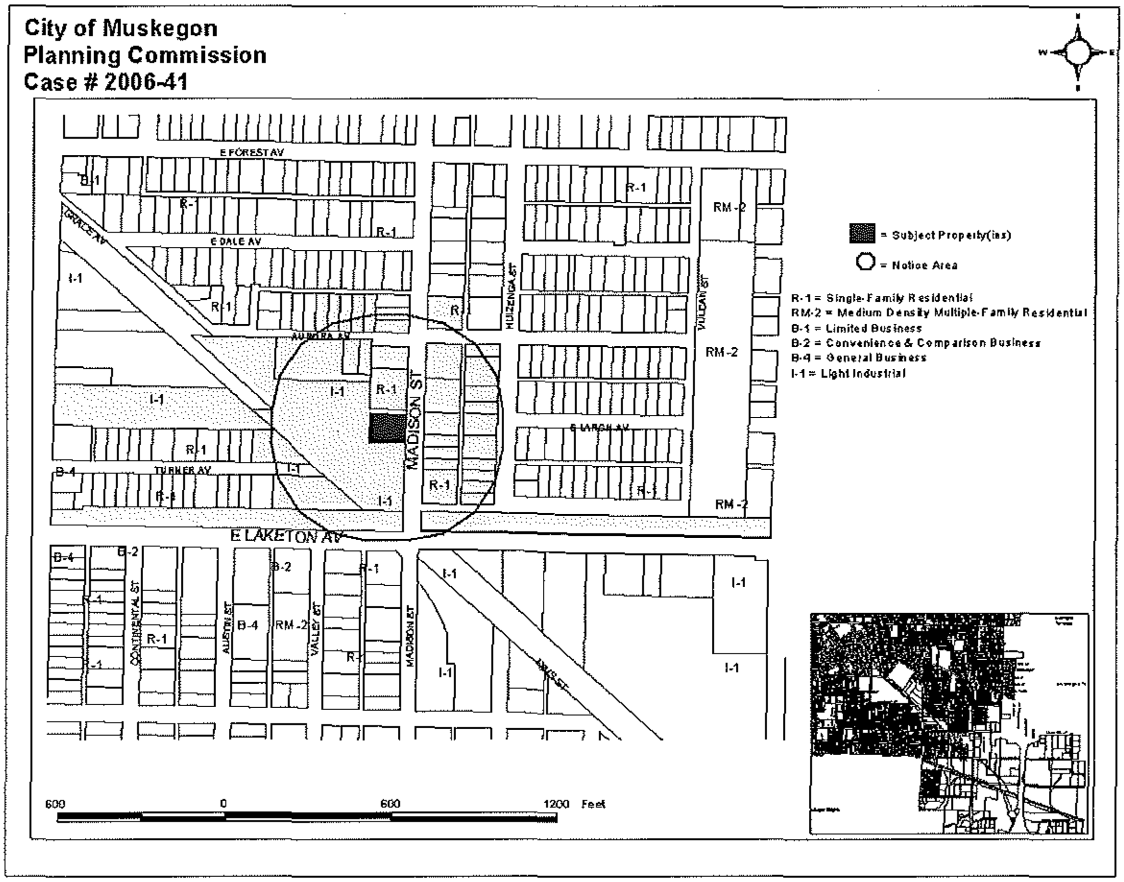
Request: Rezone from I-1 Light Industrial to R-1, One Family Residential

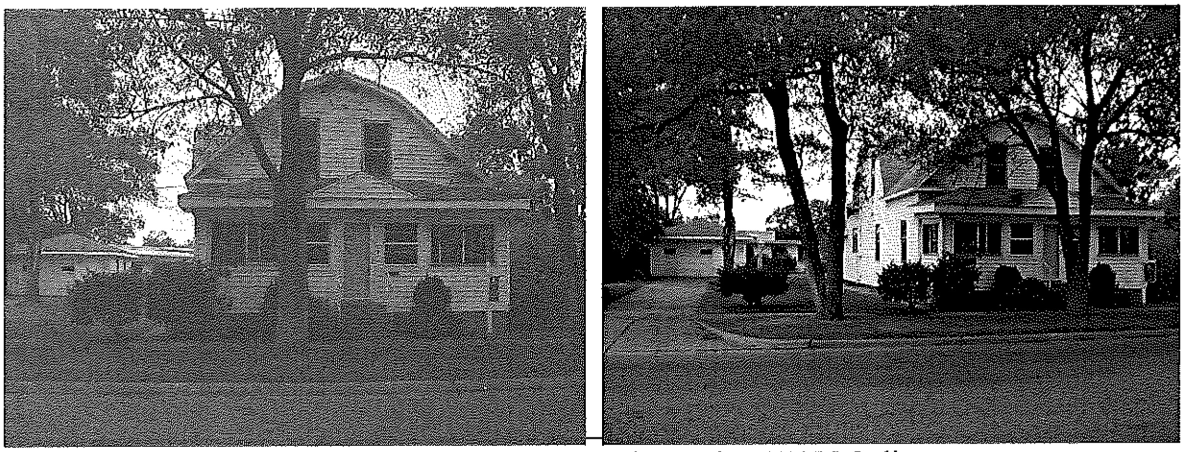
Present Land Use: Residential

Zoning: I-1, Light Industrial

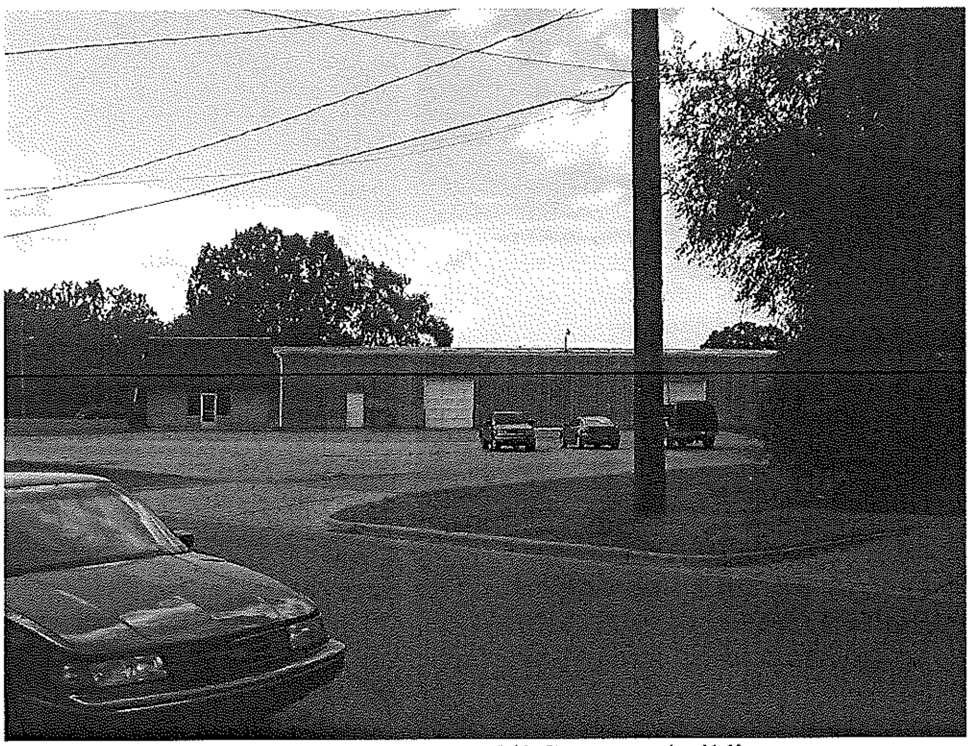
STAFF OBSERVATIONS

1) This property in question is owned by Federal National Mortgage Associates. Mr. Alsobrooks is in the process of attempting to purchase the property. Presently the nonconforming zoning is causing him some issues with his financing.
2) Although the property is zoned I-1, Light Industrial, the property has a home and garage located on it, and is on the edge of a residential neighborhood. Both the home and garage are in very good shape, and industrial uses would not be logical.
3) The properties to the south and west, are zoned I-1. The zoning to the east and north are zoned R-1, One Family Residential
4) There are vacant industrial buildings that formerly housed the Spartan Oil Company located to the south and west of the subject property.
5) The 1997 Master Plan's Future Land Use Map shows this property as residential.
6) The 1997 Master Land Use Plan, in reference to this sub-area states "Restrict further expansion of industrial development".
7) Staff has received no comments regarding this request.


City of Muskegon
Planning Commission
Case # 2006-41
= Subject Property(ies)
= Notice Area
R-1 = Single-Family Residential
RM-2 = Medium Density Multiple-Family Residential
B-1 = Limited Business
B-2 = Convenience & Comparison Business
B-4 = General Business
I-1 = Light Industrial
E FOREST AV
E DALE AV
AURORA AV
TURNER AV
E LAKETON AV
MADISON ST
HUIZENGA ST
VULCAN ST
CONTINENTAL ST
AUSTIN ST
VALLEY ST
600
0
600
1200 Feet



House and garage located at 1745 Madison



Former Spartan Oil Company building.

STAFF RECOMMENDATION

Staff recommends approval of the request to rezone the subject properties from I-1 to R-1 because the request conforms to the goals and recommendation of the City's 1997 Master Plan.

DELIBERATION

Criteria-based questions typically asked during a rezoning include:

1. **What**, if any, identifiable **conditions** related to the petition **have changed which justify** the petitioned **change in zoning.**

2. **What** are the **precedents and the possible effects** of precedent that might result from the approval **or denial** of the petition?

3. What is the **impact** of the amendment on the ability of the city to provide **adequate public services** and **facilities and/or programs** that might reasonably be required in the future if the petition is approved?

4. Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?

5. Does the petitioned zoning change generally **comply with the adopted Future Land Use Plan of the City**?

6. Are there any **significant negative environmental impacts** which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:

a. **Surface water** drainage problems
b. **Waste water** disposal problems
c. Adverse effect on surface or subsurface **water quality**
d. The **loss of valuable natural resources** such as **forest, wetland, historic sites, or wildlife areas.**

7. Is the proposed zoning change a "**Spot Zone**"?

a. Is the parcel **small in size relative to its surroundings?**
b. Would the zoning change allow uses that are **inconsistent with those allowed in the vicinity?**
c. Would the zoning change confer a **benefit to the property owner** that is **not generally available to other properties** in the area?
d. A spot zone is **appropriate if it complies with the Master Plan.**

DETERMINATION

The following motion is offered for consideration:

I move that the request to rezone the property located at 1745 Madison Street from I-1, Light Industrial district to R-1, One Family Residential district, as described in the public notice, be recommended for (**approval/denial**) to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of (**compliance/lack of compliance**) with the intent of the City Master Land Use and zoning district intent.

Commission Meeting Date: October 10, 2006

Date:	**October 2, 2006**
To:	**Honorable Mayor & City Commission**
From:	**Planning & Economic Development Department** CBC
RE:	**Sale of Buildable Vacant Lot at 1259 Marquette Ave.**

SUMMARY OF REQUEST:

To approve the sale of a vacant buildable lot at 1259 Marquette Avenue (Parcel #24-611-000-0482-00) to Vernon and Dorothy Harris. The lot is 116.45 x 132 ft. and is being offered to Mr. and Mrs. Harris for $9,000. A single family home will be constructed. The home will have a two stall attached garage, three bedrooms, two bathrooms, and a basement. The square footage of the home will exceed what is required by the policy.

FINANCIAL IMPACT:

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

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

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

COMMITTEE RECOMMENDATION:

None.

Resolution No. 2006-83(f)

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING THE SALE OF A BUILDABLE LOT AT 1259 MARQUETTE AVENUE IN MARQUETTE NEIGHBORHOOD FOR $9,000.

WHEREAS, Vernon and Dorothy Harris be allowed to purchase the parcel designated as parcel number 24-611-000-0482-00, located at 1259 Marquette Avenue for $9,000; and

WHEREAS, the price for parcel number 24-611-000-0482-00 is set by the City at $9,000, which is 75% of the True Cash Value (TCV) listed in the City Assessor's Office; and

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

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

NOW THEREFORE BE IT RESOLVED, that parcel number 24-611-000-0482-00, located at 1259 Marquette Avenue be sold to Vernon and Dorothy Harris for $9,000.

CITY OF MUSKEGON URBAN RENEWAL PLAT NO 2 LOT 482 ELY 34 FEET LOT 483 AND LOT 481 EXC E 51.45 FEET

Adopted this 10th day of October, 2006.

Ayes: Warmington, Wierengo, Carter, Davis, Gawron, Shepherd, and Spataro

Nays: None

Absent: None

By: [signature]
Stephen J. Warmington
Mayor

Attest: Linda Potter
Linda Potter, Acting City Clerk

2006-83(f)

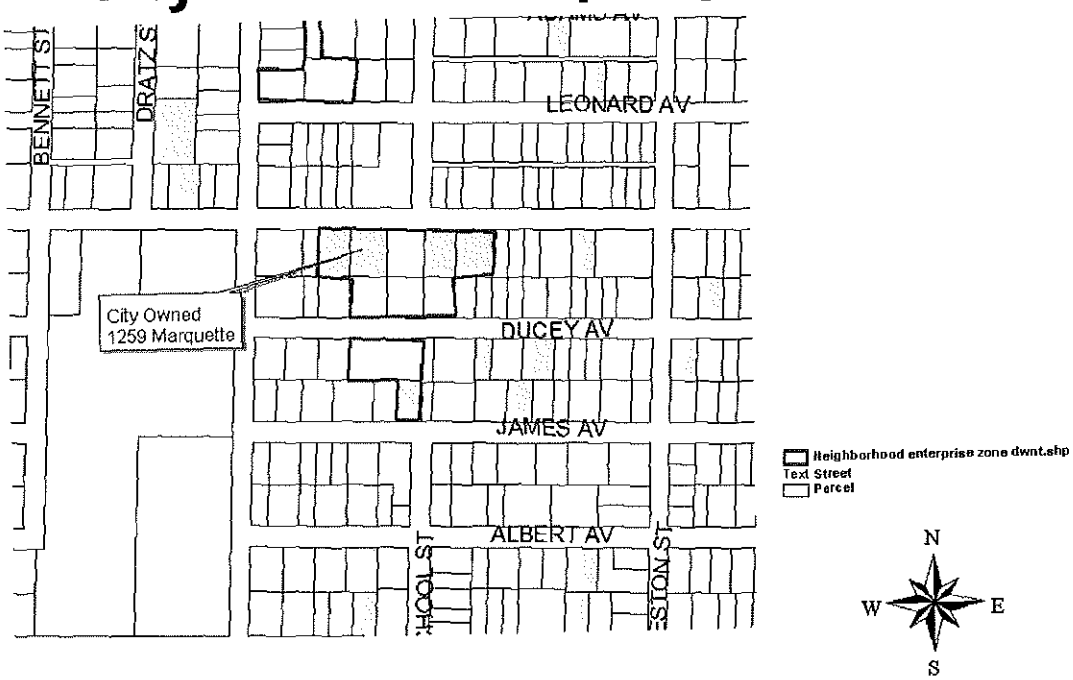
CERTIFICATION

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, 2006.

By: Linda Potter

Linda Potter, Acting City Clerk

City-Owned Property to Sell



REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT is made October 10, 2006 ("Effective Date"), by and between the **CITY OF MUSKEGON**, a municipal corporation, with offices at 933 Terrace, Muskegon, Michigan 49440 ("Seller"), and **VERNON HARRIS and DOROTHY HARRIS**, husband and wife, of 492 Oak, Muskegon, Michigan 49442("Buyer").

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

CITY OF MUSKEGON URBAN RENEWAL PLAT NO. 2, LOT 482, EASTERLY 34 FEET OF LOT 483 AND LOT 481 EXCEPT THE EAST 51.45 FEET.

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

2. **Purchase Price and Manner of Payment.** The purchase price for the Premises shall be Nine Thousand Dollars ($9,000.00), payable in cash at the closing. The parties acknowledge that Buyer has already given a $400.00 earnest money deposit to the Seller ("Deposit"). The Deposit shall be applied to the purchase price at closing. If the Closing, as defined in paragraph 8, does not occur as scheduled due to default by the Buyer, the Deposit shall be forfeited to the Seller and will not be refunded.

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

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

5. **Covenant to Construct Improvements and Use.** Buyer acknowledges that, as part of the consideration inuring to the City, Buyer covenants and agrees to construct on the premises one (1) single-family home, up to all codes, within eighteen (18) months of the closing of this transaction. Buyer may only remove those trees necessary for construction of the home and driveway. The home shall be substantially completed within eighteen (18) months and, in the event said substantial completion has not occurred, or the restriction of this paragraph relating to tree removal is violated, in the sole judgment of the City, the property and all improvements then installed shall revert in title to the City, without any compensation or credit to Buyer, and free of all liens. Buyer further covenants that the home shall be owner occupied for five (5) years after the City issues a certificate of occupancy. The covenants in this paragraph shall survive the closing and run with the land.

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

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

8. **Closing.** The closing date of this sale shall be on or before 90 days after the Effective Date ("Closing"). The Closing shall be conducted at Metropolitan Title Company, 3044 Glade Street, Muskegon, Michigan 49444. If necessary, the parties shall execute an IRS closing report at the Closing.

9. **Delivery of Deed.** Seller shall execute and deliver a quitclaim deed to Buyer at Closing for the Premises.

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

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

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

13. **General Provisions.**

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

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

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

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

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

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

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

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

The parties have executed this Real Estate Purchase Agreement on the date written below their names, to be effective as of the day and year first above written.

WITNESSES:

JoAnn M. Krukowski
JOANN M KRUKOWSKI

Irene Dempsey
Irene Dempsey

SELLER: CITY OF MUSKEGON

By
Stephen J. Warmington, Mayor
Date: 10-20-06

Linda S. Potter
Linda S. Potter, Acting Clerk
Date: 10-20-06

BUYER:

Name: Vernon Harris
SS#: 376-80-3698
Date: 10/06/06

Name: Dorothy Harris
SS#: 383-74-3743
Date: 10/06/06

QUIT-CLAIM DEED

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

QUIT CLAIMS to **VERNON HARRIS and DOROTHY HARRIS**, husband and wife, of 492 Oak, Muskegon, Michigan 49442,

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

> CITY OF MUSKEGON URBAN RENEWAL PLAT NO. 2, LOT 482, EASTERLY 34 FEET OF LOT 483 AND LOT 481 EXCEPT THE EAST 51.45 FEET.

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

PROVIDED, HOWEVER, Grantee, or its assigns, shall complete construction of one (1) single family home on the premises herein conveyed within eighteen (18) months after the date hereof. In default of such construction, title to the premises shall revert to the City of Muskegon free and clear of any claim of Grantee or its assigns. In addition, the City of Muskegon may retain the consideration for this conveyance free and clear of any claim of Grantee or its assigns. Buyer shall remove only those trees necessary for construction of the home and driveway. "Complete construction" means: (1) issuance of a residential building permit by the City of Muskegon; and, (2) in the sole opinion of the City of Muskegon's Director of Inspections, substantial completion of the dwelling described in the said building permit. In the event of reversion of title of the above-described premises, improvements made thereon shall become the property of Grantor. Provided, further, that Grantee covenants that the parcel described above shall be improved with not more than one (1) single family home, and it shall be owner-occupied for five (5) years after the City issues a certificate of occupancy. These covenants and conditions shall run with the land.

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

Dated this 23 day of October, 2006.

Signed in the presence of:

Jo Ann M. Krukowski
Jo Ann M Krukowski

Irene Dempsey
Irene Dempsey

CITY OF MUSKEGON

By [signature]
Stephen J. Warmington, Its Mayor

and Linda S. Potter
Linda S. Potter, Acting Clerk

STATE OF MICHIGAN
COUNTY OF MUSKEGON

Signed and sworn to before me in Muskegon County, Michigan, on October 23, 2006, by STEPHEN J. WARMINGTON and LINDA S. POTTER, the Mayor and Acting Clerk, respectively, of the CITY OF MUSKEGON, a municipal corporation, on behalf of the City.

PREPARED BY: John C. Schrier
Parmenter O'Toole
601 Terrace Street/P.O. Box 786
Muskegon, MI 49443-0786
Telephone: 231/722-1621
WHEN RECORDED RETURN TO: Grantee
SEND SUBSEQUENT TAX BILLS TO: Grantee

Jo Ann M. Krukowski
JoAnn M Krukowski, Notary Public
Acting in the County of Muskegon, MI
Muskegon County, Michigan
My Comm. Expires: 05-13-2012

Clerk

198395

. 1 9 8 3 9 5 .

C - All Parties Pkg

- A L L P K G -

Property Address: **1259 Marquette**

Buyer/Borrower: **Harris**

Seller: **City of Muskegon**

Description: Documents Common to All Parties

May include the following docs:
- [ ] Disclosure and Acknowledgement
- [ ] Owners Affidavit-Seller
- [ ] Owners Affidavit-Buyer
- [ ] Broker Fee Statement
- [ ] Property Transfer Affidavit
- [ ] Property Transfer Acknowledgement
- [ ] Inspections
- [ ] Closing Agreement

Copies to: Buyer/Borrower, Seller, Selling Agent, Listing Agent, Lender, Title Company, Buyer's Attorney, Seller's Attorney

11/01/2006 02:04:46p by TIMEDAL01SIVO05\vianderson

Policy or Policies issued pursuant to this commitment are underwritten by:

First American Title Insurance Company

SCHEDULE A

Commitment No.: 198395
2202
October 24, 2006

1 Commitment Date: October 02, 2006 @ 8:00 AM

2 Policy or Policies to be issued: Policy Amount
(a) Residential Title Insurance Policy $9,000.00

Proposed Insured:
Vernon Harris and Dorothy Harris, husband and wife

Policy or Policies to be issued: Policy Amount
(b) ALTA Loan Policy (10-17-92)

Proposed Insured:

3 The Fee Simple interest in the land described in this Commitment is owned, at the Commitment Date, by:
The City of Muskegon, a Municipal Corporation

4 The land referred to in this Commitment, situated in the County of Muskegon, City of Muskegon, State of Michigan, is described as follows:

Lot 482, the Easterly 34 feet of Lot 483 and Lot 481 except the East 51.45 feet of Muskegon-Urban Renewal Plat No. 2 according to the plat thereof recorded in Liber 19 of Plats, Page 13 of Muskegon County Records.

1259 Marquette Muskegon MI 49442

Issuing Agent: Metropolitan Title Company
America's Premier Title Agency
For questions regarding this commitment contact your local
Metropolitan Title Company (231)733-6201 or fax to (231)733-5418
3044 Glade St., Muskegon, MI 49444

Metropolitan Title Company
3044 Glade St.
Muskegon, MI 49444

Schedule B – Section I
REQUIREMENTS

Commitment No.: 198395

General Requirements

The following requirements must be met:

(a) Instruments necessary to create the estate or interest to be insured must be properly executed, delivered and duly filed for record.
(b) Payment of the full consideration to, or for the account of, the grantors or mortgagors should be made.
(c) Payment of all taxes, charges, assessments, levied and assessed against subject premises, which are due and payable should be made.
(d) Pay us the premiums, fees and charges for the policy.
(e) You must tell us in writing the name of anyone not referred to in this Commitment who will receive an interest in the land or who will make a loan on the land. We may make additional requirements or exceptions.
(f) Submit completed Owner's Estoppel/Affidavit/ALTA Statement on the form provided by this company and signed by or on behalf of all owners.

Specific Requirements

X RECORD WARRANTY DEED FROM OWNER NAMED ON SCHEDULE A TO VERNON HARRIS AND DOROTHY HARRIS.

(a) Deed

Metropolitan Title Company
3044 Glade St.
Muskegon, MI 49444

Schedule B – Section II
EXCEPTIONS

Commitment No.: 198395

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

Defects, liens encumbrances adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the Proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

General Exceptions

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction:

1. Rights or claims of parties in possession not shown by the public records.
2. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey and inspection of the premises.
3. Easements, or claims of easements, not shown by the public records.
4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown on the public records.
5. Taxes or special assessments which are not shown as existing liens by the public records.

Specific Exceptions

1. Terms and Conditions contained in Urban Renewal Plan, as disclosed by instrument recorded in Liber 730, page 657, amended in Liber 808, page 123 and revised in Liber 920, page 388.

   Note: Taxes Checked On 10/12/2006.

2. All Taxes paid to and including 2005
   2006 Summer EXEMPT
   2005 Winter PAID in the amount of $152.09
   Tax Item No. 61-24-611-000-0482-00
   State Equalized Value (S.E.V.) for 2006: $0.00
   Taxable: $0.00

   School District: Muskegon — Nov. Assessment Amt

   Special Assessment: Sidewalk in the amount of $152.09, PAID in 2005 Winter Tax Bill and Sidewalk Assessment DUE in the amount of $877.54, if paid by October 31, 2006 $881.03

   NOTE: If subject property is connected to public/community water or sewer, furnish a copy of the current bill to Metropolitan Title Company showing that all charges have been paid to date or the Policy to be issued will include an exception on Schedule B for water and sewer charges which became a lien prior to the date of the Policy.

   NOTE: Tax information obtained from the local taxing authority discloses that the 2006 taxes were assessed as 0% Homestead property. Any questions regarding the current homestead status of the property should be directed to the local taxing authority.

Water /

Commitment for Title Insurance
FIRST AMERICAN TITLE INSURANCE COMPANY.
We agree to issue a policy to you according to the terms of this Commitment. When we show the policy amount and your name as the proposed insured in Schedule A, this Commitment becomes effective as of the Commitment Date shown in Schedule A.
If the Requirements shown in this Commitment have not been met within six months after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is issued and then our obligation to you will be under the Policy.
Our obligation under this Commitment is limited by the following:

The Provisions in Schedule A
The Requirements in Schedule B-Section I.
The Exceptions in Schedule B-Section II.
The Conditions below.

This Commitment is not valid without Schedule A and Sections I and II of Schedule B.
Conditions:

1. Definitions:

   (a) "Mortgage" means mortgage, deed of trust or other security instrument. (b) "Public Records" means title records that give constructive notice of matters affecting the title according to the state statutes where the land is located.

2. Later Defects

   The Exceptions in Schedule B - Section II may be amended to show any defects, liens or encumbrances that appear for the first time in the public records or are created or attached between the Commitment Date and the date on which all the Requirements (a) and (c) of Schedule B- Section I are met. We shall have no liability to you because of this amendment.

3. Existing Defects

   If any defects, liens or encumbrances existing at Commitment Date are not shown in Schedule B, we may amend Schedule B to show them. If we do amend Schedule B to show these defects, liens or encumbrances, we shall be liable to you according to Paragraph 4 below unless you knew of this information and did not tell us about it in writing.

4. Limitation of Our Liability

   Our only obligation is to issue to you the Policy referred to in this Commitment, when you have met its Requirements. If we have any liability to you for any loss you incur because of an error in this Commitment, our liability will be limited to your actual loss caused by your relying on this Commitment when you acted in good faith to:

   comply with the Requirements shown in Schedule B - Section I OR
   eliminate with our written consent any Exceptions shown in Schedule B - Section II

   We shall not be liable for more than the Policy Amount shown in Schedule A of this Commitment and our liability is subject to the terms of the Policy form to be issued to you.

5. Claims must be based on this Commitment

   Any claim, whether or not based on negligence, which you may have against us concerning the title to the land must be based on this Commitment and is subject to its terms.

Issued by: **First American Title Insurance Company** through its agent:
Metropolitan Title Company
3044 Glade St.
Muskegon, Michigan 49444
Ph: (231)733-6201 or Fax to: (231)733-5418

Metropolitan Title Company
3044 Glade St.
Muskegon, MI 49444
Phone: (231)733-6201 / Fax: (231)733-5418

PR: METRO

Ofc: 2202 (2802)

Invoice

To: City of Muskegon
933 Terrace St.
Muskegon, MI 49443

Invoice No.: 28021384
Date: 10/13/2006

Our File No.: 198395
Title Officer: /
Escrow Officer: Vicki Anderson / VIANDERSON

Customer ID: 60615

Attention: Hope Mitchell

Your Reference No.:

RE: **Property:**
1259 Marquette, Muskegon, MI 49442

Liability Amounts
Owners: $9,000.00
Lenders:

Buyers: Vernon Harris, Dorothy Harris
Sellers: The City of Muskegon

Description of Charge	Invoice Amount
Owners Premium	$250.00
Tax Fee	$15.00

INVOICE TOTAL **$265.00**

Comments:

Thank you for your business!

To assure proper credit, please send a copy of this Invoice and Payment to:
Attention: Accounts Receivable Department

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT is made October 10, 2006 ("Effective Date"), by and between the **CITY OF MUSKEGON**, a municipal corporation, with offices at 933 Terrace, Muskegon, Michigan 49440 ("Seller"), and **VERNON HARRIS and DOROTHY HARRIS**, husband and wife, of 492 Oak, Muskegon, Michigan 49442("Buyer").

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

   CITY OF MUSKEGON URBAN RENEWAL PLAT NO. 2, LOT 482, EASTERLY 34 FEET OF LOT 483 AND LOT 481 EXCEPT THE EAST 51.45 FEET.

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

2. **Purchase Price and Manner of Payment.** The purchase price for the Premises shall be Nine Thousand Dollars ($9,000.00), payable in cash at the closing. The parties acknowledge that Buyer has already given a $400.00 earnest money deposit to the Seller ("Deposit"). The Deposit shall be applied to the purchase price at closing. If the Closing, as defined in paragraph 8, does not occur as scheduled due to default by the Buyer, the Deposit shall be forfeited to the Seller and will not be refunded.

3. **Taxes and Assessments.** All taxes and assessments that are due and payable at the time of Closing shall be paid by Seller prior to or at Closing. All taxes and special assessments that become due and payable after Closing shall be the responsibility of Buyer. NO Proration

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

5. **Covenant to Construct Improvements and Use.** Buyer acknowledges that, as part of the consideration inuring to the City, Buyer covenants and agrees to construct on the premises one (1) single-family home, up to all codes, within eighteen (18) months of the closing of this transaction. Buyer may only remove those trees necessary for construction of the home and driveway. The home shall be substantially completed within eighteen (18) months and, in the event said substantial completion has not occurred, or the restriction of this paragraph relating to tree removal is violated, in the sole judgment of the City, the property and all improvements then installed shall revert in title to the City, without any compensation or credit to Buyer, and free of all liens. Buyer further covenants that the home shall be owner occupied for five (5) years after the City issues a certificate of occupancy. The covenants in this paragraph shall survive the closing and run with the land.

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

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

8. **Closing.** The closing date of this sale shall be on or before 90 days after the Effective Date ("Closing"). The Closing shall be conducted at Metropolitan Title Company, 3044 Glade Street, Muskegon, Michigan 49444. If necessary, the parties shall execute an IRS closing report at the Closing.

9. **Delivery of Deed.** Seller shall execute and deliver a quitclaim deed to Buyer at Closing for the Premises.

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

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

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

13. **General Provisions.**

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

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

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

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

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

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

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

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

The parties have executed this Real Estate Purchase Agreement on the date written below their names, to be effective as of the day and year first above written.

WITNESSES:

Jo Ann M. Krukowski
JOANN M KRUKOWSKI

Irene Dempsey
Irene Dempsey

Hope Mitchell

Hope Mitchell

SELLER: CITY OF MUSKEGON

By
Stephen J. Warmington, Mayor
Date: 10-20-06

Linda S. Potter
Linda S. Potter, Acting Clerk
Date: 10-20-06

BUYER:

Vernon Harris
Name: Vernon Harris
SS#: 376-80-2694
Date: 10/06/06

Dorothy Harris
Name: Dorothy Harris
SS#: 383-74-5743
Date: 10/06/06

C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown, items marked "(POC)" were paid outside this closing; they are shown here for informational purposes and are not included in the totals.

D. Name of Borrower: Vernon Harris, Dorothy Harris
492 Oak Ave, Muskegon, MI 49442

E. Name of Seller: The City of Muskegon
933 Terrace St Muskegon, MI 49440

F. Name of Lender:

G. Property Location: 1259 Marquette, Muskegon, MI 49442

H. Settlement Agent: Metropolitan Title Company
Address: 3044 Glade St., Muskegon, MI 49444

Place of Settlement Address: 3044 Glade St., Muskegon, MI 49444

I. Settlement Date: 11/06/2006

Print Date: 10/25/2006, 10:33 AM

Disbursement Date: 11/06/2006

J. Summary of Borrower's Transaction		K. Summary of Seller's Transaction	
100. Gross Amount Due From Borrower		**400. Gross Amount Due To Seller**	
101. Contract Sales Price	9,000.00	401. Contract Sales Price	9,000.00
102. Personal Property		402. Personal Property	
103. Settlement charges to borrower (line 1400)	209.00	403. Total Deposits	
104.		404.	
105.		405.	
Adjustments for items paid by seller in advance		**Adjustments for items paid by seller in advance**	
106. City/town taxes		406. City/town taxes	
107. County taxes		407. County taxes	
108. Assessments		408. Assessments	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
113.		413.	
114.		414.	
115.		415.	
120. Gross Amount Due From Borrower	**9,209.00**	**420. Gross Amount Due To Seller**	**9,000.00**
200. Amounts Paid By Or In Behalf of Borrower		**500. Reductions In Amount Due to Seller**	
201. Deposit or earnest money	400.00	501. Excess deposit (see instructions)	400.00
202. Principal amount of new loan(s)		502. Settlement charges (line 1400)	1,321.03
203. Existing loan(s) taken subject		503. Existing loan(s) taken subject	
204.		504. Payoff of first mortgage loan	
205.		505. Payoff of second mortgage loan	
206.		506. Disbursed as Proceeds ($0.00)	
207.		507.	
208.		508.	
209.		509.	
Adjustments for items unpaid by seller		**Adjustments for items unpaid by seller**	
210. City/town taxes		510. City/town taxes	
211. County taxes		511. County taxes	
212. Assessments		512. Assessments	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. Total Paid By/For Borrower	**400.00**	**520. Total Reduction Amount Due Seller**	**1,721.03**

801. Loan Origination Fee		
802. Loan Discount		
803. Appraisal Fee		
804. Credit Report		
805. Lender's Inspection Fee		
806. Mortgage Insurance Application Premium		
807. Assumption Fee		
808.		
809.		
810.		
811.		
812.		
813.		
814.		
Supplemental Summary		
900. Items Required by Lender to be Paid in Advance		
901. Interest		
902.		
903. Hazard Insurance Premium for		
904.		
905.		
Supplemental Summary		
1000. Reserves Deposited with Lender		
1001. Hazard Insurance		
1002. Mortgage Insurance		
1003. City Property Taxes		
1004. County Property Taxes		
1005. Annual assessments		
1006.		
1007.		
1008. Aggregate Accounting Adjustment		
1100. Title Charges		
1101. Settlement or closing fee - Metropolitan Title Company	175.00	175.00
1102. Abstract or title search		
1103. Title examination		
1104. Title Insurance Binder		
1105. Document Fee		
1106. Notary Fee		
1107. Attorney Fee		
(Includes above item numbers:)		
1108. Title Insurance – See supplemental page for breakdown of individual fees and payees		250.00
(Includes above item numbers:)		
1109. Lender's coverage $0.00		
1110. Owner's coverage $9,000.00 Premium: $250.00		
1111. Tax Fee - Metropolitan Title Company		15.00
1112. Recording Processing Fee - Metropolitan Title Company	20.00	
1113.		
1114.		
1115.		
1116.		
1117.		
1200. Government Recording and Transfer Charges		
1201. Recording fees: Deed $14.00 Mortgage $0.00 Release $0.00	14.00	
1202. City/county tax/stamps:		
1203. State tax/stamps:		
1204.		
1205.		
1206.		
1300. Additional Settlement Charges		
1301. Survey to		
1302. Pest Inspection to		
1303. Sidewalk Assessment to City of Muskegon Assessing Dept		881.03
1304.		
1305.		
1306.		
1307.		
1308.		
1309.		
1310.		
1311.		
1312.		

Borrower Name & Address: Vernon Harris, Dorothy Harris
492 Oak Ave, Muskegon, MI 49442

Seller Name & Address: The City of Muskegon
933 Terrace St Muskegon, MI 49440

Section L. Settlement Charges continued			Paid From Borrower's Funds at Settlement	Paid From Seller's Funds at Settlement
1108.	Supplemental Summary	250.00		
a	Owners Premium - Metropolitan Title Company			250.00
1201.	Supplemental Summary	14.00		
a	Deed Recording Fee - Muskegon County Register of Deeds		14.00	

The following Section is restated from the Settlement Statement Page 1			
300. Cash At Settlement From/To Borrower		600. Cash At Settlement To/From Seller	
301. Gross amount due from Borrower (line 120)	9,209.00	601. Gross Amount due to Seller (line 420)	9,000.00
302. Less amounts paid by/for Borrower (line 220)	400.00	601. Less reductions in amounts due to Seller (line 520)	1,721.03
303. Cash (X From) (To) Borrower	8,809.00	603. Cash (X To) (From) Seller	7,278.97

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and distributions made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

BUYER(S):

Vernon Harris

Dorothy Harris

SELLER(S):

The City of Muskegon, a Municipal Corporation

By: Hope Mitchell, Planner I

DISCLOSURE AND ACKNOWLEDGMENT

Date: November 06, 2006

Property Address: 1259 Marquette, Muskegon, MI 49442

By signing this statement the undersigned acknowledge the following:

1. That all closing documents prepared by Metropolitan Title Company are prepared at the direction and request of all parties to the transaction, their real estate agent(s)/broker(s) or attorney(s).

2. That **Metropolitan Title Company is not acting as my agent, attorney, representative or fiduciary**, at this real estate closing.

3. That Metropolitan Title Company's employee who has attended this closing represents only Metropolitan Title Company.

4. That Metropolitan Title Company's employee who has identified certain documents to me as he/she has presented them to me for signing, but **has not given me legal advice as to the meaning or effect of the documents.** I understand that any of his/her statements about the documents are not legal advice to me. If I have an attorney, that attorney is my only attorney in this transaction.

5. That I have either read all of the closing documents or am responsible for my own failure to have read them. **I understand that Metropolitan Title Company is not responsible for explaining to me the effect of the documents I have signed.**

6. That the title policy, when issued, will contain all of the exceptions noted on the commitment, unless such exceptions are removed to the satisfaction of Metropolitan Title Company at closing.

7. **That I have read this statement and understand it.**

Seller(s):

Buyer(s)/Borrower(s):

OWNER'S AFFIDAVIT/COMPLIANCE AGREEMENT - *continued*

Subscribed and sworn to before me this November 06, 2006.

Vicki L Anderson

Notary Public:
Notary County/State: /
County Acting In:
Commission Expires:

Vested Owner(s):

Hope Mitchell

NOTICE OF YOUR FINANCIAL PRIVACY RIGHTS

We want you to know that the privacy and confidentiality of your personal information is very important to Metropolitan Title Company . We value your business and we want to retain your trust. In the course of providing products and services to you, we may obtain nonpublic personal information about you. We are required by law to provide you with this notice in order to inform you how Metropolitan Title Company collects, uses and safeguards your nonpublic personal information. This notice also tells you how you can limit our disclosure of personal information about you.

What Information Do We Collect

We may obtain nonpublic personal information about you from the following sources:

- Information we receive from you from applications or other forms;
- Information about your transaction with us from our files or from our affiliates;
- Information about your transaction with nonaffiliated third parties such as your real estate agent or lender;

The information we obtain includes, but is not limited to, your name, address, social security number, employer, income, account information from financial institutions, parties to a transaction and credit card usage.

What Information Do We Disclose

To meet your needs with quality products and services we may disclose any of the above information that we collect about our customers or former customers to our affiliates or to nonaffiliated third parties as permitted by law.

AFFILIATES

Our affiliates are the family of companies controlled by Metropolitan Title Company or under common control with another company. We may share the types of information described above, as permitted by law, with our affiliates for purposes of marketing or market research.

NON-AFFILIATES

Nonaffiliated third parties are those not part of the family of companies controlled by Metropolitan Title Company or not under common control with another company.

Service Providers, Contractors

Any service providers or contractors used by Metropolitan Title Company are required to follow the terms of our Privacy Policy. Access to your nonpublic personal information by a service provider or contractor is restricted to the purpose for which they have been retained by Metropolitan Title Company .

Joint Marketing

We may disclose your personal information to a nonaffiliated third party that we have an agreement with to perform joint marketing of products or services that we feel may interest you.

Other Non-Affiliates

We also may disclose this information about our customers or former customers to the following types of nonaffiliated companies:

- Financial service providers such as companies engaged in banking, consumer finance, securities and insurance.
- Non-financial companies such as envelope stuffers and other fulfillment service providers.

METROPOLITAN TITLE COMPANY DOES NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT THEIR CUSTOMERS OR FORMER CUSTOMERS EXCEPT, AS PERMITTED OR REQUIRED BY LAW.

The Confidentiality and Security of Your Nonpublic Personal Information

Metropolitan Title Company restricts the access to your nonpublic personal information to those employees who need to know the information in order to provide products and/or services to you. Our employees are required to maintain the confidentiality and privacy of our customers. We maintain physical, electronic and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Changes to this policy

We may amend this policy at any time, and we will inform you of any changes as required by law.

Your Privacy Choices

The law allows us to share with our affiliates your personal information and information about our transactions or experiences with you. The law also allows us to share your personal information with our contractors and service providers.

If you prefer that we not disclose information about you to nonaffiliated third parties, you may direct us not to share this information by calling the Corporate Office at 1-800-848-5375 or by writing to us at 622 East Grand River, Howell, Michigan 48843. Please provide your name, address including city and state of the property and our file number.

CLOSING AGREEMENT

File Number: 198395

Date: November 06, 2006

Property Address: 1259 Marquette, Muskegon, MI 49442

It is agreed, between the Purchaser(s) and Seller(s) of this property that all contingencies and addendums to the Offer to Purchase thereto, dated 10/10/06 have been met or are hereby resolved or removed to the satisfaction of the parties concerned.

Purchaser(s) understand and acknowledged that he/she/they are buying the property in an "As Is" condition and that neither the Seller(s) nor Realtor(s) make any warranties as to the land and structure purchased or the condition.

Seller(s):

Hope Mitchell

Purchaser(s):

[signature]

Dorothy [signature]

Michigan Department of Treasury
2766 (Rev. 1-06)

L-4260

PROPERTY TRANSFER AFFIDAVIT

*This form issued under authority of P.A. 415 of 1994. **Filing is mandatory.***

This form must be filed whenever real estate or some types of personal property are transferred (even if you are not recording a deed). It is used by the assessor to ensure the property is assessed properly and receives the correct ***taxable value***. It must be filed by the new owner with the ***assessor for the city or township*** where the property is located within ***45 days*** of the transfer. If it is not filed timely, a penalty of $5/day (maximum $200) applies. The information on this form is NOT CONFIDENTIAL.

1. Street Address of Property: 1259 Marquette, Muskegon, MI 49442
2. County: Muskegon
3. City/Township/Village of Real Estate: City of Muskegon — ☐ City ☐ Township ☐ Village
4. Date of Transfer (or land contract was signed): November 06, 2006
5. Purchase Price of Real Estate: $9,000.00
6. Property Identification Number (***PIN***). If you don't have a pin, attach legal description.
PIN: 61-24-611-000-0482-00

PIN. This number ranges from 10 to 25 digits. It usually includes hyphens and sometimes includes letters. It is on the property tax bill and on the assessment notice.

7. Seller's (Transferor) Name: The City of Muskegon
8. Buyer's (Transferee) Name and Mailing Address:
Vernon Harris and Dorothy Harris
492 Oak Ave
Muskegon, MI 49442

Items 9 – 13 are optional. However, by completing them you may avoid further correspondence.

Transfers include deeds, land contracts, transfers involving trusts or wills, certain long-term leases and interest in business. See the back for a complete list.

9. Type of ***Transfer***: ☐ Land Contract ☐ Lease ☑ Deed ☐ Other (specify) ______

10. Is the transfer between related persons? ☐ Yes ☑ No
11. Amount of Down Payment:
12. If you financed the purchase, did you pay market rate of interest? ☐ Yes ☐ No
13. Amount Financed (Borrowed):

Exemptions

The Michigan Constitution limits how much a property's ***taxable value*** can increase while it is owned by the same person. Once the property is transferred, the ***taxable value*** must be adjusted by the assessor in the following year to 50 percent of the property's usual selling price. Certain types of transfers are exempt from adjustment. Below are brief descriptions of the types of exempt transfers; full descriptions are in MCL Section 211.27a(7)(a-n). If you believe this transfer is exempt, indicate below the type of exemption you are claiming. If you claim an exemption, your assessor may request more information to support your claim.

- ☐ transfer from one spouse to the other spouse
- ☐ change in ownership solely to exclude or include a spouse
- ☐ transfer of that portion of a property subject to a life lease or life estate (***until*** the life lease or life estate expires)
- ☐ transfer to effect the foreclosure or forfeiture of real property
- ☐ transfer by redemption from a tax sale
- ☐ transfer into a trust where the settler or the settler's spouse conveys property to the trust and is also the sole beneficiary of the trust
- ☐ transfer resulting from a court order unless the order specifies a monetary payment
- ☐ transfer creating or ending a joint ownership if at least one person is an original owner of the property (or his/her spouse)
- ☐ transfer to establish or release a security interest (collateral)
- ☐ transfer of real estate through normal public trading of stocks
- ☐ transfer between entities under common control or among members of an affiliated group
- ☐ transfer resulting from transactions that qualify as a tax-free reorganization
- ☐ transfer of qualified agricultural property when the property remains qualified agricultural property and affidavit has been filed
- ☐ other, specify:

Certification

I certify that the information above is true and complete to the best of my knowledge.

Owner's Signature	Date	If signer is other than the owner, print name and title.
Dorothy Harris	11/06/2006	
Daytime Phone Number		Email Address
231 728-0343		

Instructions

This form must be filed when there is a transfer of real property or of the following types of personal property:

- buildings on leased land.
- leasehold improvements (as defined in MCL Section 211.8 (h)).
- leasehold estates (as defined in MCL Section 211.8 (i) and (j)).

Transfer of ownership means the conveyance of title to or a present interest in property, including the beneficial use of the property. It includes, but is not limited to, the following conveyances:

- deed.
- land contract.
- transfer into a trust, *unless* the sole beneficiary is the settlor (creator of the trust), the settlor's spouse, or both.
- transfer from a trust, *unless* the distributee is the sole present beneficiary, the spouse of the sole present beneficiary, or both.
- changes in the sole present beneficiary of a trust, *unless* the change only adds or substitutes the spouse of the sole present beneficiary.
- distributions by a will or intestate succession, *unless* to the decedent's spouse.
- leases, if the total duration of the lease is more than 35 years, including the initial term and all options for renewal, or if the lease grants the lessee the right to purchase the property at the end of the lease for not more than 80 percent of the property's projected true cash value at the end of the lease.
- transfers of more than a 50 percent interest in the ownership of a business, *unless* the ownership is gained through the normal public trading of shares of stock.
- transfers of property held as a tenancy in common, except the portion of the property not subject to the ownership interest conveyed.

For complete descriptions of qualifying transfers, please refer to MCL Section 211.27a(6)(a-i).

Excerpts from Michigan Complied Laws (MCL), Chapter 211

Section 211.27a(8)

"...the buyer, grantee, or other transferee of the property shall notify the appropriate assessing office in the local unit of government in which the property is located of the transfer of ownership of the property within 45 days of the transfer of ownership, on a form prescribed by the state tax commission that states the parties of the transfer, the date of the transfer, the actual consideration for the transfer, and the property's parcel identification number or legal description."

Section 211.27(5)

"...Beginning December 31, 1994, the purchase price paid in a transfer of property is not the presumptive true cash value of the property transferred. In determining the true cash value of the transferred property, an assessing officer shall assess that property using the same valuation method used to value all other property of that same classification in the assessing jurisdiction."

PROPERTY TRANSFER AFFIDAVIT ACKNOWLEDGMENT

File Number: 198395
Date: November 06, 2006
Reference: Vernon Harris and Dorothy Harris / The City of Muskegon
Property Address: 1259 Marquette, Muskegon, MI 49442

I/We, the undersigned Purchaser, Grantee or Transferee, have been advised that under Act 415, P.A. of 1994, Form L-4260 (Rev. 1/06) **Property Transfer Affidavit** must be completed and received by the local assessor within **45 days** of the date of transfer.

I/We further understand that the failure to file is **punishable by penalty of $5.00 a day up to a maximum of $200.00**.

I/We have received from Metropolitan Title Company on **November 06, 2006**, a **Property Transfer Affidavit**, Form L-4260 (Rev. 1/06), and accept responsibility for filing this form with our city/township assessor. I/We agree to hold **Metropolitan Title Company** harmless from any further liability and/or responsibility regarding this form.

☑ I/We have requested that Metropolitan Title Company distribute this form by regular mail to the city/township assessor, and hold the title company harmless from any further liability and/or responsibility regarding this form.

☐ That the Buyer(s) are unable to complete the Property Transfer Affidavit at this time and will undertake to distribute the form themselves; or have chosen to distribute the form themselves to the local tax collecting unit.

Purchaser(s):

Vernon [signature]

Dorothy Har[signature]

QUIT-CLAIM DEED

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

QUIT CLAIMS to **VERNON HARRIS and DOROTHY HARRIS**, husband and wife, of 492 Oak, Muskegon, Michigan 49442,

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

> CITY OF MUSKEGON URBAN RENEWAL PLAT NO. 2, LOT 482, EASTERLY 34 FEET OF LOT 483 AND LOT 481 EXCEPT THE EAST 51.45 FEET.

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

PROVIDED, HOWEVER, Grantee, or its assigns, shall complete construction of one (1) single family home on the premises herein conveyed within eighteen (18) months after the date hereof. In default of such construction, title to the premises shall revert to the City of Muskegon free and clear of any claim of Grantee or its assigns. In addition, the City of Muskegon may retain the consideration for this conveyance free and clear of any claim of Grantee or its assigns. Buyer shall remove only those trees necessary for construction of the home and driveway. "Complete construction" means: (1) issuance of a residential building permit by the City of Muskegon; and, (2) in the sole opinion of the City of Muskegon's Director of Inspections, substantial completion of the dwelling described in the said building permit. In the event of reversion of title of the above-described premises, improvements made thereon shall become the property of Grantor. Provided, further, that Grantee covenants that the parcel described above shall be improved with not more than one (1) single family home, and it shall be owner-occupied for five (5) years after the City issues a certificate of occupancy. These covenants and conditions shall run with the land.

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

Dated this 23 day of October, 2006.

Signed in the presence of:

Jo Ann M. Krukowski
JoAnn M Krukowski

Irene Dempsey
Irene Dempsey

CITY OF MUSKEGON

By [signature]
Stephen J. Warmington, Its Mayor

and Linda S. Potter
Linda S. Potter, Acting Clerk

STATE OF MICHIGAN
COUNTY OF MUSKEGON

Signed and sworn to before me in Muskegon County, Michigan, on October 23, 2006, by STEPHEN J. WARMINGTON and LINDA S. POTTER, the Mayor and Acting Clerk, respectively, of the CITY OF MUSKEGON, a municipal corporation, on behalf of the City.

Jo Ann M. Krukowski
JoAnn M Krukowski, Notary Public
Acting in the County of Muskegon, MI
Muskegon County, Michigan
My Comm. Expires: 05-13-2012

PREPARED BY: John C. Schrier
Parmenter O'Toole
601 Terrace Street/P.O. Box 786
Muskegon, MI 49443-0786

198395

. 1 9 8 3 9 5 .

I - Recordings

- R E C P K G -

Property Address:	**1259 Marquette**
Buyer/Borrower:	**Harris**
Seller:	**City of Muskegon**
Description:	Documents to be Recorded
May include the following docs:	[ ] Deed
Copies to:	Title Company, Buyer/Borrower, Seller, Selling Agent, Listing Agent, Mortgage Broker, Lender, Buyer's Attorney, Seller's Attorney

11/01/2006 02:04:46p by TIMEDAL01SIVO05\vianderson

Commission Meeting Date: October 10, 2006

Date: **October 3, 2006**

To: **Honorable Mayor and City Commissioners**

From: **Planning** cbc

RE: **Ordinance Amendment – Clarification of delay between Historic District Commission and demolition**

SUMMARY OF REQUEST:

To approve the attached Ordinance amendment clarifying the delay between Historic District Commission and demolition. The current ordinance is not clear on when there is a six month delay and when a structure can be demolished immediately. The amended ordinance makes it clear that there is only a six month delay on structures that are of historic or architectural worth.

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To approve the attached ordinance amendment.

COMMITTEE RECOMMENDATION:

None.

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. 2205

An Ordinance amending Chapter 38, Section 38-68(b) of the Code of Ordinances concerning approval of demolition or moving of structures of historic or architectural worth.

THE CITY OF MUSKEGON HEREBY ORDAINS:

Chapter 38, Section 38-68(b) of the Code of Ordinances shall be amended to read as follows:

Sec. 38-68. Approval of demolition or moving of structures of historic or architectural worth.

(b) In cases where approval for demolition is granted, for reasons other than public health or safety, such certificate shall not become effective until six months after the date of such issuance, in order to provide a period of time within which it may be possible to relieve a hardship or to cause the property to be transferred to another owner who will retain the structure. *This six month requirement shall only apply to structures determined by the historic district commission to be of historic or architectural worth.*

This ordinance adopted:

Ayes: Warmington, Wierengo, Carter, Davis, Gawron, Shepherd, Spataro
Nays: None

Adoption Date: October 10, 2006
Effective Date: October 24, 2006
First Reading: October 10, 2006
Second Reading: N/A

CITY OF MUSKEGON

By Linda Potter
Linda Potter
Acting Clerk, City of Muskegon

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 10th day of October, 2006, 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, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: October 10, 2006

Linda Potter

Linda Potter
Acting 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

TO: ALL PERSONS INTERESTED

Please take notice that on October 10, 2006, the City Commission of the City of Muskegon adopted an amendment to Chapter 38, Section 38-68(b) of the Muskegon City Code of Ordinances concerning approval of demolition or moving of structures of historic or architectural worth. Section 38-68(b) is amended to read as follows:

Sec. 38-68. Approval of demolition or moving of structures of historic or architectural worth.

(b) In cases where approval for demolition is granted, for reasons other than public health or safety, such certificate shall not become effective until six months after the date of such issuance, in order to provide a period of time within which it may be possible to relieve a hardship or to cause the property to be transferred to another owner who will retain the structure. *This six month requirement shall only apply to structures determined by the historic district commission to be of historic or architectural worth.*

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 (10) days from the date of this publication.

Published: October 14, 2006

CITY OF MUSKEGON

By________________________
Linda Potter
Acting Clerk, City of Muskegon

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. ______

An Ordinance amending Chapter 38, Section 38-68(b) of the Code of Ordinances concerning approval of demolition or moving of structures of historic or architectural worth.

THE CITY OF MUSKEGON HEREBY ORDAINS:

Chapter 38, Section 38-68(b) of the Code of Ordinances shall be amended to read as follows:

Sec. 38-68. Approval of demolition or moving of structures of historic or architectural worth.

(b) In cases where approval for demolition is granted, for reasons other than public health or safety, such certificate shall not become effective until six months after the date of such issuance, in order to provide a period of time within which it may be possible to relieve a hardship or to cause the property to be transferred to another owner who will retain the structure. *This six month requirement shall only apply to structures determined by the historic district commission to be of historic or architectural worth.*

This ordinance adopted:

Ayes: ______________________________

Nays: ______________________________

Adoption Date: ____________________

Effective Date: ____________________

First Reading: ____________________

Second Reading: ____________________

CITY OF MUSKEGON

By ____________________

Linda Potter

Acting Clerk, City of Muskegon

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CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the _____ day of ________, 2006, 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, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: ____________, 2006

____
Linda Potter
Acting Clerk, City of Muskegon

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

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CITY OF MUSKEGON
NOTICE OF ADOPTION

TO: ALL PERSONS INTERESTED

Please take notice that on ________________, 2006, the City Commission of the City of Muskegon adopted an amendment to Chapter 38, Section 38-68(b) of the Muskegon City Code of Ordinances concerning approval of demolition or moving of structures of historic or architectural worth. Section 38-68(b) is amended to read as follows:

> **Sec. 38-68. Approval of demolition or moving of structures of historic or architectural worth.**
>
> (b) In cases where approval for demolition is granted, for reasons other than public health or safety, such certificate shall not become effective until six months after the date of such issuance, in order to provide a period of time within which it may be possible to relieve a hardship or to cause the property to be transferred to another owner who will retain the structure. *This six month requirement shall only apply to structures determined by the historic district commission to be of historic or architectural worth.*

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 (10) days from the date of this publication.

Published: ________________, 2006 CITY OF MUSKEGON

By________________________
Linda Potter
Acting Clerk, City of Muskegon

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

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Date: **October 10, 2006**

To: **Honorable Mayor and City Commission**

From: **Public Works**

RE: **Repair of Middle Roof Section – Public Service Building**

SUMMARY OF REQUEST: Bids were taken to repair the middle roof section of the Public Service Building on September 22 2006. This project is to eliminate leakage and extend the roof warranty for another 10 years. The low bidder was East Muskegon Roofing & Sheet Metal for $21,715.00.

FINANCIAL IMPACT:

$50,000 was budgeted in the Public Service Building Fund for middle section (shop area) roof repair or replacement in 2006.

BUDGET ACTION REQUIRED:

None is needed.

STAFF RECOMMENDATION:

Accept the low bid of $21,715.00 and authorize staff to execute an agreement with the successful bidder to complete the project

Public Works

Memo

To: Bob Kuhn, DPW Director

From: Bob Fountain, Special Operations Supervisor

CC: Mohammed Al-Shatel, JR Gann

Date: October 3, 2006

Re: Bids to Repair Middle EPDM Roof Area-Public Service Building

---

One of our capital improvement items for the Public Service Building this year is to repair the roof over the shop area. We have experienced repeated leakage from this roof over the years. It was installed about 1985.

After taking bids to completely replace this roof area in August, it was determined that the bids far exceeded the budgetary allocation. Therefore all bids were rejected at the September 12, 2006 by the City Commission.

After consultation with roofing contractors, it was determined that the project could be re-bid with altered specifications that would greatly reduce cost and extend the life span of the roof. The roof membrane was determined to be in good condition, so the specifications were modified to encompass the repair of seams and edges. This work would extend the warranty on this section of roof for an additional 10 years.

The project was re-advertised and bids taken. On September 22, 2006 bids were opened. Three bids were received from the following contractors.

East Muskegon Roofing and Sheet Metal (Muskegon Twp.)	$21,715.00
J. Stevens Co. (Dalton Twp.)	$25,200.00
Free Spirit Enterprises (City of Muskegon)	$35,000.00

All three of the bidders are qualified roofing contractors. There I recommend that the Commission accept the low bid from East Muskegon Roofing and Sheet Metal and authorize staff to execute an agreement with this contractor for completion of this project.

City Commission Meeting
Tuesday October 10, 2006

TO: Honorable Mayor and City Commissioners

FROM: Anthony L. Kleibecker, Director of Public Safety

DATE: October 3, 2006

SUBJECT: Request to Purchase Video Enhancement Software

Summary of Request:

Police Department staff is requesting that the Commission approve an agreement between the City and Cognitech, Inc., of Pasadena, California. In return, Cognitech will provide the department with video enhancement software. This software will provide officers with the capability of enhancing still photographs which can be obtained from videotape. Increasingly, businesses and homeowners are utilizing video for security reasons. There is no local assistance available and on occasion we have had to transport videos to a state police lab in Lansing. Therefore we feel that it is important for us to obtain and use this technology. Cognitech is also the vendor utilized by the Michigan State Police.

Cognitech submitted a bid of $15,723.40 for software, support and training.

We did receive a quote from one other company. Salient Stills of Boston, Massachusetts submitted a bid of $18,000 for the software, support and training.

Financial Impact:

Funds from the Criminal Forfeiture Account will be used to purchase this software

Budget Action Required:

None

Staff Recommendation:

Approval of the agreement.

Muskegon Police Department

Anthony L. Kleibecker
Director of Public Safety

980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

Phone: 231-724-6750
FAX: 231-722-5140

TO: Anthony Kleibecker, Director of Public Safety

FROM: Kurt Dykman, Detective

DATE: September 13, 2006

RE: Video Analysis Software (Cognitech)

This is updated pricing to the proposal.

$4,673.40 – Computer system (Incl's. shipping). This computer will handle the software and be able to process videos in an uncompressed format. (See Dell Quotes; may be $100 - $200 less)

$2,000. – Video Acquisition Advanced Pro Card. This card allows the user to acquire the incoming video and immediately direct it out to a recording VCR for quick separation of multiplexed videos.

$9,000.– Software and training for one person (excluding transportation and accommodations. Breakfast and lunch are provided).

$50. – Shipping from Cognitech (Insurance on shipment would be $35)

$15,723.40 - TOTAL (excluding transportation and accommodations for training).

Respectfully submitted,

Kurt Dykman

TO: Anthony Kleibecker, Director of Public Safety

FROM: Kurt Dykman, Detective

DATE: January 21, 2005

RE: Video Analysis Software

On many occasions there has been a need to have video tapes analyzed forensically but without a consistent way to get the job done. In 2003 there were 56 entries of security tape being brought in as evidence and in 2004 there were 66 calculating to be 5.5 tapes a month on 2004. Investigators have tried to use our existing Diebold video player and print a picture but with little success. We have been approached on many occasions by other agencies for help just because we are the largest department in our county; we have been little or no help to them. Tapes have been taken to local community colleges but with concerns about the continued availability of this source and how effective would court room testimony be coming from those persons. Without taking our materials to the state police we have had no other options until now; within this memorandum I will propose the purchase of video analysis software that would keep everything in-house and aid in many future investigations. I have looked at two companies, Salient Stills and Cognitech, and propose going with Cognitech. There is a third company, Ocean Systems, their base system has a cost of $17,133 and goes up to $30,000. Below is an overview of both Salient Stills and Cognitech as well the cost associated with each.

<u>SALIENT STILLS</u>

This software was originally developed for and used by the media for use in obtaining a still print from higher quality recorded video. Since then they have entered the law enforcement market and began offering their software with tools to analyze (clean-up) videos to get clearer still prints. Just within the past six months they have added Demultiplexing to their software; this in very new to them. Their software in said to be very easy to use and needs no training. I have located and spoken with one individual within our state that has used this software and recommends it but has not used it for quite sometime. This person works for a department of the Army and they used Salient Stills to process television video (IE. CNN) to obtain still pictures of military related incidents. Two other law enforcement individuals, from outside of Michigan, recommends this software and says that it is easy to use.

COST: $12,000 – Software
$2,400 – <u>Annual</u> support (tech support and software updates)
$2,800 – Computer (quote did not include monitor)
$300 – Video capture card
<u>$500 – Adobe Photoshop</u>
$18,000 -- TOTAL

**** Because our existing computers will not be able to process the video in an uncompressed format that is required a new computer is needed. This computer is configured for this software's needs and no monitor was specified within the quote from Dell. Because the software has no tools to allow the user to adjust the picture to be able to further bring out details additional graphics software is needed and Photoshop is suggested. The annual support fee is to give the user updates to new releases as well as technical support.

COGNITECH

This software was designed to be used forensically as needed by law enforcement. Packaged is Video Investigator Professional Edition that is used to "work" the video to obtain stills as well as Video Active Pro. Ed. that is used to Demultiplex videos. The software has been time tested with recent updates to the existing versions correcting system "bugs". This software is harder to learn, has about a one year learning curve therefore training is strongly recommended. Training is held twice a year at only two locations; Palm Springs, California and Las Vegas. This software is being used by Det./Sgt. Jim Young of MSP in Lansing's Technical Services unit. He has used this software for five years and instructs for the company. He processes about ten tapes per week. I had spent an afternoon with him during which time he was able to show the software and how it processes video. It was apparent that this software has been around for some time and is very powerful. It has many automatic features within it but the user has to know how to set the parameters of these features. A much better computer was needed to handle the needs of the software. The City of Muskegon I.T. department aided in putting together the necessary system. This system's specifications were presented to Cognitech and was said to meet the requirements to run their software. This system is better that what would be available from Cognitech and it will be able to process video files and actions of the software better and quicker resulting in shorter "waiting time" while videos are being processed. Det./Sgt. Young has invited us back if there should be any future needs.

The below cost breakdown will show three different ways to obtain this software (both titles).

COST: $8,000 – Software alone with no computer or training. Our existing computers will not handle/process the materials.

$9,000 – Software alone and training for one person (excluding transportation and accommodations); *no computer*.

$16,000 – Cognitech's packaged system (CVW 320) consisting of a Dell computer/monitor, both software titles and one seat Training (*does not include shipping*). (See attached Workstation Comparison Chart)

AGENDA ITEM NO. _______________

CITY COMMISSION MEETING ______________________

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: October 2, 2006

RE: West Michigan Metropolitan Transportation Plan (WestPlan)

SUMMARY OF REQUEST:
To approve the City of Muskegon's portion of the WestPlan dues. This organization determines projects and distributes federal transportation funds.

FINANCIAL IMPACT:
$16,040.

BUDGET ACTION REQUIRED:
None.

STAFF RECOMMENDATION:
To approve this request.

COMMITTEE RECOMMENDATION:
None.

RECEIVED

OCT 0 2 2006

MUSKEGON
CITY MANAGER'S OFFICE

WMSRDC
WEST MICHIGAN SHORELINE
REGIONAL DEVELOPMENT COMMISSION

INVOICE

P.O. Box 387
Muskegon, MI 49443-0387
Phone: 231-722-7878 Fax: 231-722-9362

DATE: October 1, 2006
INVOICE # **5005**
FOR: 10/1/06-9/30/07

DUE UPON RECEIPT

Bill To:
Bryon Mazade, Manager
City of Muskegon
PO Box 536
Muskegon, MI 49443

DESCRIPTION	AMOUNT
MPO Dues-West Michigan Metropolitan Transportation Program (WestPlan) For the Fiscal Year 2007 (October 1, 2006 - September 30, 2007)	$16,040.00
CR:6365.0365.1 $13,910 6365.0365.3 $2,130	
TOTAL	$ 16,040.00

Make all checks payable to **West Michigan Shoreline Regional Development Commission.**
If you have any questions concerning this invoice, contact Susan Stine-Johnson, 231-722-7878x12, sstinejohnson@wmsrdc.org

Date: October 10, 2006

To: Honorable Mayor and City Commissioners

From: Engineering

RE: Quit Claim Deed to CSX Transportation

SUMMARY OF REQUEST:

Authorize Mayor & Clerk to execute the attached Quit Claim Deed transferring property to CSX. This transaction would conclude the obligation of both parties under which CSX had to relinquish their rights to the properties needed for the construction of Shoreline Dr.

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To authorize the Mayor and Clerk to sign off on the quit claim deed and direct staff to record both deeds, the one from CSX to the City and the one from the City to CSX.

COMMITTEE RECOMMENDATION:

Quit Claim Deed

City of Muskegon, a municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49440,

Conveys and Quit Claims To: **CSX Transportation, Inc.**, a Virginia corporation, with principal place of business at 500 Water St., J-150, Jacksonville, FL 32202,

the property in the City of Muskegon, County of Muskegon, State of Michigan, which is described as follows:

See Attached Exhibit A

for the sum of: Less Than One Hundred Dollars

free of encumbrances and/or limitations.

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

Dated: October 23, 2006

Signed in the presence of:

Jo Ann Krukowski

Irene Dempsey
Irene Dempsey

CITY OF MUSKEGON

By
Stephen J. Warmington, Its Mayor

and Linda Potter
Linda Potter, Its Acting Clerk

STATE OF MICHIGAN
COUNTY OF MUSKEGON

The foregoing instrument was acknowledged before me this 23 day of October, 2006, by Stephen J. Warmington and Gail A. Kundinger, MMC, Mayor and Clerk of the City of Muskegon, a municipal corporation.

Jo Ann M Krukowski
JoAnn M Krukowski, Notary Public
Muskegon County, Michigan
My commission expires: 05-12-2012
Acting in Muskegon County, Michigan

Drafted by & when recorded return to:
John C. Schrier
PARMENTER O'TOOLE
175 West Apple Avenue, P.O. Box 786
Muskegon, Michigan 49443-0786

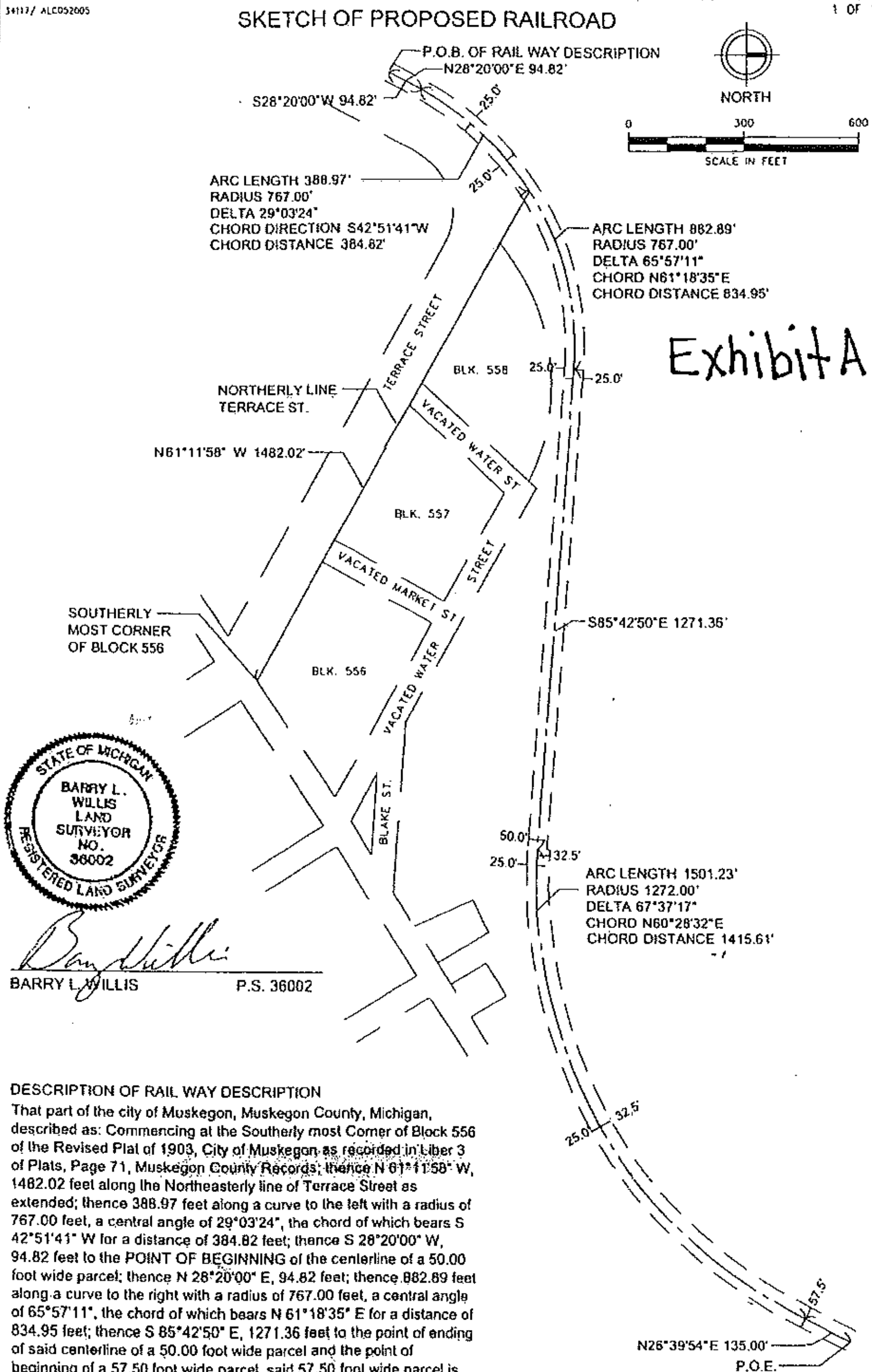
Send subsequent tax bills to:
CSX Transportation, Inc.
500 Water Street, J-150
Jacksonville, FL 32202

Exhibit A

Legal Description

That part of the City of Muskegon, Muskegon County, Michigan, described as: Commencing at the Southerly most Corner of Block 556 of the Revised Plat of 1903, City of Muskegon as recorded in Liber 3 of Plats, Page 71, Muskegon County Records; thence n 61°11'53" W, 1482.02 feet along the Northeasterly line of Terrace Street as extended; thence 388.97 feet along a curve to the left with a radius of 767.00 feet, a central angle of 29°03'24", the chord of which bears s 42°51'41" W for a distance of 384.82 feet; thence S 28°20'00" W, 94.82 feet to the POINT OF BEGINNING of the centerline of a 50.00 foot wide parcel; thence N 2820'00" E, 94.82 feet; thence 882.89 feet along a curve to the right with a radius of 767.00 feet, a central angle of 65°57'11", the chord of which bears N 61°18'35" E for a distance of 834.95 feet; thence S 85° 42'50" E, 1271.36 feet to the point of ending of said centerline of a 50.00 foot wide parcel and the point of beginning of a 57.50 foot wide parcel, said 57.50 foot wide parcel is described as lying 25.00 feet southeasterly of and 32.50 feet Northwesterly of and at right angles to the following described line; thence 1501.23 feet along a curve to the left with a radius of 1272.00 feet, a central angle of 67°37'17", the chord of which bears N 60°28'32" E for a distance of 1415.61 feet; thence N 26° 39'54" E, 135.00 feet to the point of ending of said 57.50 foot wide parcel.

SKETCH OF PROPOSED RAILROAD



DESCRIPTION OF RAIL WAY DESCRIPTION

That part of the city of Muskegon, Muskegon County, Michigan, described as: Commencing at the Southerly most Corner of Block 556 of the Revised Plat of 1903, City of Muskegon as recorded in Liber 3 of Plats, Page 71, Muskegon County Records; thence N 61°11'58" W, 1482.02 feet along the Northeasterly line of Terrace Street as extended; thence 388.97 feet along a curve to the left with a radius of 767.00 feet, a central angle of 29°03'24", the chord of which bears S 42°51'41" W for a distance of 384.82 feet; thence S 28°20'00" W, 94.82 feet to the POINT OF BEGINNING of the centerline of a 50.00 foot wide parcel; thence N 28°20'00" E, 94.82 feet; thence 882.89 feet along a curve to the right with a radius of 767.00 feet, a central angle of 65°57'11", the chord of which bears N 61°18'35" E for a distance of 834.95 feet; thence S 85°42'50" E, 1271.36 feet to the point of ending of said centerline of a 50.00 foot wide parcel and the point of beginning of a 57.50 foot wide parcel, said 57.50 foot wide parcel is described as lying 25.00 feet Southeasterly of and 32.50 feet Northwesterly of and at right angles to the following described line; thence 1501.23 feet along a curve to the left with a radius of 1272.00 feet, a central angle of 67°37'17", the chord of which bears N 60°28'32" E for a distance of 1415.61 feet; thence N 26°39'54" E, 135.00 feet to the point of ending of said 57.50 foot wide parcel.

Revised:

CITY OF MUSKEGON

PROPOSED RAILROAD DESCRIPTION

MAY 20, 2005 34117

Quit Claim Deed

CSX Transportation, Inc., a Virginia corporation, with principal place of business at 500 Water St., J-150, Jacksonville, FL 32202,

Conveys and Quit Claims To: **City of Muskegon**, a municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49440,

the property in the City of Muskegon, County of Muskegon, State of Michigan, which is described as follows:

See Attached Exhibit **B**

for the sum of: Less Than One Hundred Dollars

subject to easements and restrictions of record.

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

Dated: September 5, 2006

CSX Transportation Inc.

By: [signature]
Print Name: Stephen A. Crosby
Its: President-CSX Real Property, Inc., signing on behalf of CSXT

STATE OF Florida
COUNTY OF Duval

The foregoing instrument was acknowledged before me this 5th day of September, 2006, by Stephen A. Crosby, Its Agent, on behalf of **CSX Transportation, Inc.**

Notary Public State of Florida
Linda Carol Adlin
My Commission DD446637
Expires 07/11/2009

Linda Carol Adlin, Notary Public
Duval County, Florida
My commission expires: 07/11/2009
Acting in Duval County

Drafted by & when recorded return to:
John C. Schrier
PARMENTER O'TOOLE
175 West Apple Avenue, P.O. Box 786
Muskegon, Michigan 49443-0786

Send subsequent tax bills to:
City of Muskegon
933 Terrace Street
Muskegon, Michigan 49440

EXHIBIT B

LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PART OF THE REVISED PLAT OF THE CITY OF MUSKEGON, MICHIGAN, SAID PARCEL BEING AN OLD VACATED RAILROAD RIGHT-OF-WAY, VARIABLE IN WIDTH, THE CENTERLINE OF WHICH IS DESCRIBED AS;

COMMENCING AT THE SOUTHERLY MOST CORNER OF BLOCK 556 OF THE REVISED PLAT OF 1903, CITY OF MUSKEGON AS RECORDED IN LIBER 3 OF PLATS, PAGE 71, MUSKEGON COUNTY RECORDS; THENCE NORTH 61 DEGREES 11 MINUTES 58 SECONDS WEST, 1482.02 FEET ALONG THE NORTHEASTERLY LINE OF TERRACE STREET AS EXTENDED; THENCE 388.97 FEET ALONG A CURVE TO THE LEFT WITH A RADIUS OF 767.00 FEET, A CENTRAL ANGLE OF 29°03'24", THE CHORD OF WHICH BEARS S 42°51'41" W FOR A DISTANCE OF 384.82 FEET; THENCE S 28°20'00" W, 94.82 FEET TO THE POINT OF BEGINNING OF SAID CENTERLINE;

THENCE NORTH 28 DEGREES 20 MINUTES 00 SECONDS EAST, A DISTANCE OF 94.82 FEET;

THENCE NORTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 535.05 FEET, (CURVE DATA BEING: DELTA = 52 DEGREES 04 MINUTES 22 SECONDS, RADIUS = 588.72 FEET, CHORD = 516.82 FEET, CHORD BEARING = NORTH 54 DEGREES 22 MINUTES 12 SECONDS EAST);

THENCE NORTH 80 DEGREES 24 MINUTES 22 SECONDS EAST, A DISTANCE OF 246.23 FEET;

THENCE EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 469.11 FEET, (CURVE DATA BEING: DELTA = 40 DEGREES 48 MINUTES 29 SECONDS, RADIUS = 658.64 FEET, CHORD = 459.26 FEET, CHORD BEARING = SOUTH 79 DEGREES 11 MINUTES 23 SECONDS EAST);

THENCE SOUTH 58 DEGREES 47 MINUTES 09 SECONDS EAST, A DISTANCE OF 358.23 FEET;

THENCE EASTERLY ALONG THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 645.61 FEET, (CURVE DATA BEING: DELTA = 33 DEGREES 05 MINUTES 51 SECONDS, RADIUS = 1117.62 FEET, CHORD = 636.67 FEET, CHORD BEARING = SOUTH 75 DEGREES 20 MINUTES 04 SECONDS EAST); TO THE POINT OF CURVATURE OF A COMPOUND CURVE;

THENCE EASTERLY ALONG SAID CURVE, A DISTANCE OF 248.66 FEET; (CURVE DATA BEING: DELTA = 29°40'45", RADIUS = 480.04 FEET, CHORD = 245.89 FEET, CHORD BEARING: N 73°16' 38" E);

THENCE NORTH 58 DEGREES 26 MINUTES 15 SECONDS EAST, A DISTANCE OF 445.10 FEET;

THENCE NORTHEASTERLY ALONG THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 256.01 FEET, (CURVE DATA BEING: DELTA = 24 DEGREES 33 MINUTES 53 SECONDS, RADIUS = 597.12 FEET, CHORD = 254.05 FEET, CHORD BEARING = NORTH 46 DEGREES 09 MINUTES 18 SECONDS EAST);

THENCE NORTH 33 DEGREES 52 MINUTES 22 SECONDS EAST, A DISTANCE OF 537.54 FEET;

THENCE NORTHEASTERLY ALONG THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 194.96 FEET, (CURVE DATA BEING: DELTA = 7 DEGREES 12 MINUTES 28 SECONDS, RADIUS = 1549.77 FEET, CHORD = 194.83 FEET, CHORD BEARING = NORTH 30 DEGREES 16 MINUTES 08 SECONDS EAST);

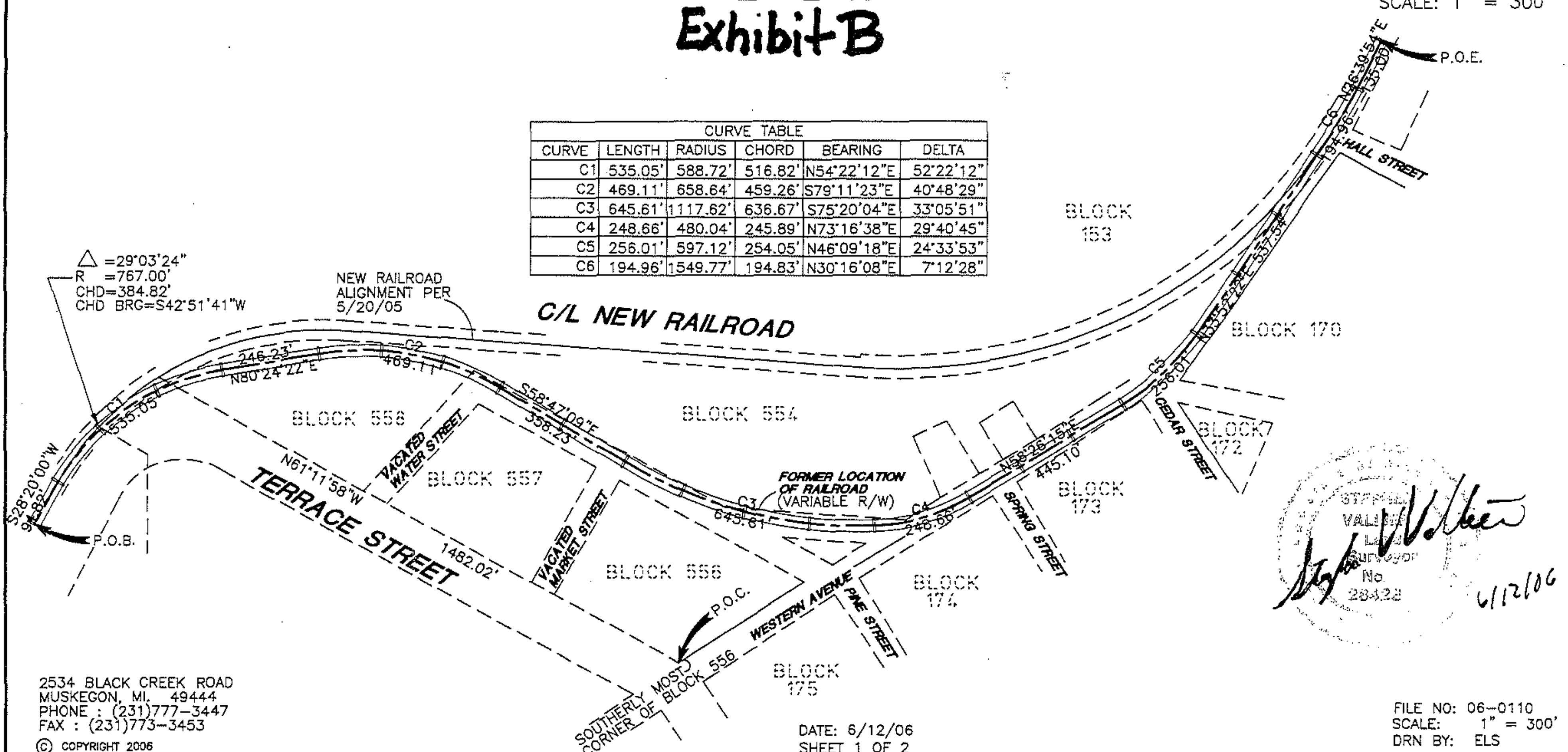
THENCE NORTH 26 DEGREES 39 MINUTES 54 SECONDS EAST, A DISTANCE OF 135.00 FEET. TO THE POINT OF ENDING.

WESTSHORE CONSULTING
Engineers ▪ Scientists ▪ Surveyors ▪ Planners

FOR: CITY OF MUSKEGON

SITE PLAN
Exhibit B

CURVE TABLE					
CURVE	LENGTH	RADIUS	CHORD	BEARING	DELTA
C1	535.05'	588.72'	516.82'	N54°22'12"E	52°22'12"
C2	469.11'	658.64'	459.26'	S79°11'23"E	40°48'29"
C3	645.61'	1117.62'	636.67'	S75°20'04"E	33°05'51"
C4	248.66'	480.04'	245.89'	N73°16'38"E	29°40'45"
C5	256.01'	597.12'	254.05'	N46°09'18"E	24°33'53"
C6	194.96'	1549.77'	194.83'	N30°16'08"E	7°12'28"



2534 BLACK CREEK ROAD
MUSKEGON, MI. 49444
PHONE : (231)777-3447
FAX : (231)773-3453

DATE: 6/12/06
SHEET 1 OF 2

FILE NO: 06-0110
SCALE: 1" = 300'
DRN BY: ELS

C:\Land Projects 2004\06-0110\dwg\06-0110.dwg 6/12/2006 3:37:48 PM EST

Date: 10/10/06

To: Honorable Mayor and City Commission

From: DPW

RE: Budgeted Vehicle Purchases

SUMMARY OF REQUEST: Approval to purchase (2) Ford Ranger from Tony Betten & Sons Ford.

FINANCIAL IMPACT: Total Cost $26,385.00

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve purchase.

Memorandum

To: Honorable Mayor and City Commissioners

From: DPW

Date: 10/10/06

Re: Budgeted vehicle replacement

The Equipment Division had scheduled the replacement of two of our 1998 pick up trucks in 2006. These trucks are used on a daily basis to check on job sites, inspect previous and future work, and carry various equipment needed for on call and after hours emergencies. In an attempt to lower operating costs, these vehicles are equipped with the smaller 2.3 liter 4 cylinder engine.

I have requested prices from area dealers as well as the statewide purchasing contracts. Attached is a summary of bids.

In accordance with established purchasing policy, I am requesting permission to purchase two Ford Ranger pickup trucks from Tony Betten & Sons Ford.

Equipment Purchase - 2006			
	Signature Ford	Great Lakes Ford	Betten& Sons Ford
	P.O. Box 242	2469 E. Apple	3839 Plainfield N.E
Type of Vehicle	Central LakeMi	Muskegon Mi.	Grand Rapids Mi
2 Ford Rangers	$26,754.00	$26,452.00	**$26,385.00**
each	$ 13,377.00	$13,226.00	**$ 13,192.50**

Commission Meeting Date: October 10, 2006

Date: **October 2, 2006**

To: **Honorable Mayor & City Commission**

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

RE: **Public Hearing for Amendments to Brownfield Plan- Redevelopment of the Century Club & Daniels and Redevelopment of Muskegon Savings Bank**

SUMMARY OF REQUEST: To hold a public hearing and approve the attached resolution approving and adopting amendments for the Brownfield Plan. The amendments are for the inclusion of property owned by Western Avenue Properties, LLC and Port City Construction & Development Services, LLC in the Brownfield Plan.

FINANCIAL IMPACT: There is no direct financial impact in approving the Brownfield Plan amendments, although the redevelopment of the property into a mixed-use development will add to the tax base of the City of Muskegon.

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENDATION: The Muskegon City Commission set the public hearing for October 10, 2006, at their September 12, 2006 meeting. Since that time, a notice of the public hearing has been sent to taxing jurisdictions, and it has been published twice In the Muskegon Chronicle. In addition, the Brownfield Redevelopment Authority approved the Plan amendment on September 5, 2006 and further recommends that the Muskegon City Commission approve the Plan amendment.

2006-85(a)

RESOLUTION APPROVING THE BROWNFIELD PLAN AMENDMENT REDEVELOPMENT OF THE CENTURY CLUB & DANIELS AND REDEVELOPMENT OF MUSKEGON SAVINGS BANK

City of Muskegon

County of Muskegon, Michigan

Minutes of a Regular Meeting of the City Commission of the City of Muskegon, County of Muskegon, Michigan (the "City"), held in the City Commission Chambers, on the 10th day of October, 2006, at 5:30 o'clock p.m., prevailing Eastern Time.

PRESENT: Members

Spataro, Warmington, Wierengo, Carter, Davis, Gawron, and Shepherd

ABSENT: Members

None

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

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

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

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

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

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

WHEREAS, the City Commission held a public hearing on the proposed Brownfield Plan on October 10, 2006.

NOW, THEREFORE, BE IT RESOLVED, THAT:

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

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

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

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

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

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

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

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

6. No Capture of Tax Increment Revenues by Authority. The Authority shall not capture Tax Increment Revenues on the Eligible Property, as described in the Brownfield Plan Amendment.

7. Disclaimer. By adoption of this resolution and approval of the Brownfield Plan Amendment, the City assumes no obligation or liability to the owner, developer or lessor of the Eligible Property for any loss or damage that may result to such persons from the adoption of this resolution and Brownfield Plan Amendment. The City makes no guarantees or representations as to

the determinations of the appropriate state officials regarding the ability of the owner, developer or lessor to qualify for a single business tax credit pursuant to Act 228, Public Acts of Michigan, 1975, as amended, or as to the ability of the Authority to capture tax increment revenues from the State and local school district taxes for the Brownfield Plan.

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

AYES: Members

Davis, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Carter

NAYS:

Members None

RESOLUTION DECLARED ADOPTED.

Linda S. Potter

Linda S. Potter, Acting City Clerk

Stephen J. Warmington, Mayor

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held on October 10, 2006, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Linda S. Potter

Linda S. Potter, Acting City Clerk

Commission Meeting Date: October 10, 2006

Date:	**October 2, 2006**
To:	**Honorable Mayor & City Commission**
From:	**Planning & Economic Development Department** CBC
RE:	**Public Hearing for Amendments to Brownfield Plan- Vida Nova at Edison Landing**

SUMMARY OF REQUEST: To hold a public hearing and approve the attached resolution approving and adopting amendments for the Brownfield Plan. The amendments are for the inclusion of property owned by DDLH, LLC in the Brownfield Plan.

FINANCIAL IMPACT: There is no direct financial impact in approving the Brownfield Plan amendments, although the redevelopment of the property into a residential condominium project will add to the tax base of the City of Muskegon.

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENDATION: The Muskegon City Commission set the public hearing for October 10, 2006, at their September 12, 2006 meeting. Since that time, a notice of the public hearing has been sent to taxing jurisdictions, and it has been published twice In the Muskegon Chronicle. In addition, the Brownfield Redevelopment Authority approved the Plan amendment on September 5, 2006 and further recommends that the Muskegon City Commission approve the Plan amendment.

2006-85(b)

RESOLUTION APPROVING THE BROWNFIELD PLAN AMENDMENT

VIDA NOVA AT EDISON LANDING

City of Muskegon

County of Muskegon, Michigan

Minutes of a Regular Meeting of the City Commission of the City of Muskegon, County of Muskegon, Michigan (the "City"), held in the City Commission Chambers, on the 10th day of October, 2006, at 5:30 o'clock p.m., prevailing Eastern Time.

PRESENT: Members

Spataro, Warmington, Wierengo, Carter, Davis, Gawron, and Shepherd

ABSENT: Members

None

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

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

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

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

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

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

WHEREAS, the City Commission held a public hearing on the proposed Brownfield Plan on October 10, 2006.

NOW, THEREFORE, BE IT RESOLVED, THAT:

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

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

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

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

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

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

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

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

6. No Capture of Tax Increment Revenues by Authority. The Authority shall not capture Tax Increment Revenues on the Eligible Property, as described in the Brownfield Plan Amendment.

7. Disclaimer. By adoption of this resolution and approval of the Brownfield Plan Amendment, the City assumes no obligation or liability to the owner, developer or lessor of the Eligible Property for any loss or damage that may result to such persons from the adoption of this resolution and Brownfield Plan Amendment. The City makes no guarantees or representations as to

the determinations of the appropriate state officials regarding the ability of the owner, developer or lessor to qualify for a single business tax credit pursuant to Act 228, Public Acts of Michigan, 1975, as amended, or as to the ability of the Authority to capture tax increment revenues from the State and local school district taxes for the Brownfield Plan.

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

AYES: Members

Gawron, Shepherd, Spataro, Warmington, Wierengo, Carter,

and Davis

NAYS:

Members None

RESOLUTION DECLARED ADOPTED.

Linda S. Potter

Linda S. Potter, Acting City Clerk

Stephen J. Warmington, Mayor

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held on October 10, 2006, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Linda S. Potter

Linda S. Potter, Acting City Clerk

Commission Meeting Date: October 10, 2006

Date:	**September 11, 2006**
To:	**Honorable Mayor & City Commission**
From:	**Planning & Economic Development Department** CBC
RE:	**Plan to End Homelessness- Continuum of Care Resolution**

SUMMARY OF REQUEST: Judy Kell, Continuum of Care Coordinator, has requested that the City Commission endorse the Ten Year Plan to end homelessness.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the attached resolution and authorize the Mayor and Clerk's signatures.

COMMITTEE RECOMMENDATION: The City Commission will consider at their Work Session on October 9, 2006.

MUSKEGON COUNTY HOMELESS CONTINUUM OF CARE NETWORK

TO: Cathy Brubaker-Clarke, Planning Director
City of Muskegon

FROM: Judy Kell, Continuum of Care Coordinator

DATE: September 11, 2006

RE: Resolution from the City of Muskegon

Attached please find a resolution that the MCHCCN is respectfully requesting be adopted by the Muskegon City Commission supporting the creation and implementation of a Ten Year Plan to End Homelessness in Muskegon County.

As I indicated to you, the Michigan State Housing Development Authority (MSHDA) in conjunction with the Departments of Community Health and Human Services is providing funding to each county in the State of Michigan to develop a Ten Year Plan to End Homelessness. MSHDA will then direct its discretionary dollars to those projects identified in the Ten Year Plan.

The Ten Year Plan is being developed through focus groups and consultations with municipal governments, human service agencies, business, educational institutions, labor, the homeless, service organizations and other associations in the community. There are four lead entities in the development of the Plan. They are the Community Coordinating Council, the MCHCCN, the Department of Human Services and the Department of Community Health.

The Ten Year Plan for Muskegon County proposes to increase rental assistance and support services for homeless individuals and families as well as a strong commitment to homeownership at all levels of income in the community. In addition, there is a strong prevention component built into the Plan.

We will keep our presentation to the City Commission short on October 10, 2006. We would like the City Commision to add its endorsement to ending homelessness in Muskegon County within ten years and need to have it included in the Plan by October 12, 2006.

Thank you for any assistance that you may give us in this endeavor.

Resolution No. 2006-86(a)

MUSKEGON CITY COMMISSION- RESOLUTION OF SUPPORT FOR THE PLAN TO END HOMELESSNESS IN MUSKEGON COUNTY

WHEREAS, safe, affordable, permanent housing is an essential component of strong families and communities; and

WHEREAS, the number of homeless and at risk homeless has increased in Muskegon County over the last two decades, and

WHEREAS, treating people who have already become homeless is far more expensive than preventing homelessness; and

WHEREAS, many things contribute to homelessness, including low wages, transportation issues, child care costs (or lack of adequate child care), medical costs, domestic violence, substance abuse, evictions and mental illness; and

WHEREAS, breaking the cycle of chronic poverty and homelessness requires new ideas and innovative action; and

WHEREAS, in 2002, President George W. Bush introduced a ten year plan to end homelessness. In 2003, this undertaking was endorsed by both NACO and the U.S. Conference of Mayors. While the plan is not mandated by Congress or HUD, local communities are strongly encouraged to adopt such plan; and

WHEREAS, the Muskegon County Homeless Continuum of Care Network (MCHCCN) is an organization consisting of representatives of emergency shelters, transitional housing, human service agencies, municipal governments, educational institutions, and individual citizens; and

WHEREAS, the MCHCCN is responsible for developing and maintaining the Continuum of Care Strategy that provides interim services to homeless individuals and families while they achieve self-sufficiency. Supportive housing and services for those physically and mentally unable to be self-sufficient also comes under the purview of the Continuum of Care strategy; and

WHEREAS, the Muskegon County Homeless Continuum of Care Network has issued a "Call to Action" to all stakeholders to participate in a community-wide effort to develop and implement a "Blue Print to End Homelessness."

NOW THEREFORE BE IT RESOLVED THAT the Muskegon City Commission hereby supports the efforts of the MCHCCN.

BE IT FURTHER RESOLVED that the Muskegon City Commission hereby joins in partnership with the growing coalition to seek better methods to serve our homeless populations and unite in developing a community-wide plan to pro-actively end the cycle of homelessness within our borders.

This resolution was adopted by the City of Muskegon on October 10, 2006.

Adopted this 10th of October, 2006.

AYES: Shepherd, Spataro, Warmington, Wierengo, Carter, Davis, and Gawron

NAYS: None

ABSTAIN: None

By: ____________________
Stephen J. Warmington, Mayor

Attest: Linda S. Potter
Linda S. Potter, Acting City Clerk

CERTIFICATION

This resolution was adopted at a regular meeting of the City Commission, held on October 10, 2006. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By: Linda S. Potter
Linda S. Potter, Acting City Clerk

Date: October 3, 2006

To: Honorable Mayor and City Commissioners

From: Assistant Finance Director

RE: Financial Policies

SUMMARY OF REQUEST: Periodically the Financial Policies of the City are reviewed and revised to include policy changes or revisions adopted by the Commission or necessitated to come into compliance with state or federal law since the last update. The last time the Policies were updated was March 2002. Included with this update are two policies not previously adopted by the Commission, the Cell Phone Policy created to comply with IRS regulations and the Pensions and Other Post Employment Benefits Policy created to follow Governmental Accounting Standards Board guidelines.

FINANCIAL IMPACT:

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the City of Muskegon Financial Policies as updated October 2006.

COMMITTEE RECOMMENATION:

CITY OF MUSKEGON

FINANCIAL POLICIES

UPDATE OCTOBER 2006

MUSKEGON

West Michigan's Shoreline City

CITY OF MUSKEGON FINANCIAL POLICIES

INTRODUCTION

The financial policies presented here set forth the basic policy framework for the financial management of the City of Muskegon. Many of the policies represent long-standing principles, practices, or traditions that have guided the city in the past. They have been brought together in one place to ensure their consistency and to provide Commission and staff a comprehensive reference document for current and future decision-making. While these policies are intended to provide continuity within a constantly changing environment, it is also intended that they be reviewed regularly and amended as needed.

I. OPERATING BUDGET POLICY

The city shall adhere to the requirements of the State of Michigan "Uniform Budget Act" (P.A. 621 of 1978, as amended).

The budget shall be balanced by Fund. Budgeted expenditures of each fund will be less than or equal to the sum of projected fund balance at the beginning of the fiscal year and all revenues which reasonably can be expected to be received during the fiscal year. It will be the annual goal of the city to match current operating expenditures with current operating revenues for each fund. Where this is not possible due to economic downturn or other factors, the "operating deficit" (i.e. operating revenues less operating expenditures) will be clearly highlighted.

Budgets will be adopted on a basis of accounting consistent with generally accepted accounting principles. Revenues are budgeted when they become measurable and available and expenditures are charged against the budget when they become measurable, a liability has been incurred, and the liability will be liquidated with current resources.

The budget shall be adopted through a "Resolution of Appropriation." Appropriations will be made at the departmental or project level for the General Fund Budget and at the fund level for all other budgets. The level of formal appropriation will constitute the "appropriation center" for each fund as defined in the state Uniform Budget Act. Transfers of budgeted funds between appropriation centers will require the formal approval of the City Commission.

The City Manager and city Department Heads are authorized to transfer line-item budget amounts within appropriation centers. Budget transfers between appropriation centers or changes to appropriation center totals require formal amendment by the City Commission, which may be done at any time during the budget year.

Budgets will be carefully monitored throughout the year. Each quarter the budget together with the policies and priorities on which it is based will be thoroughly reviewed by the City Manager to determine whether changes are necessary. An amended budget reforecast will be presented to the City Commission based on this review.

Department Heads are authorized to reallocate budgeted positions between activities under their jurisdiction; however, new positions may only be created with approval of the City Manager and within the budgetary authority approved by the City Commission.

The city will integrate goals and objectives into the budget and develop a system to monitor performance in meeting city objectives.

All operating funds of the city are subject to the annual budget process and will be reflected in the annual budget document with the exception of certain "pass-through" funds (such as the current tax fund), trust and agency funds, funds having a separate fiscal year (e.g. CDBG), and non-recurring project and grant funds for which a budget shall be adopted at the time the project is approved.

The enterprise fund and internal service fund operations of the city are intended to be fully self-supporting, i.e. current revenues will cover current expenditures, debt service, and capital costs.

The city's budget will portray both direct and indirect costs of programs whenever practical.

As permitted by state law (P.A. 30 of 1978), the city will fund and maintain a separate Budget Stabilization Fund for the purpose of ensuring that adequate funding is available to maintain levels of municipal services in the event of a major revenue loss.

CONTINGENCY ACCOUNT

A "contingency" line-item will be included in the General Fund Budget for unforeseen operating expenditures. The amount of the contingency account will not exceed five percent (5%) of total budgeted expenditures. Use of the contingency account will require formal approval of the City Commission who will authorize the transfer of contingency funds to the appropriation center where the actual cost will be incurred. If in a given year it is determined that other budgeted operating funds require a contingency line-item, the same policy will be followed for these funds.

II. CAPITAL IMPROVEMENTS POLICY

A capital improvement program (CIP) will be developed for a period of five years. The CIP will outline and prioritize all proposed capital projects, including land acquisitions, land improvements, construction projects and equipment purchases having estimated costs over $50,000 and useful lives of four or more years. As resources are available, the most current year of the CIP will be incorporated into the current year of the city's operating budget. The CIP will be reviewed and updated annually prior to the beginning of the operating budget cycle.

III. REVENUE POLICY

The city will strive to maintain a diversified and stable revenue system to shelter it from short-run fluctuations in any one revenue source. The revenue mix should combine elastic and inelastic revenue sources to minimize the effect of an economic downturn.

The city will estimate its annual revenues by an objective analytical process using the best information available.

The city will establish all user charges at a level related to the cost of providing the services and will *annually* revise user fees (with review by the City Commission) to adjust for the effects of inflation, program changes or other factors.

The city will set fees and user charges for each enterprise fund, such as the Water Fund and Sewer Fund, at a level that fully supports the total direct and indirect costs of the activity. Costs shall include the cost of annual depreciation of capital assets.

The city will set fees for other user activities, such as recreation services, at a level to support the direct and appropriate indirect costs of the activity.

The city will aggressively pursue collections of delinquent accounts receivable utilizing appropriate legal means (including outside collection agents) to enforce payment of amounts owed.

IV. GENERAL FUND RESERVE POLICY

It will be the city's policy to maintain an unreserved and undesignated General Fund fund balance reserve equal to at least ten percent (10%) of total actual General Fund Expenditures for the preceding year. The fund balance will be maintained to provide sufficient working capital and cash flow for daily financial needs and to help offset significant revenue shortfalls that may occur due to economic changes.

V. ACCOUNTING, AUDITING, AND FINANCIAL REPORTING POLICY

The City will establish and maintain those funds required by law and sound financial administration. Only the minimum number of funds consistent with legal and operating requirements will be established, however, because unnecessary funds result in inflexibility, undue complexity, and inefficient financial administration.

An independent full scope audit of all city funds will be performed on an annual basis. Selection of the independent auditor will be made by the City Commission based on a competitive request for proposal (RFP) process every three to five years.

The city will prepare a Comprehensive Annual Financial Report (CAFR) in accordance with Generally Accepted Accounted Principles (GAAP) as outlined by the Governmental Accounting Standards Board (GASB). It will be the city's goal to complete the annual audit and prepare the CAFR within 120 days of the end of the fiscal year.

The city shall submit annually its CAFR to the Certificate of Achievement for Excellence in Financial Reporting Program sponsored by the Government Finance Officers Association. Recommendations made by GFOA reviewers shall be incorporated into the city's CAFR for the subsequent year.

VI. DEBT POLICY

EXTERNAL DEBT

The City of Muskegon will not use long-term debt to finance current operations.

The City of Muskegon will follow a policy of full disclosure and report all material facts about its financial condition in a timely manner.

The retirement of bonds issued by the city (or its authorities) will be equal to or less than the useful life of the project being funded.

Whenever possible the City of Muskegon (including its authorities) will limit its issuance of debt to a maximum of $10 million per year to maintain the yield advantages associated with bank qualified obligations.

The city will structure bond issues to maintain a level or decreasing debt service schedule and maintain debt service payments as a predictable and manageable part of the operating budget.

"Pay-As-You-Go" financing will be used when practical. However, when the city utilizes long-term debt financing it will ensure that the debt is financed soundly by:

- Conservatively projecting revenue sources that will be utilized to repay the debt.
- Financing the improvement over a period not greater than the useful life of the improvement, and
- Determining that the benefits to be derived outweigh the total costs (including interest costs) of the project.

Capital lease, certificates of participation, and lease-purchase financing will be treated as debt financing and be subject to the same policies.

The city (and its Authorities) will normally issue debt through a competitive process in which formal bids will be solicited from as many interested parties as possible. The city will award sale of its bonds to the responsible bidder whose bid produces the lowest "true interest cost" (TIC) to the city over the life of the bond issue.

Under some circumstances, it is in the city's best interest to issue debt through a negotiated sale process instead of using a competitive process. The negotiated sale process will only be used when: 1) the nature of the debt issue is unique and requires particular skills from the investment banks involved, 2) the interest rate environment or other economic factors that may affect the issue are particularly volatile and the negotiated sale process can provide needed stability or, 3) the debt issue is bound by a closing deadline. In all cases where the negotiated process is utilized, the underwriter/manager will be selected by a competitive review of their fees, qualifications, and recent performance.

INTERFUND LOANS

In some situations it may be cost effective to loan money from one city fund to another in lieu of borrowing from external sources. Such interfund loans may only be made with formal approval of the City Commission including establishment of a fixed repayment schedule. Interest on interfund loans will be charged at the rate then available on U.S. Treasury notes having a comparable maturity.

VII. FIXED ASSETS CAPITALIZATION AND DEPRECIATION POLICY

CAPITALIZATION THRESHOLDS

Fixed assets are assets of a long-term character (i.e. a minimum useful life of two years) which are intended to continue to be held and used, such as land, buildings, improvements other than buildings, machinery, vehicles and equipment. This policy is intended to establish guidelines for accounting for, capitalizing and depreciating fixed assets held by the various city funds.

Category	*Capitalization Threshold (Unit Cost)*
Land	$ N/A
Land Improvement	10,000
Buildings	10,000
Equipment	10,000
Vehicles	10,000
Office Equipment and Furniture	10,000

Only those items having *unit* costs in excess of the threshold limits specified above will be considered fixed assets for purposes of city accounting records. Fixed assets in the city's proprietary type funds (i.e. Enterprise, Internal Service) shall be capitalized in the year of purchase and depreciated over their estimated useful lives. Fixed assets of all other funds shall be maintained by the City and depreciated over their estimated useful lives and shown on the City's full accrual Government Wide Statement. These include certain public domain general fixed assets consisting of improvements such as roads, bridges, curbs and gutters, streets and sidewalks, drainage systems, and lighting systems.

General fixed assets are valued at historical cost or estimated historical cost if actual cost is not available. Donated assets are valued at their estimated fair value on the date donated. Property and equipment of the enterprise funds and internal service funds are carried at cost.

DEPRECIATION AND ESTIMATED USEFUL LIFE

Depreciation of Fixed Assets in the city's Proprietary Funds shall be accomplished using the simple straight life method. The estimated useful life of assets will be based on IRS policies, past experience, or other reliable sources. Useful lives typically will not exceed fifty (50) years.

VIII. LIABILITY INSURANCE CLAIM SETTLEMENTS

Under the Michigan Municipal Risk Management Authority (MMRMA) program the city is self-insured for the first $100,000 of any single liability claim. A portion of the city's annual "premium" paid to MMRMA is set aside in a reserve account to cover this retained risk and no disbursement can be made from this reserve without prior authorization from the city.

When a claim is made against the city, all pertinent information is turned over to MMRMA. The "claims adjusting" section of MMRMA then investigates the claim thoroughly and recommends a course of action to the city (e.g. deny claim, settle for no more than X dollars, etc.).

The following policy will govern the handling of such liability claims:

- The City Manager or the Finance Director is authorized to approve settlements up to $10,000 provided that the settlement is consistent with the recommendation of the MMRMA.
- Settlements for amounts less than $10,000 which are not consistent with the recommendation of MMRMA may only be authorized with concurrence of the City Attorney and timely notification of the City Commission.
- Proposed claim settlements in excess of $10,000 must be reviewed and approved by the City Commission.

IX. POLICY FOR ADJUSTING UNCOLLECTIBLE ACCOUNTS

During the normal course of conducting its business, the city invoices outside parties for a variety of reasons ranging from taxes, fines, or penalties to the sale of city services or goods. Most billings are paid promptly and the majority of those that are not are ultimately collected through discontinuance of service, use of third-party collection services, or other means. However, it is periodically necessary to adjust the city's receivable records by "writing-off" accounts deemed to be uncollectible or by making an adjustment to reflect the negotiated settlement of a disputed account.

The city's policy for adjusting accounts receivable shall be:

> The City shall maintain in its general ledger records delinquent accounts receivables for the five most recent years. A reserve for estimated uncollectible accounts receivable shall be maintained in the general ledger. The reserve will be equal to one-half of the fund's delinquent accounts receivable outstanding as of each December 31. At the close of each fiscal year, the City will write-off any balances remaining uncollected that are more than five years old. Balances write-off may be turned over to a private collection agency for additional collection efforts.
>
> For receivables under five years old preliminary authorization for adjustments or write-offs of individual accounts receivable for amounts not in excess of $10,000.00 may be given by the City Manager or other responsible official designated by the City Manager (e.g. the City Treasurer in the case of water bills). At least once each year (or more frequently if deemed necessary) a comprehensive listing of all such accounts together with the reasons the accounts are deemed uncollectible will be presented to the City Commission for review and formal approval.
>
> The adjustment or write-off of individual accounts receivable for amounts in excess of $10,000.00 shall be approved by the City Commission on an individual basis.

Adjustments to accounts receivable which are determined by the City Treasurer to be necessary due to administrative error may be made without going through the procedure outlined above.

X. POLICY FOR ADJUSTING DELINQUENT REAL & PERSONAL PROPERTY TAXES

The city's policy for adjusting delinquent personal property taxes shall be as follows:

- A reserve for estimated uncollectible personal property taxes shall be maintained in each fund having delinquent personal property tax receivables. The reserve will be equal to one-half of the fund's delinquent personal property taxes outstanding as of each December 31.
- The city shall only maintain in its general ledger records delinquent personal property tax receivables for the two most recent years in an attempt to comply with the GASB 60 day rule. At the close of each fiscal year, the city will write-off any balances remaining uncollected that are more than two years old. Balances written off may be turned over to a private collection agency for additional collection efforts.

Real property taxes that become delinquent are turned over to the County treasurer for collection. The City is generally made whole at the outset of the collection process and only "charged back" for those taxes that remain delinquent after several years of unsuccessful collection effort. If in the City's judgement a delinquent account will ultimately be uncollectible through this process the City will escrow the funds received from the County to cover an eventually charge back.

XI. INVESTMENT POLICY

The City of Muskegon ("the City") is located in Western Michigan on the shores of Lake Michigan. The City covers eighteen square miles and is the largest city on the Eastern Shore of Lake Michigan. The City operates under a Commission-Manager form of government, with a seven-member commission that appoints the City Manager and the Director of Finance. The Director of Finance serves as the City's Investment Officer as defined in Michigan Compiled Laws (MCL) Chapter 129.91.

The following Investment Policy addresses the methods, procedures and practices which must be exercised to ensure effective and judicious fiscal and investment management of the City's funds. The purpose of this Investment Policy is to establish the investment scope, objectives, delegation of authority, standards of prudence, reporting requirements, eligible investments and transactions, diversification requirements, risk tolerance, and safekeeping and custodial procedures for the investment of the funds of the City of Muskegon.

This Investment Policy has been adopted by the City Commission of the City of Muskegon by resolution on October 11, 2006 and it replaces any previously dated investment policies, guidelines or lists of authorized investments.

SCOPE

This Policy shall apply to the investment management of all financial assets under control of the City with the exception of the City's Police and Fire Pension fund, the City Employees' Pension fund and the Retiree Health Care Fund, which are administered separately by their respective boards of trustees.

All excess cash, except for cash in certain restricted and special accounts, shall be pooled for investment purposes. The investment income derived from the pooled investment account shall be allocated to the contributing funds based upon the proportion of the respective average balances relative to the total pooled balance. Interest earnings shall be distributed to the individual funds on a monthly basis.

OBJECTIVES

The City's principal investment objectives are:

- Preservation of capital and protection of investment principal.
- Maintenance of sufficient liquidity to meet anticipated cash flows.
- Attainment of a market value rate of return.

PRUDENCE

The standard of prudence to be used for managing the City's assets shall be the "prudent investor rule" which in general states that investments shall be made with the judgment and care that under the circumstances then prevailing, persons of prudence, discretion and intelligence would exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

The City's investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The City recognizes that no investment is totally risk less and that the investment activities of the City are a matter of public record. Accordingly, the City recognizes that occasional measured losses are inevitable in a diversified portfolio and shall be considered within the context of the overall portfolio's return, provided that adequate diversification has been implemented and that the sale of a security is in the best long-term interest of the City.

The Director of Finance and authorized investment personnel acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that the deviations from expectations are reported in a timely fashion to the City Commission and appropriate action is taken to control adverse developments.

ETHICS AND CONFLICTS OF INTEREST

Elected officials and employees involved in the investment process must refrain from personal business activity that could conflict with proper execution of the investment program or which could impair or create the appearance of an impairment of their ability to make impartial investment decisions. Employees and investment officials must disclose to the City Manager any financial interests they have in financial institutions that conduct business with the City and they must subordinate their personal investment transactions to those of the City.

DELEGATION OF AUTHORITY

Responsibility for the investment of the City's funds covered by this Investment Policy resides with the Director of Finance who shall develop written administrative procedures and internal controls, consistent with this Policy, for the operation of the City's investment program.

The Director of Finance may delegate the authority to conduct investment transactions and to manage the operation of the investment portfolio to the Assistant Finance Director and/or the City Treasurer. No person may engage in an investment transaction except as expressly provided under the terms of this Investment Policy.

The City may engage the support services of outside professionals in regard to its investment program, so long as it can be clearly demonstrated that these services produce a net financial advantage or necessary financial protection of the City's financial resources.

AUTHORIZED SECURITIES AND TRANSACTIONS

All investments of the City shall be made in accordance with MCL Chapter 129.91 - 129.96 (Act 20 of 1943). Any revisions or extensions of these sections of MCL will be assumed to be part of this Investment Policy immediately upon being enacted.

The City has further restricted the investment of funds to the following types of securities and transactions:

1. U.S. Treasury Obligations: Treasury Bills, Treasury Notes and Treasury Bonds with a final maturity not exceeding five years from date of trade settlement.

2. Federal Instrumentality Securities: Debentures, discount notes, step-up securities and callable securities, with a final maturity not exceeding five years from the date of trade settlement, issued by the following only: Federal Home Loan Banks (FHLB), Federal National Mortgage Association (FNMA), Federal Farm Credit Banks (FFCB) and Federal Home Loan Mortgage Corporation (FHLMC).

3. Repurchase Agreements: With a termination date not to exceed one year collateralized by U.S. Treasury Obligations or Federal Instrumentality Securities listed in items 1 and 2 above with the maturity of the collateral not exceeding 10 years. For the purpose of this section, the term collateral shall mean purchased securities under the terms of the City's approved Master Repurchase Agreement. The purchased securities shall have a minimum market value including accrued interest of 102 percent of the dollar value of the transaction. Collateral shall be held in the City's custodian bank as safekeeping agent, and the market value of the collateral securities shall be marked-to-market daily.

   Repurchase Agreements shall be entered into only with dealers who have executed a City approved Master Repurchase Agreement with the City and who are recognized as Primary Dealers with the Federal Reserve Bank of New York or have a primary dealer within their holding company structure. Primary Dealers approved as Repurchase Agreement counterparties shall have a short-term credit rating of at least A-1 or the equivalent and a long-term credit rating of at least A or the equivalent by at least one service that rates the firm. The Director of Finance shall maintain a copy of the City's approved Master Repurchase Agreement along with a list of the broker/dealers who have an executed Master Repurchase Agreement with the City.

4. Commercial Paper: With maturities not exceeding 270 days from the date of trade settlement which is rated at least A-1 by Standard and Poor's, P-1 by Moody's or F1 by Fitch at the time of purchase by at least two of these services which rate the commercial paper. The aggregate investment in commercial paper shall be limited to 25% of the total portfolio.

5. Eligible Bankers Acceptances: with original maturities not exceeding 180 days from the date of trade settlement, rated at least A-1 by Standard & Poor's, P-1 by Moody's or F-1 by Fitch, issued on United States banks whose senior long-term debt is rated, at the time of purchase, A+ by Standard & Poor's, A1 by Moody's or A+ by Fitch. The aggregate investment in eligible bankers acceptances shall be limited to 25% of the total portfolio.

6. Time Certificates of Deposit: with maturities not exceeding five years, in state or nationally chartered banks whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) or collateralized in accordance with MCL 129.91. Time Certificates of Deposit exceeding $100,000, may be purchased only from financial institutions which meet the criteria set forth under the section of this policy, "Selection of Depository Banks." The aggregate investment in time certificates of deposit shall be limited to 25% of the total portfolio.

7. Mutual Funds: registered under the Investment Company Act of 1940 which (1) are "no-load" (meaning no commission or fee shall be charged on purchases or sales of shares); (2) have a daily net asset value per share that fluctuates not more than +/- 1.5% of the fund's original net asset value; and (3) limit assets of the fund to securities authorized in MCL 129.91 as legal investments for municipalities.

8. Money Market Mutual Funds: registered under the Investment Company Act of 1940 which (1) are "no-load" (meaning no commission or fee shall be charged on purchases or sales of shares); (2) have a constant daily net asset value per share of $1.00; (3) limit assets of the fund to securities authorized in MCL 129.91 as legal investments for municipalities; and (4) have a maximum stated maturity and weighted average maturity in accordance with Federal Securities Regulation 2a-7.

9. Investment Pools: organized under the Surplus Funds Investment Pool Act (MCL 129.111 to 129.118) which: (1) are "no-load" (i.e. no commission fee shall be charged on purchases or sales of shares); (2) have a constant daily net asset value per share of $1.00; (3) limit assets of the fund to securities authorized in MCL 129.91 as legal investments for municipalities; and (4) have a maximum stated maturity and weighted average maturity in accordance with Federal Securities Regulation 2a-7.

10. Joint Interlocal Investment Ventures organized under the Urban Cooperation Act of 1967, (MCL 124.501 to 124.512) which (1) are "no-load (i.e. no commission fee shall be charged on purchases or sales of shares); (2) have a constant daily net asset value per share of $1.00; (3) limit assets of the fund to securities authorized in MCL 129.91 as legal investments for municipalities; and (4) have a maximum stated maturity and weighted average maturity in accordance with Federal Securities Regulation 2a-7.

It is the intent of the City that the foregoing list of authorized securities be strictly interpreted. Any deviation from this list must be preapproved by the City Commission.

The City recognizes that bond proceeds may, from time to time, be subject to the provisions of the Tax Reform Act of 1986, Federal Arbitrage Regulations, as amended. Due to the legal complexities of arbitrage law and the necessary immunization of yield levels to correspond to anticipated cash flow schedules, the reinvestment of such debt issuance may, upon the advice of Bond Counsel or financial advisors, deviate from the maturity limitation provisions of this Policy.

INVESTMENT DIVERSIFICATION AND LIQUIDITY

It is the intent of the City to diversify the investments within the portfolio to avoid incurring unreasonable risks inherent in over investing in specific instruments, individual financial institutions or maturities. Nevertheless, the asset allocation in the portfolio should be flexible depending upon the outlook for the economy, the securities markets, and the City's anticipated cash flow needs.

The maximum investment in each of the following categories shall not exceed 25% of the total portfolio: Commercial Paper, Eligible Bankers Acceptances and Time Certificates of Deposit.

To the extent possible, investments shall be matched with anticipated cash flow requirements and known future liabilities. Unless matched to a specific cash flow requirement, the City will not invest in securities maturing more than 5 years from the date of trade settlement. The City shall maintain at least 10% of its total portfolio in instruments maturing in 30 days or less. The weighted average final maturity of the City's portfolio shall at no time exceed 3 years.

Diversification and liquidity requirements shall apply to the portfolio in the aggregate and not to individual funds within the portfolio.

The maturity provisions in the previous paragraph do not apply to the city's non-expendable trust funds (the Cemetery Perpetual Care fund, the Reese Playfield Trust, and the Hackley Park Trust). These funds may be invested in U.S. Treasury Obligations and Federal Instrumentality Securities permitted herein with maturities as long as 30 years.

Bond proceeds are not pooled for investment purposes and shall be excluded from calculations of the diversification and liquidity requirements in this section. Other deviations from the diversification and liquidity requirements in this section can be made only with the advance written authorization of the City Commission.

SELECTION OF BROKER/DEALERS

The Director of Finance shall maintain a list of authorized broker/dealers approved for investment purposes, and it shall be the policy of the City to purchase securities only from those authorized firms.

To be eligible, a broker/dealer must meet at least one of the following criteria:

1. Be recognized as a Primary Dealer by the Federal Reserve Bank of New York or have a primary dealer within their holding company structure,
2. Report voluntarily to the Federal Reserve Bank of New York, or
3. Qualify under Securities and Exchange Commission (SEC) Rule 15c3-1 (Uniform Net Capital Rule).

Broker/dealers will be selected by the Director of Finance on the basis of their expertise in public cash management and their ability to provide services for the City's account. Approved broker/dealers and the firms they represent shall be licensed to do business in the State of Michigan and as such are subject to the provisions of Michigan Statutes relating to the investment of public funds. Broker/dealers shall attest in writing that they have received and reviewed a copy of this Policy.

Each authorized broker/dealer shall be required to submit and annually update a City approved Broker/Dealer Information Request form which includes the firm's most recent financial statements. The Director of Finance shall maintain a list of approved broker/dealers, along with each firm's most recent Broker/Dealer Information Request form.

The City may purchase commercial paper from direct issuers even though they are not on the approved broker/dealer list as long as they meet the criteria outlined in Item 4 of the Authorized Securities and Transactions section of this Policy.

COMPETITIVE TRANSACTIONS

Each investment transaction shall be competitively transacted with broker/dealers who have been authorized by the City. At least three broker/dealers shall be contacted for each transaction and their bid and offering prices shall be recorded.

If the City is offered a security for which there is no other readily available competitive offering, then the Director of Finance will document quotations for comparable or alternative securities.

SELECTION OF DEPOSITORY BANKS

Periodically, through a Request for Proposal process, the City shall select a bank to provide checking account and other banking services for the City. To be eligible for authorization, a bank must (1) be a member of the FDIC, (2) be eligible to be a depository of funds belonging to the State of Michigan, (3) maintain a permanent office within the City and (4) meet the minimum credit criteria (described below) of credit analysis provided by commercially available bank rating services.

Notwithstanding provision (3) in the preceding paragraph, Time Certificates of Deposit described in the section of this policy, "Authorized Securities and Transactions" may be purchased from authorized banks if they maintain a principal office or a branch office in the State of Michigan.

The City shall utilize Highline Banking Data Services to perform credit analysis on banks seeking authorization. The analysis shall include a composite rating, and individual ratings of liquidity, asset quality, profitability and capital adequacy. To be eligible for designation to provide depository and other banking services, a bank shall have an average Highline Banking Data Services Rating of 30 or better on a scale of zero to 99 with 99 being the highest quality for the four most recent reporting quarters.

The Director of Finance shall maintain a file of the most recent credit rating analysis reports performed for each approved bank. Bank credit analysis shall be performed on a semi-annual basis.

SAFEKEEPING AND CUSTODY

The Director of Finance shall select a bank to provide safekeeping and custodial services for the City. A City approved safekeeping agreement shall be executed with the custodian bank prior to utilizing that bank's safekeeping services. The custodian bank will be selected on the basis of its ability to provide services for the City's account and the competitive pricing of its safekeeping related services, and shall have an average Highline Banking Data Services Rating of 20 or better on a scale of zero to 99 with 99 being the highest quality for the four most recent reporting quarters..

The Director of Finance shall maintain a file of the credit rating analysis reports performed for the custodian bank. Bank credit analysis shall be performed on a semi-annual basis.

The purchase and sale of securities and repurchase agreement transactions shall be settled on a delivery versus payment basis. It is the intent of the City that ownership of all securities be perfected in the name of the City. Sufficient evidence to title shall be consistent with modern investment, banking and commercial practices.

All investment securities, except Certificates of Deposit, Mutual Funds, Investment Pools and Joint Interlocal Investment Ventures, purchased by the City will be delivered by either book entry or physical delivery and will be held in third-party safekeeping by the custodian bank, its correspondent bank or its Depository Trust Company (DTC) participant account.

All Fed wireable book entry securities owned by the City shall be evidenced by a safekeeping receipt or a customer confirmation issued to the City by the custodian bank stating that the securities are held in the Federal Reserve system in a customer account for the custodian bank which will name the City as "customer."

All DTC eligible securities shall be held in the custodian bank's Depository Trust Company (DTC) participant account and the custodian bank shall issue a safekeeping receipt evidencing that the securities are held for the City as "customer."

All non-book entry (physical delivery) securities shall be held by the custodian bank's correspondent bank and the custodian bank shall issue a safekeeping receipt to the City evidencing that the securities are held by the correspondent bank for the City as "customer."

PORTFOLIO PERFORMANCE

The investment and cash management portfolio shall be designed to attain a market value rate of return throughout budgetary and economic cycles, taking into account prevailing market conditions, risk constraints for eligible securities, and cash flow requirements.

The performance of the City's investments shall be compared to the average yield on the U.S. Treasury Security that most closely corresponds to the portfolio's actual weighted average effective maturity. When comparing the performance of the City's portfolio, its rate of return will be computed net of all fees and expenses.

REPORTING

Accounting and reporting on the City's investment portfolio shall conform to Generally Accepted Accounting Principles (GAAP) and the Governmental Accounting Standards Board (GASB) recommended practices. On a monthly basis, the Director of Finance shall submit to the City Commission an investment report, listing the investments held by the City, the current market valuation of the investments and performance results. The report shall include a summary of investment earnings during the period. A record shall be maintained by the City of all bids and offerings for security transactions in order to ensure that the City receives competitive pricing.

Reports prepared by outside advisors shall be sent to the City's Director of Finance.

POLICY REVISIONS

This Investment Policy shall be reviewed periodically by the Director of Finance and may be amended by the City Commission as conditions warrant.

GLOSSARY OF TERMS USED

Bankers' Acceptance (BA): A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

Broker: A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides.

Callable Bond: A bond issue in which all or part of its outstanding principal amount may be redeemed before maturity by the issuer under specified conditions.

Certificate of Deposit: A time deposit with a specific maturity evidenced by a certificate. Large denomination CDs are typically negotiable.

Collateral: Securities or property pledged by a borrower to secure payment.

Commercial Paper: An unsecured promissory note with a fixed maturity of no more than 270 days. Commercial paper is normally sold at a discount from face value.

Dealer: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his/her own account.

Debenture: A bond secured only by the general credit of the issuer.

Delivery versus Payment: There are two methods of delivery of securities: delivery versus payment and delivery versus receipt (also called free). Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

Discount Securities: Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value.

Diversification: Dividing investment funds among a variety of securities offering independent returns.

Federal Deposit Insurance Corporation (FDIC): A federal institution that insures bank and savings and loan deposits, currently up to $100,000.

Federal Funds Rate: The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

Fed Wire: A computer system linking member banks and other financial institutions to the Fed, used for making inter-bank payments of Fed funds and for making deliveries of and payments for Treasury, agency and book-entry mortgage backed securities.

Investment Adviser's Act: Legislation passed by Congress in 1940 that requires all investment advisers to register with the Securities and Exchange Commission. The Act is designed to protect the public from fraud or misrepresentation by investment advisers.

Liquidity: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value.

Local Government Investment Pool: The aggregate of all funds from political subdivisions that are placed in custody of pools authorized under the laws of the State.

Mark-to-market: The process whereby the book value or collateral value of a security is adjusted to reflect its current market value.

Market Value: Current market price of a security.

Master Repurchase Agreement: A written contract covering all future transactions between the parties to repurchase or reverse repurchase agreements that establish each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

Maturity: The date upon which the principal or stated value of an investment becomes due and payable.

Money Market Mutual Fund: A mutual fund that limits its investments to some or all types of money market instruments.

Net Asset Value: The market value of one share of an investment company, such as a mutual fund.

No Load Fund: A mutual fund that does not levy a sales charge on the purchase of its shares.

Portfolio: Collection of securities held by an investor.

Primary Dealer: A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker-dealers, banks, and a few unregulated firms.

Prudent Person Rule: Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

Rate of Return: The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

Ratings: An evaluation of an issuer of securities by Moody's, Standard & Poor's, Fitch, or other rating services of a security's credit worthiness.

Repurchase Agreements: A holder of securities sells securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him/her. Dealers use repurchase agreements extensively to finance their positions.

Rule 2a-7 of the Investment Company Act: Applies to all money market mutual funds and mandates such funds to maintain certain standards, including a 13-month maturity limit and a 90-day average maturity on investments, both designed to help the fund maintain a constant one dollar ($1.00) net asset value.

Safekeeping: Holding of assets (e.g., securities) by a financial institution.

Treasury Bills: A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months or six months.

Treasury Bonds: Long-term U.S. Treasury securities having initial maturities of more than ten years.

Treasury Notes: Intermediate term coupon bearing U.S. Treasury securities having initial maturities of from two to ten years.

Yield: The rate of annual income return on an investment, expressed as a percentage.

XII. PETTY CASH USES AND LIMITS

Petty cash accounts may be established in such locations and in such amounts as may be determined necessary by the City Manager. Petty cash disbursements up to $300.00 are permitted for the following purposes: 1) for the expedited purchase of minor goods or services, 2) to provide immediate reimbursement to employees for travel or other costs paid out of their own pocket in the conduct of city business and, 3) to provide immediate refunds to customers as warranted. All uses of petty cash must be fully supported by receipts or other appropriate documentation. Petty cash procedures shall be reviewed periodically by the City's Finance Department.

Employees traveling on city business may receive a petty cash travel advance of up to $300.00 from the City Treasurer's Office to be used for travel purposes. The employee's department head must approve travel advances. Cash advances of more than $300.00 are discouraged and will only be made upon written authorization of the employee's department head and the city manager.

In order to distinguish travel advance requests from expense reporting, while simplifying the process to the extent possible, there is a separate form for that purpose. Please note that with the *Request for Petty Cash Travel Advance* form, the requesting party must acknowledge that receipts and any money owed the city must be returned within ten days of return from travel. If the money and/or expense documentation is not returned, the employee authorizes the full amount of the travel advance to be deducted from their paycheck along with a $5.00 processing fee. The *Request for Petty Cash Travel Advance* forms are available through the City Treasurer's Office.

Note that all travel expenses should be reported on the *Travel Expense Reporting Form* as soon as possible upon returning from travel. *Travel Expense Reporting Forms* are available on the City's Intranet Page.

XIII. PROCEEDS FROM SALE OF CITY-OWNED REAL ESTATE

From time to time the city sells real estate that it owns. It is city policy that, unless required by law or by specific direction of the City Commission, proceeds from such property sales shall be deposited to the city's Public Improvement Fund to be used to finance general purpose capital needs.

In the case of tax reverted property sold by the city, sale proceeds will first be used to reimburse appropriate city funds for expenses incurred in maintaining and selling the property. Any remaining sale proceeds will be distributed to the city and other taxing jurisdictions in the same manner as regular property taxes.

XIV. PROCUREMENT CARD PROGRAM POLICY

GENERAL

Regular government purchasing methods, such as purchase orders, can be cumbersome and costly in relation to the value of goods being purchased. To promote operational efficiency, the city has adopted a procurement card purchasing program for use with small dollar value purchases.

A number of unique controls have been developed for the procurement card program. These controls will ensure that cards can be used only for specific purchases and within specific dollar limits. In addition, documentation of all purchases is required by each cardholder with further approval from the department head and the City Manager's office before payment is made.

The unique procurement card issued by the city has the employee's name embossed on it together with the City's tax-exempt status. No one other than the employee in whose name is on the card may use the card. **CITY ISSUED PROCUREMENT CARDS MAY ONLY BE USED BY DESIGNATED CITY EMPLOYEES FOR THE PURCHASE OF GOODS OR SERVICES FOR THE OFFICIAL BUSINESS OF THE CITY OF MUSKEGON. UNDER NO CIRCUMSTANCES IS THE PROCUREMENT CARD TO BE USED FOR PERSONAL PURCHASES.**

DESIGNATION OF RESPONSIBLE OFFICIAL

The Finance Director is designated as the official responsible for overseeing compliance with this procurement card policy including procurement card issuance, accounting for procurement card transactions, monitoring and payment of procurement card statements.

TRANSACTION AMOUNTS

The procurement card may be used for purchases of individual items up to $2,500.00 in value. The *total monthly dollar value* of transactions on each procurement card will generally be limited to $5,000.00. The City Manager may establish higher monthly credit limits for employees whose positions require higher than normal use of the procurement card. Also, procurement cards may be used for individual purchases exceeding $2,500.00 with prior authorization of the City Manager. The total combined authorized credit limit of all procurement cards issued by the city shall not exceed five percent of the city's total budget for the current year. All purchases made with a city procurement card must be fully supported by receipts, invoices, and other documentation. Such documentation is to be attached to the monthly procurement card statement and cardholder's reconciliation.

EMERGENCY TRANSACTION AMOUNTS

In the event of an extended emergency, the City Manager is authorized to establish higher procurement card limits on a temporary basis so that city employees may procure goods and services necessary to deal with the emergency. In the event this provision is activated, the City Manager shall provide timely written notification to the City Commission of the employees whose limits have been increased, the amount of increase, and the period of time the increases are expected to be in effect. In no event are emergency transaction limits to be in effect for more than thirty days.

INTEREST COSTS AND SALES TAX

It is the city's policy to pay in full each month on or before the due date the total balance due on its procurement cards thereby avoiding interest charges. As a municipality, the city is exempt from payment of state sales tax. City procurement card users are expected to exercise care in conducting transactions to ensure that they are not incorrectly charged for sales tax.

OTHER PURCHASING POLICIES

The procurement card is a supplement to other purchasing procedures such as purchase orders. As with the other purchasing methods, the following conditions must be met when using your procurement card.

- Each single purchase may be comprised of multiple items, but the total cannot exceed the single purchase dollar limit on your procurement card.
- When purchases exceed the established dollar limits, the normal procedures of using purchase orders must be followed unless written authorization is given by the employee's department head.
- The least expensive item that meets your basic needs should be bought and competitive quotes must be obtained in accordance with existing purchasing policies.
- Cardholders must follow normal budgetary control procedures to ensure that sufficient funds are available prior to making purchase.
- Use of the procurement card does not relieve the cardholder from complying with Federal, State and city ordinances, regulations, policies and procedures.
- Use of the procurement card is not intended to replace effective procurement planning which enable volume discounts.
- Purchases are not to be split to circumvent procurement regulations.

RESTRICTIONS ON USE

The following list covers purchases for which procurement cards use is prohibited:

- Cash advances through bank tellers or teller machines.
- Traveler's Checks.
- Purchase of gasoline or diesel fuel for city vehicles except in emergencies (use city pumps or Fuelman System).
- Purchase of items stocked in city inventory unless required in emergencies.
- Additional specific restrictions as deemed necessary by individual departments.

XV. ELECTRONIC PAYMENTS

Modern technology makes it possible to transfer funds electronically in lieu of issuing paper checks. This technology offers many benefits to users including lower transaction costs, reduced opportunities for fraud, and better cash management control. The city has effectively utilized this technology for several years for purposes such as direct deposit of employee paychecks and automatic payment of customers' water bills. The city supports continued use and expansion of electronic payments technology for payment of vendors and other uses provided appropriate internal controls are established. The City Manager and Finance Director, in conjunction with the city's independent auditors, are authorized to develop the necessary procedures and controls for expanded use of this technology in the City of Muskegon.

XVI. ACCEPTANCE OF CREDIT CARD PAYMENTS

The city has studied the costs and benefits of accepting credit card payments from customers and has determined that credit card acceptance significantly enhances customer service and provides administrative and other benefits to the city that outweigh the associated costs. Accordingly, the city's policy shall be to accept credit cards for payment of all city bills and invoices *except routine payment of property taxes and income taxes.* The City Treasurer or Income Tax Administrator may permit payment by credit card for property or income taxes in specific collection cases where they have determined it is in the city's best interest to do so.

XVII. TRAVEL POLICY AND GUIDELINES

SCOPE

This policy applies to all City of Muskegon elected officials, employees, board members, volunteers and others when travelling on official City business and/or travelling at city expense.

AUTHORIZED TRAVEL

In the normal course of conducting City business, employees are required to travel for purposes of work-related meetings, training opportunities, professional conferences, or other business purposes. As part of the annual budget process, departments' request funding for travel purposes for the coming year. Department heads have full authority to approve travel for their employees (without additional authorization) within limits of the department's approved travel budget. Travel that is significantly beyond the parameters of the department's travel budget should be approved by the City Manager together with a corresponding budget adjustment if required.

TRAVEL COSTS

The City recognizes that its employees are responsible adults who take the same care in incurring travel expenses while on City business as when traveling on personal business.

Accordingly, this policy does not establish rigid cost limits for lodging, meals, or other travel costs. Instead, the following general guidelines are offered while recognizing that special circumstances may dictate that employees incur costs beyond these guidelines:

Lodging - Lodging costs should generally range between $60.00 - $120.00 per night depending on location (based on single occupancy and including local taxes which the City is not exempt from). Employees are relied upon to use their good judgment in selecting safe and economical accommodations.

Two important factors to remember when making hotel reservations: 1) you should always ask for special "government" rates that are typically deeply discounted from regular rates and, 2) you should identify the travel as official City business exempt from state sales tax and inquire as to any specific documentation requirements the hotel may have.

Costs for in-room movies, exercise rooms, or other hotel services not included in the basic room rate are <u>not</u> reimbursable by the City.

Meals - Meal costs should generally not exceed $34.00 per person for each full day of travel (including gratuities and taxes). For partial day travel or individual meal reimbursements, the following limits will apply:

Breakfast	$7.00	Travel Before 8:00 AM
Lunch	$9.00	Travel Before 12:00 Noon
Dinner	$18.00	Travel Before 6:00 PM

Individual meal limits will apply regardless of whether or not reimbursement is sought for other meals during the day. For example, it is not permissible to "skip" breakfast and lunch in order to be reimbursed $34.00 for a dinner; instead, the dinner will only be reimbursed up to the $18.00 limit specified above. Often lunch or other meals are included in the registration price of a seminar or conference. It is expected that employees attending these functions will partake in these meals. The City will not reimburse meal costs if the employee chooses to forgo the conference meal and dine elsewhere.

Transportation - Vehicle travel may be by either City vehicle or the employee's private vehicle. If a private vehicle is used, reimbursement will be based on the number of miles traveled times the allowable IRS business mileage rate in effect as of the preceding January 1. Air travel is generally used for destinations more than 200 miles away. Employees are encouraged to take advantage of discounted airfares and should utilize the Muskegon County Airport whenever possible.

Employees may elect to use private vehicles for travel to destinations more than 200 miles away and will be reimbursed based on the current IRS mileage rate or equivalent round trip coach airfare for that destination, whichever is less. However, no reimbursement will be made for added lodging or meal costs incurred because of the extra travel time.

Employees who elect to use their own vehicle should be aware that under the laws of the State of Michigan, every vehicle owner is required purchase insurance that is the primary coverage for that vehicle. While using a private vehicle for City travel, any automobile liability insurance coverage in force for the City is excess coverage only for the employee/vehicle owner.

Other Costs - Other incidental costs (such as parking, ground transport, phone calls), should not exceed an average of $15.00 per day. Rental car costs generally will not be reimbursed by the city as it is expected that employees will utilize lodging in close proximity to the conference or other event. In extraordinary circumstances where the employee deems it necessary to rent a car, reimbursement will only be made with the written authorization of the city manager.

Traveling With Spouse - There is no objection to employees inviting their spouse to travel along on City business. However, the City will pay for none of the spouse's travel expenses and care should be taken to maintain separate records of the employee's reimbursable travel costs.

PAYING FOR TRAVEL COSTS

Methods available for employees to pay travel costs include the following:

City Credit Card - Employees who have been issued a City of Muskegon credit card should use it to pay their travel costs. Additionally, in each department a credit card holder is designated to use their card to pay for other employees' travel costs that can be readily handled in advance (e.g. airline tickets, conference registration, hotel, etc.).

Personal Credit Card - Employees who have not been issued a City credit card may find it convenient to pay travel costs on their own personal credit card and receive cash reimbursement from the City.

Petty Cash Advance - Employees traveling on city business may receive a petty cash travel advance of up to $300.00 from the City Treasurer's Office to be used for travel purposes. The employee's department head must approve travel advances. Cash advances of more than $300.00 are discouraged and will only be made upon written authorization of the employee's department head and the city manager.

In order to distinguish travel advance requests from expense reporting, while simplifying the process to the extent possible, there is a separate form for that purpose. Please note that with the *Request for Petty Cash Travel Advance* form, the requesting party must acknowledge that receipts and any money owed the city must be returned within ten days of return from travel. If the money and/or expense documentation is not returned, the employee authorizes the full amount of the travel advance to be deducted from their paycheck along with a $5.00 processing fee. The *Request for Petty Cash Travel Advance* forms are available through the City Treasurer's Office.

Note that all travel expenses should be reported on the *Travel Expense Reporting Form* as soon as possible upon returning from travel. *Travel Expense Reporting Forms* are available on the City's Intranet Page.

REPORTING REQUIREMENTS FOR TRAVEL EXPENSE REIMBURSEMENT

Travel expense reporting has been simplified to the extent possible. The following guidelines apply to travel expense reporting:

- Travel expenses are to be reported on the Travel Expense Reporting Form included with this pamphlet as soon as possible upon returning from travel.
- Only expenses for which cash reimbursement is sought by the employee need to be reported. Expenses paid in advance or expenses paid by City credit card should not be included on the Travel Expense Reporting Form.
- **Expenses must always be supported by receipts or other documentation.**
- If total expenses to be reimbursed are $300.00 or less, you may obtain immediate reimbursement from the City Treasurer's Office.
- If total expenses to be reimbursed are more than $300.00, they will be reimbursed as a separately itemized, non-taxable category on the employee's regular bi-weekly paycheck. Accordingly, travel expense report forms must be submitted to the Finance Office with all necessary approvals no later than 5:00PM on the Friday prior to payday for reimbursement on that paycheck.

DOUBLE-DIPPING

It should go without saying that City expects honest and ethical behavior from its employees in handling travel expense matters. Travel expenses that are partially or fully paid by outside parties (such as federal agencies) are not to also be submitted for reimbursement from the City. Any employee found to be deliberately misreporting travel expenses will be subject to disciplinary action as well as potential prosecution.

LOCAL BUSINESS EXPENSES

In addition to travel expenses, it is sometimes appropriate for City employees to incur costs on behalf of boards or committees or in the course of entertaining visiting guests. Department heads have full authority to approve such costs (within budgetary limits) and the same general guidelines as outlined above for employee travel expenses should be followed.

XXVIII. CELL PHONE POLICY

GOAL

It is the goal of the City to provide cellular telephones to City employees who need them to perform the essential functions of their jobs. It is the further desire of the City to make sure that cellular phones are used primarily for City business with the cost to the City kept as low as possible.

SAFETY

The first concern of the City is the safety of their employees and the public. Employees should use proper safety procedures at all times when using a cellular phone, especially while operating equipment, driving on City business or performing similar duties. This includes pulling to the side of the road if feasible when making or receiving a cellular phone call.

POLICY

Department Heads and Supervisors may acquire cellular phones for employee use when the expense and use of the phone is justifiable in terms of improved service and responsiveness to citizens and/or other employees. Cellular phones should be provided only when they are required for the employee to perform essential functions of his/her job. Incidental personal use of cellular phones is permissible. A personal call is one not related to City business or service to the public.

It is preferable that City provided cellular phones not be used for personal business, but in the event an employee elects to make or receive a personal call on a City provided cellular phone, such personal calls should be kept to a minimum, for short duration, and should be made on the employee's own time, such as during breaks or lunch, or before or after normal working hours. Employees must reimburse the City for personal calls if total personal usage exceeds more than 30 minutes a month. Reimbursement will be determined by Finance based on current rates annually. The employee and their Department Head/Supervisor will review the monthly statements to determine the personal usage. It is the responsibility of the Department Head/Supervisor to report personal usage to the Finance Department on a monthly basis.

With approval from the City Manager and Department Head an employee may elect to use his/her own cellular phone for City business. The phone must be fully available during the employee's scheduled work hours. Employees using their personal cellular phone will be reimbursed per month for the use of their phone. This reimbursement is taxable income to the employee and the amount will be determined by Finance annually. Certain employees who are required to have enhanced phone features for their job may be reimbursed at a higher rate with approval from the City Manager.

XIX. CASH HANDLING POLICY FOR DEPARTMENTS ACCEPTING PAYMENTS FROM CITIZENS

This policy is intended as a guide and supplement to other measures which should exist surrounding the collection, timely deposit, and recording of collections in the records at each city location.

For some city departments that have higher volumes of cash transactions, a cash register is used to record receipt transactions. All transactions must be entered in the register and **a receipt must be issued to each customer**. For other departments, the method for recording and balancing is with a receipt book that has pre-numbered receipts. This method is acceptable with the understanding that all transactions are entered, and **a receipt is issued to every customer**. The pre-numbered receipt books are issued to city departments by the treasurer's office.

City departments handling cash have starting cash, which is used for making change for their customers. When balancing out the daily transactions, you first remove the starting cash amount. The receipts should offset the money (cash and checks) that you have remaining. If this is not the case, then, you have an overage or a shortage. This must be noted on your pink "cash-out" slip/sheet. Two signatures are required for all deposits. If a discrepancy (shortage or overage) occurs, the department's authorized person (usually the department head) must review and sign the cash-out slip/sheet.

For departments that have a cash register, on a daily or other periodic basis, you should enter a summary of the receipt transactions into the GEMS Financial System's Cash Receipts module on a "cash sheet" and generate a "Cash Receipts Edit" report. The "Cash Receipts Edit" report, cash register transaction summary tape, money received, an adding machine tape and/or item count of checks and the "cash-out" sheet should be hand delivered to the City Treasurer's office each day. The treasurer's office will issue a receipt for the total amount deposited.

For departments without a cash register, on a daily or other periodic basis, you should prepare a deposit report detailing the receipt transactions being deposited. Each deposit report includes all pre-numbered receipt numbers used by the department since the last report, even if the receipt was voided. The deposit report, money received, an adding machine tape and/or item count of checks and the "cash-out" sheet should be hand delivered to the City Treasurer's office each day. The treasurer's office will issue a receipt for the total amount deposited.

If assistance is needed in reference to any of the above, please contact the treasurer's office.

XX. ACCOUNTS PAYABLE

The city fully recognizes the importance of paying its vendors and suppliers in a timely manner. Late vendor payments result in higher costs as well as damage to the city's reputation. Accordingly, it is city policy to issue accounts payable (A/P) checks on the second and fourth Fridays of each month. This cycle will ensure that (provided timely departmental approvals are obtained) vendor payments will be made within 30 days of invoice receipt.

City departments are expected to plan their payment transactions around the regular A/P check cycle; off-cycle A/P checks will not be permitted without the approval of the Finance Director or Assistant Finance Director. In emergency situations where payment cannot wait for the regular A/P check cycle, arrangements can be made with the Finance Department to electronically transfer funds to the vendor's account.

XXI. ACCOUNTS RECEIVABLE AND BANKRUPTCY

BASIC COLLECECTION PROCEDURES

Each department will input all invoices through the City's A/R system software. Periodically, the Income Tax Administrator / Deputy Treasurer will review all invoices over 90 days and may request supporting account documentation from the department that originated the invoice. Upon reviewing the account history, debtor information, and account balance, the Income Tax Administrator / Deputy Treasurer will determine the appropriate collection action(s).

The following steps should be followed in collecting delinquent accounts. The size of the account may influence the effort put into collection attempts. The expenditure of time, effort, and money to collect large amounts is appropriate; however, the same effort expended on very small (under $25.00) accounts is wasteful. The course of action may be one or more of the following:

a) Attempt to collect on the account in house:
   1) A series of collection letters should be sent if payment is not received from the billings.
   2) Telephone contact is recommended if no explanation or payment is received in response to billings or collections letters.

b) Proceed with legal collection efforts through Small Claims Court.

c) Forward account(s) to City Attorneys Office for consideration.

d) Delinquent accounts upon which the City is unsuccessful in collection through the above procedures may be referred to a collection agency.

e) Requests the outstanding balance be submitted for write off.

From time to time, debtors may want to enter into negotiations regarding their delinquent account(s). The Income Tax Administrator / Deputy Treasurer will have the authority to enter into meaningful settlement negotiations with the debtor for accounts under $10,000.

LEGAL ACTION

Legal action may be used only as a last resort to collect on delinquent accounts. It will be up to the Income Tax Administrator / Deputy Treasurer to determine which accounts warrant such action taking into consideration time and added costs in collecting the delinquent account(s). During the course of the legal process, settlement offers may be made by the debtor in an effort to avoid further legal expenditures. The Income Tax Administrator / Deputy Treasurer has the authority to enter into meaningful settlement negotiations with the debtor for accounts under $10,000.

OBSERVATION OF COLLECTION LAWS

The Income Tax Administrator / Deputy Treasurer will ensure that all Federal, State and local laws are observed and understood by all whom engage in collection activities on behalf of the City of Muskegon.

BANKRUPTCIES

Bankruptcy notices should always be forwarded to the Income Tax Administrator / Deputy Treasurer, regardless of whether the department receiving the notice of bankruptcy has an outstanding receivable balance due from the debtor or not. Other departments throughout the City may also have business pending with the debtor and must be notified of the bankruptcy status.

Upon receipt, the Income Tax Administrator / Deputy Treasurer will circulate a notice to various departments which typically deal with receivable accounts and who may be maintaining a collection account with the debtor. Departments wishing to be included in the routing on a regular basis should contact the Income Tax Administrator / Deputy Treasurer.

If a department receives correspondence from the Income Tax Administrator / Deputy Treasurer requesting information on outstanding debts involved in a bankruptcy, the department should return to the Income Tax Administrator / Deputy Treasurer the requested information, with supporting documents, within seven days of receipt. The Income Tax Administrator / Deputy Treasurer will consolidate information from the City as a whole and prepare and file a claim on a timely basis.

Departments utilizing an outside collection agency should notify the agency that upon receipt of a bankruptcy notice, the agency is required to close and return the account to the City immediately. Under no circumstances is an outside agency, such as a collection agency, to file a bankruptcy claim on behalf of the City.

The Income Tax Administrator / Deputy Treasurer will review certain accounts that may be forwarded to the City Attorney's Office for consideration due to the complexity of the bankruptcy proceeding.

Upon receipt of a bankruptcy discharge or dismissal, the Income Tax Administrator / Deputy Treasurer will notify all departments involved.

XXII. PAYROLL DEDUCTIONS

The city is required to make various deductions from employee paychecks for taxes, pension contributions, union dues and other purposes mandated by law, union contracts, or terms of employment. Additionally, the city offers a range of "voluntary" deduction programs deemed to be of general benefit to employees. Examples include deferred compensation retirement savings, ability to purchase additional life insurance through the city's carrier at favorable rates, and U.S. Savings Bonds.

From time to time, outside firms (typically offering investment and/or insurance products) approach the City about including their programs on the city's voluntary payroll deduction menu. Although such programs are touted as "employee benefits having no-cost to the city", the fact is that such programs can entail significant costs not only for payroll administration, but also in terms of employee time consumed in marketing or educational efforts. Accordingly, city policy regarding such requests is as follows: 1) all such requests must be submitted in writing to the city manager's office; 2) after preliminary staff review and analyses of the benefits and costs, the request will be forwarded to the labor-management committee for review and recommendation; 3) if the labor-management committee recommends approval of the request, at least thirty full-time employees must sign-up for the program before payroll deduction will be started.

Nothing in this policy will prohibit the city from implementing voluntary deduction programs it deems desirable even if they do not meet the criteria specified above.

XXIII. PENSIONS AND OTHER POST EMPLOYMENT BENEFITS

It is the City's policy to have an annual independent actuarial valuation of all the City's retirement benefits programs and to fund these programs according to actuary funding amounts.

XXIV. SOCIAL SECURITY NUMBER PRIVACY POLICY

Section 1. Purpose

The purpose of this policy is to protect confidential information from individuals and businesses that have contact with the City of Muskegon.

Section 2. Definitions

(a) "Computer", "computer network", or "computer system" mean those terms as defined by the City of Muskegon's Information Technology Department

(b) "Mailed" means delivered by United States mail or other delivery service that does not require the signature of recipient indicating actual receipt.

(c) "Person" means an individual, partnership, Limited Liability Company, association, corporation, public or nonpublic elementary or secondary school, trade school, vocational school, community or junior college, college, university, state or local governmental agency or department, or other legal entity.
(d) "Publicly display" means to exhibit, hold up, post, or make visible or set out for open view, including, but not limited to, open view on a computer device, computer network, website, or other electronic medium or device, to members of the public or in a public manner.

(e) "Website" means a collection of pages of the world wide web or internet, usually in HTML format, with clickable or hypertext links to enable navigation from 1 page or section to another, that often uses associated graphics files to provide illustration and may contain other clickable or hypertext links.

Section 3. Prohibited use of social security number of employee, student, or other individual; exceptions.

(1) Except as provided in subsection (2), a person shall not intentionally do any of the following with the social security number of an employee, student, or other individual:

(a) Publicly display all or more than 4 sequential digits of the social security number.

(b) Subject to subsection (3), use all or more than 4 sequential digits of the social security number as the primary account number for an individual. However, if the person is using the social security number under subdivision (c) and as the primary account number on the effective date of this act, this subdivision does not apply to that person until January 1, 2006.

(c) Visibly print all or more than 4 sequential digits of the social security number on any identification badge or card, membership card, or permit or license.

(d) Require an individual to use or transmit all or more than 4 sequential digits of his or her social security number over the internet or a computer system or network unless the connection is secure or the transmission is encrypted.

(e) Require an individual to use or transmit all or more than 4 sequential digits of his or her social security number to gain access to an internet website or a computer system or network unless the connection is secure, the transmission is encrypted, or a password or other unique personal identification number or other authentication device is also required to gain access to the internet website or computer system or network.

(f) Include all or more than 4 sequential digits of the social security number in or on any document or information mailed or otherwise sent to an individual if it is visible on or, without manipulation, from outside of the envelope or packaging.

(g) Subject to subsection (3), beginning January 1, 2006, include all or more than 4 sequential digits of the social security number in any document or information mailed to a person, unless any of the following apply:

- (i) State or federal law, rule, regulation, or court order or rule authorizes, permits, or requires that a social security number appear in the document.
- (ii) The document is sent as part of an application or enrollment process initiated by the individual.
- (iii) The document is sent to establish, confirm the status of, service, amend, or terminate an account, contract, policy, or employee or health insurance benefit or to confirm the accuracy of a social security number of an individual who has an account, contract, policy, or employee or health insurance benefit.
- (iv) The document or information is mailed by a public body under any of the following circumstances:

    - (a) The document or information is a public record and is mailed in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246
    - (b) The document or information is a copy of a public record filed or recorded with a county clerk or register of deeds office and is mailed by that office to a person entitled to receive that record.
    - (c) The document or information is a copy of a vital record recorded as provided by law and is mailed to a person entitled to receive that record.

- (v) The document or information is mailed by or at the request of an individual whose social security number appears in the document or information or his or her parent or legal guardian.

(2) Subsection (1) does not apply to any of the following:

(a) A use of all or more than 4 sequential digits of a social security number that is authorized or required by state or federal statute, rule, or regulation, by court order or rule, or pursuant to legal discovery or process.

(3) It is not a violation of subsection (1)(b) or (g) to use all or more than 4 sequential digits of a social security number if the use is any of the following:

(a) An administrative use of all or more than 4 sequential digits of the social security number the ordinary course of business, by a person or a vendor of a person or a vendor or contractor of a person, to do any of the following:

- (i) Verify an individual's identity, identify an individual, or do another similar administrative purpose related to an account, transaction, product, service, or employment or proposed account, transaction, product, service, or employment.
- (ii) Investigate an individual's claim, credit, criminal, or driving history.
- (iii) Detect, prevent, or deter identity theft or another crime
- (iv) Lawfully pursue or enforce a person's legal rights, including, but not limited to, an audit, collection, investigation, or transfer of a tax, employee benefit, debt, claim, receivable, or account or an interest in a receivable or account.

(v) Lawfully investigate, collect a spousal obligation or tax liability.
(vi) Provide or administer employee or health insurance or membership benefits, claims, or retirement programs.

(b) A use of all or more than 4 sequential digits of a social security number as a primary account number that meets both of the following;

(i) The use began before the effective date of this act.
(ii) The use is ongoing, continuous, and in the ordinary course of business. If the use is stopped for any reason, this subdivision no longer applies.

Section 4. Privacy policy

(1) Effective January 1, 2006, all employees for the city of Muskegon are required to abide by the Social Security Policy.

(a) All information that contains social security numbers must be handled discretely and remain confidential

(b) Prohibits unlawful disclosure of the social security numbers.

(c) Employees will only have access to social security numbers on a need to know basis and if it pertains the ordinary course of business.

(d) All documents that contain social security numbers must be shredded or destroyed in a manner that information is no longer legible.

Section 5. Exemption from disclosure

All or more than 4 sequential digits of a social security number contained in a public record are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

Sec. 6. Violation of Privacy Policy

(1) A person who violates section 3 with knowledge that the person's conduct violates this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(2) An individual may bring a civil action against a person who violates section 3 and may recover actual damages. If the person knowingly violates section 3, an individual may recover actual damages or $1,000.00, whichever is greater. If the person knowingly violates section 3, an individual may also recover reasonable attorney fees. Except for good cause, not later than 60 days before filing a civil action, an individual must make a written demand to the person for a violation of section 3 for the amount of his or her actual damages with reasonable documentation of the violation and the actual damages caused by the violation. This subsection does not apply to a person for conduct by an employee or agent of the person in violation of a privacy policy created pursuant to section 4 or in compliance with the fair credit reporting act, 15 USC 1681 to 1681v, or subtitle A of title V of the Gramm-Leach-Bliley act, 15 USC 6801 to 6809, if the person has taken reasonable measures to enforce its policy and to correct and prevent the reoccurrence of any known violations.

Date: October 10, 2006

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: Sale of Public Improvement Bonds

SUMMARY OF REQUEST: Bids will be opened at 2:30PM on Tuesday, October 10, 2006 for sale of $5,400,000 public improvement bonds as previously authorized by the City Commission. Proceeds of the bond sale will be used to finance construction of a new Central Fire Station and various recreation projects. The City Commission is asked to adopt the attached awarding resolution assuming acceptable bids are received.

FINANCIAL IMPACT: Interest costs will be known at the time bids are opened and the Commission will be provided with a summary.

BUDGET ACTION REQUIRED: Debt service costs will be included in the City's budget for the life of the bonds.

STAFF RECOMMENDATION: Approval of the attached awarding resolution.

COMMITTEE RECOMMENDATION: None.

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD
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150 West Jefferson, Suite 2500
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TEL: (313) 963-6420
FAX: (313) 496-7500
www.millercanfield.com

September 26, 2006

Mr. Timothy J. Paul
Finance Director
City of Muskegon
933 Terrace Street
P.O. Box 536
Muskegon, MI 49443-0536

Via Email

Re: $5,400,000 City of Muskegon, County of Muskegon, State of Michigan Limited Tax General Obligation Bonds, Series 2006

Dear Tim:

In connection with the sale of the above-referenced bonds which I understand will be held on October 10th at 2:30 in the afternoon, I am sending you a copy of the Official Notice of Sale which I will cause to be published no later than October 2nd in the Bond Buyer. As you know, it is not necessary for you to publish this locally.

I also send a form of resolution which the City Commission may use at its meeting to be held on October 10th to award the bonds to the purchaser.

I would ask that three certified copies of the resolution be returned to me.

Should you have any questions concerning this or if I may be of other assistance to you, please do not hesitate to contact me.

I am also sending you a notice of our OPEB meeting at Grand Valley State University in hopes that you might find it to be of interest to you.

Very truly yours,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: Joel L. Piell

Joel L. Piell

Enclosures

Cc: Mr. Warren M. Creamer, III (w/enclosures) *Via Email*

Hard copies via US Mail

RESOLUTION RE AWARD OF BONDS

CITY OF MUSKEGON
County of Muskegon, State of Michigan

Minutes of a regular meeting of the City Commission of the City of Muskegon, County of Muskegon, Michigan (the "City" or "Issuer"), held on the 10th day of October, 2006, at 5:30 o'clock p.m., Eastern Daylight Savings Time.

PRESENT: Members Spataro, Warmington, Wierengo, Carter, Davis, Gawron, and Shepherd

ABSENT: Members None

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

WHEREAS, October 10, 2006, at 2:30 o'clock p.m., Eastern Daylight Savings Time, has been set as the date and time for opening bids for the purchase of the Issuer's Limited Tax General Obligation Bonds, Series 2006;

AND WHEREAS, said bids have been publicly opened and read;

AND WHEREAS, the bids attached hereto and made part hereof have been received.

AND WHEREAS, the bid of Morgan Keegan and Co., Inc. has been determined to produce the lowest interest cost to the Issuer.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The bid of Morgan Keegan and Co., Inc., as above stated, be and the same is hereby accepted.

2. Checks of the unsuccessful bidders be returned to each bidder's representative or

by registered mail.

3. The Issuer hereby covenants that, to the extent permitted by law, it shall take all actions within its control necessary to maintain the exclusion of the interest on the Bonds from adjusted gross income for general federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"), including, but not limited to, actions relating to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of Bond proceeds and moneys deemed to be Bond proceeds.

4. All changes respecting the Bonds set forth in the notice of sale published in connection with the sale of the bonds and the notice of sale be and are hereby approved and ratified.

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

AYES: Members Warmington, Wierengo, Carter, Davis, Gawron, Shepherd, and Spataro

NAYS: Members None

RESOLUTION DECLARED ADOPTED.

Linda Potter
City Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held on October 10, 2006, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Linda Potter
City Clerk

DELIB:2775951.1\063684-00035

NON-LITIGATION AND SIGNATURE IDENTIFICATION
CERTIFICATE AND RECEIPT

STATE OF MICHIGAN
COUNTY OF MUSKEGON

We hereby certify that we are the duly elected or appointed, qualified and acting officers of the City of Muskegon, in the County and State aforesaid (the "City"), as herein indicated, and that we did officially sign by facsimile signatures the City's $5,400,000 Limited Tax General Obligation Bonds, Series 2006, dated as of October 24, 2006, and delivered herewith (the "Bonds"); that we are on the date hereof the officers having authority to execute and deliver the Bonds; that there is no litigation of any nature pending or threatened for the purpose of restraining or enjoining the issuance of the Bonds or the levy and collection of taxes sufficient to pay the interest and principal thereof, nor directly affecting the proceedings or authority by which the Bonds are issued, the legality of the purpose for which the Bonds are issued, or the validity of the Bonds, and that neither the corporate existence nor the boundaries of the City nor the title of its present officers to their respective offices is being contested; that to the best of our knowledge there is no litigation pending or threatened indirectly or collaterally affecting any of the foregoing, and that none of the proceedings heretofore taken to authorize the issuance of the Bonds and to provide security therefor have been repealed, revoked or rescinded.

Dated: October 24, 2006

SIGNATURE	TITLE
	Mayor
Linda Potter	City Clerk

[City's Seal]

STATE OF MICHIGAN)
) ss.
COUNTY OF MUSKEGON)

On October 23, 2006, before me, a Notary Public in and for said County, personally appeared the Mayor and the City Clerk of the City of Muskegon, County of Muskegon, State of Michigan, known to me to be the persons named herein and who executed this Certificate, acknowledge that these persons executed the same as his/her free act and deed and that the signatures appearing hereon are true and genuine.

Jo Ann M Krukowski
Notary Public, Muskegon County, Michigan
My Commission Expires: 05-13-2012

RECEIPT

I, the undersigned, hereby certify that I am the duly qualified and acting Finance Director of said City and I further certify that the Bonds have been paid for by Morgan Keegan & Company, Inc. in accordance with the terms of the Official Notice of Sale for the Bonds and the bid therefor.

Finance Director

Dated: October 24, 2006

DELIB:2781551.1\063684-00035

M E M O R A N D U M

TO: Honorable Mayor and City Commission

FROM: Robert H. Kuhn, Director of Public Works

DATE: September 26, 2006

RE: Cell Tower Lease

Verizon Wireless has proposed to construct a monopole cellular tower on city property at the location of the Harvey Street surface water reservoir. By redesigning how we use this piece of property, sufficient land was made available to accommodate the request for a cellular tower.

The cellular tower overlay district that was previously located at the Public Service Building was relocated to the Water Reservoir site by the Zoning Board. The revenues generated from the rental of this site, which begin at $1500 per ~~year~~ month and escalate at a rate of 3% per year starting in 2008, shall be used to offset expenses of maintaining the five-million gallon water reservoir.

RHK/rsh

Attachment

LAW OFFICES
MYERS NELSON DILLON & SHIERK, PLLC

With Offices in Grand Rapids

40701 WOODWARD AVENUE
SUITE 235
BLOOMFIELD HILLS, MI 48304-2221

TELEPHONE (248) 203-2040
FACSIMILE (248) 203-2045
rlabelle@mnds-pllc.com

ROBERT A. LaBELLE

September 28, 2006

Mr. Robert Kuhn
Director, Department of Public Works
City of Muskegon
1350 E. Keating
Muskegon, Michigan 49442

via Federal Express

Re: Proposed Lease with Verizon Wireless
Our Site No. 702 (Mona Lake)

Dear Mr. Kuhn:

Enclosed please find for signature by the City of Muskegon three execution originals each of the Land Lease Agreement and a Memorandum of Land Lease Agreement and an original of a Substitute W-9 form. The Lease is in form reviewed by the City's attorneys. The Memorandum is for recording and the W-9 form is for processing the City into the Verizon Wireless payee system.

If the Lease and other documents are in order, please have each ***in black ink*** signed and, where applicable, notarized on behalf of the City of Muskegon and returned to me. I will see to their delivery to Verizon Wireless corporate or the assembly of counterpart originals.

In the meantime, please call me with any questions or concerns.

Very Truly Yours,

Robert A. LaBelle

RAL/rl
Enclosures
cc: Ms. Sherri Andrews (via e-mail w/o encls)
Adam G. Zuwerink, Esq. (w/ encls)

SITE NAME: Mona Lake
SITE NUMBER: MI-702
ATTY/DATE 09/28/06

LAND LEASE AGREEMENT

THIS AGREEMENT, made this 9th day of November, 2006, between **THE CITY OF MUSKEGON**, a Michigan municipal corporation, with its mailing address located at 1350 E. Keating, Muskegon, Michigan 49442, hereinafter designated ***"LESSOR"***, and **NEW PAR**, d/b/a Verizon Wireless, with its principal offices at One Verizon Way, Basking Ridge, New Jersey, 07920, hereinafter designated ***"LESSEE"***. LESSOR and LESSEE are at times collectively referred to hereinafter as the ***"Parties"*** or individually as the ***"Party"***.

In consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

1. PREMISES. LESSOR owns that certain parcel of property (the entirety of LESSOR's property is referred to hereinafter as the ***"Property"***), located at 2301 Harvey Street, in the City of Muskegon, Muskegon County, Michigan, which is described in **Exhibit "A"**, attached hereto and made a part hereof, shown on the Tax Map of Muskegon County as Tax ID No. 24-133-400-0013-00. LESSOR hereby leases to LESSEE a portion of the Property and being described as a parcel containing approximately 8,967 square feet (the ***"Land Space"***), together with the non-exclusive right, right-of-way and easement (the ***"Right of Way"***) for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle, including trucks, and for the installation, operation, maintenance and repair of utility wires, poles, cables, conduits and pipes over, under or along a twenty (20) foot wide right-of-way and easement extending from the nearest public right-of-way, Harvey Street, to the Land Space, said Land Space and Right of Way (hereinafter collectively referred to as the ***"Premises"***) being substantially as described herein in **Exhibit "A"**.

In the event any public utility is unable to use the Right of Way, LESSOR hereby agrees to grant an additional right-of-way and easement either to LESSEE or to the public utility at no cost to LESSEE which, for all purposes hereunder, shall be deemed a part of the "Right of Way" defined and granted hereunder.

2. SURVEY. LESSOR also hereby grants to LESSEE the right to survey the Property and the Premises, and said survey shall then become **Exhibit "C"** which shall be attached hereto and made a part hereof, and shall control in the event of boundary and access discrepancies between it and **Exhibit "A"**. Cost for such work shall be borne by LESSEE.

3. TERM. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental set forth in **Exhibit "B"**, to be paid in equal monthly installments on the first day of the month, in advance, to LESSOR, or to such other person, firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date. The ***"Commencement***

Date" is defined as the first (1st) day of the month following the earlier of: (a) the date one (1) year after this Agreement is executed and delivered by the Parties, or (b) the date LESSEE commences installation of the equipment on the Premises. LESSOR and LESSEE agree that they shall execute a written acknowledgement confirming the Commencement Date. LESSOR and LESSEE acknowledge and agree that initial rental payment(s) shall not actually be sent by LESSEE until thirty (30) days after the full execution of the written acknowledgement confirming the Commencement Date. By way of illustration of the preceding sentence, if the Commencement Date is January 1 and the written acknowledgement confirming the Commencement Date is fully executed on January 14, LESSEE shall send to LESSOR the rental payments for January 1 and February 1 by February 13.

4. <u>EXTENSIONS</u>. This Agreement shall automatically be extended for four (4) additional five (5) year terms unless LESSEE terminates it at the end of the then-current term by giving LESSOR written notice of the intent to terminate at least six (6) months prior to the end of the then-current term, on the same covenants, terms and conditions as the initial term, but at the rental set forth in Paragraph 5.

5. <u>EXTENSION RENTALS</u>. Annual rental for the extension terms shall be the same as the annual rental effective on the last day of the preceding initial or extended term, except that the annual 3% increases for rental under **Exhibit "B"** shall continue in each of the extension terms.

6. <u>ADDITIONAL EXTENSIONS</u>. If at the end of the fourth (4th) five (5) year extension term, this Agreement has not been terminated by either Party by giving to the other written notice of an intention to terminate it at least three (3) months prior to the end of such term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of five (5) years and for five (5) year terms thereafter until terminated by either Party by giving to the other written notice of its intention to so terminate at least three (3) months prior to the end of such term; provided that in no event shall the total Term of this Agreement, including all extensions, exceed thirty-five (35) years after the Commencement Date. Annual rental for each such additional five (5) year term shall be equal to one hundred twenty-five percent (125%) of the annual rental payable with respect to the immediately preceding five (5) year term. The initial term and all extensions shall be collectively referred to herein as the ***"Term"***.

7. <u>USE; GOVERNMENTAL APPROVALS</u>. (a) LESSEE shall use the Premises for the purpose of constructing, maintaining, repairing and operating a communications facility for the uses and purposes permitted under Law and in the licenses and approvals granted by the Federal Communications Commission to LESSEE or its parent or affiliates and uses incidental thereto.

(b) A security fence consisting of chain link construction or similar but comparable construction may be placed around the perimeter of the Premises at the discretion of LESSEE (not including the Right of Way). The tower and equipment shelter and related exterior improvements on the Land Space and with respect to the Right of Way (collectively, the ***"Facilities"***) and the antennas, cable, conduit, utilities, equipment or fixtures thereon and therein shall be at LESSEE's expense and the installation of all Facilities and the foregoing shall be at the discretion and option of LESSEE. LESSEE shall have the right to replace, repair, add or otherwise modify its equipment and/or conduits or any portion thereof and the frequencies over which the equipment operates, whether or not the equipment, conduits or frequencies are specified on any exhibit attached hereto, during the Term. The foregoing notwithstanding, the initial construction of the Facilities shall be completed substantially in accordance with the site plan attached hereto as **Exhibit "A"**, which was approved by LESSOR. No additional building or tower or expansion of the existing tower or building shall be constructed except in accordance with plans and specifications therefor approved by LESSOR, such approval not to unreasonably withheld, conditioned or delayed, provided that the foregoing consent shall not be required as to any additional or change in antennas , cable, conduit, utilities, equipment or fixtures or other change to the Premises other than the Facilities expressly requiring LESSOR's consent above.

(c) It is understood and agreed that LESSEE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the ***"Governmental Approvals"***) that may be required by any Federal, State or Local authorities as well as satisfactory soil boring tests which will permit LESSEE use of the Premises as set forth above. LESSOR shall cooperate with LESSEE in its effort to obtain the Governmental Approvals and such tests and shall take no action which would adversely affect the status of the Property with respect to the proposed use by LESSEE. In the event that: (i) any of such applications for such Governmental Approvals should be finally rejected, (ii) any Governmental Approval issued to LESSEE is canceled, expires or lapses or is otherwise withdrawn or terminated by governmental authority, (iii) LESSEE determines that such Governmental Approvals may not be obtained in a timely manner, (iv) LESSEE determines that any soil boring tests are unsatisfactory, or (v) LESSEE, in its reasonable discretion, determines that it will be unable to use the Premises for its intended purposes, LESSEE shall have the right to terminate this Agreement. Notice of LESSEE's exercise of its right to terminate shall be given to LESSOR in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by LESSEE, or upon such later date as designated by LESSEE. All rentals paid to said termination date shall be retained by LESSOR. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other hereunder. Otherwise, the LESSEE shall have no further obligations for the payment of rent to LESSOR.

8. INDEMNIFICATION. Subject to Paragraph 9 below, each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the indemnifying Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents.

9. INSURANCE.

(a) The Parties hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Premises or to the Property, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the Parties, or either of them. These waivers and releases shall apply between the Parties and they shall also apply to any claims under or through either Party as a result of any asserted right of subrogation. All such policies of insurance obtained by either Party concerning the Premises or the Property shall waive the insurer's right of subrogation against the other Party.

(b) Subject to the Parties' indemnification obligations hereunder, LESSOR and LESSEE each agrees that, at its own cost and expense, it will maintain commercial general liability insurance against liability for personal injury or death or damage to property arising out of the acts and negligence of the insured Party, its employees, contractors or agents, with limits not less than $1,000,000 per occurrence and $3,000,000 general annual aggregate. Each Party's insurance shall be primary as to its own operations. LESSOR and LESSEE each agree that it will include the other Party as an additional insured. Such insurance shall: (i) be written on an occurrence basis; and (ii) include liability for bodily injury, personal injury, property damage, written contracts, products and completed operations, independent contractor's liability and XCU (explosion, collapse or damage to underground facilities) coverage. Each Party shall provide to the other certificates of insurance evidencing such coverage. The fact that either Party is required to furnish insurance in accordance with this Paragraph or the fact that such insurance is furnished does not and shall not relieve the Party from its obligations to the other Party under Paragraph 8 for any deficiency amount of which the Party is responsible to the other Party.

10. <u>LIMITATION OF LIABILITY</u>. In no event will either Party be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

11. <u>ANNUAL TERMINATION</u>. Notwithstanding anything to the contrary contained herein, provided LESSEE is not in default hereunder beyond applicable notice and cure periods, LESSEE shall have the right to terminate this Agreement upon the annual anniversary of the Commencement Date, provided that three (3) months prior notice is given to LESSOR and, if such termination would occur within three (3) yeas of the Commencement Date, a check in the sum of three (3) months' then-current rent.

12. <u>INTERFERENCE</u>. (a) LESSEE agrees to install equipment of the type and frequency which will not cause material interference which is measurable in accordance with then existing industry standards to any equipment of LESSOR or other lessees of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed LESSEE's equipment causes such interference, and after LESSOR has notified LESSEE in writing of such interference, LESSEE will take all commercially reasonable steps necessary to correct and eliminate the interference, including, but not limited to, at LESSEE'S option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will LESSOR be entitled to terminate this Agreement or relocate the equipment as long as LESSEE is making a good faith effort to remedy the interference issue.

(b) LESSOR agrees that LESSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause material interference which is measurable in accordance with then existing industry standards to the then-existing equipment of LESSEE. The foregoing notwithstanding, at LESSOR's request, LESSOR shall be permitted to install, rent-free, a single antenna array on the tower constructed on the Land Space (the ***"Tower"***) solely for the purpose of municipal emergency service broadcasting (the ***"City Transmission Equipment"***), provided that: (i) at the time of LESSOR's request, there remains available space on the Tower under reasonable structural guidelines at a height reasonably acceptable to LESSEE; (ii) LESSEE approves plans and specifications for the installation of the City Transmission Equipment, such approval not to be unreasonably withheld or delayed; and (iii) the type and frequency of the City Transmission Equipment will not cause material interference which is measurable in accordance with then existing industry standards to the then-existing equipment of LESSEE or the other existing lessees and occupants of the Tower. The Parties acknowledge that there will not be an adequate remedy at law for non-compliance with the provisions of this Paragraph and, therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

13. REMOVAL AT END OF TERM. LESSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of this Agreement, remove its building(s), antenna structure(s) (except footings), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. At any time that the net worth of LESSEE shall be less than Ten Million Dollars ($10,000,000.00), LESSEE shall deliver to LESSOR a bond in an amount reasonably sufficient to complete such removal. LESSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LESSEE shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws. If such time for removal causes LESSEE to remain on the Premises after termination of this Agreement, LESSEE shall pay rent at the then-existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna, fixtures and personal property is completed.

14. RIGHT OF FIRST REFUSAL. If LESSOR elects, during the Term to: (a) sell or otherwise transfer all or any portion of the Property, whether separately or as part of a larger parcel of which the Property is a part, or (b) grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, with or without an assignment of this Agreement to such third party, LESSEE shall have the right of first refusal to meet any bona fide offer of sale or transfer on the same terms and conditions of such offer. If LESSEE fails to meet such bona fide offer within thirty (30) days after written notice thereof from LESSOR, LESSOR may sell or grant the easement or interest in the Property or portion thereof to such third person in accordance with the terms and conditions of such third party offer.

15. RIGHTS UPON SALE. Should LESSOR, at any time during the Term decide to (a) sell or transfer all or any part of the Property to a purchaser other than LESSEE, or (b) grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LESSEE's rights hereunder under the terms of this Agreement. To the extent that LESSOR grants to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE for the purpose of operating and maintaining communications facilities or the management thereof and, in conjunction therewith, assigns this Agreement to said third party, LESSOR shall not be released from its obligations to LESSEE under this Agreement, and LESSEE shall have the right to look to LESSOR and the third party for the full performance of this Agreement.

16. QUIET ENJOYMENT. LESSOR covenants that LESSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises.

17. TITLE. LESSOR represents and warrants to LESSEE as of the execution date of this Agreement, and covenants during the Term that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further covenants during the Term that there are no other liens, judgments or impediments of title on the Property or affecting LESSOR's title to the same, and that there are no covenants, easements or restrictions which prevent or adversely affect the use or occupancy of the Premises by LESSEE as set forth above.

18. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between LESSOR and LESSEE and that no verbal or oral agreements, promises or understandings shall be binding upon either LESSOR or LESSEE in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing signed by the Parties. In the event any provision of this Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under this Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

19. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State in which the Property is located.

20. ASSIGNMENT. This Agreement may be sold, assigned or transferred by LESSEE without any approval or consent of LESSOR to LESSEE's principal or affiliates, the subsidiaries or affiliates of LESSEE's principal or affiliates, any entity which acquires all or substantially all of LESSEE's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization, or any entity which acquires or receives an interest in the towers of LESSEE in the market defined by the Federal Communications Commission in which the Property is located. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of LESSOR, which such consent will not be unreasonably withheld or delayed. No change of stock ownership or control of LESSEE shall constitute an assignment hereunder. LESSEE may sublet the Premises within its sole discretion, upon notice to LESSOR; provided no such sublease shall be given for the purpose of erecting an additional tower on the Land Space. Any sublease that is entered into by LESSEE shall be subject to the provisions of this Agreement and shall be binding upon the successors, assigns, heirs and legal representatives of the respective Parties hereto.

21. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LESSOR: CITY OF MUSKEGON
Dept. of Public Works
1350 E. Keating
Muskegon, Michigan 49442
Attention: Mr. Robert H. Kuhn

LESSEE: NEW PAR
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, New Jersey 07921
Attention: Network Real Estate

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

22. SUCCESSORS. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns of the Parties hereto.

23. SUBORDINATION AND NON-DISTURBANCE. (a) At LESSOR's option, this Agreement shall be subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a ***"Mortgage"***) by LESSOR which from time to time may encumber all or part of the Property or Right of Way; provided, however, as a condition precedent to LESSEE being required to subordinate its interest in this Agreement to any future Mortgage covering the Property, LESSOR shall obtain for LESSEE's benefit a non-disturbance and attornment agreement for LESSEE's benefit in the form reasonably satisfactory to LESSEE, and containing the terms described below (the ***"Non-Disturbance Agreement"***), and shall recognize LESSEE's right to remain in occupancy of and have access to the Premises as long as LESSEE is not in default of this Agreement beyond applicable notice and cure periods. The Non-Disturbance Agreement shall include the agreement of the encumbering party (***"Lender"***) that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a ***"Purchaser"***) acquires an ownership interest in the Property, Lender or such successor-in-interest or Purchaser will (i) honor all of the terms of this Agreement, (ii) fulfill LESSOR's obligations under this Agreement, and (iii) promptly cure all of the then-existing LESSOR defaults under this

Agreement. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any) and on all successors and assigns of Lender and/or its participants and on all Purchasers.

(b) In return for such Non-Disturbance Agreement, LESSEE will execute an agreement for Lender's benefit in which LESSEE (i) confirms that this Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (ii) agrees to attorn to Lender if Lender becomes the owner of the Property, (iii) agrees to give Lender copies of whatever notices of default LESSEE must give LESSOR, (iv) agrees to accept a cure by Lender of any of LESSOR's defaults, provided such cure is completed within the deadline applicable to LESSOR, (v) agrees to not pay rent more than one month in advance, and (vi) agrees that no material modification or material amendment of this Agreement will be binding on Lender unless it has been consented to in writing by Lender.

(c) LESSOR and LESSEE agree that, for the purposes of Paragraph 23, non-material amendments or modifications shall include, but shall not be limited to, the following: (i) any extension of the Term of this Agreement, (ii) any addition to, alteration, modification, or replacement of LESSEE's equipment, (iii) any relocation of LESSEE's equipment, (iv) any increase in the rent, and (v) any decrease in the rent, provided however, that such an amendment shall become material should the decrease in rent result in rent lower than the amount then prescribed by the unamended Agreement.

(d) In the event LESSOR defaults in the payment and/or other performance of any Mortgage or other real property interest encumbering the Property, LESSEE, may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such Mortgage or other real property interest and LESSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LESSEE to cure or correct such defaults.

24. RECORDING. LESSOR agrees to execute a Memorandum of this Agreement which LESSEE may record with the appropriate recording officer. The date set forth in such Memorandum is for recording purposes only and bears no reference to commencement of either the Term or rent payments.

25. DEFAULT.

(a) In the event there is a breach by LESSEE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, LESSOR shall give LESSEE written notice of such breach. After receipt of such written notice, LESSEE shall have fifteen (15) days in which to cure any monetary breach and thirty (30) days in which to cure any non-monetary breach, provided LESSEE shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSEE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSOR may not maintain any action or effect any remedies for default against LESSEE unless and until LESSEE has failed to cure the breach within the time periods provided in this Paragraph.

(b) In the event there is a breach by LESSOR with respect to any of the provisions of this Agreement or its obligations under it, LESSEE shall give LESSOR written notice of such breach. After receipt of such written notice, LESSOR shall have thirty (30) days in which to cure any such breach, provided LESSOR shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSOR commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSEE may not maintain any action or effect any remedies for default against LESSOR unless and until LESSOR has failed to cure the breach within the time periods provided in this Paragraph.

26. REMEDIES. Upon a default, the non-defaulting Party may, at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including, but not limited to, the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the State in which the Property is located; provided, however, LESSOR shall use reasonable efforts to mitigate its damages in connection with a default by LESSEE.

27. ENVIRONMENTAL.

(a) As used herein, the term, ***"Environmental Laws"***, shall mean any and local, state or federal Laws pertaining to the environmental or natural resources or industrial hygiene. As used herein, the term, ***"Hazardous Substances"***, shall mean any toxic or hazardous waste, material or substance that is regulated by the Environmental Laws.

(b) LESSOR will be responsible for all obligations of compliance with any and all Environmental Laws, including any regulations, guidelines, standards or policies, that are or were in any way related to activity now conducted in, on or in any way related to the Property, unless such conditions or concerns are caused by the specific activities of LESSEE in the Premises. LESSEE will be responsible for all obligations of compliance with any and all Environmental Laws that pertain to the specific activities of LESSEE in the Premises.

(c) LESSOR shall hold LESSEE harmless and indemnify LESSEE from and assume all duties, responsibilities and liabilities at LESSOR's sole cost and expense, for all duties, responsibilities, and liabilities (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is in any way related to: (i) failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene concerns or conditions as may now or at any time hereafter be in effect, unless such non-compliance results from conditions caused by the specific activities of LES-

SEE in the Premises; and (ii) any environmental or industrial hygiene conditions arising out of or in any way related to the condition of the Property or activities conducted thereon, unless such environmental conditions are caused by the specific activities of LESSEE in the Premises.

(d) LESSEE shall hold LESSOR harmless and indemnify LESSOR from and assume all duties, responsibilities and liabilities at LESSEE's sole cost and expense, for all duties, responsibilities, and liabilities (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is in any way related to environmental conditions caused by the specific activities of LESSEE in the Premises.

28. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, then LESSEE may, at any time following such fire or other casualty, provided LESSOR has not completed the restoration required to permit LESSEE to resume its operation at the Premises, terminate this Agreement upon fifteen (15) days prior written notice to LESSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LESSEE's use of the Premises is impaired.

29. CONDEMNATION. In the event of any condemnation of all or any portion of the Property, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation of the Premises or Property, LESSEE, in LESSEE's sole discretion, is unable to use the Premises for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, LESSEE may, at LESSEE's option, to be exercised in writing within fifteen (15) days after LESSOR shall have given LESSEE written notice of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. LESSEE may, on its own behalf, make a claim in any condemnation proceeding involving the Premises for losses related to the equipment, conduits, fixtures, its relocation costs and its damages and losses (but not for the loss of its leasehold interest). Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement. If LESSEE does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in the same proportion as the rentable area of the Premises taken bears to the total rentable area of the Premises. In the event that this Agreement is not terminated by reason of such condemnation, LESSOR shall promptly repair any damage to the Premises caused by such condemning authority.

30. SUBMISSION OF AGREEMENT / PARTIAL INVALIDITY / AUTHORITY. The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

31. APPLICABLE LAWS. During the Term, LESSOR shall maintain the Property in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively, ***"Laws"***). LESSEE shall, in respect to the condition of the Premises and at LESSEE's sole cost and expense, comply with (a) all Laws relating solely to LESSEE's specific and unique nature of use of the Premises (other than general office use); and (b) all building codes requiring modifications to the Premises due to the improvements being made by LESSEE in the Premises.

32. SURVIVAL. The provisions of this Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

33. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of this Agreement. They shall not affect or be utilized in the construction or interpretation of this Agreement.

34. HOLDOVER. LESSEE has no right to retain possession of the Premises or any part thereof beyond the expiration of that removal period set forth in Paragraph 13 herein, unless the parties are negotiating a new lease or lease extension in good faith. In the event that the parties are not in the process of negotiating a new lease or lease extension in good faith, and LESSEE holds over in violation of Paragraph 13 and this Paragraph 34, then the rent then in effect payable from and after the time of the expiration or earlier removal period set forth in Paragraph 13 shall be increased to one hundred and ten percent (110%) of the rent applicable during the month immediately preceding such expiration or earlier termination.

35. TAXES. LESSEE will pay all personal property taxes assessed directly upon LESSEE's equipment, fixtures and personal property on the Premises during the Term of this Agreement.

36. SIGNING FEE. LESSOR shall execute this Agreement and, upon execution by LESSEE and delivery to LESSOR of this Agreement, LESSEE shall pay to LESSOR the sum of One Thousand Five Hundred and 00/100 Dollars ($1,500.00). This Agreement shall be contingent upon the receipt of such sum by LESSOR.

37. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be an original but which, taken together, shall constitute one and same instrument.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSOR:
THE CITY OF MUSKEGON,
a Michigan municipal corporation

By: ______________________
Stephen J. Warmington, Mayor

Dated: October 18, 2006

Attest: Linda Potter
Linda Potter, Acting Clerk

Dated: October 18, 2006

LESSEE:
NEW PAR, a Delaware partnership
db/a Verizon Wireless

By: Verizon Wireless (VAW), LLC, its general partner

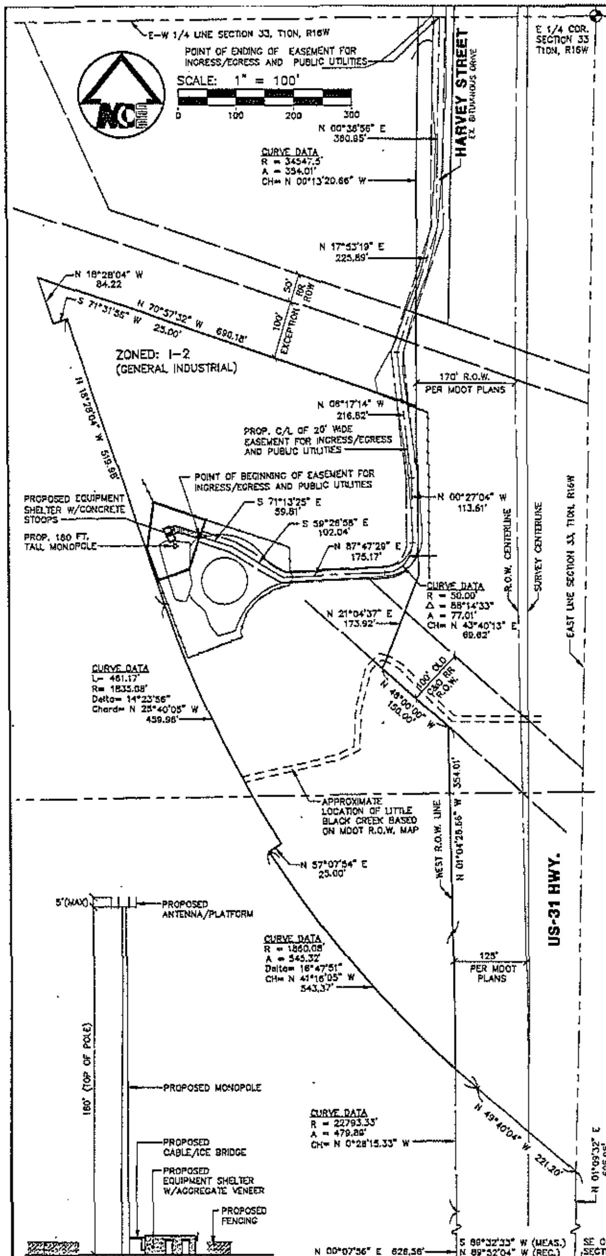
By: ______________________
Howard H. Bower,
Midwest Area Vice President - Network

Dated: 11/9, 2006

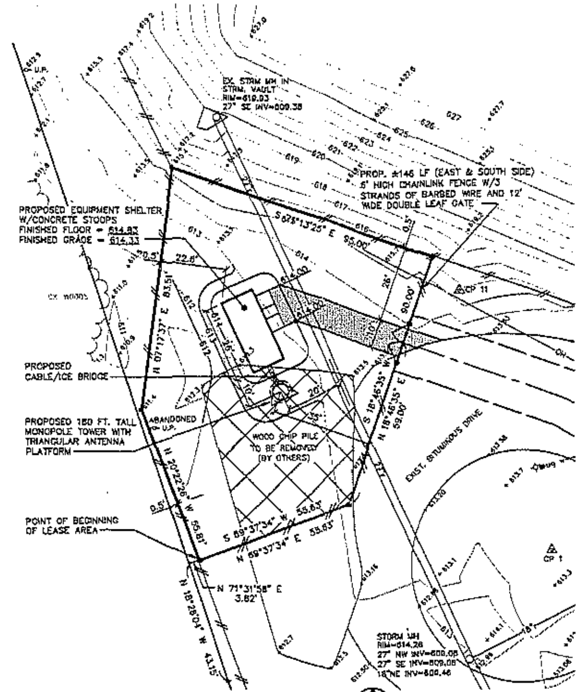
RALv8

EXHIBIT "A"

(Sketch of Premises within Property)



POLE & SHELTER ELEVATION
SCALE 1" = 30'

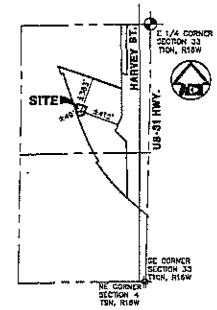


LEASE PARCEL DETAIL
SCALE: 1"=20'

3 WORKING DAYS BEFORE YOU DIG CALL MISS DIG 1-800-482-7171

LEGEND

613	EXIST. CONTOUR
613	PROP. CONTOUR
×631.01	EXIST. SPOT ELEVATION
631.00	PROP. SPOT ELEVATION
U.P.	EXIST. UTILITY POLE
	EXIST. GUY POLE
	GUY WIRE
OH	EXIST. OVERHEAD UTILITY LINE
	EXIST. HYDRANT
W	EXIST. WATER MAIN
	EXIST. STORM SEWER
	POST
	FENCE
	SINGLE TREE
	TREE OR BRUSH LIMIT
	CONTROL POINT
	SECTION CORNER



OVERALL PARCEL SKETCH
SCALE: 1"=600'

GENERAL NOTES:

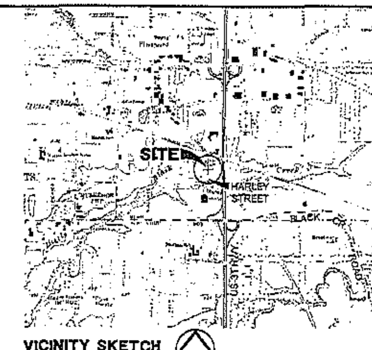
1. All site work construction shall be in accordance with the current standards and specifications of City of Muskegon, where applicable.
2. The proposed equipment shelter is to be a one story, computerized, unmanned, telephone exchange structure. All exterior walls are precast washed aggregate masonry. No water service, sanitary facilities or gas service is needed. Telephone and electrical services will be from an existing utility pole or line adjacent to the site.
3. The proposed equipment shelter is to have a security system monitored 24 hours per day. The shelter will also be constructed with bullet resistant materials.
4. There is one, low wattage (150W), shielded, wall-mounted security light at the stoops of the shelter.
5. There are no signs proposed for this project except for:
   a. Emergency contact information purposes and FCC "call" sign placed on equipment shelter door;
   b. FCC registration number located on fence gate.
6. The cellular antenna and equipment shelter will be approved by the Federal Communications Commission (FCC) and will not impact any frequency sensitive devices whatsoever.
7. There are no toxic materials used by Lessee on the site. They will not have any need for garbage disposal and pick-up.
8. Maintenance personnel in van type service vehicles enter and exit the site approximately 2 to 4 times per month. No loading or unloading area is needed by them.
9. Ingress and egress by Lessee personnel to the site shall be via an existing paved drive from Harvey St.
10. All areas inside of and to 1'-0" outside of the fenced area shall be covered with 3" of crushed limestone placed over "Typar" landscape fabric.
11. The proposed drive shall consist of 2.5" of bituminous surface meeting current MDOT specification for bituminous mix #36A. It shall be placed over 6" of MDOT 21AA crushed limestone aggregate over 10" of 3A crushed concrete or slag over compacted subgrade. The subgrade shall be stripped free of all topsoil and organic material prior to placing aggregate base. Where poor subgrade soils are encountered, a woven geotextile fabric (Mirafi 500X or approved equal) shall be placed so that it is a minimum of 2 ft. wider and longer than the drive which is to constructed over the poor soils.
12. All areas outside of the fenced compound disturbed by the construction of the shelter and tower shall be restored in kind.

LEGAL DESCRIPTION OF OVERALL PARCEL

(Taken from Title Commitment)

Land in the City of Muskegon, County of Muskegon, State of Michigan, described as follows:

All that part of the East 1/2 of the Southeast 1/4 of Section 33, Town 10 North, Range 16 West, Muskegon Township, Muskegon County, Michigan, which lies southerly of the southerly right-of-way line of the Pennsylvania Railroad and westerly of a line described as; Beginning at a point on the South line of said Section 33 which is N 89°52'04" W a distance of 193.67 feet from the Southeast corner of said Section 33; thence N 0°07'56" E a distance of 626.58 feet to the point of curvature of a 22,793.3 foot radius curve to the left; thence Northerly along the arc of said curve (chord bearing N 0°28'15.33" W) a distance of 479.89 feet to the point of tangency of said curve; thence N 1°04'26.66" W a distance of 354.01 feet; thence N 48°W a distance of 150 feet; thence N 21°04'37" E a distance of 173.92 feet to a point on the arc of a 34,547.5 foot radius curve to the right (chord bearing N 0°13'20.66" W); thence Northerly along the arc of said curve 500 feet to a Point of Ending; and lying northeasterly of a line described as: Beginning at a point on the east line of said Section 33 which is N 1°09'32" E a distance of 695.95 feet from the Southeast corner of said Section 33; thence N 49°40'04" W a distance of 221.20 feet to the point of curvature of a 1860.08 foot radius curve to the right; thence Northwesterly along the arc of said curve (chord bearing N 41°16'05" W) a distance of 545.32 feet; thence N 57°07'54" E a distance of 25.00 feet to a point on the arc of a 1835.08 foot radius curve to the right; thence Northwesterly along the arc of said curve (chord bearing N 25°40'05" W) a distance of 461.17 feet to the point of tangency of said curve; thence N 18°28'04" W a distance of 519.98 feet; thence S 71°31'56" W a distance of 25.00 feet; thence N 18°28'04" W a distance of 300 feet to a point of ending; and lying North of Little Black Creek; EXCEPT a strip of land 100 feet in width lying Southerly of and along and adjoining the southerly line of the Pennsylvania Railroad right-of-way across all that part of the Northeast 1/4 of the Southeast 1/4 of said Section 33.



VICINITY SKETCH
SCALE: 1"=2000'

LOCATION

LONGITUDE 86° 12' 26.3"
LATITUDE 43° 12' 35.5"
GROUND ELEV. @ TOWER BASE = 613.50

LEGAL DESCRIPTION OF LEASED PARCEL

Commencing at the Southeast corner of Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; thence N 01°09'32" E 695.95 feet; thence N 49°40'04" W a distance of 221.20 feet; thence 545.32 feet along the arc of a non-tangent curve to the right, radius of 1860.08 feet, central angle of 16°47'51" and chord bearing N 41°16'05" W 543.37 feet; thence N 57°07'54" E 25.00 feet; thence 461.17 feet along the arc of a non-tangent curve to the right, radius of 1835.08 feet, central angle of 14°23'56" and chord bearing N 25°40'05" W 459.96 feet; thence N 18°28'04" W 45.15 feet; thence N 71°31'56" E 3.82 feet to a POINT OF BEGINNNING:

thence N 20°22'26" W 55.81 feet;
thence N 07°17'37" E 83.51 feet;
thence S 71°13'25" E 95.00 feet;
thence S 18°46'35" W 90.00 feet;
thence S 69°37'34" W 55.63 feet to the POINT OF BEGINNING;
being a part of the S.E. 1/4 of said Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; containing 8,967 sq. ft.; and subject to easements and restrictions of record, if any;

Together with a 20 foot wide easement for ingress, egress and public utilities, the centerline of said easement is described as follows:

Commencing at the Southeast corner of Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; thence N 01°09'32" E 695.95 feet; thence N 49°40'04" W a distance of 221.20 feet; thence 545.32 feet along the arc of a non-tangent curve to the right, radius of 1860.08 feet, central angle of 16°47'51" and chord bearing N 41°16'05" W 543.37 feet; thence N 57°07'54" E 25.00 feet; thence 461.17 feet along the arc of a non-tangent curve to the right, radius of 1835.08 feet, central angle of 14°23'56" and chord bearing N 25°40'05" W 459.96 feet; thence N 18°28'04" W 43.15 feet; thence N 71°31'56" E 3.82 feet; thence N 69°37'34" E 55.63 feet; thence N 18°46'35" E 50.00 feet to a POINT OF BEGINNNING:

thence S 71°13'25" E 59.81 feet;
thence S 59°26'58" E 102.04 feet;
thence N 87°47'29" E 175.17 feet;
thence 77.01 feet along the arc of a curve to the left, radius 50.00 feet, central angle of 88°14'33", and chord bearing N 43°40'13" E 69.62 feet;
thence N 00°27'04" W 113.61 feet;
thence N 08°17'14" W 216.82 feet;
thence N 17°53'19" E 225.89 feet;
thence N 00°38'56" E 360.95 feet to the east & west 1/4 line of said Section 33 and the POINT OF ENDING; being a part of the S.E. 1/4 of said Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; except any part taken, deeded or used for public road purposes and subject to easements and restrictions of record, if any.

NOTE

Rotate all bearings 00°07'13" counter-clockwise to obtain bearings that are based on True North as determined from global positioning system (GPS).

BENCHMARK

Spike in south face of utility pole located northwest of the existing driveway gate approximately 155 feet east of the centerline of the proposed monopole.
Elevation: 613.48 (USGS & NGV Datum)

PROPERTY INFORMATION

TAX PARCEL: #24-133-400-0013-00

OWNER: CITY OF MUSKEGON
933 TERRACE ST.
MUSKEGON, MICH 49443

PROPERTY ADDRESS:
2301 HARVEY ST.
MUSKEGON, MICH 49443

PREPARED BY:
MIDWESTERN CONSULTING, L.L.C.
JAMES A. FISHER P.E. #24260

STATE OF MICHIGAN
JAMES A. FISHER ENGINEER No. 24260
Registered Professional Engineer

MIDWESTERN CONSULTING

Civil, Environmental and Transportation Engineers, Planners, Surveyors, Landscape Architects
3815 Plaza Drive, Ann Arbor, Michigan 48108
Phone: 734.995.0200 Fax: 734.995.0599

APPLICANT/LESSEE:
NEW PAR, A DELAWARE PARTNERSHIP
dba VERIZON WIRELESS
24242 NORTHWESTERN HIGHWAY
SOUTHFIELD, MICHIGAN 48075
PHONE (248) 915-3000

COMMUNICATION SITE
CITY OF MUSKEGON, MUSKEGON COUNTY, MICHIGAN
SITE PLAN

SITE# 702

1

JOB No. 94044-702A
DATE: 8/09/04 | SHEET 1 OF 1 | CADD: ADB/JAJ | ENG: JAF | P.M.: JAF | TECH: MDW
REVISIONS: 1. MOVED LEASE AREA PER OWNER — REV. DATE 6-26-06

K:\94044\...\94044_702SP1.dwg, SP1, 6/26/2006 10:43:32 AM, mmg, \\Main1\Phaser 7750DN

EXHIBIT "B"

Rental Schedule

1. From the Commencement Date through the day before the first "Rental Change Anniversary", as defined below, the annual rental shall be EIGHTEEN THOUSAND and 00/100 Dollars ($18,000.00).

2. Effective on January 1, 2008 and each successive January 1st thereafter during the Term, including extension terms under Paragraph 5 of the Agreement (each called a ***"Rental Change Anniversary"***), the annual rental shall be increased by three percent (3%) of the annual rental for the immediately preceding year or period.

All rental payable under this Agreement shall be paid to LESSOR in equal monthly installments on the first day of the month, in advance.

Site No. MI-702
(Mona Lake)

MEMORANDUM OF LAND LEASE AGREEMENT

THIS MEMORANDUM OF LAND LEASE AGREEMENT, made this 9th day of November, 2006, between **THE CITY OF MUSKEGON**, a Michigan municipal corporation, with its mailing address located at 1350 E. Keating, Michigan 49442, hereinafter designated ***"LESSOR"***, and **NEW PAR**, d/b/a Verizon Wireless, with its principal offices at One Verizon Way, Basking Ridge, New Jersey, 07920, hereinafter referred to as ***"LESSEE"***. LESSOR and LESSEE are at times collectively referred to hereinafter as the ***"Parties"*** or individually as the ***"Party"***.

1. LESSOR and LESSEE entered into a Land Lease Agreement (the ***"Agreement"***) on November 9, 2006, for an initial term of five (5) years, commencing on the Commencement Date, as defined in the Agreement and as hereinafter described. The Agreement shall automatically be extended for four (4) additional five (5) year terms unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least three (3) months prior to the end of the then current term. If, at the end of the fourth (4th) five (5) year extension term, the Agreement has not been terminated by either Party by giving to the other written notice of an intention to terminate the Agreement at least three (3) months prior to the end of such term, the Agreement shall continue in force upon the same covenants, terms and conditions for a further term of five (5) years and for five (5) year terms thereafter until terminated by either Party by giving to the other written notice of its intention to so terminate at least three (3) months prior to the end of such term; provided that in no event shall the total Term of this Agreement, including all extensions, exceed thirty-five (35) years after the Commencement Date.

2. LESSOR owns that certain parcel of property (the entirety of LESSOR's property is referred to hereinafter as the ***"Property"***), located in the City of Muskegon, Muskegon County, Michigan, being further described as the "Overall Parcel" in **Exhibit "A"**, attached hereto and made a part hereof. Pursuant to and in consideration of the rental and other agreements set forth in the Agreement, LESSOR hereby leases to LESSEE that certain portion of the Property, being described as a parcel containing approximately 8,967 square feet (the ***"Land Space"***), together with the non-exclusive right, right-of-way and easement (the ***"Right of Way"***) for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle, including trucks, the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along a twenty (20) foot wide right-of-way and easement extending from the nearest public right-of-way, Harvey Street, to the Land Space, and all other purposes described in the Agreement. The Land Space and Right of Way are hereinafter collectively referred to as the ***"Premises"***. The Land Space and Right of Way are described in **Exhibit "A"**, and as shown on **Exhibit "B"**, attached hereto and made a part hereof. In the event any public utility is unable to use the Right-of-Way, LESSOR has agreed to grant an additional right-of-way and easement either to LESSEE or to the public utility at no cost to LESSEE, which, for all purposes hereunder and under the Agreement, shall be deemed a part of the "Right of Way" defined and granted under the Agreement and hereunder.

3. The ***"Commencement Date"*** of the Agreement, of which this is a Memorandum, is the first (1st) day of the month following the earlier of: (a) the date one (1) year after the Agreement was executed and delivered by the Parties, or (b) the date LESSEE commences installation of the equipment on the Premises.

4. LESSEE has the right of first refusal to purchase the Premises during the initial term and all renewal terms of the Agreement.

5. The terms, covenants and provisions of the Agreement, the terms of which are hereby incorporated by reference into this Memorandum, shall run with the Premises and the Property and extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of LESSOR and LESSEE, as though fully set forth herein.

IN WITNESS WHEREOF, hereunto and to a duplicate hereof, LESSOR and LESSEE have caused this Memorandum to be duly executed on the date first written hereinabove.

LESSOR:
THE CITY OF MUSKEGON,
a Michigan municipal corporation

Linda Potter
WITNESS
NAME: Linda Potter

BY: [signature]
NAME: Stephen J. Warmington
TITLE: Mayor

Jo Ann Krukowski
WITNESS
NAME: JOANN KruKowsKi

Site No. MI-702
(Mona Lake)

LESSEE:
NEW PAR d/b/a Verizon Wireless

BY: Verizon Wireless (VAW), LLC,
its general partner

Nancy Fulks
WITNESS
NAME: NANCY FULKS

BY: H H Bower
Howard H. Bower,
Midwest Area Vice President - Network

Tamara L. Grant
WITNESS
NAME: Tamara L. Grant

Site No. MI-702
(Mona Lake)

LESSOR'S ACKNOWLEDGMENT

STATE OF MICHIGAN)
) SS.
COUNTY OF MUSKEGON)

The foregoing instrument was acknowledged before me on October 18, 2006, by Stephen J. Warmington, the Mayor of **THE CITY OF MUSKEGON**, a Michigan municipal corporation, on behalf of the City.

Jo Ann M. Krukowski
Notary Public, Muskegon County, Michigan
Acting in Muskegon County
My commission expires:

Site No. MI-702
(Mona Lake)

LESSEE'S ACKNOWLEDGMENT

STATE OF INDIANA)

) ss. :

COUNTY OF HAMILTON)

This instrument was acknowledged before me by Howard H. Bower, who is the Midwest Area Vice President - Network of Verizon Wireless (VAW) LLC, the general partner of **NEW PAR,** a Delaware partnership d/b/a Verizon Wireless, personally known to me or proved on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the entities upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in the County of Hamilton, State of Indiana.

Witness my hand and official seal, this 9th day of November, 2006.

Signature: ______________________

My commission expires: ______________________

SEAL OF THE STATE OF INDIANA 1816

CYNTHIA NAVA
Notary Public, State of Indiana
Marion County
My Commission Expires
July 30, 2014

Site No. MI-702
(Mona Lake)

This instrument drafted by and,
When recorded, return to:
Robert A. LaBelle
Myers Nelson Dillon & Shierk PLLC
40701 Woodward Ave., Suite 235

EXHIBIT "A"

LEGAL DESCRIPTION OF OVERALL PARCEL

(Taken from Title Commitment)

Land in the City of Muskegon, County of Muskegon, State of Michigan, described as follows:

All that part of the East 1/2 of the Southeast 1/4 of Section 33, Town 10 North, Range 16 West, Muskegon Township, Muskegon County, Michigan, which lies southerly of the southerly right-of-way line of the Pennsylvania Railroad and westerly of a line described as: Beginning at a point on the South line of said Section 33 which is N 89°52'04" W a distance of 193.97 feet from the Southeast corner of said Section 33; thence N 0°07'56" E a distance of 626.58 feet to the point of curvature of a 22,793.3 foot radius curve to the left; thence Northerly along the arc of said curve (chord bearing N 0°28'15.33" W) a distance of 479.89 feet to the point of tangency of said curve; thence N 1°04'26.66" W a distance of 354.01 feet; thence N 48°W a distance of 150 feet; thence N 21°04'37" E a distance of 173.92 feet to t appoint on the arc of a 34,547.5 foot radius curve to the right (chord bearing N 0°13'20.66" W); thence Northerly along the arc of said curve 500 feet to a Point of Ending; and lying northeasterly of a line described as: Beginning at a point on the east line of said Section 33 which is N 1°09'32" E a distance of 695.95 feet from the Southeast corner of said Section 33; thence N 49°40'04" W a distance of 221.20 feet to the point of curvature of a 1860.08 foot radius curve to the right; thence Northwesterly along the arc of said curve (chord bearing N 41°16'05" W) a distance of 545.32 feet; thence N 57°07'54" E a distance of 25.00 feet to a point on the arc of a 1835.08 foot radius curve to the right; thence Northwesterly along the arc of said curve (chord bearing N 25°40'05" W) a distance of 461.17 feet to the point of tangency of said curve; thence N 18°28'04" W a distance of 519.98 feet; thence S 71°31'56" W a distance of 25.00 feet; thence N 18°28'04" W a distance of 300 feet to a point of ending; and lying North of Little Black Creek; EXCEPT a strip of land 100 feet in width lying Southerly of and along and adjoining the southerly line of the Pennsylvania Railroad right-of-way across all that part of the Northeast 1/4 of the Southeast 1/4 of said Section 33.

EXHIBIT "A" (cont'd)

LEGAL DESCRIPTION OF LEASED PARCEL

Commencing at the Southeast corner of Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; thence N 01°09'32" E 695.95 feet; thence N 49°40'04" W a distance of 221.20 feet; thence 545.32 feet along the arc of a non-tangent curve to the right, radius of 1860.08 feet, central angle of 16°47'51" and chord bearing N 41°16'05" W 543.37 feet; thence N 57°07'54" E 25.00 feet; thence 461.17 feet along the arc of a non-tangent curve to the right, radius of 1835.08 feet, central angle of 147°23'56" and chord bearing N 25°40'05" W 459.96 feet; thence N 18°28'04" W 45.15 feet; thence N 71°31'56" E 3.82 feet to a POINT OF BEGINNNING:

thence N 20°22'26" W 55.81 feet;
thence N 07°17'37" E 83.51 feet;
thence S 71°13'25" E 95.00 feet;
thence S 18°46'35" W 90.00 feet;
thence S 69°37'34" W 55.63 feet to the POINT OF BEGINNING;
being a part of the S.E. 1/4 of said Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; containing 8,967 sq. ft.; and subject to easements and restrictions of record, if any;

Together with a 20 foot wide easement for ingress, egress and public utilities, the centerline of said easement is described as follows:

Commencing at the Southeast corner of Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; thence N 01°09'32" E 695.95 feet; thence N 49°40'04" W a distance of 221.20 feet; thence 545.32 feet along the arc of a non-tangent curve to the right, radius of 1860.08 feet, central angle of 16°47'51" and chord bearing N 41°16'05" W 543.37 feet; thence N 57°07'54" E 25.00 feet; thence 461.17 feet along the arc of a non-tangent curve to the right, radius of 1835.08 feet, central angle of 14°23'56" and chord bearing N 25°40'05" W 459.96 feet; thence N 18°28'04" W 43.15 feet; thence N 71°31'56" E 3.82 feet; thence N 69°37'34" E 55.63 feet; thence N 18°46'35" E 59.00 feet to a POINT OF BEGINNNING:

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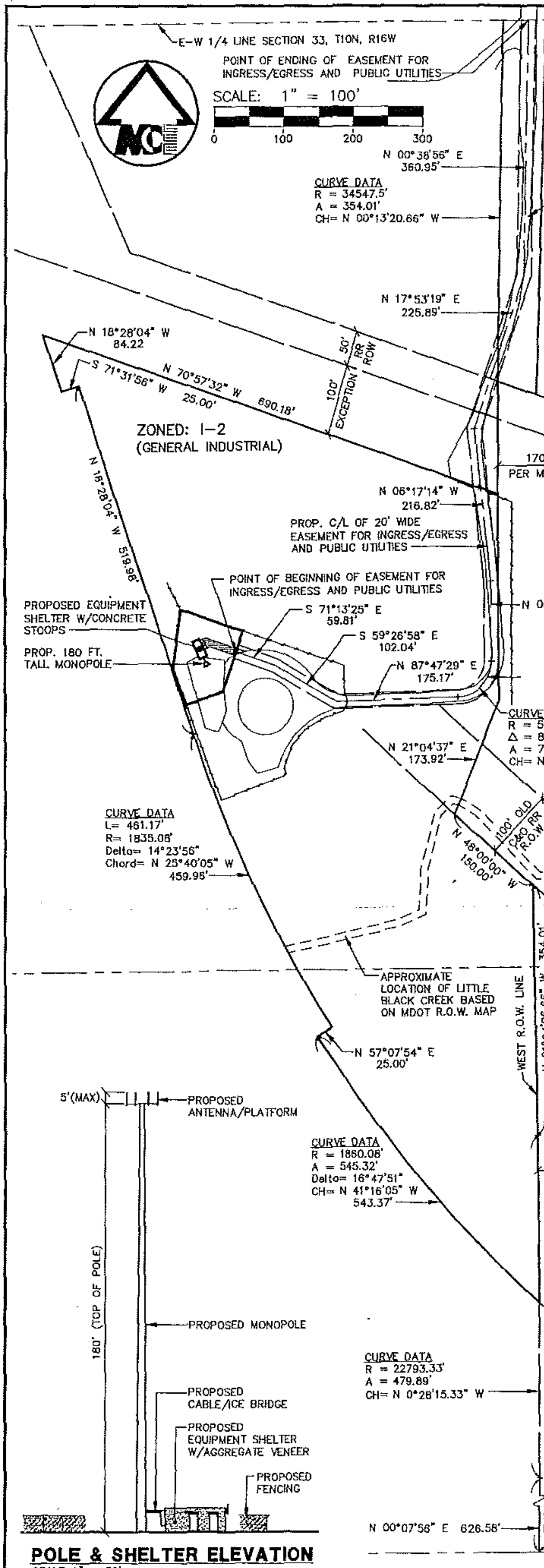
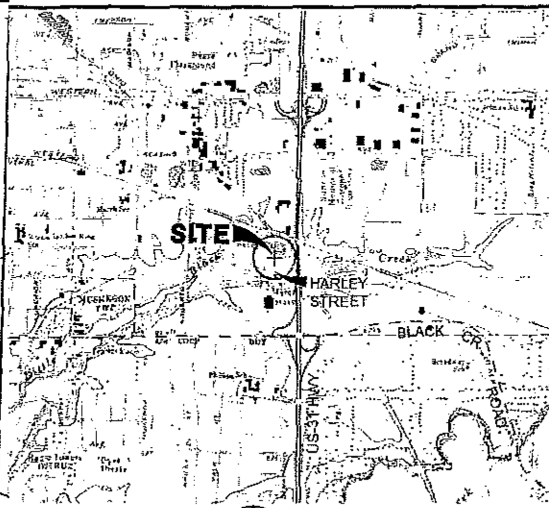
thence S 59°26'58" E 102.04 feet;
thence N 87°47'29" E 175.17 feet;
thence 77.01 feet along the arc of a curve to the left, radius 50.00 feet, central angle of 88°14'33", and chord bearing N 43°40'13" E 69.62 feet;
thence N 00°27'04" W 113.61 feet;
thence N 06°17'14" W 216.82 feet;
thence N 17°53'19" E 225.89 feet;
thence N 00°38'56" E 360.95 feet to the east & west 1/4 line of said Section 33 and the POINT OF ENDING; being a part of the S.E. 1/4 of said Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; except any part taken, deeded or used for public road purposes and subject to easements and restrictions of record, if any.



POLE & SHELTER ELEVATION

SCALE 1" = 30'



ICINITY SKETCH

:ALE: 1"=2000'

OCATION

INGITUDE 86° 12' 26.3"
TITUDE 43° 12' 35.5"
ROUND ELEV. @ TOWER BASE = 613.50

EGAL DESCRIPTION OF LEASED PARCEL

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thence N 06°17'14" W 216.82 feet;
thence N 17°53'19" E 225.89 feet;
thence N 00°38'56" E 360.95 feet to the east & west 1/4 line of said Section 33 and the POINT OF ENDING; being a part of the S.E. 1/4 of said Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; except any part taken, deeded or used for public road purposes and subject to easements and restrictions of record, if any.

OTE

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ENCHMARK

ke in south face of utility pole located northwest of the existing driveway gate roximately 155 feet east of the centerline of the proposed monopole.
Elevation: 613.48 (USGS & NGV Datum)

ROPERTY INFORMATION

PARCEL: #24-133-400-0013-00

OWNER: CITY OF MUSKEGON
933 TERRACE ST.
MUSKEGON, MICH 49443

PROPERTY ADDRESS:
2301 HARVEY ST.
MUSKEGON, MICH 49443

PREPARED BY:
MIDWESTERN CONSULTING, L.L.C.

STATE OF MICHIGAN
JAMES A. FISHER
ENGINEER
No.
24260
Registered Professional Engineer

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NEW PAR, A DELAWARE PARTNERSHIP
dba VERIZON WIRELESS
24242 NORTHWESTERN HIGHWAY
SOUTHFIELD, MICHIGAN 48075
PHONE: (248) 915-3000

COMMUNICATION SITE

CITY OF MUSKEGON, MUSKEGON COUNTY, MICHIGAN
SITE PLAN

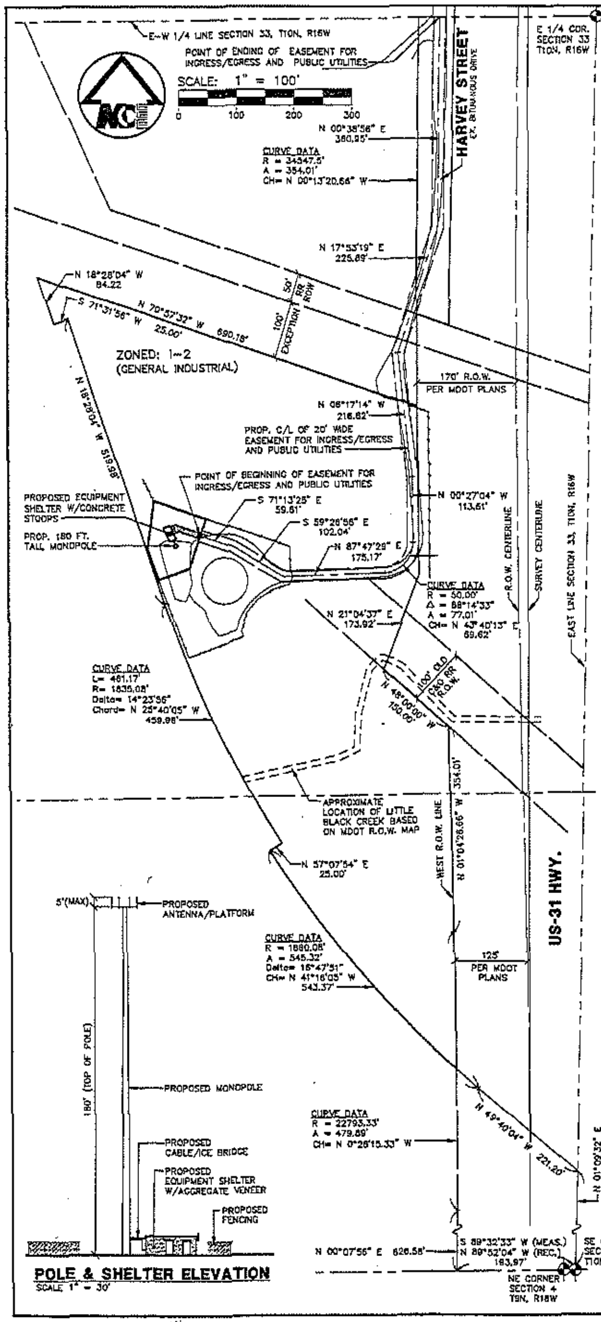
SITE# 702

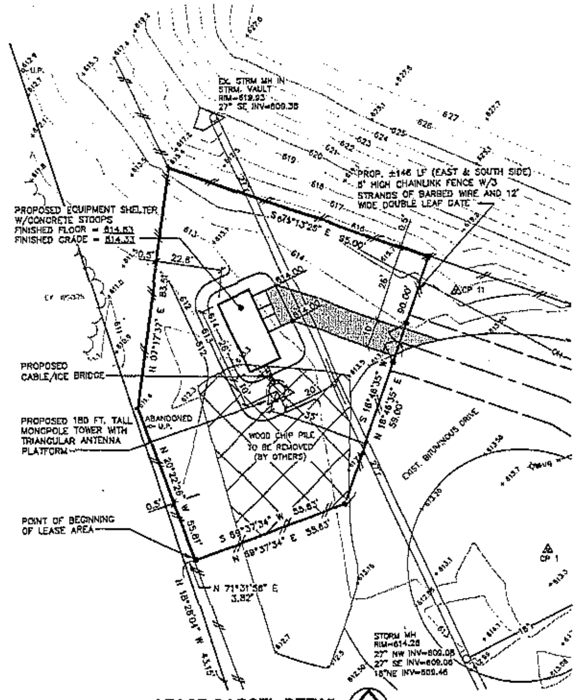
1

JOB No. 94044-702A

REVISIONS: MOVED LEASE AREA PER OWNER — REV. DATE 6-26-06

DATE: 6/05/06
SHEET 1 OF 1
CADD: ADB,MMG
ENG: JAF
PM: JAF
TECH: MDW
94044_702SP1





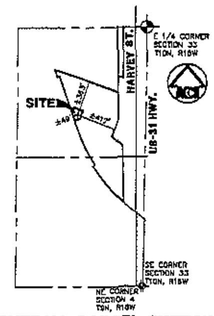
LEASE PARCEL DETAIL

SCALE: 1"=20'

3 WORKING DAYS BEFORE YOU DIG CALL MISS DIG 1-800-482-7171

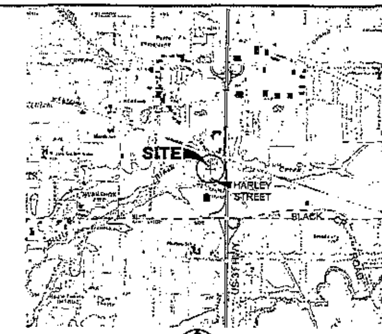
LEGEND

- EXIST. CONTOUR
- PROP. CONTOUR
- EXIST. SPOT ELEVATION
- PROP. SPOT ELEVATION
- EXIST. UTILITY POLE
- EXIST. GUY POLE
- GUY WIRE
- EXIST. OVERHEAD UTILITY LINE
- EXIST. HYDRANT
- EXIST. WATER MAIN
- EXIST. STORM SEWER
- POST
- FENCE
- SINGLE TREE
- TREE OR BRUSH LIMIT
- CONTROL POINT
- SECTION CORNER



OVERALL PARCEL SKETCH

SCALE: 1"=600'



VICINITY SKETCH

SCALE: 1"=2000'

GENERAL NOTES:

1. All site work construction shall be in accordance with the current standards and specifications of City of Muskegon, where applicable.
2. The proposed equipment shelter is to be a one story, computerized, unmanned, telephone exchange structure. All exterior walls are precast washed aggregate masonry. No water service, sanitary facilities or gas service is needed. Telephone and electrical services will be from an existing utility pole or line adjacent to the site.
3. The proposed equipment shelter is to have a security system monitored 24 hours per day. The shelter will also be constructed with bullet resistant materials.
4. There is one, low wattage (150W), shielded, wall-mounted security light at the stoops of the shelter.
5. There are no signs proposed for this project except for:
   a. Emergency contact information purposes and FCC "call" sign placed on equipment shelter door;
   b. FCC registration number located on fence gate.
6. The cellular antenna and equipment shelter will be approved by the Federal Communications Commission (FCC) and will not impact any frequency sensitive devices whatsoever.
7. There are no toxic materials used by Lessee on the site. They will not have any need for garbage disposal and pick-up.
8. Maintenance personnel in van type service vehicles enter and exit the site approximately 2 to 4 times per month. No loading or unloading area is needed by them.
9. Ingress and egress by Lessee personnel to the site shall be via an existing paved drive from Harvey St.
10. All areas inside of and to 1'-0" outside of the fenced area shall be covered with 3" of crushed limestone placed over "Typar" landscape fabric.
11. The proposed drive shall consist of 2.5" of bituminous surface meeting current MDOT specification for bituminous mix #36A. It shall be placed over 6" of MDOT 21AA crushed limestone aggregate over 10" of 3A crushed concrete or slag over compacted subgrade. The subgrade shall be stripped free of all topsoil and organic material prior to placing aggregate base. Where poor subgrade soils are encountered, a woven geotextile fabric (Mirafi 500X or approved equal) shall be placed so that it is a minimum of 2 ft. wider and longer than the drive which is to constructed over the poor soils.
12. All areas outside of the fenced compound disturbed by the construction of the shelter and tower shall be restored in kind.

LEGAL DESCRIPTION OF OVERALL PARCEL

(Taken from Title Commitment)

Land in the City of Muskegon, County of Muskegon, State of Michigan, described as follows:

All that part of the East 1/2 of the Southeast 1/4 of Section 33, Town 10 North, Range 16 West, Muskegon Township, Muskegon County, Michigan, which lies southerly of the southerly right-of-way line of the Pennsylvania Railroad and westerly of a line described as: Beginning at a point on the South line of said Section 33 which is N 89°52'04" W a distance of 193.97 feet from the Southeast corner of said Section 33; thence N 0°07'56" E a distance of 626.58 feet to the point of curvature of a 22,793.3 foot radius curve to the left; thence Northerly along the arc of said curve (chord bearing N 0°28'15.33" W) a distance of 479.69 feet to the point of tangency of said curve; thence N 1°04'26.66" W a distance of 354.01 feet; thence N 48°W a distance of 150 feet; thence N 21°04'37" E a distance of 173.92 feet to t appoint on the arc of a 34,547.5 foot radius curve to the right (chord bearing N 0°13'20.66" W); thence Northerly along the arc of said curve 500 feet to a Point of Ending; and lying northeasterly of a line described as; Beginning at a point on the east line of said Section 33 which is N 1°09'32" E a distance of 695.95 feet from the Southeast corner of said Section 33; thence N 49°40'04" W a distance of 221.20 feet to the point of curvature of a 1860.08 foot radius curve to the right; thence Northwesterly along the arc of said curve (chord bearing N 41°16'05" W) a distance of 545.32 feet; thence N 57°07'54" E a distance of 25.00 feet to a point on the arc of a 1835.08 foot radius curve to the right; thence Northwesterly along the arc of said curve (chord bearing N 25°40'05" W) a distance of 481.17 feet to the point of tangency of said curve; thence N 18°28'04" W a distance of 519.98 feet; thence S 71°31'56" W a distance of 25.00 feet; thence N 18°28'04" W a distance of 300 feet to a point of ending; and lying North of Little Black Creek; EXCEPT a strip of land 100 feet in width lying Southerly of and along and adjoining the southerly line of the Pennsylvania Railroad right-of-way across all that part of the Northeast 1/4 of the Southeast 1/4 of said Section 33.

LOCATION

LONGITUDE 86° 12' 26.3"
LATITUDE 43° 12' 35.5"
GROUND ELEV. @ TOWER BASE = 613.50

LEGAL DESCRIPTION OF LEASED PARCEL

Commencing at the Southeast corner of Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; thence N 01°09'32" E 695.95 feet; thence N 49°40'04" W a distance of 221.20 feet; thence 545.32 feet along the arc of a non-tangent curve to the right, radius of 1860.08 feet, central angle of 16°47'51" and chord bearing N 41°16'05" W 543.37 feet; thence N 57°07'54" E 25.00 feet; thence 461.17 feet along the arc of a non-tangent curve to the right, radius of 1835.08 feet, central angle of 147°23'56" and chord bearing N 25°40'05" W 459.96 feet; thence N 18°28'04" W 45.15 feet; thence N 71°31'56" E 3.82 feet to a POINT OF BEGINNNING;

thence N 20°22'26" W 55.81 feet;
thence N 07°17'37" E 83.51 feet;
thence S 71°13'25" E 95.00 feet;
thence S 18°46'35" W 90.00 feet;
thence S 69°37'34" W 55.63 feet to the POINT OF BEGINNING;
being a part of the S.E. 1/4 of said Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; containing 8,967 sq. ft.; and subject to easements and restrictions of record, if any;

Together with a 20 foot wide easement for ingress, egress and public utilities, the centerline of said easement is described as follows:

Commencing at the Southeast corner of Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; thence N 01°09'32" E 695.95 feet; thence N 49°40'04" W a distance of 221.20 feet; thence 545.32 feet along the arc of a non-tangent curve to the right, radius of 1860.08 feet, central angle of 16°47'51" and chord bearing N 41°16'05" W 543.37 feet; thence N 57°07'54" E 25.00 feet; thence 461.17 feet along the arc of a non-tangent curve to the right, radius of 1835.08 feet, central angle of 14°23'56" and chord bearing N 25°40'05" W 459.96 feet; thence N 18°28'04" W 43.15 feet; thence N 71°31'56" E 3.82 feet; thence N 69°37'34" E 55.63 feet; thence N 18°46'35" E 59.00 feet to a POINT OF BEGINNNING;

thence S 71°13'25" E 59.61 feet;
thence S 59°26'56" E 102.04 feet;
thence N 87°47'29" E 175.17 feet;
thence 77.01 feet along the arc of a curve to the left, radius 50.00 feet, central angle of 88°14'33", and chord bearing N 43°40'13" E 69.62 feet;
thence N 00°27'04" W 113.61 feet;
thence N 08°17'14" W 216.82 feet;
thence N 17°53'19" E 225.69 feet;
thence N 00°38'56" E 360.95 feet to the east & west 1/4 line of said Section 33 and the POINT OF ENDING; being a part of the S.E. 1/4 of said Section 33, T10N, R16W, City of Muskegon, Muskegon County, Michigan; except any part taken, deeded or used for public road purposes and subject to easements and restrictions of record, if any.

NOTE

Rotate all bearings 00°07'13" counter-clockwise to obtain bearings that are based on True North as determined from global positioning system (GPS).

BENCHMARK

Spike in south face of utility pole located northwest of the existing driveway gate approximately 155 feet east of the centerline of the proposed monopole.
Elevation: 613.48 (USGS & NGV Datum)

PROPERTY INFORMATION

TAX PARCEL: #24-133-400-0013-00

OWNER: CITY OF MUSKEGON
933 TERRACE ST.
MUSKEGON, MICH 49443

PROPERTY ADDRESS:
2301 HARVEY ST.
MUSKEGON, MICH 49443

PREPARED BY:
MIDWESTERN CONSULTING, L.L.C.
JAMES A. FISHER P.E. #24260

STATE OF MICHIGAN ★ JAMES A. FISHER ENGINEER No. 24260 ★ Registered Professional Engineer

MIDWESTERN CONSULTING
Civil, Environmental and Transportation Engineers Planners, Surveyors Landscape Architects
3815 Plaza Drive Ann Arbor, Michigan 48108 Phone: 734.995.0200 Fax: 734.995.0599

APPLICANT/LESSEE:
NEW PAR, A DELAWARE PARTNERSHIP dba VERIZON WIRELESS
24242 NORTHWESTERN HIGHWAY SOUTHFIELD, MICHIGAN 48075
PHONE: (248) 915-3000

COMMUNICATION SITE

CITY OF MUSKEGON, MUSKEGON COUNTY, MICHIGAN
SITE PLAN

SITE# 702

1

DATE: 4/05/04 | SHEET 1 OF 1 | CADD: ADR,JMG | DHG: JAF | PM: JAF | TECH: MPW | 94044_702SP1

JOB No. 94044-702A

REVISIONS: 1. MOVED LEASE AREA PER OWNER — REV. DATE 6-26-06

MEMORANDUM

TO: Honorable Mayor, City Commissioners, and City Manager

FROM: Robert H. Kuhn, Director of Public Works

DATE: September 26, 2006

RE: Request for Flow Transfer

In 1989, the City of Muskegon and local members of the Muskegon County Wastewater Management System signed the Capacity Allocation Contract. Under this contract, the City was allocated 10-84 Million Gallons Per Day (MGD) of future wastewater flow. At that time, allocations were committed and paid for because the system was very near to peak capacity, and the Michigan Department of Environmental Quality (MDEQ) was not allowing any new connections to others that did not have a sufficient allocation.

Since the mid-nineties, all flows have decreased and there is much available capacity at the Wastewater site.

Meanwhile, the City of Muskegon went on an extensive infilteration-elimination program, and as a result, our 1989 flow of 8.2 MGD has decreased to 5.2 MGD, leaving an available capacity of well over 5.6 MGD for future growth.

By transferring 50,000 gallons per day (.05 MGD), the City will save about $1800-$2000 per year on the final two 1989 bond payments due in 2007 and 2008.

All future and other bond payments are based on flow rate.

Although they have requested only 35,000 gallons per day, I am asking for a commitment from the Township of a minimum of 50,000 gallons per day. With your permission, I will negotiate the final number with the Director of the Muskegon County Wastewater Management System.

I hereby request that the City of Muskegon grant a request to transfer .05 MGD of its allocation of 10.84 MGD to Cedar Creek Township.

RHK/rsh

MUSKEGON COUNTY
M I C H I G A N

August 31, 2006

Mr. Robert Kuhn, Director of Public Works
City of Muskegon
1350 East Keating Avenue
Muskegon, MI 49442

Dear Bob,

I have received a letter from Cedar Creek Township requesting a flow allocation of 35,000 gallons per day for our County Wastewater System (see attached).

Under the 1989 Capacity Allocation Contract, the System Director is responsible for administration of the wastewater system capacity. As such, I am requesting that the City of Muskegon grant a transfer of 0.035 million gallons per day (MGD) of their existing 10.84 MGD allocation to Cedar Creek Township. Cedar Creek Township must have this allocation approval to join the County Wastewater System.

Cedar Creek would pay (and the City of Muskegon would save) about $1,800 per year for this allocated capacity as part of the refinanced 1989 bonds in 2007 and 2008. At that point these "old bonds" would be retired. Long term, the City of Muskegon and the rest of the system users will benefit from a higher flow.

If approved by your Commission, this allocation will go into effect when Cedar Creek has completed their contracts with Timberline Estates Mobile Home Park, Muskegon Township, and the County Wastewater Management System.

Sincerely,

Dave Kendrick, County Public Works Director

cc: Ted Williams, County Counsel
Jim Muston, Cedar Creek Township Supervisor
Pat Jordan, Muskegon Township Supervisor
Roland Crummel, Municipal Wastewater Committee Chairman
Mike Ortega, Counsel to Municipal Wastewater Committee

WASTEWATER MANAGEMENT SYSTEM • 8301 WHITE ROAD • MUSKEGON, MICHIGAN 49442
(231) 724-3440 • FAX (231) 724-3588

AUG 30 2006

file

CEDAR CREEK TOWNSHIP

6556 SWEETER ROAD
TWIN LAKE, MI 49457
PHONE (231) 821-0014
FAX (231) 821-2725
email: cedarcreektownship@comcast.net

August 9, 2006

Mr. Dave Kendrick, Director
Muskegon County Public Works
8301 White Rd.
Muskegon MI 49442

Dear Mr. Kendrick,

Please consider this letter our request for a flow allocation within the Muskegon County Wastewater Management System. It is our intention to contract with Muskegon Township to accept the sewage generated at the Timberline Estates Mobile Home Park and adjacent areas. This flow is estimated to average 35,000 gallons per day.

Sincerely,

Jim Muston

Jim Muston, Supervisor
Cedar Creek township

JM/clc

Cc: Charles Buzzell, County Commissioner District 2
Roland Crummel, Muskegon Municipal Wastewater Committee Chairman
Pat Jordan, Muskegon Township Supervisor
Mark Nettleton, Cedar Creek Attorney
Lorraine Hawkins, Cedar Creek Clerk

Commission Meeting Date: October 10, 2006

Date:	**October 3, 2006**
To:	**Honorable Mayor & City Commission**
From:	**Planning & Economic Development Department**
RE:	**Sale of Parcel in Seaway Industrial Park**

SUMMARY OF REQUEST:

To approve the sale of Lot #2 in Seaway Industrial Park (see attached map) to Dan Hoe Excavating, 13664 Ruckys Road, Holland, MI 49424. The purchase price is $135,000 (asking price $144,000). This company is currently located in Holland, but due to increased business in the Muskegon, would like to locate a satellite plant here. They plan to invest $125,000 to $150,000 in a building and other site improvements. Expected employment is at least 2 full time employees, possibly more, depending on the season.

FINANCIAL IMPACT:

The sale of this lot, while is located in a Renaissance Zone, will still generate City of Muskegon income tax.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the attached resolution and to authorize both the Mayor and the Clerk to sign said resolution, deed, and all other necessary documents.

COMMITTEE RECOMMENDATION:

Resolution No. 2006-86(f)

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING THE SALE OF A LOT #2 IN SEAWAY INDUSTRIAL PARK TO DAN HOE EXCAVATING

WHEREAS, the City of Muskegon has ownership of the property known as Lot #2 located in Seaway Industrial Park, Muskegon, Michigan, designated as parcel numbers 24-131-100-0006-10; and

WHEREAS, Dan Hoe Excavating, 13664 Ruckys Road, Holland, MI, has made a legitimate offer to purchase the subject property; and

WHEREAS, both the Seller (City of Muskegon) and Buyer (Dan Hoe Excavating) agree to the terms of the purchase as outlined in the attached development agreement; and

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

WHEREAS, the redevelopment of the subject property is consistent with the City's objective of development of Seaway Industrial Park.

NOW THEREFORE BE IT RESOLVED, that the Muskegon City Commission approves the sale of the property known as Lot #2 to Dan Hoe Excavating for the sum of $135,000.

See attachment A for property description.

Adopted this 10th day of October, 2006

Ayes: Davis, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Carter

Nays: None

Absent None

By: Stephen J. Warmington, Mayor

Attest: Linda S. Potter
Linda S. Potter, Acting Clerk

2006-86(f)

CERTIFICATION

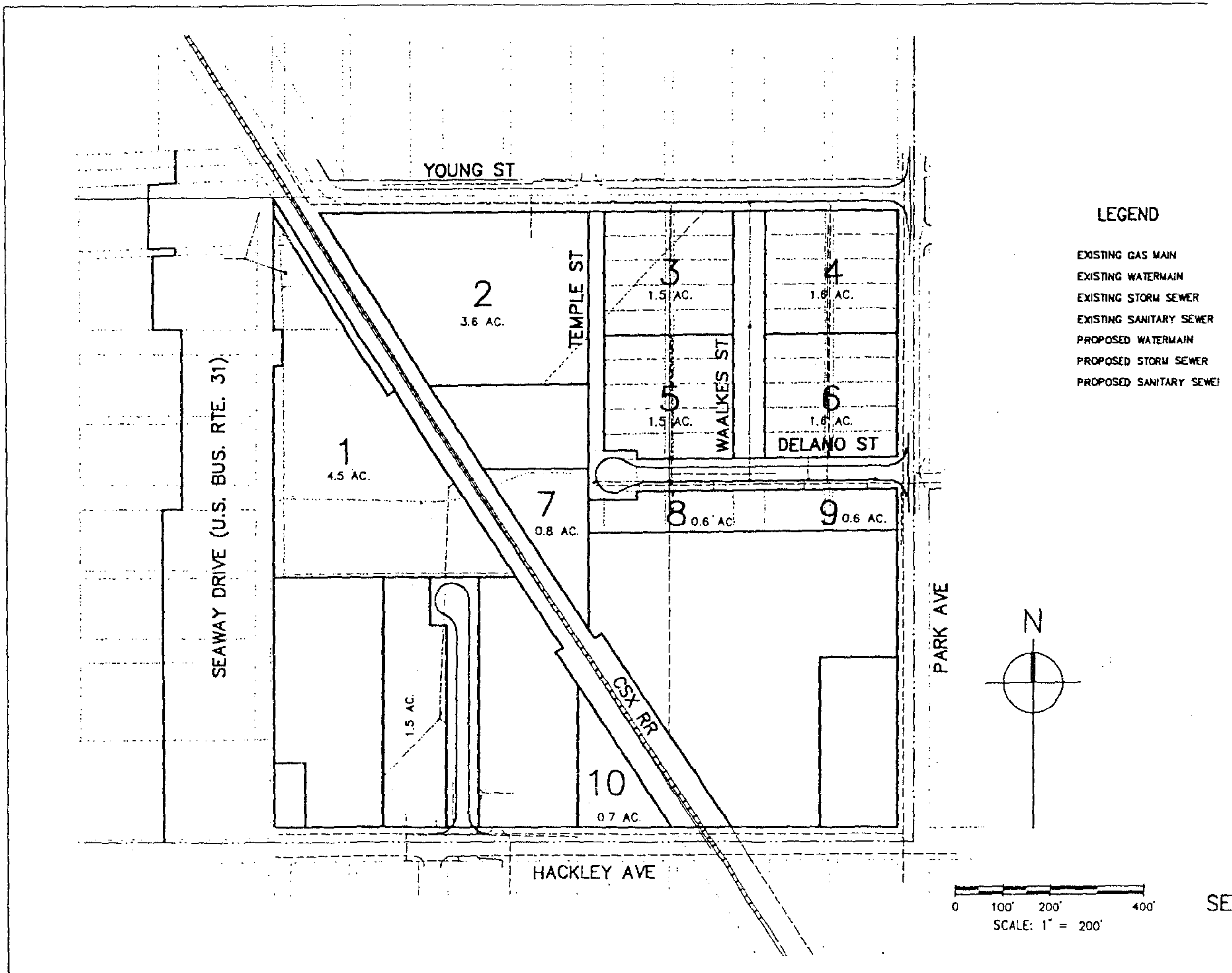
I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on October 10, 2006.

By: Linda S. Potter

Linda S. Potter, Acting Clerk

ATTACHMENT A

CITY OF MUSKEGON COM AT SE COR OF NW FRL 1/4 SEC 31 T10N R16W TH N 00D 00M 00S E 1295.50 FT ALG E LN OF SD NW FRL 1/4 TH S 89D 46M 54S W 672.43 FT ALG S R/W LN OF YOUNG AVE & ITS EXTENSION IN YOUNG & WILLIAMS ADDN FOR POB TH S 00D 00M 00S E 320.00 FT ALG W R/W LN TEMPLE ST TH S 89D 46M 54S W 349.77 FT TH N 33D 14M 47S W 381.68 FT ALG THE NE R/W LN OF CSX RR TH N 89D 46M 54S E 559.02 FT ALG SD S R/W LN OF YOUNG AVE TO POB PROPOSED ESMT OVER RUDDIMAN CREEK DRAIN THAT PT OF FOL DESC ESMT LYING OVER AND ACROSS ABOVE PARCEL A 50 FT WIDE STRIP OF LAND C/L DESC AS COM AT THE W 1/4 COR OF SEC 31 T10N R16W TH S 89D 49M 59S E 1031.12 FT ALG S LN OF NW FRL 1/4 SD SEC 31 FOR POB OF SD C/L TH N 45D 25M 16S E 354.00 FT TH N 02D 08M 16S E 495.50 FT TH N 43D 12M 46S E 749.75 FT FOR POE OF SD C/L ON THE S R/W LN OF YOUNG AVE IN YOUNG & WILLIAMS ADDN THE SIDELINES OF SD 50 FT WIDE STRIP OF LAND EXTEND OR SHORTEN TO ALLOW NO GAPS OR OVERLAPS


YOUNG ST
TEMPLE ST
WAALKES ST
DELANO ST
SEAWAY DRIVE (U.S. BUS. RTE. 31)
PARK AVE
HACKLEY AVE
CSX RR
1
4.5 AC.
2
3.6 AC.
3
1.5 AC.
4
1.6 AC.
5
1.5 AC.
6
1.6 AC.
7
0.8 AC.
8 0.6 AC.
9 0.6 AC.
10
0.7 AC.
1.5 AC.
LEGEND
EXISTING GAS MAIN
EXISTING WATERMAIN
EXISTING STORM SEWER
EXISTING SANITARY SEWER
PROPOSED WATERMAIN
PROPOSED STORM SEWER
PROPOSED SANITARY SEWEI
N
0 100' 200' 400'
SCALE: 1" = 200'
SE

QUIT-CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS: That the **CITY OF MUSKEGON**, a municipal corporation, whose address is 933 Terrace Street, Muskegon, MI 49440,

QUIT CLAIMS TO: **DDBP, LLC**, a Michigan limited liability company, of 13664 Rockey's Road, Holland, MI

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

SEE ATTACHED EXHIBIT A

for the sum of One Hundred Thirty-five Thousand and no/100 Dollars ($135,000.00).

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

Dated this ____ day of __________, 2006

CITY OF MUSKEGON

Stephen J. Warmington, Mayor

Linda S. Potter

Linda S. Potter, Acting Clerk

STATE OF MICHIGAN
COUNTY OF MUSKEGON

The foregoing instrument was acknowledged before me this 14 day of December, 2006, by Stephen J. Warmington and Linda S. Potter, Mayor and Acting Clerk, respectively, of the CITY OF MUSKEGON, a municipal corporation, on behalf of the City.

JoAnn M. Krukowski

JoAnn M. Krukowski, Notary Public
Muskegon County, Michigan
My commission expires: 05-13-2012
Acting in Muskegon County, Michigan

PREPARED BY:
John C. Schrier
Parmenter O'Toole
601 Terrace St., P. O. Box 786
Muskegon, MI 49443-0786
Telephone: 231.722.1621
SEND SUBSEQUENT TAX BILLS TO: Grantee
WHEN RECORDED RETURN TO: Grantee

G:\EDSI\FILES\00100\042604\DEED_QUI\D82904.DOC

ATTACHMENT A

CITY OF MUSKEGON COM AT SE COR OF NW FRL 1/4 SEC 31 T10N R16W TH N 00D 00M 00S E 1295.50 FT ALG E LN OF SD NW FRL 1/4 TH S 89D 46M 54S W 672.43 FT ALG S R/W LN OF YOUNG AVE & ITS EXTENSION IN YOUNG & WILLIAMS ADDN FOR POB TH S 00D 00M 00S E 320.00 FT ALG W R/W LN TEMPLE ST TH S 89D 46M 54S W 349.77 FT TH N 33D 14M 47S W 381.68 FT ALG THE NE R/W LN OF CSX RR TH N 89D 46M 54S E 559.02 FT ALG SD S R/W LN OF YOUNG AVE TO POB PROPOSED ESMT OVER RUDDIMAN CREEK DRAIN THAT PT OF FOL DESC ESMT LYING OVER AND ACROSS ABOVE PARCEL A 50 FT WIDE STRIP OF LAND C/L DESC AS COM AT THE W 1/4 COR OF SEC 31 T10N R16W TH S 89D 49M 59S E 1031.12 FT ALG S LN OF NW FRL 1/4 SD SEC 31 FOR POB OF SD C/L TH N 45D 25M 16S E 354.00 FT TH N 02D 08M 16S E 495.50 FT TH N 43D 12M 46S E 749.75 FT FOR POE OF SD C/L ON THE S R/W LN OF YOUNG AVE IN YOUNG & WILLIAMS ADDN THE SIDELINES OF SD 50 FT WIDE STRIP OF LAND EXTEND OR SHORTEN TO ALLOW NO GAPS OR OVERLAPS

Michigan Department of Treasury
2766 (Rev. 1-06)

L-4260

PROPERTY TRANSFER AFFIDAVIT

This form is issued under authority of P.A. 415 of 1994. Filing is mandatory.

This form must be filed whenever real estate or some types of personal property are transferred (even if you are not recording a deed). It is used by the assessor to insure the property is assessed properly and receives the correct ***taxable value***. It must be filed by the new owner with the ***assessor for the city or township*** where the property is located within ***45 days*** of the transfer. If it is not filed timely, a penalty of $5/day (maximum $200) applies. The information on this form is NOT CONFIDENTIAL.

1. Street Address of Property **Vacant Land Young Avenue**	2. County **Muskegon**	4. Date of Transfer (or land contract was signed) **December 13, 2006**
3. City/Township/Village of Real Estate **City of Muskegon**	☐ City ☐ Township ☐ Village	5. Purchase Price of Real Estate **$135,000.00**

6. Property Identification Number *(PIN)*. If you don't have a PIN, attach a legal description.
61-24-131-100-0006-10

PIN. This number ranges from 10 to 25 digits. It usually includes hyphens and sometimes includes letters. It is on the property tax bill and on the assessment notice.

7. Seller's (Transferor) Name
City of Muskegon, a Municipal Corporation

8. Buyer's (Transferee) Name and Mailing Address
DDBP, LLC
13664 Rockys Road
Holland, MI 49424

Items 9-13 are optional. However, by completing them you may avoid further correspondence.

Transfers include deeds, land contracts, transfers involving trusts or wills, certain long-term leases and interest in a business. See the back for a complete list.

9. Type of *Transfer*
☐ Land Contract ☐ Lease
☐ Deed ☐ Other (specify)____________

10. Is the transfer between related persons? ☐ Yes ☐ No

11. Amount of Down Payment

12. If you financed the purchase, did you pay market rate of interest? ☐ Yes ☐ No

13. Amount Financed (Borrowed)

Exemptions

The Michigan Constitution limits how much a property's ***taxable value*** can increase while it is owned by the same person. Once the property is transferred, the ***taxable value*** must be adjusted by the assessor in the following year to 50 percent of the property's usual selling price. Certain types of transfers are exempt from adjustment. Below are brief descriptions of the types of exempt transfers; full descriptions are in MCL Section 211.27a(7)(a-n). If you believe this transfer is exempt, indicate below the type of exemption you are claiming. If you claim an exemption, your assessor may request more information to support your claim.

- ☐ transfer from one spouse to the other spouse
- ☐ change in ownership solely to exclude or include a spouse
- ☐ transfer of that portion of a property subject to a life lease or life estate (***until*** the life lease of life estate expires)
- ☐ transfer to effect the foreclosure or forfeiture of real property
- ☐ transfer by redemption from a tax sale
- ☐ transfer into a trust where the settlor or the settlor's spouse conveys property to the trust and is also the sole beneficiary of the trust
- ☐ transfer resulting from a court order unless the order specifies a monetary payment
- ☐ transfer creating or ending a joint ownership if at least one person is an original owner of the property (or his/her spouse)
- ☐ transfer to establish or release a security interest (collateral)
- ☐ transfer of real estate through normal public trading of stocks
- ☐ transfer between entities under common control or among members of an affiliated group
- ☐ transfer resulting from transactions that qualify as a tax-free reorganization
- ☐ transfer of qualified agricultural property when the property remains qualified agricultural property and affidavit has been filed.
- ☐ other, specify:

Certification

I certify that the information above is true and complete to be best of my knowledge.

Owner's Signature [signature] Daytime Phone Number	Date December 13, 2006	If signer is other than the owner, print name and title. E-mail Address

COMMERCIAL ALLIANCE of REALTORS

BUY AND SELL AGREEMENT
FOR OFFICE, COMMERCIAL, INDUSTRIAL AND MULTI-FAMILY PROPERTY

Office of C&A COMMERCIAL, REALTOR®
MUSKEGON (city), Michigan Phone: 830 2071 Fax: ______
Email: ______ Date: 8-16-06 . ______ (time)

1. The undersigned Buyer and Seller each acknowledge the Selling Salesperson is acting as (check one):
☑ Subagent of the Seller ☐ Agent of the Buyer ☐ Dual Agent (with written, informed consent of both Buyer and Seller)
☐ Other (specify) : ______

2. Buyer's Offer. The undersigned (the "Buyer") offers and agrees to purchase the property located in the City of MUSKEGON, MUSKEGON County, Michigan, commonly known as 2030 - LOT 2 SEAWAY DR,
Permanent Parcel Number 6124131100000600 NOT correct should be -10 and legally described as follows:
IN OFFICE
(the "Land"), together with all buildings, fixtures and improvements situated on the Land (the "Improvements"), and all equipment and other personal property appurtenant to and currently used in connection with the Improvements including personal property as described in Exhibit E (the "Personal Property"), all of which is collectively referred to herein as the "Premises", except the following:
______

3. Purchase Price. The purchase price for the Premises is:
ONE Hundred Thirty thousand dollars
Dollars ($ 130,000) Any allocation of the purchase price between Land, Improvements, and Personal Property shall be set forth on an attached Exhibit.

4. Terms of Payment shall be as indicated by "X" below (other unmarked terms of purchase do not apply).
☐ Cash. The Buyer shall pay the full purchase price to the Seller upon execution and delivery of a warranty deed and performance by Seller of the closing obligations specified in Section 17 below.
☑ New Mortgage. The Buyer shall pay the full purchase price to the Seller upon execution and delivery of a warranty deed and performance by Seller of the closing obligations specified in Section 17 below, contingent upon the Buyer's ability to obtain a COMMERCIAL type 15 year mortgage loan in the amount of $ TBD bearing interest at a rate no greater than ______% per annum. The Buyer shall apply for the mortgage loan immediately and accept it promptly if tendered. If Buyer does not deliver to Seller on or before ______(date), proof that Buyer has accepted a mortgage loan commitment, Seller may thereafter at any time treat this contingency as not having been satisfied and terminate this Agreement by written notice to Buyer, unless Buyer has waived this contingency in writing, prior to the date indicated in this paragraph.
☐ Contract ☐ Purchase Money Mortgage. The Buyer shall pay the full purchase price to the Seller pursuant to the terms and conditions stated in a West Michigan Regional Form Number 1 Land Contract or a Purchase Money Mortgage upon performance by Seller of the closing obligations specified in Section 17 below. The Land Contract or Purchase Money Mortgage shall provide a down payment of $______ and payment of the balance $______ in ______ installments of $______ or more, at Buyer's option, including interest at the rate of ______% per annum computed monthly, interest to start on date of closing, and first payment to become due ______ days after date of closing. The entire unpaid balance will become due and payable ______ months after closing.
Seller understands that consummation of the sale or transfer of the Premises shall not relieve the Seller of any liability that Seller may have under the mortgage(s) to which the Premises are subject, unless otherwise agreed to by the lender or required by law or regulation.
Additional Provisions:
______

5. Survey. A ☐ new ☐ recertified ☑ existing ☐ boundary survey with iron corner stakes and with all easements of record, improvements, and encroachments (if any); and/or ☐ ALTA survey showing all easements of record, improvements, and encroachments, if any, shall be provided by ☐ Buyer ☐ Seller as soon as possible after the later to occur of (i) the title insurance commitment referenced in Section 6 below is delivered to the party responsible for the survey; and (ii) Buyer's right to terminate under Section 7 below is waived or deemed to have been waived. If the survey reveals a matter that materially and adversely affects the value of the Property or Buyer's intended use of the Property, Buyer shall have the right to terminate this Agreement by giving Seller written notice within ______ (____) calendar days after copies of both the survey and title commitment referenced in Section 6 below are delivered to Buyer, otherwise Buyer's right to terminate this Agreement pursuant to this Section shall be deemed to have been waived. Other:
______

DP ☐ Buyer's Initials BP ☐ Seller's Initials
DP

6. **Title Insurance.** At Seller's expense, Seller shall provide Buyer with a standard ALTA owner's policy of title insurance in the amount of the purchase price, effective as of the date of closing. A commitment to issue such policy insuring marketable title (as defined in Section 10 below) vested in Buyer, including a tax status report, shall be ordered within seven (7) calendar days after the Effective Date of this Agreement, and shall be delivered as soon as feasible thereafter. If any matter disclosed by the title commitment adversely and materially affects the value of the Property or Buyer's intended use of the Property, Buyer shall have the right to terminate this Agreement by giving Seller written notice within Five (5) calendar days after copies of both the title commitment and survey referenced in Section 5 above are delivered to Buyer, otherwise Buyer's right to terminate this Agreement pursuant to this Section shall be deemed to have been waived. A matter disclosed on the title commitment that is in the form of a lien that is liquidated in amount and that can be readily discharged (such as a mortgage) shall not be grounds for termination of this Agreement by Buyer under this Section so long as Seller discharges such lien(s) at the closing. Other:

7. **Inspections.** By signing this Agreement, Buyer is representing that the Buyer is aware that inspection services of buildings and building components and systems are commercially available at a fee. Buyer has the right to inspect the buildings and building components and systems or have the buildings and building components and systems inspected by experts selected by the Buyer. The Buyer has elected to arrange and pay for inspections including, but not limited to, the following:

☒ No Inspections ☐ Plumbing ☐ Heating, Ventilating & Air Conditioning ☐ Electrical
☐ Structural, including roof ☐ Termites and other wood destroying insects ☐ Other (specify):

The Buyer shall have the right to terminate this Agreement if the inspection reports are not acceptable to the Buyer by giving Seller written notice within ______ calendar days after the Effective Date of this Agreement, otherwise the right to terminate shall be deemed to have been waived.

Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether made intentionally or negligently) regarding any aspect of the Premises 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 the Seller. Accordingly, Buyer agrees to accept the Premises "as is" and "with all faults" (whether obvious or concealed), except as otherwise expressly provided in the documents specified in the preceding sentence. Other:

8. **Closing Adjustments.** The following adjustments shall be made between the parties as of the close of business on the closing date, with the Buyer receiving a credit or assuming responsibility, as the case may be, for amounts attributable to time periods following the closing date:
   a. Prepaid rent and Additional Rent (as defined in the paragraph);
   b. Interest on any existing indebtedness assumed by Buyer;
   c. Charges for any transferable service contracts assigned to Buyer described in Exhibit D;
   d. Utility deposits;
   e. Security deposits;
   f. All operating expenses including, but not limited to, CAM, taxes, insurance, plus Additional Rent shall be allocated accurately between the parties pursuant to the leases.

If any tenant is late, delinquent or otherwise in default in the payment of rent on the closing date, Seller shall assign to Buyer the claim for and the right to collect the rent; Buyer shall pay such past due rent to Seller promptly upon receipt, but Buyer shall not be obligated to file suit to collect such rent and shall reassign the claim to Seller on demand. If any tenants are required to pay percentage rent, escalation charges for real estate taxes, operating expenses, cost-of-living adjustments or other charges of a similar nature ('Additional Rent') and any Additional Rent is collected by Buyer after closing attributable in whole or in part to any period prior to closing, Buyer shall promptly pay to Seller Seller's proportionate share of the Additional Rent. Other:

9. **Property Taxes.** Seller shall pay delinquent property taxes. The current year's property taxes will be paid as follows (choose one):

☐ No proration:
  ☐ Buyer ☐ Seller shall pay taxes billed Summer ______ (year).
  ☐ Buyer ☐ Seller shall pay taxes billed Winter ______ (year).

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

RAW LONG

Special Assessments and deferred assessments, whether due in installments or otherwise, which are due and payable on or before the Effective Date of this Agreement shall be paid by Seller. All other special assessments, including deferred assessments, for improvements now installed, not yet installed, or in the process of being installed, that are first due and payable after the Effective Date of this Agreement shall be paid by Buyer. Other:

10. Conveyance. Upon performance by Buyer of the closing obligations specified in Section 18 below, Seller shall convey the marketable title to the Premises to Buyer by warranty deed or agree to convey marketable title by land contract or assignment, as required by Section 4 above, including oil, gas, and other mineral rights, subject only to existing zoning ordinances, and to building and use restrictions, easements, and reservations of record, if any. As used herein, "marketable title" means marketable title within the meaning of the Michigan 40-Year Marketable Title Act (Mich. Comp. Laws §§ 565.101 et seq.).
The following paragraph applies only if the Premises include unplatted land:
Seller agrees to grant Buyer at closing the right to make (insert number) Also Allows 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 ______ (date), of the proposed division to create the Premises. Other:

11. Warranties of Buyer. Except as otherwise provided or acknowledged in this Agreement, Buyer represents and warrants to Seller as follows:
a. The performance of the obligations of Buyer under this Agreement will not violate any contract indenture, statute, ordinance, judicial or administrative order or judgment applicable to Buyer.
b. There is no litigation or proceeding pending, or to the Buyer's knowledge threatened, against or involving the Buyer, and the Buyer does not know or have reason to know of any ground for any such litigation or proceeding, which could have an adverse impact on Seller or Seller's interests under this Agreement.
c. In entering into this Agreement, Buyer has not relied upon any written or verbal representations made by Seller or any representative of Seller, including any real estate salesperson, regarding the Premises or any aspect of this transaction, which are not expressly set forth in this Agreement.
Other:

12. Warranties of Seller. Except as otherwise provided or acknowledged in this Agreement, Seller represents and warrants to, and agrees with Buyer as follows:
a. Seller's interest in the Premises shall be transferred to Buyer on the closing date, free from liens, encumbrances and claims of others.
b. The performance of the obligations of Seller under this Agreement will not violate any contract, indenture, statute, ordinance, judicial or administrative order or judgment applicable to Seller or the Premises.
c. There is no litigation or proceeding pending or to the Seller's knowledge threatened, against or involving the Seller or the Premises, and the Seller does not know or have reason to know of any ground for any such litigation or proceeding which could have an adverse impact on Buyer or Buyer's title to and use of the Premises, before or after closing.
d. Seller shall continue to operate the Premises in the ordinary course of business and maintain the Premises in a state of good condition and repair during the interim between the signing of this Agreement and the closing date.
e. If a statement(s) of income and expense with respect to the operation of the Premises is(are) described in Exhibit B, such statement(s) is(are) accurate for the period(s) designated in the statement(s).
f. The information concerning written leases and any tenancies not arising out of written leases described in Exhibit C is accurate as of the Effective Date of this Agreement, and there are no leases or tenancies with respect to the Premises other than those described in Exhibit C (the "Leases") Except as otherwise described in Exhibit C:
(1) All of the leases are in full force and effect, no party thereto is in material default thereunder, and none of them have been modified, amended or extended;
(2) No renewal or extension options have been granted to tenants;
(3) No tenant has an option to purchase the Premises;
(4) The rents set forth are being collected on a current basis and there are no arrearages in excess of one month;
(5) There are no security deposits, and
(6) No real estate brokerage commission will become payable under any existing arrangement upon exercise of any options or other right to extend or renew the term of any lease or purchase of the Premises.
g. If a schedule of service, maintenance, supply and management contracts ("Service Contracts") is described in Exhibit D, the Exhibit lists all the Service Contracts currently in effect with respect to the Premises.
h. The Premises will be in compliance with any applicable smoke detector ordinances as of the closing date.
i. With respect to underlying land contracts or mortgages, the sale will not accelerate indebtedness, increase interest rates, or impose penalties and sanctions.
j. Seller is without personal knowledge as to the presence on the Premises of any toxic or hazardous substances or of any underground storage tanks.
k. Other:

13. Sidewalk Inspection. If Premises is in a municipality that requires a sidewalk inspection, Seller shall order the inspection and pay for any repairs deemed necessary by the municipality, so that the Premises will be in compliance with any applicable sidewalk ordinance as of the closing date.

14. Damage to Premises. If between the Effective Date of this Agreement and the closing date, all or any part of the Premises is damaged by fire or natural elements or other causes beyond the Seller's control which cannot be repaired prior to the closing date, or any part of the Premises is taken pursuant to any power of eminent domain, Seller shall immediately notify Buyer of such occurrence, and either Seller or Buyer may terminate this Agreement by written notice to the other within fifteen (15) days after the date of the damage or taking. If neither elects to terminate this Agreement, there shall be no reduction of the purchase price and at closing Seller shall assign to Buyer whatever rights Seller may have with respect to any insurance proceeds or eminent domain award.

15. **Closing.** The closing shall be held on or before OCT 5, 2006 and as promptly as practical after all necessary documents have been prepared. An additional period of thirty (30) days shall be allowed for closing to accommodate delays in title work or the correction of title defects and/or survey problems which can be readily correctable, delays in obtaining any required inspections, surveys or repairs, delays in completing Environmental Site Assessments, Baseline Environmental Assessment or Due Care Plan/Section 7a Compliance Analysis (if such assessments or plans were ordered in a timely manner), or if the terms of purchase require participation of a lender and the lender has issued a commitment consistent with the requirement but is unable to participate in a closing on or before the required date

16. **Possession.** Seller shall tender to Buyer possession of the Premises upon completion of the closing, subject to all existing leases and rights of tenants in possession. Upon Seller's acceptance, or Buyer's acceptance of a counter offer, Buyer shall have the right to enter upon the Premises during reasonable business hours for purposes of inspections and tests; provided, however, that such inspections and testing shall not unreasonably interfere with the rights of tenants in possession and shall not cause physical damage to the Premises. Other:

17. **Seller's Closing Obligations.** At closing, Seller shall deliver the following to Buyer:
   a. The warranty deed, land contract or assignment of land contract required by Section 4 of this Agreement.
   b. A bill of sale for any Personal Property (described in Exhibit "E")
   c. A written assignment by Seller of Seller's interest in all leases and a transfer to Buyer of all security deposits, accompanies by the original or a true copy of each lease.
   d. An assignment of all Seller's rights under any Service Contracts described in Exhibit D which are assignable by their terms and which Buyer wishes to assume, together with an original or true copy of each Service Contract assigned.
   e. A notice to any tenants advising the tenants of the sale and directing that future payments be made to Buyer.
   f. Any other documents required by this Agreement to be delivered by Seller.
   g. An accounting of operating expenses including, but not limited to, CAM, taxes, insurance, plus Additional Rent, collected in advance or arrears, spent or not yet spent by Seller, showing an accurate allocation between the parties pursuant to the leases.

18. **Buyer's Closing Obligations.** At closing, Buyer shall deliver to Seller the following:
   a. The cash portion of the purchase price specified in Section 4 above shall be paid by cashier's check or other immediately available funds, as adjusted by the apportionments and assignments in accordance with this Agreement.
   b. A written assumption by Buyer of the obligations of Seller under the leases arising after closing, including an acknowledgment of the receipt of all security deposits.
   c. Any other documents required by this Agreement to be delivered by Buyer.

19. **1031 Tax Deferred Exchange.** Upon either party's request, the other party shall cooperate and reasonably assist the requesting party in structuring the purchase and sale contemplated by this Agreement as part of a tax deferred, like-kind exchange under Section 1031 of the Internal Revenue Code of 1986, as amended; provided, however, that in connection therewith, the nonrequesting party shall not be required to (a) incur any additional costs or expenses; (b) take legal title to additional real property (i.e., the requesting party's "replacement property" or "relinquished property"); or (c) agree to delay the closing.

20. **Notices.** Unless otherwise stated in this Agreement, a notice required or permitted by this Agreement shall be sufficient if in writing and either delivered personally or by certified mail or other form of documentable delivery addressed to the parties at their addresses specified in the proximity of their signatures below, and any notices given by mail shall be deemed to have been given as of the date of the postmark.

21. **Additional Acts.** Buyer and Seller agree to execute and deliver such additional documents and to perform such additional acts as may become necessary to effectuate the transfers contemplated by this Agreement.

22. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the sale of the Premises. All contemporaneous or prior negotiations have been merged into this Agreement. This Agreement may be modified or amended only by written instrument signed by the parties to this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

    For purposes of this Agreement, the phrase "Effective Date of this Agreement" shall be the date upon which this Agreement is fully executed pursuant to Section 32 or 33 below, whichever may apply.

23. **Earnest Money.** Buyer gives ~~Ron~~ C&A Commercial, REALTOR, Five (5) days to obtain the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding agreement between Buyer and Seller. Buyer shall deposit $ 5000— with REALTOR ☐ with this offer; ☐ within ______ after acceptance of this offer; OR ☑ upon acceptance of this offer, evidencing Buyer's good faith, to be held by the REALTOR and to apply on the purchase price or the down payment portion thereof where applicable. If this offer is not accepted or the title is not marketable or if the purchase is contingent upon conditions specified which cannot be met, this deposit shall be promptly refunded. If the Buyer defaults, all deposits made may be forfeited as liquidated damages at Seller's election or, alternatively, Seller may retain the deposits as part payment of the purchase price and pursue Seller's legal or equitable remedies against Buyer. If the sale is not closed according to its terms, the selling REALTOR may notify Buyer and Seller of REALTOR'S intended disposition of the earnest money deposit, and all parties shall be deemed to have agreed to the disposition of the earnest money deposit unless REALTOR is notified of a court action pending concerning this sale or disposition of earnest money within sixty (60) days after notice to the parties.

24. **Disclosure of Price and Terms.** The purchase price and the terms of this sale may be disclosed by the Commercial Alliance of REALTORS® in the ordinary conduct of its business. Deletion of this paragraph shall not be considered a counter offer which would require a counter acceptance.

25. **Credit Reports.** Buyer consents that, if not otherwise prohibited, the REALTOR may give Seller information about the Buyer contained in a credit report which may be furnished to the REALTOR by a reporting agency.

26. **Advice of Counsel.** Buyer acknowledges that the REALTOR has recommended that Buyer retain an attorney to pass upon the marketability of title, to ascertain that the terms of the sale are adhered to before the transaction is closed and to advise with respect to the Notice referenced in Paragraph 27 hereof.

Property Address 2030 Lot 7 Sunny Dr.

Buyer's Initials Seller's Initials DP

27. **Environmental.**

a. **Notice to sellers, buyers, landlords and tenants (environmental risks).**
Whenever property is acquired or occupied, the buyer incurs some degree of risk with regard to potential environmental contamination and/or protected natural resources on the property. Various federal, state and local laws may impose liability upon the buyer for the remediation of the contamination even though the buyer did not cause it, or may restrict the buyer's ability to fully develop or utilize the property. Such risk can be minimized through the performance of environmental due diligence.

No real estate broker/salespersons in this transaction possess the expertise necessary to assess the nature or extent of these environmental risks or to determine the presence of environmental contamination or protected natural resources. The real estate broker/salespersons involved in this transaction do not make independent investigations as to environmental contamination or protected natural resources with respect to any property, and they make no representations regarding the presence or absence, now or in the past, of environmental contamination. It is therefore prudent for each party to this transaction to seek legal and technical counsel from professionals experienced in environmental matters to provide an evaluation of the environmental risks associated with the transaction

b. **Environmental reports and assessments.**

(1) Seller shall provide copies of any existing Environmental Assessments or reports involving the Premises within 5 calendar days after the Effective Date of this Agreement.

(2) At Buyer's option, Buyer shall be given access to the Premises during normal business hours to perform ☐ an ASTM E1528 Transaction Screen or ☐ an ASTM E1527 Phase I Site Assessment (individually or collectively the "Environmental Assessment"). Buyer shall pay ________% and Seller shall pay ________% of the cost of the Environmental Assessment. The Environmental Assessment shall be ordered by the ☐ Buyer ☐ Seller. The Environmental Assessment shall be completed within ________ calendar days after the Effective Date of this Agreement and shall be certified to ________________.

(3) If an Environmental Assessment of the Premises reveals recognized environmental conditions as defined by ASTM, then Buyer shall have the right to:
(a) terminate this Agreement within ________ calendar days after receipt of the Environmental Assessment report; or
(b) provide Seller with the Environmental Addendum to Buy and Sell Agreement (Seller's refusal to execute the Environmental Addendum within ________ days shall, at Buyer's option, terminate this Agreement); or
(c) proceed with the purchase.

(4) For residential housing units, Seller will attach either the Seller's acknowledgment Form Concerning Lead-Based Paint or a Lead-Based Paint Seller's Disclosure form, depending on whether the improvements were built prior to 1978 or 1978 or later.

c. **Nondisclosure.**
If Buyer exercises its right to terminate this Agreement pursuant to subparagraph b. above, Buyer shall not disclose its Environmental Assessment report(s) to any third-party. At Seller's request, Buyer shall provide copies of any Environmental Assessment report(s) to Seller.

d. **Other:**

28. **Brokerage Fee.** Seller and/or Buyer agrees to pay the broker(s) involved in this transaction a brokerage fee as specified in any agency agreement or other written agreement between them. In the event no such agreement exists, ☐ Buyer ☐ Seller agrees to pay a brokerage fee of ________________. This brokerage fee shall be paid in full promptly after it is earned, but not later than any applicable closing. Unless otherwise previously agreed, Buyer and/or Seller agrees that the brokerage fee may be shared by the recipient with any cooperating broker who participates in the sale, in such amount as the recipient decides, without further disclosure to or consent from Buyer and/or Seller. Other:

29. **Other Provisions.**
· Subject to financing acceptable to buyer
· Subject municipal approval for intended use

Property Address 2030 Lot 2 Sunny Dr.

Buyer's Initials

Seller's Initials

30. **Index of Exhibits.**

Not Applicable	Attached	Seller to Furnish	Exhibit	Subject
/			A	Disclosure Regarding Real Estate Agency Relationships
/			B	Income and expense with respect to the operation of the Premises
/			C	Written leases and any tenancies not arising out of written leases
/			D	Service Contracts
/			E	List of Personal Property

Other Exhibits.

Attached	Seller to Furnish	Exhibit	Subject
		F	Addendum

31. **By signing below, Buyer acknowledges having read and received a copy of this Agreement.**

Witness: [signature]

Entity: CORP TO BE NAMED & [signature]

Buyer's Address: 13664 Ruckys Rd

Holland MI 49424

By: [signature]

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

Printed name of Signatory: DAN POSMA & [signature]

Its: OWNER

Buyer(s) Social Security Number(s) or Federal ID Number:

Bus. Phone: 616 994 6388 Fax:

E-Mail:

SELLER'S ACCEPTANCE

Date: 8-23-06 (time)

32. The above offer is hereby accepted: EXCEPT:

1/ THE PRICE TO BE $139,000 —

By signing below, Seller acknowledges having read and received a copy of this Agreement. If this Agreement is signed by Seller without any modification, this becomes the Effective Date of this Agreement.

Seller gives REALTOR above named until 5:00 PM (time) 8-28-06 (date), to obtain Buyer's written acceptance of counter offer, if any

Witness: [signature]

Entity: City of Muskegon

Seller's Address:

By: [signature]

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

Printed name of Signatory: Lonnd Anguilm

Its:

Seller(s) Social Security Number(s) or Federal ID Number

Bus. Phone (231) 724 6702 Fax

E-Mail:

BUYER'S RECEIPT OF ACCEPTANCE SEE ADDENDUM #1 Date: 9-11-06 (time)

33. Buyer acknowledges receipt of Seller's acceptance of Buyer's offer. If the acceptance was subject to changes from Buyer's offer, the Buyer agrees to accept those changes, all other terms and conditions remaining unchanged. If this Agreement is signed by the Buyer without any modification, this becomes the Effective Date of this Agreement.

Witness: Buyer: [signature]

SELLER'S RECEIPT OF ACCEPTANCE

Date (time)

34. Seller acknowledges receipt of a copy of the Buyer's acceptance of the counter-offer (if Seller made a counter-offer)

Witness: Seller:

Property Address 2030 LOTZ SUNNY/DR.

[initials] Buyer's Initials BB [initials] Seller's Initials

DP

#1

WEST MICHIGAN REGIONAL
ADDENDUM TO PURCHASE AGREEMENT

MLS # ________ Date: 9-11-06 ________ A.M./P.M.

Listing Office C&A COMMERCIAL, REALTOR® Phone ________ Fax ________

Selling Office C&A COMMERCIAL, REALTOR® Phone ________ Fax ________

1. Addendum to Purchase Agreement dated 8-16-06, covering property at 2030 - LOT 2 SEAWAY DRIVE

and legally described as: PART OF 019-172

2. This Addendum to be an integral part of the Purchase Agreement, which is amended as follows:

1. THE PURCHASE PRICE TO BE $135,000 -

2. C&A COMMERCIAL TO DROP IT'S COMMISSION FROM 10% TO 8%

3. The Seller / Buyer (circle one) gives the above-named REALTOR® ________ days to obtain the written acceptance of this Addendum to the Purchase Agreement. If accepted, this Addendum will constitute a binding change to the Purchase Agreement. If the Addendum is not accepted within the time period specified, this Addendum shall be void and the existing terms of the Purchase Agreement shall continue to apply.

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

Date 9-11-06 X [signature] Buyer
(Note: Please sign as you wish your name to appear on final papers.)

Witness ________ X [signature] Buyer
(Note: Please sign as you wish your name to appear on final papers.)

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

Date 9-12-06 X [signature] Seller
(Note: Please sign as you wish your name to appear on final papers.)
for the City of Muskegon

Witness [signature] X ________ Seller
(Note: Please sign as you wish your name to appear on final papers.)

©West Michigan REALTOR® Boards, 1998
Form #23 Rev. Date 1/98

REALTOR®

COMMERCIAL ALLIANCE OF REALTORS®

BUY AND SELL AGREEMENT
FOR OFFICE, COMMERCIAL, INDUSTRIAL AND MULTI-FAMILY PROPERTY

Office of C&A COMMERCIAL, REALTOR®

MUSKEGON (city), Michigan Phone: 830 2071 Fax:

Email: Date: 8-16-06 (time)

1. The undersigned Buyer and Seller each acknowledge the Selling Salesperson is acting as (check one):
☑ Subagent of the Seller ☐ Agent of the Buyer ☐ Dual Agent (with written, informed consent of both Buyer and Seller)
☐ Other (specify) :

2. **Buyer's Offer.** The undersigned (the "Buyer") offers and agrees to purchase the property located in the City of MUSKEGON, MUSKEGON County, Michigan, commonly known as 2030 - LOT 2 SEAWAY DR

Permanent Parcel Number 6124 1311 0000 600 NOT correct should be -10 and legally described as follows:
IN OFFICE

(the "Land"), together with all buildings, fixtures and improvements situated on the Land (the "Improvements"), and all equipment and other personal property appurtenant to and currently used in connection with the Improvements including personal property as described in Exhibit E (the "Personal Property"), all of which is collectively referred to herein as the "Premises", except the following:

3. **Purchase Price.** The purchase price for the Premises is:
ONE Hundred Thirty Thousand dollars
Dollars ($ 130,000) Any allocation of the purchase price between Land, Improvements, and Personal Property shall be set forth on an attached Exhibit.

4. **Terms of Payment** shall be as indicated by "X" below (other unmarked terms of purchase do not apply).
☐ **Cash.** The Buyer shall pay the full purchase price to the Seller upon execution and delivery of a warranty deed and performance by Seller of the closing obligations specified in Section 17 below.
☑ **New Mortgage.** The Buyer shall pay the full purchase price to the Seller upon execution and delivery of a warranty deed and performance by Seller of the closing obligations specified in Section 17 below, contingent upon the Buyer's ability to obtain a COMMERCIAL type 15 year mortgage loan in the amount of $ TBD bearing interest at a rate no greater than _______% per annum. The Buyer shall apply for the mortgage loan immediately and accept it promptly if tendered. If Buyer does not deliver to Seller on or before _______(date), proof that Buyer has accepted a mortgage loan commitment, Seller may thereafter at any time treat this contingency as not having been satisfied and terminate this Agreement by written notice to Buyer, unless Buyer has waived this contingency in writing, prior to the date indicated in this paragraph.
☐ Contract ☐ **Purchase Money Mortgage.** The Buyer shall pay the full purchase price to the Seller pursuant to the terms and conditions stated in a West Michigan Regional Form Number 1 Land Contract or a Purchase Money Mortgage upon performance by Seller of the closing obligations specified in Section 17 below. The Land Contract or Purchase Money Mortgage shall provide a down payment of $_______ and payment of the balance $_______ in _______ installments of $_______ or more, at Buyer's option, including interest at the rate of _______% per annum computed monthly, interest to start on date of closing, and first payment to become due _______ days after date of closing. The entire unpaid balance will become due and payable _______ months after closing.
Seller understands that consummation of the sale or transfer of the Premises shall not relieve the Seller of any liability that Seller may have under the mortgage(s) to which the Premises are subject, unless otherwise agreed to by the lender or required by law or regulation.
Additional Provisions:

5. **Survey.** A ☐ new ☐ recertified ☑ existing ☐ boundary survey with iron corner stakes and with all easements of record, improvements, and encroachments (if any); and/or ☐ ALTA survey showing all easements of record, improvements, and encroachments, if any, shall be provided by ☐ Buyer ☐ Seller as soon as possible after the later to occur of (i) the title insurance commitment referenced in Section 6 below is delivered to the party responsible for the survey; and (ii) Buyer's right to terminate under Section 7 below is waived or deemed to have been waived. If the survey reveals a matter that materially and adversely affects the value of the Property or Buyer's intended use of the Property, Buyer shall have the right to terminate this Agreement by giving Seller written notice within _______ (____) calendar days after copies of both the survey and title commitment referenced in Section 6 below are delivered to Buyer, otherwise Buyer's right to terminate this Agreement pursuant to this Section shall be deemed to have been waived. Other:

6. **Title Insurance.** At Seller's expense, Seller shall provide Buyer with a standard ALTA owner's policy of title insurance in the amount of the purchase price, effective as of the date of closing. A commitment to issue such policy insuring marketable title (as defined in Section 10 below) vested in Buyer, including a tax status report, shall be ordered within seven (7) calendar days after the Effective Date of this Agreement, and shall be delivered as soon as feasible thereafter. If any matter disclosed by the title commitment adversely and materially affects the value of the Property or Buyer's intended use of the Property, Buyer shall have the right to terminate this Agreement by giving Seller written notice within Five (5) calendar days after copies of both the title commitment and survey referenced in Section 5 above are delivered to Buyer, otherwise Buyer's right to terminate this Agreement pursuant to this Section shall be deemed to have been waived. A matter disclosed on the title commitment that is in the form of a lien that is liquidated in amount and that can be readily discharged (such as a mortgage) shall not be grounds for termination of this Agreement by Buyer under this Section so long as Seller discharges such lien(s) at the closing. Other:

7. **Inspections.** By signing this Agreement, Buyer is representing that the Buyer is aware that inspection services of buildings and building components and systems are commercially available at a fee. Buyer has the right to inspect the buildings and building components and systems or have the buildings and building components and systems inspected by experts selected by the Buyer. The Buyer has elected to arrange and pay for inspections including, but not limited to, the following:
☒ No Inspections ☐ Plumbing ☐ Heating, Ventilating & Air Conditioning ☐ Electrical
☐ Structural, including roof ☐ Termites and other wood destroying insects ☐ Other (specify):

The Buyer shall have the right to terminate this Agreement if the inspection reports are not acceptable to the Buyer by giving Seller written notice within ________ calendar days after the Effective Date of this Agreement, otherwise the right to terminate shall be deemed to have been waived.

Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether made intentionally or negligently) regarding any aspect of the Premises 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 the Seller. Accordingly, Buyer agrees to accept the Premises "as is" and "with all faults" (whether obvious or concealed), except as otherwise expressly provided in the documents specified in the preceding sentence. Other:

8. **Closing Adjustments.** The following adjustments shall be made between the parties as of the close of business on the closing date, with the Buyer receiving a credit or assuming responsibility, as the case may be, for amounts attributable to time periods following the closing date:
a. Prepaid rent and Additional Rent (as defined in the paragraph);
b. Interest on any existing indebtedness assumed by Buyer;
c. Charges for any transferable service contracts assigned to Buyer described in Exhibit D;
d. Utility deposits;
e. Security deposits;
f. All operating expenses including, but not limited to, CAM, taxes, insurance, plus Additional Rent shall be allocated accurately between the parties pursuant to the leases.

If any tenant is late, delinquent or otherwise in default in the payment of rent on the closing date, Seller shall assign to Buyer the claim for and the right to collect the rent; Buyer shall pay such past due rent to Seller promptly upon receipt, but Buyer shall not be obligated to file suit to collect such rent and shall reassign the claim to Seller on demand. If any tenants are required to pay percentage rent, escalation charges for real estate taxes, operating expenses, cost-of-living adjustments or other charges of a similar nature ('Additional Rent') and any Additional Rent is collected by Buyer after closing attributable in whole or in part to any period prior to closing, Buyer shall promptly pay to Seller Seller's proportionate share of the Additional Rent. Other:

9. **Property Taxes.** Seller shall pay delinquent property taxes. The current year's property taxes will be paid as follows (choose one):
☐ No proration:
☐ Buyer ☐ Seller shall pay taxes billed Summer ________ (year).
☐ Buyer ☐ Seller shall pay taxes billed Winter ________ (year).
☐ Calendar Year Proration (all taxes billed or to be billed in the year of closing). Calendar year tax levies will be estimated, if necessary, using taxable value on the day of closing, broken down to a per diem tax payment and prorated to day of closing with Seller paying for January 1 to day of closing.
Raw Land

Special Assessments and deferred assessments, whether due in installments or otherwise, which are due and payable on or before the Effective Date of this Agreement shall be paid by Seller. All other special assessments, including deferred assessments, for improvements now installed, not yet installed, or in the process of being installed, that are first due and payable after the Effective Date of this Agreement shall be paid by Buyer. Other:

10. Conveyance. Upon performance by Buyer of the closing obligations specified in Section 18 below, Seller shall convey the marketable title to the Premises to Buyer by warranty deed or agree to convey marketable title by land contract or assignment, as required by Section 4 above, including oil, gas, and other mineral rights, subject only to existing zoning ordinances, and to building and use restrictions, easements, and reservations of record, if any. As used herein, "marketable title" means marketable title within the meaning of the Michigan 40-Year Marketable Title Act (Mich. Comp. Laws §§ 565.101 et seq.).
The following paragraph applies only if the Premises include unplatted land:
Seller agrees to grant Buyer at closing the right to make (insert number) Max Allows 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 ______ (date), of the proposed division to create the Premises. Other:

______

______

______

11. Warranties of Buyer. Except as otherwise provided or acknowledged in this Agreement, Buyer represents and warrants to Seller as follows:
a. The performance of the obligations of Buyer under this Agreement will not violate any contract indenture, statute, ordinance, judicial or administrative order or judgment applicable to Buyer.
b. There is no litigation or proceeding pending, or to the Buyer's knowledge threatened, against or involving the Buyer, and the Buyer does not know or have reason to know of any ground for any such litigation or proceeding, which could have an adverse impact on Seller or Seller's interests under this Agreement.
c. In entering into this Agreement, Buyer has not relied upon any written or verbal representations made by Seller or any representative of Seller, including any real estate salesperson, regarding the Premises or any aspect of this transaction, which are not expressly set forth in this Agreement.
Other:

______

______

______

12. Warranties of Seller. Except as otherwise provided or acknowledged in this Agreement, Seller represents and warrants to, and agrees with Buyer as follows:
a. Seller's interest in the Premises shall be transferred to Buyer on the closing date, free from liens, encumbrances and claims of others.
b. The performance of the obligations of Seller under this Agreement will not violate any contract, indenture, statute, ordinance, judicial or administrative order or judgment applicable to Seller or the Premises.
c. There is no litigation or proceeding pending or to the Seller's knowledge threatened, against or involving the Seller or the Premises, and the Seller does not know or have reason to know of any ground for any such litigation or proceeding which could have an adverse impact on Buyer or Buyer's title to and use of the Premises, before or after closing.
d. Seller shall continue to operate the Premises in the ordinary course of business and maintain the Premises in a state of good condition and repair during the interim between the signing of this Agreement and the closing date.
e. If a statement(s) of income and expense with respect to the operation of the Premises is(are) described in Exhibit B, such statement(s) is(are) accurate for the period(s) designated in the statement(s).
f. The information concerning written leases and any tenancies not arising out of written leases described in Exhibit C is accurate as of the Effective Date of this Agreement, and there are no leases or tenancies with respect to the Premises other than those described in Exhibit C (the "Leases"). Except as otherwise described in Exhibit C:
(1) All of the leases are in full force and effect, no party thereto is in material default thereunder, and none of them have been modified, amended or extended;
(2) No renewal or extension options have been granted to tenants;
(3) No tenant has an option to purchase the Premises;
(4) The rents set forth are being collected on a current basis and there are no arrearages in excess of one month;
(5) There are no security deposits, and
(6) No real estate brokerage commission will become payable under any existing arrangement upon exercise of any options or other right to extend or renew the term of any lease or purchase of the Premises.
g. If a schedule of service, maintenance, supply and management contracts ("Service Contracts") is described in Exhibit D, the Exhibit lists all the Service Contracts currently in effect with respect to the Premises.
h. The Premises will be in compliance with any applicable smoke detector ordinances as of the closing date.
i. With respect to underlying land contracts or mortgages, the sale will not accelerate indebtedness, increase interest rates, or impose penalties and sanctions.
j. Seller is without personal knowledge as to the presence on the Premises of any toxic or hazardous substances or of any underground storage tanks.
k. Other:

______

______

13. Sidewalk Inspection. If Premises is in a municipality that requires a sidewalk inspection, Seller shall order the inspection and pay for any repairs deemed necessary by the municipality, so that the Premises will be in compliance with any applicable sidewalk ordinance as of the closing date.

14. Damage to Premises. If between the Effective Date of this Agreement and the closing date, all or any part of the Premises is damaged by fire or natural elements or other causes beyond the Seller's control which cannot be repaired prior to the closing date, or any part of the Premises is taken pursuant to any power of eminent domain, Seller shall immediately notify Buyer of such occurrence, and either Seller or Buyer may terminate this Agreement by written notice to the other within fifteen (15) days after the date of the damage or taking. If neither elects to terminate this Agreement, there shall be no reduction of the purchase price and at closing Seller shall assign to Buyer whatever rights Seller may have with respect to any insurance proceeds or eminent domain award.

Buyer's Initials DP

Seller's Initials BP DP

15. **Closing.** The closing shall be held on or before OCT 5, 2006 and as promptly as practical after all necessary documents have been prepared. An additional period of thirty (30) days shall be allowed for closing to accommodate delays in title work or the correction of title defects and/or survey problems which can be readily correctable, delays in obtaining any required inspections, surveys or repairs, delays in completing Environmental Site Assessments, Baseline Environmental Assessment or Due Care Plan/Section 7a Compliance Analysis (if such assessments or plans were ordered in a timely manner), or if the terms of purchase require participation of a lender and the lender has issued a commitment consistent with the requirement but is unable to participate in a closing on or before the required date

16. **Possession.** Seller shall tender to Buyer possession of the Premises upon completion of the closing, subject to all existing leases and rights of tenants in possession. Upon Seller's acceptance, or Buyer's acceptance of a counter offer, Buyer shall have the right to enter upon the Premises during reasonable business hours for purposes of inspections and tests; provided, however, that such inspections and testing shall not unreasonably interfere with the rights of tenants in possession and shall not cause physical damage to the Premises. Other: ______

17. **Seller's Closing Obligations.** At closing, Seller shall deliver the following to Buyer:
a. The warranty deed, land contract or assignment of land contract required by Section 4 of this Agreement.
b. A bill of sale for any Personal Property (described in Exhibit "E")
c. A written assignment by Seller of Seller's interest in all leases and a transfer to Buyer of all security deposits, accompanies by the original or a true copy of each lease.
d. An assignment of all Seller's rights under any Service Contracts described in Exhibit D which are assignable by their terms and which Buyer wishes to assume, together with an original or true copy of each Service Contract assigned.
e. A notice to any tenants advising the tenants of the sale and directing that future payments be made to Buyer.
f. Any other documents required by this Agreement to be delivered by Seller.
g. An accounting of operating expenses including, but not limited to, CAM, taxes, insurance, plus Additional Rent, collected in advance or arrears, spent or not yet spent by Seller, showing an accurate allocation between the parties pursuant to the leases.

18. **Buyer's Closing Obligations.** At closing, Buyer shall deliver to Seller the following:
a. The cash portion of the purchase price specified in Section 4 above shall be paid by cashier's check or other immediately available funds, as adjusted by the apportionments and assignments in accordance with this Agreement.
b. A written assumption by Buyer of the obligations of Seller under the leases arising after closing, including an acknowledgment of the receipt of all security deposits.
c. Any other documents required by this Agreement to be delivered by Buyer.

19. **1031 Tax Deferred Exchange.** Upon either party's request, the other party shall cooperate and reasonably assist the requesting party in structuring the purchase and sale contemplated by this Agreement as part of a tax deferred, like-kind exchange under Section 1031 of the Internal Revenue Code of 1986, as amended; provided, however, that in connection therewith, the nonrequesting party shall not be required to (a) incur any additional costs or expenses; (b) take legal title to additional real property (i.e., the requesting party's "replacement property" or "relinquished property"); or (c) agree to delay the closing.

20. **Notices.** Unless otherwise stated in this Agreement, a notice required or permitted by this Agreement shall be sufficient if in writing and either delivered personally or by certified mail or other form of documentable delivery addressed to the parties at their addresses specified in the proximity of their signatures below, and any notices given by mail shall be deemed to have been given as of the date of the postmark.

21. **Additional Acts.** Buyer and Seller agree to execute and deliver such additional documents and to perform such additional acts as may become necessary to effectuate the transfers contemplated by this Agreement.

22. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the sale of the Premises. All contemporaneous or prior negotiations have been merged into this Agreement. This Agreement may be modified or amended only by written instrument signed by the parties to this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

For purposes of this Agreement, the phrase "Effective Date of this Agreement" shall be the date upon which this Agreement is fully executed pursuant to Section 32 or 33 below, whichever may apply.

23. **Earnest Money.** Buyer gives ~~Mor~~ C&A Commercial, REALTOR, Five (5) days to obtain the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding agreement between Buyer and Seller. Buyer shall deposit $ 5000 — with REALTOR ☐ with this offer; ☐ within ______ after acceptance of this offer; OR ☑ upon acceptance of this offer, evidencing Buyer's good faith, to be held by the REALTOR and to apply on the purchase price or the down payment portion thereof where applicable. If this offer is not accepted or the title is not marketable or if the purchase is contingent upon conditions specified which cannot be met, this deposit shall be promptly refunded. If the Buyer defaults, all deposits made may be forfeited as liquidated damages at Seller's election or, alternatively, Seller may retain the deposits as part payment of the purchase price and pursue Seller's legal or equitable remedies against Buyer. If the sale is not closed according to its terms, the selling REALTOR may notify Buyer and Seller of REALTOR'S intended disposition of the earnest money deposit, and all parties shall be deemed to have agreed to the disposition of the earnest money deposit unless REALTOR is notified of a court action pending concerning this sale or disposition of earnest money within sixty (60) days after notice to the parties.

24. **Disclosure of Price and Terms.** The purchase price and the terms of this sale may be disclosed by the Commercial Alliance of REALTORS® in the ordinary conduct of its business. Deletion of this paragraph shall not be considered a counter offer which would require a counter acceptance.

25. **Credit Reports.** Buyer consents that, if not otherwise prohibited, the REALTOR may give Seller information about the Buyer contained in a credit report which may be furnished to the REALTOR by a reporting agency.

26. **Advice of Counsel.** Buyer acknowledges that the REALTOR has recommended that Buyer retain an attorney to pass upon the marketability of title, to ascertain that the terms of the sale are adhered to before the transaction is closed and to advise with respect to the Notice referenced in Paragraph 27 hereof.

Property Address 2030 Lot 2 Sunny Dr.

Buyer's Initials ☐ Seller's Initials ☐ DP

27. Environmental.

a. **Notice to sellers, buyers, landlords and tenants (environmental risks).**
Whenever property is acquired or occupied, the buyer incurs some degree of risk with regard to potential environmental contamination and/or protected natural resources on the property. Various federal, state and local laws may impose liability upon the buyer for the remediation of the contamination even though the buyer did not cause it, or may restrict the buyer's ability to fully develop or utilize the property. Such risk can be minimized through the performance of environmental due diligence.

No real estate broker/salespersons in this transaction possess the expertise necessary to assess the nature or extent of these environmental risks or to determine the presence of environmental contamination or protected natural resources. The real estate broker/salespersons involved in this transaction do not make independent investigations as to environmental contamination or protected natural resources with respect to any property, and they make no representations regarding the presence or absence, now or in the past, of environmental contamination. It is therefore prudent for each party to this transaction to seek legal and technical counsel from professionals experienced in environmental matters to provide an evaluation of the environmental risks associated with the transaction

b. **Environmental reports and assessments.**

(1) Seller shall provide copies of any existing Environmental Assessments or reports involving the Premises within 5 calendar days after the Effective Date of this Agreement.

(2) At Buyer's option, Buyer shall be given access to the Premises during normal business hours to perform ☐ an ASTM E1528 Transaction Screen or ☐ an ASTM E1527 Phase I Site Assessment (individually or collectively the "Environmental Assessment"). Buyer shall pay ________% and Seller shall pay ________% of the cost of the Environmental Assessment. The Environmental Assessment shall be ordered by the ☐ Buyer ☐ Seller. The Environmental Assessment shall be completed within ________ calendar days after the Effective Date of this Agreement and shall be certified to ________________.

(3) If an Environmental Assessment of the Premises reveals recognized environmental conditions as defined by ASTM, then Buyer shall have the right to:
(a) terminate this Agreement within ________ calendar days after receipt of the Environmental Assessment report; or
(b) provide Seller with the Environmental Addendum to Buy and Sell Agreement (Seller's refusal to execute the Environmental Addendum within ________ days shall, at Buyer's option, terminate this Agreement); or
(c) proceed with the purchase.

(4) For residential housing units, Seller will attach either the Seller's acknowledgment Form Concerning Lead-Based Paint or a Lead-Based Paint Seller's Disclosure form, depending on whether the improvements were built prior to 1978 or 1978 or later.

c. **Nondisclosure.**
If Buyer exercises its right to terminate this Agreement pursuant to subparagraph b. above, Buyer shall not disclose its Environmental Assessment report(s) to any third-party. At Seller's request, Buyer shall provide copies of any Environmental Assessment report(s) to Seller.

d. **Other:** ________________

28. **Brokerage Fee.** Seller and/or Buyer agrees to pay the broker(s) involved in this transaction a brokerage fee as specified in any agency agreement or other written agreement between them. In the event no such agreement exists, ☐ Buyer ☐ Seller agrees to pay a brokerage fee of ________________. This brokerage fee shall be paid in full promptly after it is earned, but not later than any applicable closing. Unless otherwise previously agreed, Buyer and/or Seller agrees that the brokerage fee may be shared by the recipient with any cooperating broker who participates in the sale, in such amount as the recipient decides, without further disclosure to or consent from Buyer and/or Seller. Other: ________________

29. **Other Provisions.**
· Subject to financing acceptable to Buyer
· Subject Municipal Approval for intended use

Property Address 2030 Lot 2 Sauny Dr.

Buyer's Initials   BR Seller's Initials OP

30. **Index of Exhibits.**

Not Applicable	Attached	Seller to Furnish	Exhibit	Subject
/			A	Disclosure Regarding Real Estate Agency Relationships
/			B	Income and expense with respect to the operation of the Premises
/			C	Written leases and any tenancies not arising out of written leases
/			D	Service Contracts
/			E	List of Personal Property

Other Exhibits.

Attached	Seller to Furnish	Exhibit	Subject
		F	Addendum

31. **By signing below, Buyer acknowledges having read and received a copy of this Agreement.**

Witness: [signature]

Buyer's Address: 13664 Ruckys Rd
Holland MI 49424

Buyer(s) Social Security Number(s) or Federal ID Number:

Entity: Corp to be named
By: [signature] (Note: Please sign as you wish your name to appear on the legal papers.)
Printed name of Signatory: Dan Posma
Its: owner
Bus. Phone: 616 994 6388 Fax:
E-Mail:
Date: 8-23-06 (time)

SELLER'S ACCEPTANCE

32. The above offer is hereby accepted: except:

1/ The price to be $139,000 —

By signing below, Seller acknowledges having read and received a copy of this Agreement. If this Agreement is signed by Seller without any modification, this becomes the Effective Date of this Agreement.

Seller gives REALTOR above named until 5:00 pm (time) 8-28-06 (date), to obtain Buyer's written acceptance of counter offer, if any

Witness: [signature]

Seller's Address:

Seller(s) Social Security Number(s) or Federal ID Number

Entity: City of Muskegon
By: [signature] (Note: Please sign as you wish your name to appear on the final papers.)
Printed name of Signatory: Lonnie Anguilm
Its:
Bus. Phone: (231) 724 6702 Fax
E-Mail:

BUYER'S RECEIPT OF ACCEPTANCE see addendum #1 Date 9-11-06 (time)

33. Buyer acknowledges receipt of Seller's acceptance of Buyer's offer. If the acceptance was subject to changes from Buyer's offer, the Buyer agrees to accept those changes, all other terms and conditions remaining unchanged. If this Agreement is signed by the Buyer without any modification, this becomes the Effective Date of this Agreement.

Witness:

Buyer: [signature]

SELLER'S RECEIPT OF ACCEPTANCE Date (time)

34. Seller acknowledges receipt of a copy of the Buyer's acceptance of the counter-offer (if Seller made a counter-offer)

Witness:

Seller:

Buyer's Initials BK DP Seller's Initials

#1

WEST MICHIGAN REGIONAL
ADDENDUM TO PURCHASE AGREEMENT

MLS # ______ Date: 9-11- 19 06 ______ A.M./P.M.

Listing Office C&A COMMERCIAL, REALTOR® Phone ______ Fax ______

Selling Office C&A COMMERCIAL, REALTOR® Phone ______ Fax ______

1. Addendum to Purchase Agreement dated 8-16-06 covering property at 2030 - LOT 2 SEAWAY DRIVE

and legally described as: PART OF OFFER

2. This Addendum to be an integral part of the Purchase Agreement, which is amended as follows:

1. THE PURCHASE PRICE TO BE $135,000 -

2. C&A COMMERCIAL TO DROP IT'S COMMISSION FROM 10% TO 8%

3. The Seller / Buyer (circle one) gives the above-named REALTOR® ______ days to obtain the written acceptance of this Addendum to the Purchase Agreement. If accepted, this Addendum will constitute a binding change to the Purchase Agreement. If the Addendum is not accepted within the time period specified, this Addendum shall be void and the existing terms of the Purchase Agreement shall continue to apply.

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

Date 9-11-06 X X [signature] Buyer
(Note Please sign as you wish your name to appear on final papers.)

Witness ______ X [signature] Buyer
(Note Please sign as you wish your name to appear on final papers.)

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

Date 9-12-06 X [signature] Seller
(Note Please sign as you wish your name to appear on final papers.)

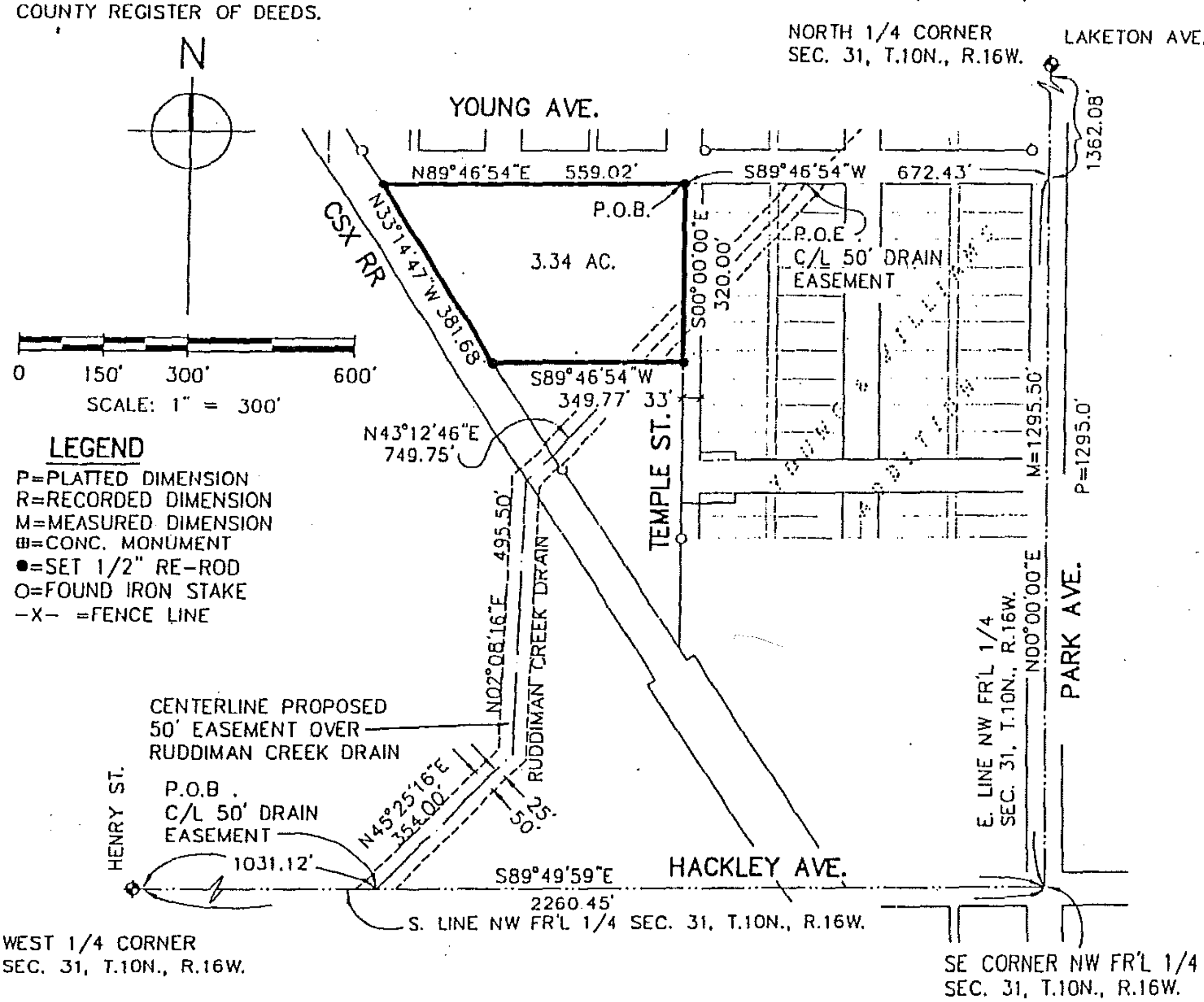
Witness [signature] X for the City of Muskegon Seller
(Note Please sign as you wish your name to appear on final papers.)

DESCRIPTION:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHWEST FRACTIONAL 1/4 OF SECTION 31, T.10N., R.16W., CITY OF MUSKEGON, MUSKEGON COUNTY, MICHIGAN THENCE N00°00'00"E 1295.50 FEET ALONG THE EAST LINE OF SAID NORTHWEST FRACTIONAL 1/4; THENCE S89°46'54"W 672.43 FEET ALONG THE SOUTH RIGHT OF WAY LINE OF YOUNG AVENUE AND ITS EXTENSION IN YOUNG AND WILLIAMS ADDITION AS RECORDED IN LIBER 3 OF PLATS, PAGE 39, MUSKEGON COUNTY RECORDS FOR POINT OF BEGINNING; THENCE S00°00'00"E 320.00 FEET ALONG THE WEST RIGHT OF WAY LINE OF TEMPLE STREET; THENCE S89°46'54"W 349.77 FEET; THENCE N33°14'47"W 381.68 FEET ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF THE CSX RAILROAD; THENCE N89°46'54"E 559.02 FEET ALONG SAID SOUTH RIGHT OF WAY LINE OF YOUNG AVENUE TO POINT OF BEGINNING.

PROPOSED EASEMENT OVER RUDDIMAN CREEK DRAIN:
THAT PART OF THE FOLLOWING DESCRIBED EASEMENT LYING OVER AND ACROSS THE ABOVE PARCEL:
A 50 FOOT WIDE STRIP OF LAND, CENTERLINE DESCRIBED AS: COMMENCING AT THE WEST 1/4 CORNER OF SECTION 31, T.10N., R.16W., CITY OF MUSKEGON, MUSKEGON COUNTY, MICHIGAN THENCE S89°49'59"E 1031.12 FEET ALONG THE SOUTH LINE OF THE NORTHWEST FRACTIONAL 1/4 OF SAID SECTION 31 FOR POINT OF BEGINNING OF SAID CENTERLINE; THENCE N45°25'16"E 354.00 FEET; THENCE N02°08'16"E 495.50 FEET; THENCE N43°12'46"E 749.75 FEET FOR POINT OF ENDING OF SAID CENTERLINE ON THE SOUTH RIGHT OF WAY LINE OF YOUNG AVENUE IN YOUNG & WILLIAMS ADDITION, CITY OF MUSKEGON, MUSKEGON COUNTY, MICHIGAN AS RECORDED IN LIBER 3 OF PLATS, PAGE 39, MUSKEGON COUNTY REGISTER OF DEEDS.
THE SIDELINES OF SAID 50 FOOT WIDE STRIP OF LAND EXTEND OR SHORTEN TO ALLOW NO GAPS OR OVERLAPS.

NOTE: BEARINGS BASED ON THE EAST LINE OF THE NORTHWEST FRACTIONAL 1/4 OF SECTION 31, T.10N., R.16W. PER PLAT OF YOUNG & WILLIAMS ADDITION AS RECORDED IN LIBER 3 OF PLATS, PAGE 39, MUSKEGON COUNTY REGISTER OF DEEDS.



SURVEY FOR: CITY OF MUSKEGON
933 TERRACE STREET
MUSKEGON, MICHIGAN 49443-0536

RE: SEC. 31, T.10N., R.16W. PARCEL "B"

I HEREBY DECLARE THAT THE LAND HEREIN DESCRIBED WAS SURVEYED UNDER MY DIRECT SUPERVISION TO THE BEST OF OUR ABILITY AND KNOWLEDGE. THE ERROR OF CLOSURE IS NO GREATER THAN 1 IN 5000. ALL THE REQUIREMENTS OF P.A. 132, 1970 HAVE BEEN COMPLIED WITH

PURCHASE AGREEMENT ADDENDUM

The undersigned parties to the Purchase Agreement dated August 16, 2006 on the property known as Vacant Land Young Avenue, Muskegon, MI 49442, legally described as:

City Muskegon, County of Muskegon, State of Michigan:

Commencing at the Southeast corner of the Northwest fractional 1/4 of Section 31, Town 10 North, Range 16 West; thence North 00 degrees 00 minutes 00 seconds East 1295.50 feet along the East line of said Northwest fractional 1/4; thence South 89 degrees 46 minutes 54 seconds West 672.43 feet along the South Right of Way line of Young Avenue and its extension in Young and Williams Addition as recorded in Liber 3 of Plats, Page 39 for Point of Beginning; thence South 00 degrees 00 minutes 00 seconds East 320.00 feet along the West right of way line of Temple Street; thence South 89 degrees 46 minutes 54 seconds West 349.77 feet; thence North 33 degrees 14 minutes 47 seconds West 381.68 feet along the Northeasterly right of way line of the CSX Railroad; thence North 89 degrees 46 minutes 54 seconds East 559.02 feet along said South right of way line of Young Avenue to Point of Beginning.

also known as Property Address: Vacant Land Young Avenue, Muskegon, MI 49442
PIN: 61-24-131-100-0006-10

hereby mutually agree to amend said contract as follows:

CLOSING DATE TO BE DECEMBER 13, 2006; LEGAL DESCRIPTION IS AS DESCRIBED ABOVE; BUYER ACCEPTS EXISTING SURVEY; ALL TERMS OF PURCHASE AGREEMENT HAVE BEEN MET.

All other conditions of the Purchase Agreement to remain the same.

Dated: December 13, 2006

Seller(s)

City of Muskegon,
a Municipal Corporation

by: Lonna Anguilm
its: Zoning Administrator

Buyer(s)

DDBP, LLC

by: Daniel L. Posma, member

by: Brandon L. Posma, member

by: Danielle L. Posma, member

100640719

AFFIDAVIT BY SELLER or BORROWER

State of Michigan }
} s.s.
County of Muskegon }

The undersigned is/are either the seller(s) or the borrower(s). The undersigned deposes, states and warrants as follows:

1. That Seller(s) or Borrower(s) is/are the owner(s) of the real estate which is described as follows: See commitment number 100640719.
2. That, in the last six (6) months, the Seller(s) or Borrower(s) has not executed a mortgage, home equity loan or a line of credit that encumbers the real estate listed in paragraph 1, except for the following (write "none" if none executed): none.
3. That, in the last six (6) months, the Seller(s) or Borrower(s) has not purchased or installed windows for the residence located on the real estate listed in paragraph 1, except for the following (write "none" if none installed): none.
4. That, in the last six (6) months, the Seller(s) or Borrower(s) has not contracted for improvements or new construction to the real estate or residence listed in paragraph 1, except for the following (write "none" if no contracts executed): none.
5. That, in the last six (6) months, the Seller(s) or Borrower(s) has not received notice of and is not aware of any special assessments on the real estate, including but not limited to assessments for sidewalks, streets, sewer and water lines, except for the following (write "none" if no assessments): none.

The Seller(s) or Borrower(s) agree(s) to hold First American Title Insurance Company and its policy-issuing agent harmless from any loss or claim arising because of title insurance protection provided a purchaser or lender in reliance in whole or in part on the completeness and correctness of the representations or attestations made herein.

City of Muskegon,
a Municipal Corporation

by: Lonna Anguilm
its: Zoning Administrator

Subscribed and sworn before me this December 13, 2006.

Acting in the County of Muskegon

KATHY R. HARRIS, NOTARY PUBLIC
MUSKEGON COUNTY, STATE OF MICHIGAN
MY COMMISSION EXPIRES 1-17-2007

, Notary Public
County, Michigan
My Commission Expires:

Harbor Title Agency, Inc.
955 W. Broadway Avenue
Muskegon, MI 49441

Seller Statement
12/13/2006

Escrow No: 100640719

Seller:	City of Muskegon, a Municipal Corporation 933 Terrace Muskegon, MI 49442
Purchaser:	DDBP, LLC 13664 Rockys Road Holland, MI 49424
Property Address:	31/10/16 NW Vacant Land Young Avenue Muskegon, MI 49442

	Debits	Credits
Contract Sales Price		$135,000.00
Commission Paid at Settlement to C&A Commercial	$10,800.00	
Settlement or closing fee to Harbor Title Agency, Inc.	$125.00	
Title insurance to Harbor Title Agency, Inc.	$771.50	
Sub-totals	$11,696.50	$135,000.00
Balance Due To Seller		$123,303.50

By:
C&A Commercial
Broker

I/We hereby acknowledge receipt of this statement.

City of Muskegon,
a Municipal Corporation

by: Lonna Anguilm
its: Zoning Administrator

THE UNDERSIGNED, by the execution hereof, hereby (i) acknowledge that they have read the above and foregoing Closing Statement, (ii) acknowledge that the same is true and correct, and (iii) authorize and direct the Closing Agent to receive all amounts and disburse all amounts pursuant to the foregoing Closing Statement.

It is mutually understood and agreed the taxes are estimated and in case of adjustment same will be made between the parties hereto. The Closing Agent is relieved of any responsibility with the adjustment of said taxes.

CLOSING AGREEMENT

Property Address: Vacant Land Young Avenue, Muskegon, MI 49442

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that, I/we, as Seller(s), for valuable consideration, receipt of which is acknowledged, have bargained and sold and do grant and convey to the Buyer(s), in an "AS IS" condition with no warranty, either expressed or implied, the following goods and chattels: All items listed in the Purchase Agreement together with the following: **NOT APPLICABLE - VACANT LAND**

ACCEPTING PROPERTY

Buyer(s) understand and acknowledge, that he/she (they) is/are buying the property in an "AS IS" condition and that neither the Seller(s) nor Realtors make any warranties as to the structure(s) located upon the land purchased or the condition thereof. We agree to hold harmless the listing and/or selling broker, and/or their agents, the lender, and Harbor Title from any liability concerning this matter.

BUY AND SELL RESOLUTION

It is agreed, between the Buyer(s) and Seller(s) of this property, that all contingencies and addenda to the offer to purchase thereto, have been met or are hereby resolved or removed to the satisfaction of the parties concerned. We agree to hold harmless the listing and/or selling broker, and/or their agents, the lender, and Harbor Title from any liability concerning this matter. Buyer will be responsible for all the taxes billed after the date of closing.

SELLERS AFFIDAVIT

The undersigned Seller(s) represent and warrant to the Buyer(s), and Harbor Title that I/we have no knowledge of any proceedings instituted or taken by anyone which will result in a lien or special assessment upon the premises. That I/we have no knowledge of any delinquent taxes, special assessments, water bills, utility bills, furnished or financed insulation, or Homeowners Association fees covering subject property, except as follows:

Seller(s) further agree that in the event it is determined there are unpaid fees for any of the above specified items for amounts due and payable prior to and including the date of closing or which become due after the date of closing, and which are the responsibility and obligation of the Seller(s), that the Seller(s) shall pay any and all amounts as so charged as their obligation and responsibility during the time they had possession of said property, and shall provide proof of payment of same to listing and selling broker, Harbor Title and Buyer(s) of said property.

Seller(s) have not undertaken, within the past three (3) months, to have any work performed or materials furnished to the premises, which could give rise to any claim of a mechanic's lien against the premises.

Seller(s) further agree to pay any final water/sewer bills charged as their obligation and responsibility during the time they had possession of the property and shall hold harmless the lender, the Selling/Listing Realtors and Harbor Title from any liability concerning this matter.

The foregoing closing agreements are hereby accepted and approved.

Date: December 13, 2006

Seller(s)

City of Muskegon,
a Municipal Corporation

Lonna Anguilm

by: Lonna Anguilm
its: Zoning Administrator

Buyer(s)

DDBP, LLC

Daniel L. Posma

by: Daniel L. Posma, member

by: Brandon L. Posma, member

Danielle L. Posma

by: Danielle L. Posma, member

City Commission Meeting
Tuesday October 10, 2006

TO: Honorable Mayor and City Commissioners

FROM: Anthony L. Kleibecker, Director of Public Safety

DATE: October 3, 2006

SUBJECT: Agreement to Trade Used Shotguns for Rifle Lighting Systems

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Summary of Request:

Police Department staff is requesting that the Commission approve an agreement between the City and Gary's Guns, 4021 East Apple, Muskegon, Michigan. This agreement will allow the department to obtain 20 new Streamlight Tactical LED Lights and mounts for the AR-15 patrol rifles which are now in service. In return, Gary's would receive 35 used Remington 870 Shotguns.

The department has also received an offer from Michigan Police Equipment, 6521 Lansing Road, Charlotte, Michigan.

The offer equates to $69.00 per shotgun as proposed by Gary's and $80.00 per shotgun as proposed by Michigan Police Equipment. As there is no actual money exchange occurring, staff would like to accept the bid from the Muskegon-area business.

Financial Impact:

No expenditure of funds to purchase the lighting systems. No staff time needed to market the used shotguns.

Budget Action Required:

None

Staff Recommendation:

Approval of the agreement.

6521 Lansing Road, Charlotte, Michigan 48813
Phone (517) 322-0443
Fax (517) 322-0491

Michigan Police Equipment Co.

Fax

MUSKEGON P.D.

To:	SGT C. FLYNN	From:	Bill Parks
Fax:	231 722 5140	Pages:	1
Phone:	231 724 6729	Date:	8-8-06
Re:	EQUIPT.	CC:	

☐ Urgent ☑ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• **Comments:**

20	STREAMLIGHT TLR1	94.00 EA	1880.00
20	MNT BR101 TR	22.00 EA	440.00
	TOTAL		2320.00

LESS TRADE IN OF

35 USED REM 870 SHOTGUNS

< 80.00 EA 2800.00 >

CREDIT DUE M.P.D. AFTER TRADE 480.00

GARY'S GUNS

4021 APPLE AVE.
MUSKEGON MICHIGAN 49442
PHONE; (231) 788-5159
E-MAIL garysguns2000@yahoo.com
WEB PAGE: garysgunsinc.com

MUSKEGON P.D.
MUSKEGON MICHIGAN

GARYS GUNS PROPOSES AN EXCHANGE OF 20 NEW STREAMLIGHT TACTICAL LED LIGHTS AND 20 NEW TRI-RAIL MOUNTS FOR YOUR AR-15 WEAPONS, AT A VALUE OF $ 120.00 PER SET. TO EQUAL $ 2,400.00.

FOR EXCHANGE OF 35 REMINGTON 870 PUMP SHOTGUNS
AN APPROXIMATE VALUE OF $ 75.00 EACH

GUNS TO BE TRANSFERRED FROM DEPARTMENT LETTERHEAD TO FFL DEALER GARY'S GUNS, LOCATED AT 4021 APPLE AVE. MUSKEGON MICHIGAN

GARY FOSTER

GARY'S GUNS

Gary Foster

RECEIVED
AUG 14 2006
MUSKEGON POLICE DEPT.
CHIEF of POLICE

BUY SELL TRADE

YOUR COMPLETE SHOOTING SPORTS SUPPLIER

AGENDA ITEM NO. ________________

CITY COMMISSION MEETING ______________________

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: October 5, 2006

RE: Lease Agreement - Central Dispatch

SUMMARY OF REQUEST:
To approve a lease agreement with Muskegon Central Dispatch for space in the new Central Fire Station.

FINANCIAL IMPACT:
The agreement requires Central Dispatch to pay their share of the debt service and operations costs of the fire station.

BUDGET ACTION REQUIRED:
None.

STAFF RECOMMENDATION:
To approve the attached lease agreement.

COMMITTEE RECOMMENDATION:
None.

LEASE

This lease is effective on October 10, 2006, between the **City of Muskegon**, a Michigan municipal corporation, whose address is 993 Terrace Street, Muskegon, Michigan 49440 ("Landlord"), and **Muskegon Central Dispatch,** located at 860 Terrace Street, Muskegon, Michigan, 49440 ("Tenant").

In consideration of the mutual promises of the parties set forth in this lease and other valuable consideration, the receipt and adequacy of which is acknowledged, the parties agree as follows:

1. **Lease of Premises.** Landlord leases to Tenant, and Tenant rents from Landlord, approximately Two Thousand Three Hundred Fifty Four (2354) square feet of office space, plus shared space, ("Premises") in the fire station being constructed by Landlord located at Western Avenue in the City of Muskegon, Michigan ("Property"), together with all improvements located thereon, subject to all the terms and conditions of this lease. The Premises is specifically depicted on the site plan attached as **Exhibit A**.

    a. **Shared Facilities.** Landlord and Tenant shall have shared use of those facilities identified on Exhibit A, which shall include the break room, lobby/office administration, bathroom, and conference rooms.

    b. **Parking.** Landlord shall designate four parking spaces at the Property for exclusive use by Tenant.

2. **Term.** The initial term of this lease shall be for 25 years commencing as of July 1, 2007 ("Commencement Date"), unless sooner terminated according to the terms of this lease.

3. **Preparation of Premises; Landlord's Construction.** Landlord shall prepare the Premises for Tenant's occupancy. Such work shall be performed to the specifications indicated on attached **Exhibit B**.

4. **Possession.** Tenant shall have possession of the Premises on the Commencement Date. If possession of the Premises shall for any reason not be delivered to Tenant on the Commencement Date, this Lease shall continue in full force and effect, and no liability shall arise against Landlord out of any delay other than the abatement of rent, at the daily rental rate, until possession of the Premises is delivered to Tenant. If Tenant, at its sole option, shall take possession of any part of the Premises before the Commencement Date, such possession shall be governed by the terms of this Lease, and Tenant shall pay Landlord rent beginning on the date of possession.

5. **Rent; Option to Renew.**

a. **Rental.** Tenant shall pay to Landlord an annual rental amount determined as follows:

1) Tenant shall pay 17.6% of the debt service from the City of Muskegon 2006 Public Improvement Bonds attributable to the Western Avenue Fire Station. (The City of Muskegon 2006 Public Improvement Bond is $5,4000,000, of which $3,696,970 is attributable to the Western Avenue Fire Station.); and

2) Tenant shall pay 17.6% pf the operation and maintenance expenses of the Western Avenue Fire Station

Such payments shall be made in equal monthly installments, in advance, without any setoff or deductions, on or before the first day of each month during the term of this lease. The rent shall be payable at the address for Landlord listed above.

b. **Option to Renew.** Tenant shall have the option to renew the term of the lease for five (5) successive periods of five (5) years each. Tenant must exercise its option to renew by written notice to Landlord at least 90 days before expiration of the then existing term.

6. **Use of Premises.** Tenant shall use and occupy the Premises only for those purposes related to its emergency call center operations. The Premises may be used for any other purpose only with the prior written consent of Landlord. Tenant shall not use the Premises, or permit the Premises to be used, in a manner that constitutes a violation of any applicable law, order, ordinance, or regulation or that may be dangerous. Tenant shall not commit or allow any waste in or about the Premises nor shall Tenant cause or permit any nuisance.

7. **Taxes.** Landlord and Tenant are exempt from paying real and personal property taxes. If Tenant at any time during the term of this Lease becomes non-exempt, it shall promptly pay any personal property taxes levied or assessed against Tenant's personal property; and shall, upon request, furnish evidence of such payment to Landlord.

8. **Repairs and Maintenance.** Landlord shall maintain in good condition and repair and shall make any necessary capital replacements of the heating and air conditioning plant system, the electrical wiring system, and the roof and structural walls, to the extent necessary to preserve Tenant's intended use and enjoyment. Landlord shall be responsible for all snow plowing and landscaping at the Property. Repairs or replacements necessitated by the negligent acts of the Tenant shall be made at the expense of the Tenant. Tenant shall keep and maintain the Premises in good and sanitary order and condition, and will deliver the same to Landlord at the expiration of the Term in as good a condition as when received, except for reasonable use and wear thereof.

9. **Alterations or Improvements.** Tenant may, at its expense, make what alterations, improvements, additions, and changes to the Premises it deems necessary or expedient in the operation of the Premises, but only with Landlord's consent which will not be

unreasonably withheld. Tenant shall not, however, without Landlord's written consent, tear down or materially demolish any improvement on the Premises, or make any material change or alteration, if the improvement, when completed, will substantially diminish the value of the Premises.

10. **Utilities; Janitorial.** Landlord shall provide gas (heat), electric, water and sewer utilities for the entire Property during the term of the lease, and Tenant shall pay as additional monthly rent its 17.6% of the utility expenses. Tenant shall be responsible for providing janitorial for the second floor of the building and Landlord shall be responsible for providing janitorial service for the first floor of the building. Landlord shall provide garbage service for the building. Each party shall be responsible for its own telephone service.

11. **Condition of Premises.** Except as Landlord and Tenant may otherwise agree in writing, Tenant's entry into possession shall constitute conclusive evidence that Tenant accepts the Premises "as is," in its existing condition. No representation, statement or warranty, express or implied, has been made by or on behalf of Landlord as to such condition, or as to the use that may be made of the Premises. In no event shall Landlord be liable to Tenant for any defect in the Premises, or for limitations on its use. No representation or warranty of habitability, express or implied, has been made by or on behalf of Landlord to Tenant.

At the termination of this lease, Tenant shall return the Premises and all equipment, appliances and fixtures in as good a condition as when Tenant took possession, ordinary wear and tear excepted, and upon Tenant's failure to do so, Landlord may restore the Premises, including equipment, appliances and fixtures to such condition and Tenant shall be responsible to pay the cost of said restoration.

12. **Compliance with Laws.** Tenant, under penalty of forfeiture and damages, agrees to comply promptly with all requirements of law and with all ordinances, regulations or orders of any municipal, state, federal, or other public authority affecting all or any part of the Premises and with all requirements of the Board of Fire Underwriters or similar body and of any liability insurance company insuring the Landlord against liability for accidents in or connected with all or any part of the Premises, and Tenant further agrees to save Landlord harmless from any and all penalties, fines or liabilities that may result from Tenant's failure to so comply.

13. **Insurance and Indemnity.**

a. Landlord shall procure and maintain in full force and effect fire and extended coverage insurance with an all-risk endorsement on the Property for its full insurable replacement cost (excluding foundations and excavation).

b. Tenant shall, at its sole cost and expense, procure and maintain in full force and effect during the lease term, comprehensive general public liability insurance against claims for personal injury, death, or property damage occurring on, in, or about the Premises in a minimum amount of $1,000,000 in respect of personal injury or death to any one person, and of not less that $1,000,000 in respect of any one occurrence, and of not less than $1,000,000 for property damage. Tenant shall also be responsible for obtaining insurance for Tenant's interest and property.

c. All insurance policies required hereunder, which may be so-called "blanket policies", shall: (i) name Landlord and Tenant as insureds; (ii) be payable as provided in paragraph 15; and, (iii) be purchased from companies reasonably satisfactory to Landlord.

14. **Fire or Casualty; Condemnation.** In the event the Premises are totally destroyed by fire, wind, or other causes beyond the control of the Landlord, or are condemned or otherwise taken by authority of local, state or federal government, then in any of these events the lease term shall cease and terminate as of the date of such destruction, condemnation or taking. In the event of any loss or damage by fire or other casualty for which the building or improvements on the Premises may be insured, all amounts payable upon any policy or policies of insurance shall be paid to Landlord except the extent the insurance covers Tenant's improvements. If the Premises are damaged by fire, rain, wind or other such causes, so as to render the same partially untenable or partially unfit for use, but are repairable within a reasonable time, then this lease shall remain in full force and effect, but Tenant's rent shall be proportionately reduced until the Premises are repaired.

15. **Signs.** Tenant shall only place, erect or maintain or cause to be placed, erected or maintained on any exterior surface of the Premises, or anywhere outside of the Premises, such signs, lettering, decorations, or advertising as are permitted by law and have been approved by Landlord in writing. Tenant shall, at its own risk and expense, lawfully erect such material. Upon vacating the Premises, Tenant agrees to remove all signs or other such items and to repair all damage caused by such removal.

16. **Risk of Loss.** During the term of this lease, and any extension or renewal thereof, the risk of loss, with respect to all risks insurable under a fire and extended coverage insurance policy meeting the requirements of the laws of the State of Michigan, together with the risk of loss with respect to all uninsurable losses to the Premises which are subject to the control or prevention by Tenant, shall rest upon Tenant.

17. **Assignment or Subletting.** The Tenant shall not assign, mortgage, or encumber this lease, nor sublet or permit the Premises or any part thereof to be used by others, without the prior written consent of the Landlord in each instance.

18. **Security.** Landlord shall not be liable for any injury to the person or property of the Tenant or any other persons caused by the criminal acts of third persons upon the Premises.

19. **Tenant's Default and Repossession.** If the Premises shall be deserted or vacated, or if there shall be a default in the payment of rent or any part thereof for more than seven days after written notice of such default by the Landlord, or if there shall be default in the performance of any other covenant, agreement, condition, rule or regulation herein contained or incorporated herein by reference for more than seven days after written notice of such default by the Landlord, this lease (if the Landlord so elects) shall thereupon become null and void, and the Landlord shall have the right to reenter or repossess the Premises, either by summary

proceedings, surrender, or otherwise, and dispossess and remove therefrom the Tenant, or other occupants thereof, and their effects, without being liable to any prosecution therefor. In such case, the Landlord may, at its option, relet the Premises or any part thereof, as the agent of the Tenant, and the Tenant shall pay the Landlord the difference between the rent reserved and agreed to be paid by the Tenant for the portion of the term remaining at the time of reentry or repossession and the amount, if any, received or to be received under such reletting for such portion of the term. Tenant agrees to pay all expenses and damages incurred by Landlord as a result of Tenant's default, including Landlord's reasonable attorney fees.

In the event that Landlord is required to commence eviction proceedings or proceedings to otherwise enforce collection of rents or enforce and protect the rights of Landlord hereunder, Tenant shall be responsible to pay Landlord's costs, expenses and fees, including reasonable actual attorney fees, which shall be incurred by Landlord as a result of such proceedings. In case any such suit is settled before judgment is entered therein, such costs, expenses and fees, including reasonable actual attorney fees, shall nevertheless be recoverable by Landlord as part of said settlement.

If Tenant shall fail to perform any of its obligations hereunder, Landlord may, if it so elects, and after five days' prior notice to Tenant, cure such default at Tenant's expense, and Tenant agrees to reimburse Landlord (as additional rent) for all costs and expenses incurred as a result thereof upon demand.

20. **Landlord's Default.** In the event that Tenant is required to commence proceedings to enforce and protect the rights of Tenant hereunder and Tenant receives a judgment in its favor, Landlord shall be responsible to pay Tenant's costs, expenses and fees, including reasonable actual attorney fees, which shall be incurred by Tenant as a result of such proceedings. In case any such suit is settled before judgment is entered therein, such costs, expenses and fees, including reasonable actual attorney fees, shall not be recoverable by Tenant as part of said settlement.

If Landlord shall fail to perform any of its obligations hereunder, Tenant may, if it so elects, and after five days' prior notice to Landlord, cure such default at Landlord's expense, and Landlord agrees to reimburse Tenant for all costs and expenses incurred as a result thereof upon demand.

21. **Dispute Resolution.** In the event a dispute arises regarding this Lease, the parties agree to first conduct an informal mediation session through a mutually agreeable third-party mediator. If that mediation session is unsuccessful in resolving the dispute, the Muskegon County Circuit Court shall then have exclusive personal and subject matter jurisdiction and venue regarding this Lease.

22. **Notices.** All notices, approvals, consents and other communications required under this lease shall be in writing and, except when receipt is required to start the running of a period of time, shall be deemed given: (i) when delivered in person; (ii) when sent by fax (the sender shall also send a "hard copy" following the fax; however, the notice shall be effective upon the transmission of the fax); (iii) one day after depositing in the custody of a nationally-recognized receipted overnight delivery service with delivery fees prepaid; or (iv) five days after posting in the United States Mail first-class, registered, or certified mail, postage prepaid and

return receipt requested. Notices shall be sent to the parties at the addresses listed above.

23. **Holding Over.** It is agreed that any holding over by the Tenant upon expiration of the term of this lease or any renewal or extension hereof, shall operate as an extension of this lease from month to month only.

24. **Miscellaneous.**

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

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

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

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

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

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

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

[signatures appear on following page]

Landlord and Tenant have caused this lease to be executed the day and year first above written.

LANDLORD: CITY OF MUSKEGON

By:
Stephen J. Warmington, Mayor
Date: 10-20-06

Linda Potter
Linda Potter, Acting Clerk
Date: 10-20-06

TENANT: MUSKEGON CENTRAL DISPATCH

By: David McCastle
Name: David McCastle
Title: Executive Director
Date: 12-3-07