CITY OF MUSKEGON

CITY COMMISSION MEETING

SEPTEMBER 25, 2007

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- CALL TO ORDER:
- PRAYER:
- PLEDGE OF ALLEGIANCE:
- ROLL CALL:
- HONORS AND AWARDS:
- INTRODUCTIONS/PRESENTATION:
- CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

B. Resolution to Sell 280 Iona. COMMUNITY & NEIGHBORHOOD SERVICES

C. Vacation of the East 106 feet of the Dead-End Alley in Block 757 Bounded by Simpson Avenue, Beach Street and Watson Avenue. PLANNING & ECONOMIC DEVELOPMENT

D. Payment for Fire Station Site Work. CITY MANAGER

E. Service Agreement with Roosevelt Park. PUBLIC WORKS

F. Budgeted Equipment Replacement. PUBLIC WORKS

G. City – MDOT Agreement for Federal Money Loan to Reconstruct Division Street, Laketon to Southern. ENGINEERING

H. City – MDOT Agreement for the Reconstruction of Division Street, Laketon to Southern. ENGINEERING

I. City – MDOT Agreement for the Whitetopping of Sherman Blvd. at Henry St. Intersection plus the Sidewalk Installation along Sherman Blvd. between Henry & Barclay. ENGINEERING

J. Nutritional Services for Older Americans, Inc/City of Muskegon Agreement. PLANNING & ECONOMIC DEVELOPMENT

K. Michigan Natural Resources Trust Fund Grant Application for Smith-Ryerson Park Increase in Match Due to Items That Can be Done In-house (Force Account Labor/Materials). PLANNING & ECONOMIC DEVELOPMENT/LEISURE SERVICES

- **PUBLIC HEARINGS:**
  - A. **Request for a Time Extension for the Obsolete Property Rehabilitation Exemption Certificate at 790 Terrace.** PLANNING & ECONOMIC DEVELOPMENT
- **COMMUNICATIONS:**
- **CITY MANAGER'S REPORT:**
- **UNFINISHED BUSINESS:**
  - A. **2008 Budget Adoption.** FINANCE
  - B. **Concurrence with the Housing Board of Appeals Notice and Order to Demolish 2409 Crozier.** PUBLIC SAFETY
  - C. **Restrictive Covenant Purchase.** PUBLIC WORKS
- **NEW BUSINESS:**
  - A. **Consideration of Bids for the Spring Street, 24" Sanitary Sewer Replacement (S-627).** ENGINEERING
  - B. **Vacation of the West 200 feet of the Dead-End Alley in Block 690 Bounded by Crozier Avenue, Fountain Street and Harding Avenue.** PLANNING & ECONOMIC DEVELOPMENT
  - C. **MERS Administrative Cleanup Issues.** FINANCE
  - D. **Participation in MML Legal Defense Fund to Intervene in Consumers Energy Rate Filing.** WATER FILTRATION
  - E. **Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following:** PUBLIC SAFETY

    1235 Ransom – Area 11b

    1497 Division – Area 12

    740 Wesley

    273 Sumner

    222 E. Forest – Area 13
- **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 ANN MARIE BECKER, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TDD: (231) 724-4172.

Date: **September 25, 2007**

To: **Honorable Mayor and City Commissioners**

From: **Ann Marie Becker, City Clerk**

RE: **Approval of Minutes**

SUMMARY OF REQUEST: To approve minutes for the September 10^{th} Commission Worksession, and the September 11^{th} Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

SEPTEMBER 25, 2007

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, September 25, 2007.

Mayor Warmington opened the meeting with a prayer from Reverend Dennis Remenschneider from St. Paul's Episcopal Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

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

Mayor Warmington presented a resolution to Jeannine Davis and family in remembrance of Commissioner Kevin Davis who passed away September 2, 2007.

2007-82 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the September 10th Commission Worksession, and the September 11th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Resolution to Sell 280 Iona. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution to sell the City-owned house at 280 Iona to Mr. James E. Evans of 1502 Peck Street, Apt. #8, Muskegon, for the appraised value of $103,000 minus the $18,000 subsidy.

The house at 280 Iona was part of an acquisition and clearance project where the original house that was on the City's dangerous building list was obtain from the State of Michigan through the tax reversion process. Once it was acquired, it was demolished and the new structure was built. A few years ago the house next door at 284 Iona went through the same process the previous structure was demolished and a new home was built in its' place. This project at 280 Iona entitled a

"**Metamorphosis from Old to New**" is one more example of the City's aggressive efforts to redevelop our neighborhoods.

FINANCIAL IMPACT: The program income derived from this transaction will be deposited in the City's HOME account.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and the sale of 280 Iona to Mr. James E. Evans.

COMMITTEE RECOMMENDATION: The City Commission approved both the acquisition of the original structure and the construction of the new home.

C. <u>Vacation of the East 106 feet of the Dead-End Alley in Block 757 Bounded by Simpson Avenue, Beach Street and Watson Avenue.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request for vacation of the East 106 feet of the dead- end alley bounded by Simpson Avenue, Beach Street, and Watson Avenue, located in Muskegon Revised Plat of 1903, Bock 757.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends vacation of the east 106 feet of the dead-end alley bounded by Simpson Avenue, Beach Street, and Watson Avenue, with the condition that unrestricted utility easement be retained.

COMMITTEE RECOMMENDATION: The Planning Commission recommended vacation of the alley at their September 13, 2007 meeting, with the condition that unrestricted utility easement rights be retained. The vote was unanimous with T. Michalski, J. Aslakson, and B. Smith absent.

D. <u>Payment for Fire Station Site Work.</u> CITY MANAGER

SUMMARY OF REQUEST: To approve a request to pay Muskegon Downtown Believers for site work associated with the new Central Fire Station. This work was done in conjunction with site work for the new Harley Davidson building.

FINANCIAL IMPACT: $64,940.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve payment to Muskegon Downtown Believers in the amount of $64,940.

F. <u>Budgeted Equipment Replacement.</u> PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase one BC 1800XL brush chipper from Vermeer of Michigan.

FINANCIAL IMPACT: $38,872.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve purchase.

G. **City – MDOT Agreement for Federal Money Loan to Reconstruct Division Street, Laketon to Southern.** ENGINEERING

SUMMARY OF REQUEST: To approve the contract with MDOT for the reconstruction of Division St. from Laketon Ave. to Southern Ave. and to approve the resolution authorizing the Mayor and City Clerk to sign the contract for the Federal Funds Loan from the State.

The advantage on this project is that this whole agreement is merely a paper- work matter since the City could not have spent any construction money against the Federal Funds to accrue any interest until those funds become available.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None at this time. The City's share of the cost will come out of the Major Street and Water funds as will be shown in the 2008 budget.

STAFF RECOMMENDATION: Approve the contract and resolution and authorize the Mayor and Clerk to sign both.

H. **City – MDOT Agreement for the Reconstruction of Division Street, Laketon to Southern.** ENGINEERING

SUMMARY OF REQUEST: To approve the contract with MDOT for the reconstruction of Division St. from Laketon Ave. to Southern Ave. and to approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: MDOT's participation is limited to the Federal funds of $252,875 and $63,218.75 of State funds (Local Jobs Today Grant) for a total grant of $316,093.75. The estimated total construction cost, without engineering, is $911,500. The engineering cost is estimated at an additional 15% of the construction cost.

BUDGET ACTION REQUIRED: None at this time. The City's share of the cost will come out of the Major Street fund and will appear in the 2008 budget.

STAFF RECOMMENDATION: Approve the contract and resolution and authorize the Mayor and Clerk to sign both.

I. **City – MDOT Agreement for the Whitetopping of Sherman Blvd. at Henry St. Intersection plus the Sidewalk Installation along Sherman Blvd. between Henry & Barclay.** ENGINEERING

SUMMARY OF REQUEST: To approve the contract with MDOT for the whitetopping of Sherman Blvd. at the Henry St. intersection plus the sidewalk installation along Sherman Blvd. between Henry St. and Barclay St. and to approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: MDOT's participation is limited to the Federal funds of $209,800 and $52,400 of State funds (Local Jobs Today Grant) for a total grant of $262,200. The estimated total construction cost, without engineering, is $262,000. The engineering cost is estimated at an additional 15% of the construction cost.

BUDGET ACTION REQUIRED: None at this time. The City's share of the cost will come out of the Major Street fund and will appear in the 2008 budget.

STAFF RECOMMENDATION: Approve the contract and resolution and authorize the Mayor and Clerk to sign both.

J. Nutritional Services for Older Americans, Inc/City of Muskegon Agreement. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The City of Muskegon has had an Agreement with Nutritional Services for Older American, Inc. (NSOA). They are requesting that this Agreement be renewed for another year (through September 30, 2008). NSOA will pay the City $200 a month for expenses associated with the McGraft Park Community Building, where they operate as a location for senior meals and support services for seniors in the area. The City will provide financial support in the amount of $8,316 for staff time for recreational programs provided at McGraft Park and their other locations.

FINANCIAL IMPACT: The City will receive $200 a month in rent from NSOA and will provide $8,316 in staff time and recreational programming.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Agreement between NSOA and the City and authorize the Mayor to sign the Agreement.

Motion by Commissioner Carter, second by Vice Mayor Gawron to approve the Consent Agenda as read minus items E and K.

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

Nays: None

MOTION PASSES

2007-83 ITEMS REMOVED FROM THE CONSENT AGENDA:

E. Service Agreement with Roosevelt Park. PUBLIC WORKS

SUMMARY OF REQUEST: Authorize the Mayor and Clerk to sign the agreement with Roosevelt Park to maintain their fleet.

FINANCIAL IMPACT: Potential revenue of $5,000 to $15,000.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the service agreement with Roosevelt Park and authorize the Mayor and Clerk to sign the agreement.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the Service Agreement with Roosevelt Park to maintain their fleet.

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

Nays: None

MOTION PASSES

K. **Michigan Natural Resources Trust Fund Grant Application for Smith-Ryerson Park Increase in Match Due to Items That Can be Done In-house (Force Account Labor/Materials).** PLANNING & ECONOMIC DEVELOPMENT/LEISURE SERVICES

SUMMARY OF REQUEST: The State has requested more information for the City's Michigan Natural Resources Trust Fund Grant Application regarding the first phase of proposed upgrades to Smith-Ryerson Park. The City is allowed to increase their points for the grant by including any in-house services that can be done to increase the match. The removal of one baseball/softball field, creation of two educational signs (dune and the creek), pier at the creek, trimming of enough overgrowth for placement of the pier, and the cost to re-stripe the current parking lot with appropriate handicap signage will be added as the City in-house (force account labor/materials) costs.

FINANCIAL IMPACT: There is no impact for the 2007 budget year. If the application is approved, it will be budgeted in the 2008 budget year.

BUDGET ACTION REQUIRED: The total estimated cost for the in-house (force account labor/materials) is $13,850. This will be budgeted in the 2008 budget year.

STAFF RECOMMENDATION: To approve the resolution to increase the match by doing additional items in-house (force account labor/materials), and to have the Mayor and Clerk sign the resolution.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the Michigan Natural Resources Trust Fund Grant Application for Smith-Ryerson Park increase in match due to items that can be done in-house (force account labor/materials).

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

Nays: None

MOTION PASSES

- **PUBLIC HEARINGS:**

A. **Request for a Time Extension for the Obsolete Property Rehabilitation Exemption Certificate at 790 Terrace.** PLANNING & ECONOMIC DEVELOPMENT

(REMOVED PER STAFF REQUEST)

- ☐ **COMMUNICATIONS:**
- ☐ **CITY MANAGER'S REPORT:**

2007-84 UNFINISHED BUSINESS:

A. 2008 Budget Adoption. FINANCE

SUMMARY OF REQUEST: The City Commission may take action to adopt the 2008 budget with whatever changes or adjustments it deems necessary. City Charter requires the budget be adopted no later than September 25, 2007.

FINANCIAL IMPACT: The budget sets forth the priorities and overall financial plan for operations in the year 2008. As proposed, the budget includes no property tax increase.

BUDGET ACTION REQUIRED: Adoption of the budget resolution provides the legal appropriation authority necessary for City departments to conduct operations in 2008.

STAFF RECOMMENDATION: Approve the proposed 2008 City of Muskegon Budget resolution.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the budget as presented.

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

Nays: Warmington

MOTION PASSES

B. Concurrence with the Housing Board of Appeals Notice and Order to Demolish 2409 Crozier. PUBLIC SAFETY

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structure located at 2409 Crozier is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: General Funds.

BUDGET ACTION REQUIRED: None.

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

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 2409 Crozier.

ROLL VOTE: Ayes: Gawron, Shepherd, and Spataro

Nays: Carter, Warmington, and Wierengo

MOTION FAILED

C. <u>Restrictive Covenant Purchase.</u> PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to make a $10,000 offer for restrictive covenant on 1385 E. Keating. The City had made a $9,000 offer which was rejected by the owner.

FINANCIAL IMPACT: $10,000.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve purchase.

Motion by Commissioner Carter, second by Commissioner Wierengo to approve the restrictive covenant purchase of $10,000 for 1385 E. Keating.

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

Nays: None

Absent: Warmington (stepped out of the room)

MOTION PASSES

2007-85 NEW BUSINESS:

A. <u>Consideration of Bids for the Spring Street, 24" Sanitary Sewer Replacement (S-627).</u> ENGINEERING

SUMMARY OF REQUEST: Authorize staff to enter into an emergency repair contract with McCormick Sand Inc. out of Twin Lake to replace approximately 110' of partially collapsed 24" sanitary sewer in Spring Street at Wood since they were the lowest responsible bidder with a bid price of $48,410. The bid prices are inclusive of all labor, material and traffic control necessary to perform the replacement. Also, the bids were based on non-prevailing wage standards.

FINANCIAL IMPACT: The construction cost of $48,410 plus engineering costs which is estimated at an additional 5%.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Award the contract to McCormick Sand, Inc.

Motion by Commissioner Carter, second by Vice Mayor Gawron to approve the consideration of bids for the Spring Street, 24" sanitary sewer replacement (S-627).

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

Nays: None

MOTION PASSES

B. <u>Vacation of the West 200 feet of the Dead-End Alley in Block 690 Bounded by Crozier Avenue, Fountain Street and Harding Avenue.</u> PLANNING &

ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request for vacation of the west 200 feet of the dead-end alley bounded by Crozier Avenue, Fountain Street, and Harding Avenue, located in Muskegon Revised Plat of 1903, Block 690.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends vacation on the west 200 feet of the dead-end alley bounded by Crozier Avenue, Fountain Street, and Harding Avenue, with the condition that all utility easement rights be retained.

COMMITTEE RECOMMENDATION: The Planning Commission recommended denial of the vacation of the alley at their September 13, 2007 meeting. The vote was T. Harryman, L. Spataro, B. Larson, B. Turnquist, S. Warmington, and B. Mazade opposed, J. Aslakson in favor of the vacation and T. Michalski and B. Smith absent.

Motion by Vice Mayor Gawron, second by Commissioner Spataro to deny the vacation of the dead-end alley in block 690 bounded by Crozier Avenue, Fountain Street, and Harding Avenue.

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

Nays: None

MOTION TO DENY PASSES

C. <u>MERS Administrative Cleanup Issues.</u> FINANCE

SUMMARY OF REQUEST: The transfer of retirement assets to MERS is complete. A couple of "cleanup" issues have emerged, however, which we would like to address at this time.

Definition of "Hours per Month" for Firefighters.

Rebalancing of Assets Among MERS Group Accounts.

FINANCIAL IMPACT: rebalancing assets among the various MERS groups will help reduce the City's required contribution rates.

BUDGET ACTION REQUIRED: None at this time. Any identified pension contribution savings will be factored in future quarterly budget reforecasts.

STAFF RECOMMENDATION: Approval of the resolutions implementing these changes.

Motion by Vice Mayor Gawron, second by Commissioner Shepherd to approve the resolutions implementing the changes for the MERS administrative cleanup issues.

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

Nays: None

MOTION PASSES

D. **<u>Participation in MML Legal Defense Fund to Intervene in Consumers Energy Rate Filing.</u>** WATER FILTRATION

SUMMARY OF REQUEST: To approve a financial contribution to the Michigan Municipal League Legal Defense Fund to intervene in the Consumers Energy rate filing request to the Michigan Public Service Commission to increase its rates for generation and distribution of electricity.

FINANCIAL IMPACT: An in-kind contribution, along with the Cities of Grand Rapids and Wyoming, not to exceed $5,500.

BUDGET ACTION REQUIRED: The in-kind contribution will be taken from the Water Fund.

STAFF RECOMMENDATION: Staff recommends the Mayor and Commission authorize staff to make this contribution in an effort to mitigate the proposed twenty-one percent increase to the present cost of electricity at the Water Filtration Plant.

Motion by Vice Mayor Gawron, second by Commissioner Wierengo to authorize staff to make the contribution so that we may participate in the Michigan Municipal League Legal Defense Fund to intervene in the Consumers Energy rate filing.

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

Nays: None

MOTION PASSES

E. **<u>Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following:</u>** PUBLIC SAFETY

1235 Ransom – Area 11b

740 Wesley

273 Sumner

222 E. Forest – Area 13

1497 Division – Area 12 (*REMOVED PER REQUEST OF STAFF)*

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures are unsafe, substandard, a public nuisance and that they be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds.

BUDGET ACTION REQUIRED: None.

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

Motion by Commissioner Spataro, second by Commissioner Shepherd to concur with the Housing Board of Appeals notice and order to demolish 1235 Ransom, 740 Wesley, and 273 Sumner.

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

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 222 E. Forest.

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

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Commissioner Spataro commented on the houses at 299 Houston and 775 Washington and on the County jail proposal dislocating businesses. Mayor Warmington welcomed our new City Commissioner Steven Wisneski.

ADJOURNMENT: The City Commission Meeting adjourned at 6:33 p.m.

Respectfully submitted,

Ann Marie Becker

Ann Marie Becker, MMC
City Clerk

Commission Meeting Date: September 18, 2007

Date: **September 11, 2007**

To: **Honorable Mayor & City Commission**

From: **Community and Neighborhood Services Department**

RE: Resolution to sell 280 Iona

SUMMARY OF REQUEST: To approve the attached resolution to sell the city owned house at 280 Iona to Mr. James E Evans of 1502 Peck Street Apt. # 8 Muskegon for the appraised value of $103,000 minus the $18,000 subsidy.

The house at 280 Iona was part of an acquisition and clearance project where the original house that was on the City's dangerous building list was obtain from the State of Michigan through the tax reversion process. Once it was acquired it was demolished and the new structure was built. A few years ago the house next door at 284 Iona went through the same process the previous structure was demolished and a new home was built in its' place. This project at 280 Iona entitled a "***Metamorphosis from old to New"*** is one more example of the City's aggressive efforts to redevelop our neighborhoods.

FINANCIAL IMPACT: The program income derived from this transaction will be deposited in the City's HOME account.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution and the sale of 280 Iona to Mr. James E. Evans.

COMMITTEE RECOMMENDATION: The City Commission approved both the acquisition of the original structure and the construction of the new home.

MUSKEGON CITY COMMISSION

2007-82(b)

RESOLUTION TO APPROVE THE SALE OF
CITY-OWNED PROPERTY AT 280 Iona

WHEREAS, the City of Muskegon is dedicated to the redevelopment of its neighborhoods and its housing stock;

WHEREAS, the City of Muskegon is dedicated to promoting high quality affordable single-family housing in the community and;

WHEREAS, the City of Muskegon is dedicated to promoting homeownership for its low and moderate-income residents throughout its neighborhoods;

NOW THEREFORE, BE IT RESOLVED that the City Commission hereby approved the sale of the newly rehabilitated single family home located at 280 Iona to Mr. James Evans for the estimated price of $103,000.

Adopted this 25tht day of September, 2007

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

Nays: None

By ______________________
Stephen J. Warmington, Mayor

By ______________________
Ann Marie Becker MMC
City Clerk

CERTIFICATION
2007-82(b)

This resolution was adopted at a regular meeting of the City Commission, held on September 25, 2007. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By: Ann Marie Becker

Ann Marie Becker, MMC
City Clerk


'06 7 12

Commission Meeting Date: September 25, 2007

Date:	**September 14, 2007**
To:	**Honorable Mayor and City Commissioners**
From:	**Planning & Economic Development**
RE:	**Vacation of the East 106 feet of the dead end alley Block 757 Bounded by Simpson Avenue, Beach Street and Watson Avenue**

SUMMARY OF REQUEST:

Request for vacation of the East 106 feet of the dead end alley bounded by Simpson Avenue, Beach Street, and Watson Avenue, located in Muskegon Revised Plat of 1903, Block 757.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends vacation of the east 106 feet of the dead end alley bounded by Simpson Avenue, Beach Street, and Watson Avenue, with the condition that unrestricted utility easement be retained.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended vacation of the alley at their 9/13/07 meeting, with the condition that unrestricted utility easement rights be retained. The vote was unanimous with T. Michalski, J. Aslakson, and B. Smith absent.

RESOLUTION # 2007-82(c)

RESOLUTION TO VACATE A PORTION OF A PUBLIC ALLEY

WHEREAS, a petition has been received to vacate the east 106 feet of the dead end alley in Block 757 of the City of Muskegon Revised Plat of 1903, bounded by Simpson Avenue, Beach Street and Watson Avenue; and,

WHEREAS, the Planning Commission held a public hearing on September 13, 2007, to consider the petition and, subsequently, recommended the vacation; and,

WHEREAS, due notice had been given of said hearing as well as the September 25, 2007, City Commission meeting to consider the recommendation of the Planning Commission;

NOW, THEREFORE, BE IT RESOLVED that the City Commission deems it advisable for the public interest to vacate and discontinue the east 106 feet of the dead end alley in Block 757 of the City of Muskegon Revised Plat of 1903, bounded by Simpson Avenue, Beach Street and Watson Avenue, County of Muskegon, State of Michigan.

BE IT FURTHER RESOLVED that the City Commission does hereby declare the said east 106 feet of the alley vacated and discontinued, provided, however, that this action on the part of the City Commission shall not operate so as to conflict with fire access or the utility rights heretofore acquired by the City or by any public service utility in the City of Muskegon operating in, over and upon said portion of alley hereby vacated, and it is hereby expressly declared that such rights shall remain in full force and effect.

BE IT FURTHER RESOLVED that after any maintenance and repair by the City, the City shall restore the disturbed area to the grade and paving in existence at the time of vacation. The City shall not be responsible to replace special planting, landscaping, fences or any structure. No structure shall be placed in the easement which, in the sole judgment of the City, will interfere with the repair or maintenance of utilities in the easement, public or private.

Adopted this 25th day of September, 2007.

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

Nays: None

Absent: None

By: ______________________
Stephen J. Warmington, Mayor

Attest: Ann Marie Becker
Ann Marie Becker, MMC, City Clerk

CERTIFICATION 2007-82(c)

(Alley Vacation of the east 106 feet of alley in Block 757 of the City of Muskegon Revised Plan of 1903)

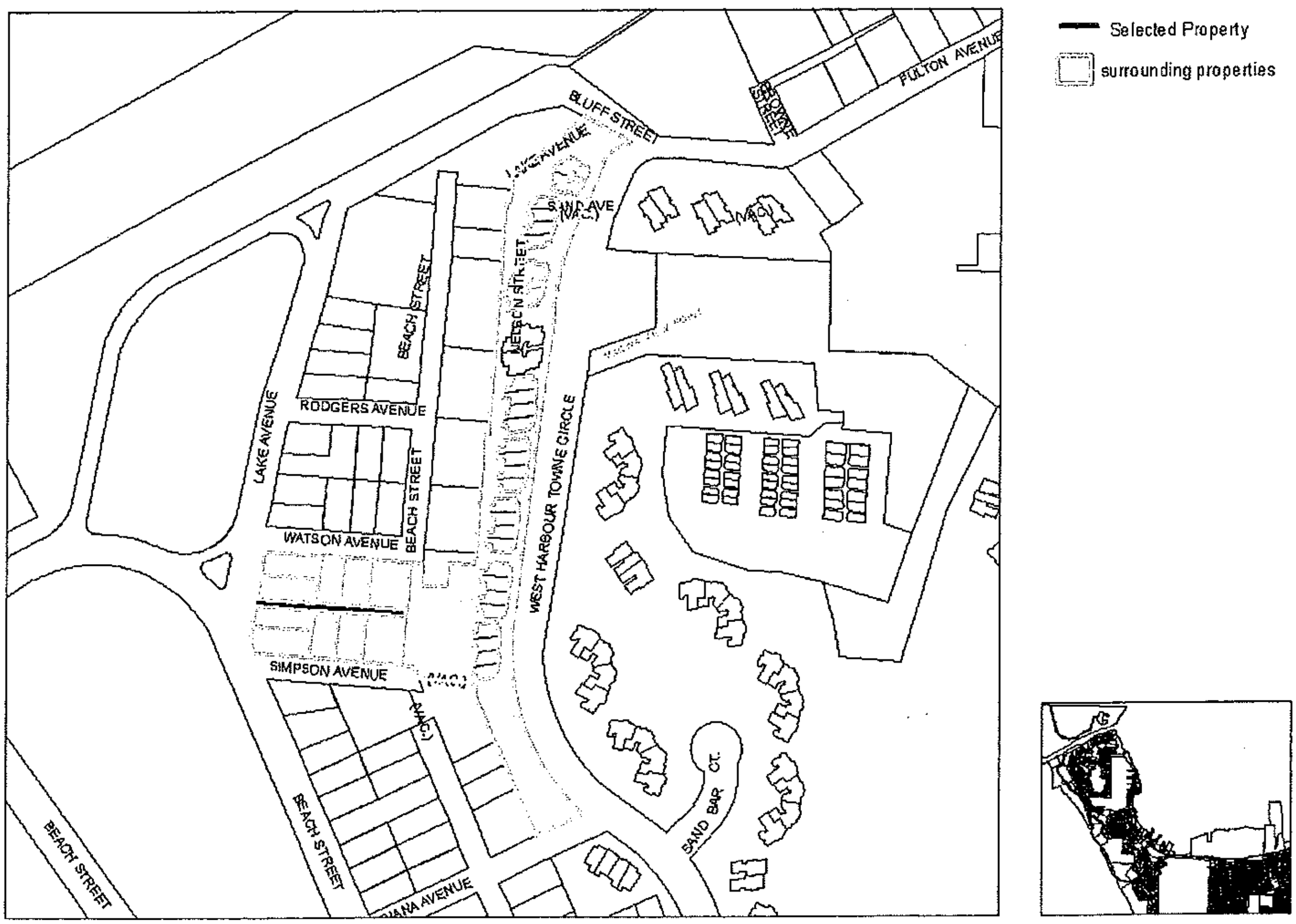
I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan, at a regular meeting held on September 25, 2007.

Ann Marie Becker

Ann Marie Becker, MMC
Clerk, City of Muskegon

View of the east end of the alley that would be vacated.

City of Muskegon
Planning Commission
Case # 2007-036



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

September 13, 2007

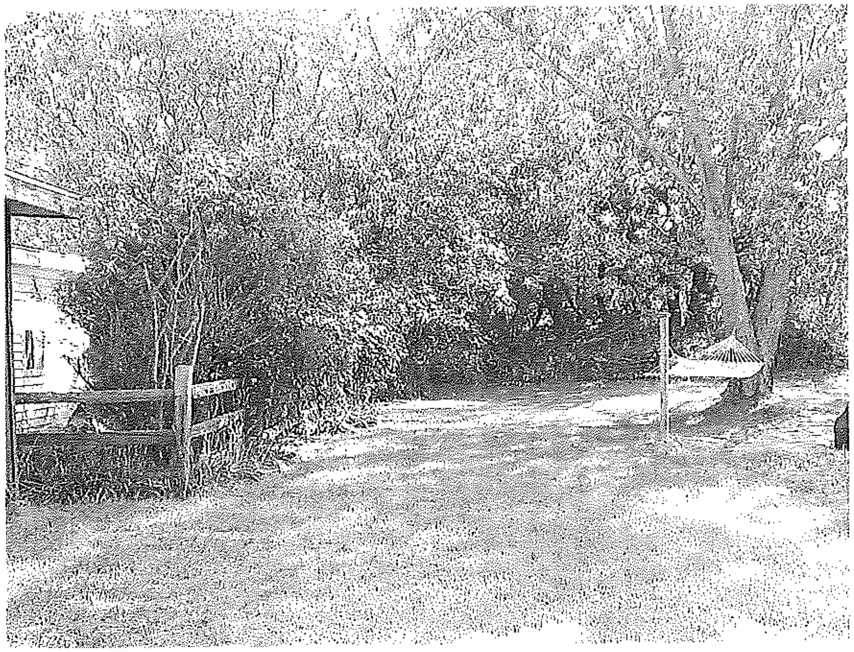
Hearing: Case 2007-36: Request to vacate a dead end alley in Block 757 bounded by Simpson Avenue, Beach Street, and Watson Avenue, by Kimberly Mahone, 3692 Simpson Avenue.

BACKGROUND

The alley that is the subject of this request dead ends off of Beach Street, between Simpson and Watson, into a sand dune. The applicant lives in the home located on the second parcel from the east end of the alley. The parcel located farthest to the east on Simpson Avenue is actually located on the sand dune. Although the original request was to vacate the entire alley, it appears there may be some issues with access for some of the neighbors. Several homes on the west end of the alley have garages that face the alley. The neighbor at 3700 Beach has his boat stored in his rear yard. The rear yard is a legal place to store recreational vehicles. He has no other place to park it, as well as no other access to his back yard except off the alley. DPW requires unrestricted access in order to maintain the sewer which is located in the alley.

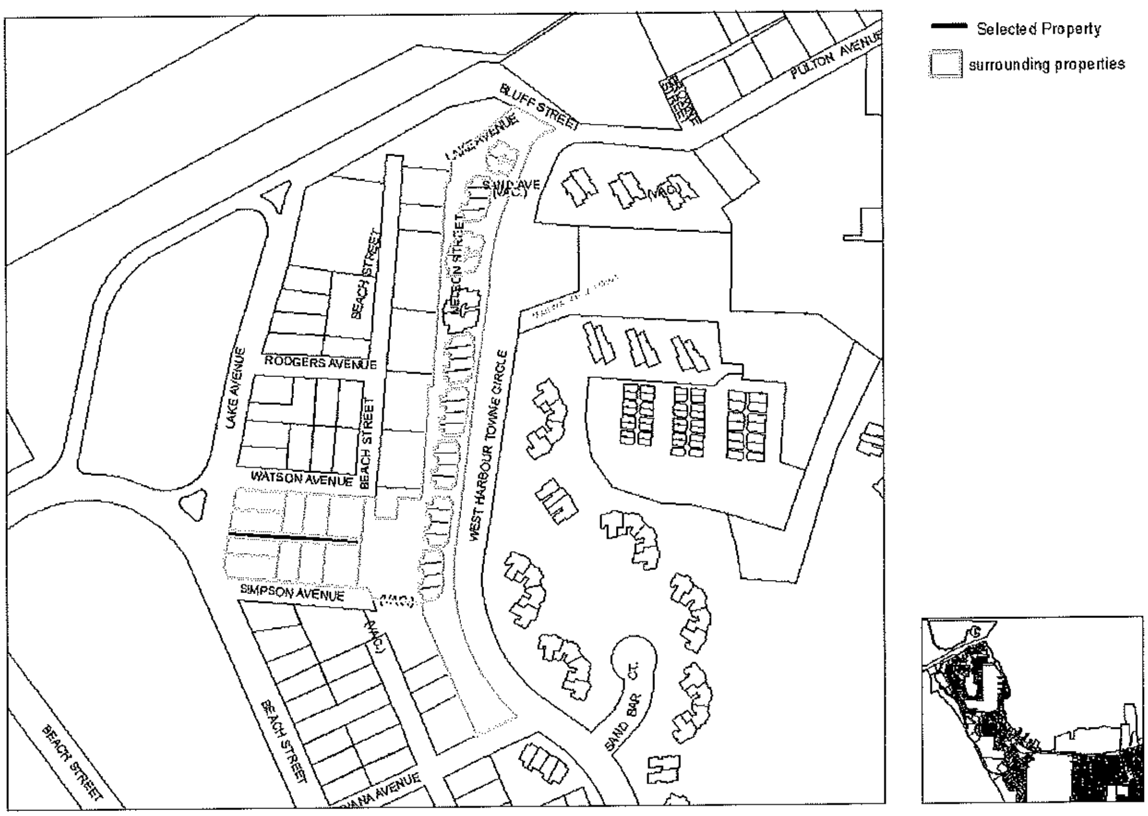
Staff has received no public comments on this request.

View of the alley from Beach Street.



View of the east end of the alley that would be vacated.

City of Muskegon
Planning Commission
Case # 2007-036



O:\Planning\COMMON\Zoning\City Commission Items\vacations\2007 Vacations\Case 2007-36 east 106 ft bounded by simpson, beach and watson vacation.doc

STAFF RECOMMENDATION

Staff recommends approval of the request, with the conditions listed below.

DELIBERATION

I move that the vacation of the east 106 feet of the alley located in Block 757, bounded by Simpson Avenue, Beach Street, and Watson Avenue, be recommended to City Commission for (approval/denial), based on (compliance/lack of compliance), with the City's 1997 Master Land Use Plan, with the following conditions:

1. All utility easements will be retained.
2. No fences or any other structures may be erected in the portion of vacated alley in order to allow for unrestricted DPW access.

AGENDA ITEM NO. ______________

CITY COMMISSION MEETING ____________________

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: September 14, 2007

RE: Payment for Fire Station Site Work

SUMMARY OF REQUEST:
To approve a request to pay Muskegon Downtown Believers for site work associated with the new Central Fire Station. This work was done in conjunction with site work for the new Harley Davidson building.

FINANCIAL IMPACT:
$64,940.00

BUDGET ACTION REQUIRED:
None.

STAFF RECOMMENDATION:
To approve payment to Muskegon Downtown Believers in the amount of $64,940.00.

COMMITTEE RECOMMENDATION:
None.

INVOICE

RECEIVED
SEP 10 2007
MUSKEGON
CITY MANAGER'S OFFICE

Muskegon Downtown Believers
149 Shoreline Drive
Muskegon, MI 49440
(231) 722-3653

Date: September 7, 2007

TO: City of Muskegon

DESCRIPTION	LINE TOTAL
Remove asphalt, concrete footers & tunnels	$ 39,800.00
500 yards crushed concrete base @ $9/yard	4,500.00
Trees, stumps and buried debris removed	10,840.00
Consumers Energy cost to property line	9,800.00
TOTAL	**$ 64,940.00**

Make all checks payable to Muskegon Downtown Believers, LLC
Payment Due Upon Receipt

Date: 09/25/07

To: Honorable Mayor and City Commission

From: DPW

RE: Budgeted Equipment Replacement

SUMMARY OF REQUEST: Approval to purchase one BC 1800XL brush chipper from Vermeer of Michigan.

FINANCIAL IMPACT: $38,872.00

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve purchase.

Memorandum

To: Honorable Mayor and Commissioners

From: DPW

Date: 9/18/2007

Re: Budgeted Brush Chipper Purchase

The Equipment Division has been trying out brush chippers for the last several months to replace the 1998 Vermeer chipper that we are currently using. This unit is used on a daily basis by our Forestry Department to trim and remove trees on city terraces as well as Parks and Cemeteries.

There are many companies that manufacture chippers in the size that we use. We subsequently narrowed our choices to three. All three of the chippers would fulfill our needs. We decided to purchase the Vermeer because of cost, safety features, and availability of parts.

Therefore, we are requesting permission to purchase one 2007 Vermeer BC1800XL chipper from Vermeer Midwest.

Equipment Purchase - 2007				
	Complete Equipment	Dynamic Manufacturing	Vermeer	
	479 North St	5059 W Weidman Rd	1196 Franklin St	
	Edmore Mi 48829	Weidman Mi 48893	Marne Mi	
18" Brush Chipper	$42,560.00	$48,244.20	**$38,872.00**	

Date: **September 25, 2007**

To: **Honorable Mayor and City Commissioners**

From: **Engineering**

RE: **City – MDOT Agreement for:**
Federal money loan to reconstruct
Division St., Laketon Ave. to Southern Ave.

SUMMARY OF REQUEST:

To approve the attached contract with MDOT for the reconstruction of Division St. from Laketon Ave. to Southern Ave. and to approve the attached resolution authorizing the Mayor and City Clerk to sign the contract for the federal funds loan from the state.

The advantage on this project is that this whole agreement is merely a paper work matter since the city could not have spent any construction money against the federal funds to accrue any interest until those funds become available.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None at this time. The City's share of the cost will come out of the Major Street and water funds as will be shown in the 2008 budget.

STAFF RECOMMENDATION:

Approve the attached contract and resolution and authorize the mayor & clerk to sign both.

COMMITTEE RECOMMENDATION:

RESOLUTION 2007-82(g)

RESOLUTION FOR APPROVAL OF A CONTRACT AGREEMENT BETWEEN THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND THE CITY OF MUSKEGON FOR THE RECONSTRUCTION OF DIVISION ST. FROM LAKETON AVE. TO SOUTHERN AVE. TOGETHER WITH OTHER NECESSARY RELATED WORK AND AUTHORIZATION FOR THE MAYOR, STEPHEN J. WARMINGTON AND CITY CLERK, ANN MARIE BECKER TO EXECUTE SAID CONTRACT

Moved by Commissioner Carter and supported by

Vice Mayor Gawron that the following Resolution be adopted:

WHEREAS, entry by the City of Muskegon into Contract no. **07-7402** between the Michigan Department of Transportation and the City of Muskegon for the **reconstruction of Division St.** within the City is in the best interests of the City of Muskegon.

RESOLVED, that entry by the City into Contract Agreement Number **07-7402** be and the same is hereby authorized and approved and the Mayor and Clerk are authorized to execute said contract for and on behalf of the City of Muskegon.

Adopted this 25th day of September, 2007.

BY

Stephen J. Warmington, Mayor

ATTEST

Ann Marie Becker, City Clerk

CERTIFICATION

This resolution was adopted at a meeting of the City Commission, held on September 25, 2007. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By

Ann Marie Becker, City Clerk

	CAB
Control Section:	STUL 61407
Job No.:	84369
Project:	STP 0761(026)
Federal Item No.:	RR 5836
CFDA No.:	20.205 (Highway Research Planning & Construction)
Contract No.:	07-7402

MICHIGAN DEPARTMENT OF TRANSPORTATION

CITY OF MUSKEGON

LOCAL JOBS TODAY PROGRAM

LOAN CONTRACT

THIS LOAN CONTRACT, hereinafter referred to as the "CONTRACT," is made and entered into this date of OCT 0 9 2007 by and between the Michigan Department of Transportation, of 425 West Ottawa Street, P.O. Box 30050, Lansing, MI 48909, hereinafter referred to as the "DEPARTMENT," and the CITY OF MUSKEGON, MICHIGAN, of 933 Terrace Street, P.O. Box 536, Muskegon, MI 49443-0536, hereinafter referred to as the "RECIPIENT."

WITNESSETH:

WHEREAS, Act 51, Public Acts of 1951, as amended, authorizes the DEPARTMENT to enter into contracts with boards of county road commissioners, incorporated cities, and villages for the loaning of funds for the purpose of constructing transportation infrastructure improvements, as described in the second paragraph of Article IX, Section 9, of the Michigan Constitution of 1963, as amended;

NOW, THEREFORE, the parties agree to the following:

Section 1. PURPOSE

The purpose of this CONTRACT is to assist the RECIPIENT in financing transportation infrastructure improvements, as described in the second paragraph of Article IX, Section 9, of the Michigan Constitution of 1963, as amended, through the project described below, hereinafter referred to as the "PROJECT." Such assistance will be provided by the DEPARTMENT in the form of a loan. Funds will be used for pre-approved purposes only. The DEPARTMENT has the discretion and the authority to recall, freeze, or limit disbursement of any funds or a portion thereof if the purpose or manner of expenditure by the RECIPIENT is inconsistent with this CONTRACT and/or with federal or state laws, regulations, rules, or policies.

Reconstruction work along Division Street from Laketon Avenue to Southern Avenue; including pavement removal, concrete curb and gutter, sidewalk ramps, storm sewer, drainage structure adjustments, hot mix asphalt paving, and pavement marking work; and all together with necessary related work.

Section 2. CONTRACT TERM

This CONTRACT will be in effect from the date of award through September 30, 2009.

Section 3. PROJECT FUNDING, BILLINGS, AND PAYMENTS

The DEPARTMENT will loan the RECIPIENT $252,875. The RECIPIENT will pay interest at the rate of 4 percent annually. The loan funds will be used only for the PROJECT. The DEPARTMENT will retain the loan funds and make payments to PROJECT contractors and subcontractors on the RECIPIENT's behalf. The RECIPIENT directs the DEPARTMENT to convert federal advanced construction funds as soon as they become available. The assessment of interest will begin when the DEPARTMENT expends loan funds on the RECIPIENT's behalf. It is understood that the loan funds provided under this CONTRACT will not be sufficient to pay all PROJECT costs.

The loan under this CONTRACT is subject to the RECIPIENT's repayment in the following manner: federal aid reimbursement applicable to the PROJECT will be used to pay principal on the loan, and the DEPARTMENT will invoice the RECIPIENT annually for the actual amount of interest. The invoiced amounts will be due and payable within thirty days. Final payment of all principal and interest on the loan must be made on or before September 30, 2009.

If the RECIPIENT fails to make any of its required payments when they are due, the DEPARTMENT will immediately notify the RECIPIENT of such default and of the amount thereof, and if such default is not corrected by payment within ten (10) days, the DEPARTMENT is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the RECIPIENT from the Michigan Transportation Fund, but only after sufficient money has been returned to the county road commission, city, or village to provide for the payment of contractual obligations incurred or to be incurred and principal and interest on notes or bonds issued or to be issued under 1941 PA 205, 1943 PA 143, 1952 PA 175, or Section 18c or 18d of 1951 PA 51, sufficient monies to remove the default and to credit the RECIPIENT with payment thereof and to notify the RECIPIENT in writing of such fact.

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

Section 4. ADMINISTRATION

The DEPARTMENT will administer all phases of the PROJECT on behalf of the RECIPIENT, including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT, in accordance with the Local Agency Cost Participation Contract, as described in Section 9.

Any change in the scope or character of the PROJECT or in the cost, term, or other provision of the CONTRACT will be by a prior written amendment to this CONTRACT awarded by the parties.

In case of any discrepancies between the body of this CONTRACT and any exhibits hereto, the body of the CONTRACT will govern. The headings used in this CONTRACT are for convenience and identification purposes only and do not form a binding part of this CONTRACT.

Section 5. COMPLIANCE ACTIVITIES

The RECIPIENT will, in the performance of this CONTRACT, comply with and require its contractors and subcontractors to comply with all applicable federal, state, and local statutes, ordinances, and regulations and will obtain or have its contractors and subcontractors obtain all permits that are applicable to the entry into and performance of this CONTRACT.

The RECIPIENT will secure any agreements or approvals from railroad companies, utility companies, governmental agencies, or private parties required for construction of the PROJECT.

This CONTRACT will be interpreted, construed, and enforced in accordance with the laws of the State of Michigan.

By signing this CONTRACT, the RECIPIENT certifies that it has obtained or will obtain all necessary environmental protection permits and clearances prior to the beginning of the construction of the PROJECT.

Section 6. BREACH AND TERMINATION

In the event that any of the following occur, the DEPARTMENT may consider the RECIPIENT to be in default with respect to this CONTRACT:

a. The RECIPIENT misrepresents any documentation or information provided to the DEPARTMENT to secure loan financing.

b. The RECIPIENT fails to make a payment of any installment of interest under this CONTRACT or fails to make a due payment of any other debt or obligation now or later owed by RECIPIENT to the DEPARTMENT.

c. The RECIPIENT defaults in the performance of any other obligation to the DEPARTMENT under this CONTRACT.

d. The RECIPIENT becomes insolvent or makes an assignment for the benefit of creditors.

e. Any guarantee or pledge made by the RECIPIENT that now or later secures payment for any or all indebtedness arising from this CONTRACT becomes terminated or limited for any reason (except as otherwise set forth herein or in 1951 PA 51) without the prior written consent or agreement of the DEPARTMENT.

f. At any time the DEPARTMENT, acting in good faith, has cause to believe that the prospect of payment or performance under this CONTRACT is impaired.

In the event that the RECIPIENT fails to comply with the provisions of this CONTRACT, including the default provisions herein, and such noncompliance by the RECIPIENT continues for a period of ten (10) days after written notification of such noncompliance without an effort by the RECIPIENT to begin to diligently pursue remedies for such noncompliance, the DEPARTMENT will have the right, at its option and notwithstanding any waiver by the DEPARTMENT or any prior noncompliance, to demand the immediate return of the full outstanding balance of the loan financing and to terminate this CONTRACT.

The exercise of such right by the DEPARTMENT will not impair any other rights of the DEPARTMENT under this CONTRACT or any rights of action against the RECIPIENT for the collection of remaining monies due the DEPARTMENT and/or the recovery of damages.

Section 7. CONTRACTUAL OBLIGATIONS

Both parties will make reasonable efforts to satisfy promptly their surviving obligations to each other necessary to complete their contractual relationships after expiration or termination of this CONTRACT. This provision is not intended to nor does it create or confer any rights upon any person or entity not a party to this CONTRACT.

Section 8. PERFORMANCE RESPONSIBILITY

Each party to this Contract will remain responsible for any claims arising out of that party's performance of this Contract, as provided by this Contract or by law.

This Contract is not intended to increase or decrease either party's liability for or immunity from tort claims.

Section 9. LOCAL AGENCY COST PARTICIPATION CONTRACT

The DEPARTMENT and the RECIPIENT agree that, with respect to the PROJECT, the RECIPIENT will enter into a Local Agency Cost Participation Contract consisting of Part I and Part II (Standard Agreement Provisions) with the DEPARTMENT prior to the disbursement of loan funds.

Section 10. NOTICES

All notices required hereunder will be in writing and will be deemed to have been duly given if personally delivered or sent by certified mail, return receipt requested, postage paid, or by telegram addressed as shown below, or by confirmed facsimile machine message, unless notified differently in writing by the other party.

If to the DEPARTMENT:

Michigan Department of Transportation
Financial Operations Division
425 West Ottawa Street
P.O. Box 30050
Lansing, MI 48909

If to the RECIPIENT:

City of Muskegon
933 Terrace Street, P.O. Box 536
Muskegon, MI 49443-0536

Section 11. SEVERABILITY

If any term, covenant, condition, or provision (or any part thereof) of this CONTRACT or the application thereof to any party or circumstance will at any time or to any extent be held to be invalid or unenforceable, the remainder of this CONTRACT or the application of such term or provision (or remainder thereof) to parties or circumstances other than those to which it is held to be invalid or unenforceable will not be affected thereby, and each term, covenant, condition, and provision of this CONTRACT will be valid and will be enforced to the fullest extent permitted by law.

Section 12. ASSIGNMENT

This CONTRACT may not be assigned without the express prior written approval of the non-assigning party, which approval will not be unreasonably withheld.

Section 13. ACCESS AND AUDIT

a. The RECIPIENT will establish and maintain accurate records, in accordance with generally accepted accounting principals, of all expenses incurred for which payment is sought or made under this CONTRACT, said records to be hereinafter referred to as the "RECORDS." Separate accounts will be established and maintained for all costs incurred under this CONTRACT.

b. The RECIPIENT will maintain the RECORDS for at least three (3) years from the date of final payment made by the DEPARTMENT under this CONTRACT. In the event of a dispute with regard to the allowable expenses or any other issue under this CONTRACT, the RECIPIENT will thereafter continue to maintain the

RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

c. The RECIPIENT will allow the DEPARTMENT or its representative to inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.

d. The RECIPIENT will comply with the Single Audit Act of 1984, as amended, including, but not limited to, the Single Audit Amendments of 1996 (31 U.S.C. 7501-7507).

e. The RECIPIENT will comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

i. Recipients expending a total of Five Hundred Thousand Dollars ($500,000.00) or more in federal funds from one or more funding sources in their fiscal year will submit two (2) copies to the address in part ii below:

- The Reporting Package
- The Data Collection Form
- The audit firm management letter to the recipient, if issued.

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

ii. Recipients expending less than Five Hundred Thousand Dollars ($500,000.00) in federal funds must submit a letter to the DEPARTMENT advising that an OMB Circular A-133 audit was not required. The letter will indicate the applicable fiscal year, the amount of federal funds spent, and the name(s) of the DEPARTMENT federal programs. This information must also be submitted to the address below.

Address: Michigan Department of Transportation
Financial Operations Division
425 West Ottawa Street
P. O. Box 30050
Lansing, MI 48909

iii. Recipients must also comply with applicable state laws and regulations relative to audit requirements.

iv. Recipients will not charge audit costs to the DEPARTMENT's federal programs that are not in accordance with the aforementioned OMB Circular A-133 requirements.

v. All recipients are subject to the federally-required monitoring activities, which may include limited scope reviews and other on-site monitoring.

f. If any part of the work is subcontracted, the RECIPIENT will assure compliance with subsections (a), (b), (c), (d), and (e) above for all subcontracted work.

Section 14. PROHIBITION OF DISCRIMINATION

a. In connection with the performance of the PROJECT under this CONTRACT, the RECIPIENT (hereinafter in Appendix A referred to as the "contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix A, dated March 1998, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to this CONTRACT.

b. During the performance of this CONTRACT, the RECIPIENT, for itself, its assignees, and its successors in interest (hereinafter in Appendix B referred to as the "contractor") agrees to comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6, and the Regulations of the Department of Transportation (49 CFR Part 21) issued pursuant to said Act, including Appendix B, dated June 2003, attached hereto and made a part hereof. This provision will be included in all subcontracts related to this CONTRACT.

Section 15. ASSIGNMENT OF ANTITRUST RIGHTS

With regard to claims based on goods or services that were used to meet the RECIPIENT's obligation to the DEPARTMENT under this CONTRACT, the RECIPIENT hereby irrevocably assigns its right to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or the DEPARTMENT due to any violation of 15 USC, Sections 1 - 15, and/or 1984 PA 274, MCL 445.771 - .788, excluding Section 4a, to the State of Michigan or the DEPARTMENT.

The RECIPIENT shall require any subcontractors to irrevocably assign their rights to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or the DEPARTMENT with regard to claims based on goods or services that were used to meet the RECIPIENT's obligation to the DEPARTMENT under this CONTRACT due to any violation of 15 USC, Sections 1 - 15, and/or 1984 PA 274, MCL 445.771 - .788, excluding Section 4a, to the State of Michigan or the DEPARTMENT as a third-party beneficiary.

The RECIPIENT shall notify the DEPARTMENT if it becomes aware that an antitrust violation with regard to claims based on goods or services that were used to meet the RECIPIENT's obligation to the DEPARTMENT under this CONTRACT may have occurred or is threatened to occur. The RECIPIENT shall also notify the DEPARTMENT if it becomes aware of any person's intent to commence, or of commencement of, an antitrust action with regard to claims based on goods or services that were used to meet the RECIPIENT's obligation to the DEPARTMENT under this CONTRACT.

Section 16. AWARD CONTINGENCY

Award of this CONTRACT will be contingent upon the RECIPIENT providing the DEPARTMENT with a duly adopted resolution authorizing a representative of the RECIPIENT to award this CONTRACT and undertake the PROJECT.

Section 17. FEDERAL TAX CODE

The RECIPIENT is a political subdivision of the State of Michigan that qualifies as a "government unit" within the meaning of Sections 141(b)(6)(A) and 141(c)(1) of the Internal Revenue Code of 1986, as amended, hereinafter referred to as the "CODE."

The RECIPIENT hereby covenants and agrees for the benefit of the DEPARTMENT that it will comply with the applicable requirements of Section 149 of the CODE.

The RECIPIENT will not permit at any time or times any of the property financed with the proceeds of the loan funds that would result in the exclusion of any bonds of the DEPARTMENT from the treatment afforded by Section 103(a) of the CODE, as from time to time amended, by reason of the classification of such bonds as "private activity bonds" within the meaning of Section 141(a) of the CODE, or as obligations guaranteed by the United States of America, as provided in Section 149(b) of the CODE, or cause interest on the bonds to be includable in gross income for federal income tax purposes.

Section 18. AWARD

This CONTRACT will become binding on the parties and of full force and effect upon signing by the duly authorized representatives of the RECIPIENT and the DEPARTMENT and upon adoption of a resolution approving said CONTRACT and approving the signature(s) thereto of the respective representative(s) of the RECIPIENT, a certified copy of which resolution will be sent to the DEPARTMENT with this CONTRACT, as applicable.

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

CITY OF MUSKEGON

By: ______________________

Title: Stephen J. Warmington
Mayor

REVIEWED 8-16-07 CONTRACT ADMIN

MICHIGAN DEPARTMENT OF TRANSPORTATION

By: ______________________

Title: Department Director

8/29/07
ASSISTANT ATTORNEY GENERAL

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

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

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.

2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.

3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.

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

7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.

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

March, 1998

(Rev. 03/92)

APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or

   (b) Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Date: **September 25, 2007**

To: **Honorable Mayor and City Commissioners**

From: **Engineering**

RE: **City – MDOT Agreement for the reconstruction of: Division St., Laketon Ave. to Southern Ave.**

SUMMARY OF REQUEST:

To approve the attached contract with MDOT for the reconstruction of Division St. from Laketon Ave. to Southern Ave. and to approve the attached resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT:

MDOT's participation is limited to the federal funds of $252,875 & $63,218.75 of state funds (Local Jobs Today Grant) for a total grant of $316,093.75. The estimated total construction cost, without engineering, is $911,500. The engineering cost is estimated at an additional 15% of the construction cost.

BUDGET ACTION REQUIRED:

None at this time. The City's share of the cost will come out of the Major Street fund and will appear in the 2008 budget.

STAFF RECOMMENDATION:

Approve the attached contract and resolution and authorize the mayor & clerk to sign both.

COMMITTEE RECOMMENDATION:

RESOLUTION 2007-82(h)

RESOLUTION FOR APPROVAL OF A CONTRACT AGREEMENT BETWEEN THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND THE CITY OF MUSKEGON FOR THE RECONSTRUCTION OF DIVISION ST. FROM LAKETON AVE. TO SOUTHERN AVE. TOGETHER WITH OTHER NECESSARY RELATED WORK AND AUTHORIZATION FOR THE MAYOR, STEPHEN J. WARMINGTON AND CITY CLERK, ANN MARIE BECKER TO EXECUTE SAID CONTRACT

Moved by Commissioner Carter and supported by

Vice Mayor Gawron that the following Resolution be adopted:

WHEREAS, entry by the City of Muskegon into Contract no. **07-5402** between the Michigan Department of Transportation and the City of Muskegon for the **reconstruction of Division St.** within the City is in the best interests of the City of Muskegon.

RESOLVED, that entry by the City into Contract Agreement Number **07-5402** be and the same is hereby authorized and approved and the Mayor and Clerk are authorized to execute said contract for and on behalf of the City of Muskegon.

Adopted this 25th day of September, 2007.

BY [signature]

Stephen J. Warmington, Mayor

ATTEST Ann Marie Becker

Ann Marie Becker, City Clerk

CERTIFICATION

This resolution was adopted at a meeting of the City Commission, held on September 25, 2007. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By Ann Marie Becker

Ann Marie Becker, City Clerk

JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

KIRK T. STEUDLE
DIRECTOR

October 17, 2007

RECEIVED

City Clerks Office

Ms. Anne M. Becker
Clerk
City of Muskegon
933 Terrace Street, P.O. Box 536
Muskegon, MI 49443-0536

Dear Ms. Becker:

RE:	MDOT Contract No.:	07-5402
	Control Section:	STUL 61407
	Job Number:	84369

Enclosed is a fully executed copy of the above noted agreement.

Sincerely,

Jackie Burch

Jackie Burch
Contract Processing Specialist
Design Support Area

Enclosure

cc: Project Accounting
M. Harbison, Design Support Area
Grand

C: Engineering

(ADVANCE CONSTRUCTION CONTRACT)
STP & LJT

CAB

Control Section	STUL 61407
Job Number	84369
Project	STP 0761(026)
Federal Item No.	RR 5836
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	07-5402

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of OCT 17 2007, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF MUSKEGON, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Muskegon, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated July 2, 2007, attached hereto and made a part hereof:

PART A – FEDERAL AND STATE PARTICIPATION
Reconstruction work along Division Street from Laketon Avenue to Southern Avenue; including pavement removal, concrete curb and gutter, sidewalk ramps, storm sewer, drainage structure adjustments, hot mix asphalt paving, and pavement marking work; and all together with necessary related work.

PART B – NO FEDERAL OR STATE PARTICIPATION
Sanitary sewer and watermain work along Division Street from Laketon Avenue to Southern Avenue; and all together with necessary related work.

WITNESSETH:

WHEREAS, pursuant to Federal and State law, monies have been provided for the performance of certain improvements on public roads; and

WHEREAS, the PROJECT has been approved for financing in part with State Local Jobs Today Program Funds; and

WHEREAS, the PROJECT will be performed as an advance construction project; and

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT, or portions of the PROJECT at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal program(s) or funding:

SURFACE TRANSPORTATION PROGRAM

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

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

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

The PROJECT work shall be performed as an advance construction PROJECT and shall meet applicable Federal requirements set forth on 23 CFR Subpart G; 23 U.S.C. 115.

It is understood that authorization to undertake the performance of the work under this contract as an advance construction PROJECT does not constitute any commitment of DEPARTMENT or Federal Funds for this PROJECT.

Expenditures incurred on this PROJECT as advance construction will not be subject to reimbursement with Federal Funds until the PROJECT is converted to a regular Federal-aid project as provided under 23 CFR 630.705(2); CFR 630.709.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT.

Costs for construction engineering and inspection incurred by the DEPARTMENT will be charged 100 percent to the REQUESTING PARTY. Any other costs incurred by the DEPARTMENT as a result of this contract will be at PROJECT COST.

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

3. The DEPARTMENT is authorized by the REQUESTING PARTY to administer on behalf of the REQUESTING PARTY all phases of the PROJECT including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT. Such administration shall be in accordance with PART II, Section II of this contract.

Any items of the PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

4. The REQUESTING PARTY, at no cost to the PROJECT or to the DEPARTMENT, shall:

A. Design or cause to be designed the plans for the PROJECT.

B. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.

C. Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PROJECT.

The REQUESTING PARTY will furnish the DEPARTMENT proposed timing sequences for trunkline signals that, if any, are being made part of the improvement. No timing adjustments shall be made by the REQUESTING PARTY at any trunkline intersection, without prior issuances by the DEPARTMENT of Standard Traffic Signal Timing Permits.

5. The PROJECT COST shall be met in accordance with the following:

PART A

The PART A portion of the PROJECT COST shall be met in part by contributions by the State Local Jobs Today Program and the REQUESTING PARTY.

State Local Jobs Today Grant Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST at a participation ratio equal to 20 percent up to an amount not to exceed $63,218.75. The balance of the PART A portion of the PROJECT COST, after deduction of State Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Contingent upon availability of Federal Funds and Federal approval, Federal Surface Transportation Funds, for future fiscal years, may be applied to that portion of the PART A cost incurred as advance construction in an amount such that the Federal Surface Transportation Funds equal a participation ratio of 80 percent up to an amount not to exceed $252,875.

The State Local Jobs Today Program loan, through a separate contract, is an amount equivalent to the estimated Federal Surface Transportation Funding applicable to the PART A portion of the PROJECT that is not currently available. Said loan shall be used as advance construction dollars. Contingent upon availability of Federal Funds and Federal approval, Federal Surface Transportation Funds, for future fiscal years, will be applied to any outstanding principal balance of the State Local Jobs Today Program loan for costs incurred on the PART A portion of this PROJECT as advance construction.

PART B
The PART B portion of the PROJECT COST is not eligible for Federal or State participation and shall be charged to and paid 100 percent by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Any items of PROJECT COST or any advance construction expenditure not reimbursed by Federal Funds or State Funds will be the sole responsibility of the REQUESTING PARTY.

6. No working capital deposit will be required from the REQUESTING PARTY for this PROJECT.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 10 days of receipt of billings from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less available Federal Funds, State Local Jobs Today Loan Funds, and State Local Jobs Today Grant Funds as the PROJECT progresses.

Failure to make such payments within 10 days of receipt of billings from the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold without further notice an equal amount from the REQUESTING PARTY'S share of any future Act 51 monthly allocations.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

7. At such time as traffic volumes and safety requirements warrant, the REQUESTING PARTY will cause to be enacted and enforced such ordinances as may be necessary to prohibit parking in the traveled roadway throughout the limits of the PROJECT.

8. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

9. The REQUESTING PARTY certifies that it is a person under the Natural Resources and Environmental Protection Act (NREPA); 1995 PA 71 and is not aware of and has no reason to believe that the property on which the work under this agreement is to be performed is a facility as defined in MCL 324.20101(o); MSA 13A.20101(1)(l). The REQUESTING PARTY certifies that it is not a person liable under Part 201 or Part 213 of the Natural Resource and Environmental Protection Act (NREPA); MCL 324.20101 et seq. and Part 213 of NREPA; MCL 324.21301a et seq. The REQUESTING PARTY is a local unit of government that has acquired or will be acquiring property for a transportation corridor or public right-of-way and was not responsible for any activities causing a release or threat of release at or on the property. Pursuant to MCL 324.20126, the REQUESTING PARTY is not a person who is liable for response activity or response activity costs as defined by MCL 324.20101(ee) and (ff).

10. Both the REQUESTING PARTY and the DEPARTMENT certify that the DEPARTMENT is not a person liable under Parts 201 and 213 of the NREPA; that the DEPARTMENT is not an owner or operator of any property within the PROJECT limits; that the DEPARTMENT has not arranged for the disposal of hazardous substances within the PROJECT limits, nor has the DEPARTMENT transported any hazardous substances to the PROJECT limits; that the DEPARTMENT has not conducted any activities which have resulted in a release or threat of release of hazardous substances at the facility or within the PROJECT limits and that the DEPARTMENT is otherwise not liable for any response activities or response activity costs at the facility.

11. If subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require the incurrence of response costs for response activity pursuant to state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall notify the DEPARTMENT, both orally and in writing within 24 hours of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine whether the area within the PROJECT limits constitutes a facility and whether the REQUESTING PARTY is required to incur response costs to address the contamination under state or federal law. If the REQUESTING PARTY is liable for response activities or response costs under state or federal laws, the DEPARTMENT will consult with the FHWA to determine the eligibility of such response costs for reimbursement. In the event that the response costs and other incidental costs including, but not limited to delay costs, are deemed not to be eligible for reimbursement by the FHWA, the REQUESTING PARTY shall be charged for and shall pay to the DEPARTMENT all response costs and delay costs of the contractor for the PROJECT. If the REQUESTING PARTY refuses to participate in such costs, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

12. If federal and/or state funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Department of Environmental Quality and the DEPARTMENT, shall make a diligent

effort to recover such costs from all other possible entities. If recovery is made, the DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the amount paid by the FHWA and/or the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

13. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the Federal Highway Administration pursuant to Title 23 of the United States Code.

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

The providing of recommendations or advice by the DEPARTMENT and its agents does not relieve the REQUESTING PARTY and the local agencies, as applicable of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402, MSA 3.996(102).

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT and its agents is performing a governmental function, as that term is defined in MCL 691.1401; MSA 3.996(101), which is incidental to the completion of the PROJECT.

14. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402; MSA 3.996(102). Exclusive jurisdiction of such highway for the purposes of MCL 691.1402; MSA 3.996(102) rest with the REQUESTING PARTY and other local agencies having respective jurisdiction.

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

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

17. The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the construction contract for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

18. The DEPARTMENT shall require the contractor who is awarded the contract for the construction of the PROJECT to provide insurance in the amounts specified and in accordance with the DEPARTMENT'S current standard specifications for construction, and to:

A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.

B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission, or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owners protective liability insurance policy.

C. Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current standard specifications for construction and to provide, upon request, copies of notices and reports prepared to those insured.

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

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CITY OF MUSKEGON

By ____________________
Title: Stephen J. Warmington
Mayor

By ____________________
Title: Ann Marie Becker
City Clerk

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By ____________________
Department Director MDOT

8/29/07

REVIEWED
8-16-07

July 2, 2007

EXHIBIT I

CONTROL SECTION	STUL 61407
JOB NUMBER	84369
PROJECT	STP 0761(026)

ESTIMATED COST

CONTRACTED WORK

	PART A	PART B	TOTAL
Estimated Cost	$430,600.00	$480,900.00	$911,500.00

COST PARTICIPATION

	PART A	PART B	TOTAL
GRAND TOTAL ESTIMATED COST	$430,600.00	$480,900.00	$911,500.00
Less State Local Jobs Today Grant Funds*	$ 63,218.75	$ 0.00	$ 63,218.75
Balance	$367,381.25	$480,900.00	$848,281.25
Less State Local Jobs Today Program Loan/Federal Funds (Advance Construction) Future Fiscal Year**	$252,875.00	$ 0.00	$252,875.00
REQUESTING PARTY'S SHARE (Future Fiscal Year)	$114,506.25	$480,900.00	$595,406.25

*State Local Jobs Today Grant Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST at a participation ratio equal to 20 percent up to an amount not to exceed $63,218.75.

**Contingent upon availability of Federal Funds and Federal approval, Federal Surface Transportation Funds, for future fiscal years, may be applied to that portion of the PART A cost incurred as advance construction in an amount such that the Federal Surface Transportation Funds equal a participation ratio of 80 percent up to an amount not to exceed $252,875.

NO DEPOSIT

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I COMPLIANCE WITH REGULATIONS AND DIRECTIVES

SECTION II PROJECT ADMINISTRATION AND SUPERVISION

SECTION III ACCOUNTING AND BILLING

SECTION IV MAINTENANCE AND OPERATION

SECTION V SPECIAL PROGRAM AND PROJECT CONDITIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

A. To qualify for eligible cost, all work shall be documented in accordance with the requirements and procedures of the DEPARTMENT.

B. All work on projects for which reimbursement with Federal funds is requested shall be performed in accordance with the requirements and guidelines set forth in the following Directives of the Federal-Aid Policy Guide (FAPG) of the FHWA, as applicable, and as referenced in pertinent sections of Title 23 and Title 49 of the Code of Federal Regulations (CFR), and all supplements and amendments thereto.

1. Engineering

   a. FAPG (6012.1): Preliminary Engineering

   b. FAPG (23 CFR 172): Administration of Engineering and Design Related Service Contracts

   c. FAPG (23 CFR 635A): Contract Procedures

   d. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments–Allowable Costs

2. Construction

   a. FAPG (23 CFR 140E): Administrative Settlement Costs-Contract Claims

   b. FAPG (23 CFR 140B): Construction Engineering Costs

   c. FAPG (23 CFR 17): Recordkeeping and Retention Requirements for Federal-Aid Highway Records of State Highway Agencies

   d. FAPG (23 CFR 635A): Contract Procedures

   e. FAPG (23 CFR 635B): Force Account Construction

   f. FAPG (23 CFR 645A): Utility Relocations, Adjustments and Reimbursement

g. FAPG (23 CFR 645B): Accommodation of Utilities (PPM 30-4.1)

h. FAPG (23 CFR 655F): Traffic Control Devices on Federal-Aid and other Streets and Highways

i. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments–Allowable Costs

3. Modification Or Construction Of Railroad Facilities

a. FAPG (23 CFR 140I): Reimbursement for Railroad Work

b. FAPG (23 CFR 646B): Railroad Highway Projects

C. In conformance with FAPG (23 CFR 630C) Project Agreements, the political subdivisions party to this contract, on those Federally funded projects which exceed a total cost of $100,000.00 stipulate the following with respect to their specific jurisdictions:

1. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.

2. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.

3. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.

D. Ensure that the PROJECT is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless modified or deleted by approval of the FHWA.

E. All the requirements, guidelines, conditions and restrictions noted in all other pertinent Directives and Instructional Memoranda of the FHWA will apply to this contract and will be adhered to, as applicable, by the parties hereto.

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

A. The DEPARTMENT shall provide such administrative guidance as it determines is required by the PROJECT in order to facilitate the obtaining of available federal and/or state funds.

B. The DEPARTMENT will advertise and award all contracted portions of the PROJECT work. Prior to advertising of the PROJECT for receipt of bids, the REQUESTING PARTY may delete any portion or all of the PROJECT work. After receipt of bids for the PROJECT, the REQUESTING PARTY shall have the right to reject the amount bid for the PROJECT prior to the award of the contract for the PROJECT only if such amount exceeds by twenty percent (20%) the final engineer's estimate therefor. If such rejection of the bids is not received in writing within two (2) weeks after letting, the DEPARTMENT will assume concurrence. The DEPARTMENT may, upon request, readvertise the PROJECT. Should the REQUESTING PARTY so request in writing within the aforesaid two (2) week period after letting, the PROJECT will be cancelled and the DEPARTMENT will refund the unused balance of the deposit less all costs incurred by the DEPARTMENT.

C. The DEPARTMENT will perform such inspection services on PROJECT work performed by the REQUESTING PARTY with its own forces as is required to ensure compliance with the approved plans & specifications.

D. On those projects funded with Federal monies, the DEPARTMENT shall as may be required secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.

E. All work in connection with the PROJECT shall be performed in conformance with the Michigan Department of Transportation Standard Specifications for Construction, and the supplemental specifications, Special Provisions and plans pertaining to the PROJECT and all materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. No extra work shall be performed nor changes in plans and specifications made until said work or changes are approved by the project engineer and authorized by the DEPARTMENT.

F. Should it be necessary or desirable that portions of the work covered by this contract be accomplished by a consulting firm, a railway company, or governmental agency, firm, person, or corporation, under a subcontract with the REQUESTING PARTY at PROJECT expense, such subcontracted arrangements will be covered by formal written agreement between the REQUESTING PARTY and that party.

This formal written agreement shall: include a reference to the specific prime contract to which it pertains; include provisions which clearly set forth the maximum reimbursable and the basis of payment; provide for the maintenance of accounting records in accordance with generally accepted accounting principles, which clearly document the actual cost of the services provided; provide that costs eligible for reimbursement shall be in accordance with clearly defined cost criteria such as 49 CFR Part 18, 48 CFR Part 31, 23 CFR Part 140, OMB Circular A-87, etc. as applicable; provide for access to the department or its representatives to inspect and audit all data and records related to the agreement for a minimum of three years after the department's final payment to the local unit.

All such agreements will be submitted for approval by the DEPARTMENT and, if applicable, by the FHWA prior to execution thereof, except for agreements for amounts less than $100,000 for preliminary engineering and testing services executed under and in accordance with the provisions of the "Small Purchase Procedures" FAPG (23 CFR 172), which do not require prior approval of the DEPARTMENT or the FHWA.

Any such approval by the DEPARTMENT shall in no way be construed as a warranty of the subcontractor's qualifications, financial integrity, or ability to perform the work being subcontracted.

G. The REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, shall make such arrangements with railway companies, utilities, etc., as may be necessary for the performance of work required for the PROJECT but for which Federal or other reimbursement will not be requested.

H. The REQUESTING PARTY, at no cost to the PROJECT, or the DEPARTMENT, shall secure, as necessary, all agreements and approvals of the PROJECT with railway companies, the Railroad Safety & Tariffs Division of the DEPARTMENT and other concerned governmental agencies other than the FHWA, and will forward same to the DEPARTMENT for such reviews and approvals as may be required.

I. No PROJECT work for which reimbursement will be requested by the REQUESTING PARTY is to be subcontracted or performed until the DEPARTMENT gives written notification that such work may commence.

J. The REQUESTING PARTY shall be responsible for the payment of all costs and expenses incurred in the performance of the work it agrees to undertake and perform.

K. The REQUESTING PARTY shall pay directly to the party performing the work all billings for the services performed on the PROJECT which are authorized by or through the REQUESTING PARTY.

L. The REQUESTING PARTY shall submit to the DEPARTMENT all paid billings for which reimbursement is desired in accordance with DEPARTMENT procedures.

M. All work by a consulting firm will be performed in compliance with the applicable provisions of 1980 PA 299, Subsection 2001, MCL 339.2001; MSA 18.425(2001), as well as in accordance with the provisions of all previously cited Directives of the FHWA.

N. The project engineer shall be subject to such administrative guidance as may be deemed necessary to ensure compliance with program requirement and, in those instances where a consultant firm is retained to provide engineering and inspection services, the personnel performing those services shall be subject to the same conditions.

O. The DEPARTMENT, in administering the PROJECT in accordance with applicable Federal and State requirements and regulations, neither assumes nor becomes liable for any obligations undertaken or arising between the REQUESTING PARTY and any other party with respect to the PROJECT.

P. In the event it is determined by the DEPARTMENT that there will be either insufficient Federal funds or insufficient time to properly administer such funds for the entire PROJECT or portions thereof, the DEPARTMENT, prior to advertising or issuing authorization for work performance, may cancel the PROJECT, or any portion thereof, and upon written notice to the parties this contract shall be void and of no effect with respect to that cancelled portion of the PROJECT. Any PROJECT deposits previously made by the parties on the cancelled portions of the PROJECT will be promptly refunded.

Q. Those projects funded with Federal monies will be subject to inspection at all times by the DEPARTMENT and the FHWA.

SECTION III

ACCOUNTING AND BILLING

A. Procedures for billing for work undertaken by the REQUESTING PARTY:

1. The REQUESTING PARTY shall establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this contract, said records to be hereinafter referred to as the "RECORDS". Separate accounts shall be established and maintained for all costs incurred under this contract.

   The REQUESTING PARTY shall maintain the RECORDS for at least three (3) years from the date of final payment of Federal Aid made by the DEPARTMENT under this contract. In the event of a dispute with regard to the allowable expenses or any other issue under this contract, the REQUESTING PARTY shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

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

   If any part of the work is subcontracted, the REQUESTING PARTY shall assure compliance with the above for all subcontracted work.

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

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

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

The REQUESTING PARTY shall comply with the Single Audit Act of 1984, P.L. 98-502.

The REQUESTING PARTY shall adhere to the following requirements associated with audits of accounts and records:

a. Agencies expending a total of $500,000 or more in federal funds, from one or more funding sources in its fiscal year, shall comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

The agency shall submit two copies of:

The Reporting Package
The Data Collection Form
The management letter to the agency, if one issued by the audit firm

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

b. Agencies expending less than $500,000 in federal funds must submit a letter to the Department advising that a circular audit was not required. The letter shall indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the Department federal programs, and the CFDA grant number(s). This information must also be submitted to the address below.

c. Address: Michigan Department of Transportation
Bureau of Highways Technical Services
425 W. Ottawa, P.O. Box 30050
Lansing, MI 48909

d. Agencies must also comply with applicable State laws and regulations relative to audit requirements.

e. Agencies shall not charge audit costs to Department's federal programs which are not in accordance with the OMB Circular A-133 requirements.

f. All agencies are subject to the federally required monitoring activities, which may include limited scope reviews and other on-site monitoring.

2. Agreed Unit Prices Work - All billings for work undertaken by the REQUESTING PARTY on an agreed unit price basis will be submitted in accordance with the Michigan Department of Transportation Standard Specifications for Construction and pertinent FAPG Directives and Guidelines of the FHWA.

3. Force Account Work and Subcontracted Work - All billings submitted to the DEPARTMENT for Federal reimbursement for items of work performed on a force account basis or by any subcontract with a consulting firm, railway company, governmental agency or other party, under the terms of this contract, shall be prepared in accordance with the provisions of the pertinent FHPM Directives and the procedures of the DEPARTMENT. Progress billings may be submitted monthly during the time work is being performed provided, however, that no bill of a lesser amount than $1,000.00 shall be submitted unless it is a final

or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number _______", or "Final Billing".

4. Final billing under this contract shall be submitted in a timely manner but not later than six months after completion of the work. Billings for work submitted later than six months after completion of the work will not be paid.

5. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with Federal monies, the DEPARTMENT will act as billing agent for the REQUESTING PARTY, consolidating said billings with those for its own force account work and presenting these consolidated billings to the FHWA for payment. Upon receipt of reimbursement from the FHWA, the DEPARTMENT will promptly forward to the REQUESTING PARTY its share of said reimbursement.

6. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with non-Federal monies, the DEPARTMENT will promptly forward to the REQUESTING PARTY reimbursement of eligible costs.

B. Payment of Contracted and DEPARTMENT Costs:

1. As work on the PROJECT commences, the initial payments for contracted work and/or costs incurred by the DEPARTMENT will be made from the working capital deposit. Receipt of progress payments of Federal funds, and where applicable, State Critical Bridge funds, will be used to replenish the working capital deposit. The REQUESTING PARTY shall make prompt payments of its share of the contracted and/or DEPARTMENT incurred portion of the PROJECT COST upon receipt of progress billings from the DEPARTMENT. Progress billings will be based upon the REQUESTING PARTY'S share of the actual costs incurred as work on the PROJECT progresses and will be submitted, as required, until it is determined by the DEPARTMENT that there is sufficient available working capital to meet the remaining anticipated PROJECT COSTS. All progress payments will be made within thirty (30) days of receipt of billings. No monthly billing of a lesser amount than $1,000.00 will be made unless it is a final or end of fiscal year billing. Should the DEPARTMENT determine that the available working capital exceeds the remaining anticipated PROJECT COSTS, the DEPARTMENT may reimburse the REQUESTING PARTY such excess. Upon completion of the PROJECT, payment of all PROJECT COSTS, receipt of all applicable monies from the FHWA, and completion of necessary audits, the REQUESTING PARTY will be reimbursed the balance of its deposit.

2. In the event that the bid, plus contingencies, for the contracted, and/or the DEPARTMENT incurred portion of the PROJECT work exceeds the estimated cost therefor as established by this contract, the REQUESTING PARTY may be advised and billed for the additional amount of its share.

C. General Conditions:

1. The DEPARTMENT, in accordance with its procedures in existence and covering the time period involved, shall make payment for interest earned on the balance of working capital deposits for all projects on account with the DEPARTMENT. The REQUESTING PARTY in accordance with DEPARTMENT procedures in existence and covering the time period involved, shall make payment for interest owed on any deficit balance of working capital deposits for all projects on account with the DEPARTMENT. This payment or billing is processed on an annual basis corresponding to the State of Michigan fiscal year. Upon receipt of billing for interest incurred, the REQUESTING PARTY promises and shall promptly pay the DEPARTMENT said amount.

2. Pursuant to the authority granted by law, the REQUESTING PARTY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its obligations as specified in PART I and PART II. If the REQUESTING PARTY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the REQUESTING PARTY and the State Treasurer of the State of Michigan or such other state officer or agency having charge and control over disbursement of the Michigan Transportation Fund, pursuant to law, of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, said State Treasurer or other state officer or agency is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the REQUESTING PARTY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the REQUESTING PARTY with payment thereof, and to notify the REQUESTING PARTY in writing of such fact.

3. Upon completion of all work under this contract and final audit by the DEPARTMENT or the FHWA, the REQUESTING PARTY promises to promptly repay the DEPARTMENT for any disallowed items of costs previously disbursed by the DEPARTMENT. The REQUESTING PARTY pledges its future receipts from the Michigan Transportation Fund for repayment of all disallowed items and, upon failure to make repayment for any disallowed items within ninety (90) days of demand made by the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold an equal amount from the REQUESTING PARTY'S share of any future distribution of Michigan Transportation Funds in settlement of said claim.

4. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT and upon completion of the PROJECT, payment of all items of PROJECT COST, receipt of all Federal Aid, if any, and completion of final audit by the DEPARTMENT and if applicable, by the FHWA, shall make final accounting to the REQUESTING PARTY. The final PROJECT accounting will not include interest earned or charged on working capital deposited for the PROJECT which will be accounted for separately at the close of the State of Michigan fiscal year and as set forth in Section C(1).

5. The costs of engineering and other services performed on those projects involving specific program funds and one hundred percent (100%) local funds will be apportioned to the respective portions of that project in the same ratio as the actual direct construction costs unless otherwise specified in PART I.

SECTION IV

MAINTENANCE AND OPERATION

A. Upon completion of construction of each part of the PROJECT, at no cost to the DEPARTMENT or the PROJECT, each of the parties hereto, within their respective jurisdictions, will make the following provisions for the maintenance and operation of the completed PROJECT:

1. All Projects:

   Properly maintain and operate each part of the project, making ample provisions each year for the performance of such maintenance work as may be required, except as qualified in paragraph 2b of this section.

2. Projects Financed in Part with Federal Monies:

   a. Sign and mark each part of the PROJECT, in accordance with the current Michigan Manual of Uniform Traffic control Devices, and will not install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the FHWA, pursuant to 23 USC 109(d).

   b. Remove, prior to completion of the PROJECT, all encroachments from the roadway right-of-way within the limits of each part of the PROJECT.

      With respect to new or existing utility installations within the right-of-way of Federal Aid projects and pursuant to FAPG (23 CFR 645B): Occupancy of non-limited access right-of-way may be allowed based on consideration for traffic safety and necessary preservation of roadside space and aesthetic quality. Longitudinal occupancy of non-limited access right-of-way by private lines will require a finding of significant economic hardship, the unavailability of practicable alternatives or other extenuating circumstances.

   c. Cause to be enacted, maintained and enforced, ordinances and regulations for proper traffic operations in accordance with the plans of the PROJECT.

   d. Make no changes to ordinances or regulations enacted, or traffic controls installed in conjunction with the PROJECT work without prior review by the DEPARTMENT and approval of the FHWA, if required.

B. On projects for the removal of roadside obstacles, the parties, upon completion of construction of each part of the PROJECT, at no cost to the PROJECT or the DEPARTMENT, will, within their respective jurisdictions, take such action as is necessary to assure that the roadway right-of-way, cleared as the PROJECT, will be maintained free of such obstacles.

C. On projects for the construction of bikeways, the parties will enact no ordinances or regulations prohibiting the use of bicycles on the facility hereinbefore described as the PROJECT, and will amend any existing restrictive ordinances in this regard so as to allow use of this facility by bicycles. No motorized vehicles shall be permitted on such bikeways or walkways constructed as the PROJECT except those for maintenance purposes.

D. Failure of the parties hereto to fulfill their respective responsibilities as outlined herein may disqualify that party from future Federal-aid participation in projects on roads or streets for which it has maintenance responsibility. Federal Aid may be withheld until such time as deficiencies in regulations have been corrected, and the improvements constructed as the PROJECT are brought to a satisfactory condition of maintenance.

SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

A. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the acquisition of right-of-way must be under construction by the close of the twentieth (20th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that right-of-way.

B. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the performance of preliminary engineering must be under construction by the close of the tenth (10th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that preliminary engineering.

C. On those projects funded with Federal monies, the REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, will provide such accident information as is available and such other information as may be required under the program in order to make the proper assessment of the safety benefits derived from the work performed as the PROJECT. The REQUESTING PARTY will cooperate with the DEPARTMENT in the development of reports and such analysis as may be required and will, when requested by the DEPARTMENT, forward to the DEPARTMENT, in such form as is necessary, the required information.

D. In connection with the performance of PROJECT work under this contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.

E. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

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

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.

2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.

3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.

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

7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.

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

March, 1998

APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. <u>Compliance with Regulations</u>: The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. <u>Nondiscrimination</u>: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. <u>Solicitations for Subcontracts, Including Procurements of Materials and Equipment</u>: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. <u>Information and Reports</u>: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. <u>Sanctions for Noncompliance</u>: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or

   (b) Cancellation, termination, or suspension of the contract, in whole or in part.

6. <u>Incorporation of Provisions</u>: The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

Assurance that Recipients and Contractors Must Make (Excerpts from US DOT Regulation 49 CFR 26.13)

A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:

> **The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).**

B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

> **The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.**

Date: **September 25, 2007**

To: **Honorable Mayor and City Commissioners**

From: **Engineering**

RE: **City – MDOT Agreement for the whitetopping of the: Sherman Blvd. @ Henry St. Intersection plus the Sidewalk Installation along Sherman Blvd. Between Henry St. & Barclay St.**

SUMMARY OF REQUEST:

To approve the attached contract with MDOT for the whitetopping of Sherman Blvd. from @ Henry St. Intersection plus the Sidewalk Installation along Sherman Blvd. between Henry St. & Barclay St. and to approve the attached resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT:

MDOT's participation is limited to the federal funds of $209,800 & $52,400 of state funds (Local Jobs Today Grant) for a total grant of $262,200. The estimated total construction cost, without engineering, is $262,000. The engineering cost is estimated at an additional 15% of the construction cost.

BUDGET ACTION REQUIRED:

None at this time. The City's share of the cost will come out of the Major Street fund and will appear in the 2008 budget.

STAFF RECOMMENDATION:

Approve the attached contract and resolution and authorize the mayor & clerk to sign both.

COMMITTEE RECOMMENDATION:

RESOLUTION 2007-82(i)

RESOLUTION FOR APPROVAL OF A CONTRACT AGREEMENT BETWEEN THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND THE CITY OF MUSKEGON FOR THE WHITETOPPING OF SHERMAN BLVD. FROM @ HENRY ST. INTERSECTION PLUS THE SIDEWALK INSTALLATION ALONG SHERMAN BLD. BETWEEN HENRY ST. & BARCLAY ST. TOGETHER WITH OTHER NECESSARY RELATED WORK AND AUTHORIZATION FOR THE MAYOR, STEPHEN J. WARMINGTON AND CITY CLERK, ANN MARIE BECKER TO EXECUTE SAID CONTRACT

Moved by Commissioner Carter and supported by

Vice Mayor Gawron that the following Resolution be adopted:

WHEREAS, entry by the City of Muskegon into Contract no. **07-5474** between the Michigan Department of Transportation and the City of Muskegon for the **whitetopping of Sherman Blvd. AT Henry St. Intersection and the Sidewalk Installation along Sherman Blvd. between Henry St. and Barclay St.** within the City is in the best interests of the City of Muskegon.

RESOLVED, that entry by the City into Contract Agreement Number **07-5474** be and the same is hereby authorized and approved and the Mayor and Clerk are authorized to execute said contract for and on behalf of the City of Muskegon.

Adopted this 25th day of September, 2007.

BY [signature]

Stephen J. Warmington, Mayor

ATTEST [signature]

Ann Marie Becker, City Clerk

CERTIFICATION

This resolution was adopted at a meeting of the City Commission, held on September 25, 2007. 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 [signature]

Ann Marie Becker, City Clerk

JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

KIRK T. STEUDLE
DIRECTOR

October 17, 2007

Ms. Anne M. Becker
Clerk
City of Muskegon
933 Terrace Street, P.O. Box 536
Muskegon, MI 49443-0536

Dear Ms. Becker:

RE: MDOT Contract No.: 07-5474
Control Section: STH 61609
Job Number: 100365

Enclosed is a fully executed copy of the above noted agreement.

Sincerely,

Jackie Burch

Jackie Burch
Contract Processing Specialist
Design Support Area

Enclosure

cc: Project Accounting
M. Harbison, Design Support Area
Grand

C: Engineering

STP & LJT

	CAB
Control Section	STH 61609
Job Number	100365
Project	STP 0761(029)
Federal Item No.	RR 5931
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	07-5474

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of OCT 17 2007, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF MUSKEGON, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Muskegon, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated August 21, 2007, attached hereto and made a part hereof:

Concrete white topping, cold milling, hot mix asphalt paving, concrete paving, and pavement marking work at the intersection of Sherman Boulevard and Henry Street; sidewalk work along Sherman Boulevard from Barclay Street to Henry Street; and all together with necessary related work.

WITNESSETH:

WHEREAS, pursuant to Federal and State law, monies have been provided for the performance of certain improvements on public roads; and

WHEREAS, the PROJECT has been approved for financing in part with Local Jobs Today Program Funds; and

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT, or portions of the PROJECT, at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal program(s) or funding:

SURFACE TRANSPORTATION PROGRAM

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

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

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT.

Costs for construction engineering and inspection incurred by the DEPARTMENT will be charged 100 percent to the REQUESTING PARTY. Any other costs incurred by the DEPARTMENT as a result of this contract will be at PROJECT COST.

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

3. The DEPARTMENT is authorized by the REQUESTING PARTY to administer on behalf of the REQUESTING PARTY all phases of the PROJECT including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT. Such administration shall be in accordance with PART II, Section II of this contract.

Any items of the PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

4. The REQUESTING PARTY, at no cost to the PROJECT or to the DEPARTMENT, shall:

   A. Design or cause to be designed the plans for the PROJECT.

   B. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.

C. Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PROJECT.

The REQUESTING PARTY will furnish the DEPARTMENT proposed timing sequences for trunkline signals that, if any, are being made part of the improvement. No timing adjustments shall be made by the REQUESTING PARTY at any trunkline intersection, without prior issuances by the DEPARTMENT of Standard Traffic Signal Timing Permits.

5. The PROJECT COST shall be met in part by contributions by the Federal Government and the State Local Jobs Today Program. Federal Surface Transportation Funds shall be applied to the eligible items of the PROJECT COST at the established Federal participation ratio equal to 80 percent. State Local Jobs Today Grant Funds shall be applied to the eligible items of the PROJECT COST at a participation ratio equal to 20 percent up to an amount not to exceed $54,000. The balance of the PROJECT COST, after deduction of Federal Funds and State Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Any items of PROJECT COST not reimbursed by Federal Funds or State Funds will be the sole responsibility of the REQUESTING PARTY.

6. No working capital deposit will be required for this PROJECT.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 30 days of receipt of billings from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less Federal Funds and State Local Jobs Today Grant Funds earned as the PROJECT progresses.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

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

8. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

9. The REQUESTING PARTY certifies that a) it is a person under 1995 PA 71 and is not aware of and has no reason to believe that the property is a facility as defined in MSA 13A.20101(1)(l); b) the REQUESTING PARTY further certifies that it has completed the tasks required by MCL 324.20126 (3)(h); MSA 13A.20126(3)(h); c) it conducted a visual inspection of property within the existing right of way on which construction is to be performed to determine if any hazardous substances were present; and at sites on which historically were located businesses that involved hazardous substances, it performed a reasonable investigation to determine whether hazardous substances exist. This reasonable investigation should include, at a minimum, contact with local, state and federal environmental agencies to determine if the site has been identified as, or potentially as, a site containing hazardous substances; d) it did not cause or contribute to the release or threat of release of any hazardous substance found within the PROJECT limits.

The REQUESTING PARTY also certifies that, in addition to reporting the presence of any hazardous substances to the Department of Environmental Quality, it has advised the DEPARTMENT of the presence of any and all hazardous substances which the REQUESTING PARTY found within the PROJECT limits, as a result of performing the investigation and visual inspection required herein. The REQUESTING PARTY also certifies that it has been unable to identify any entity who may be liable for the cost of remediation. As a result, the REQUESTING PARTY has included all estimated costs of remediation of such hazardous substances in its estimated cost of construction of the PROJECT.

10. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

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

12. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the Federal Highway Administration pursuant to Title 23 of the United States Code.

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

The providing of recommendations or advice by the DEPARTMENT or its agents does not relieve the REQUESTING PARTY and the local agencies, as applicable of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402, MSA 3.996(102).

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT or its agents is performing a governmental function, as that term is defined in MCL 691.1401; MSA 3.996(101), which is incidental to the completion of the PROJECT.

13. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402; MSA 3.996(102). Exclusive jurisdiction of such highway for the purposes of MCL 691.1402; MSA 3.996(102) rests with the REQUESTING PARTY and other local agencies having respective jurisdiction.

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

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

16. The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the construction contract for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

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

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CITY OF MUSKEGON	MICHIGAN DEPARTMENT OF TRANSPORTATION
By ______	By ______
Title: Stephen J. Warmington Mayor	Department Director MDOT
By ______	REVIEWED 8-21-07 CONTRACT ADMIN
Title: Ann Marie Becker City Clerk	8/30/07

August 21, 2007

EXHIBIT I

CONTROL SECTION	STH 61609
JOB NUMBER	100365
PROJECT	STP 0761(029)

ESTIMATED COST

CONTRACTED WORK

Estimated Cost	$262,200

COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	$262,200
Less Federal Funds	$209,800
Less State Local Jobs Today Grant Funds*	$ 52,400
BALANCE (REQUESTING PARTY'S SHARE)	$ 0

*State Local Jobs Today Grant Funds shall be applied to the eligible items of the PROJECT COST at a participation ratio equal to 20 percent up to an amount not to exceed $54,000.

NO DEPOSIT

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

A. To qualify for eligible cost, all work shall be documented in accordance with the requirements and procedures of the DEPARTMENT.

B. All work on projects for which reimbursement with Federal funds is requested shall be performed in accordance with the requirements and guidelines set forth in the following Directives of the Federal-Aid Policy Guide (FAPG) of the FHWA, as applicable, and as referenced in pertinent sections of Title 23 and Title 49 of the Code of Federal Regulations (CFR), and all supplements and amendments thereto.

1. Engineering

    a. FAPG (6012.1): Preliminary Engineering

    b. FAPG (23 CFR 172): Administration of Engineering and Design Related Service Contracts

    c. FAPG (23 CFR 635A): Contract Procedures

    d. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments–Allowable Costs

2. Construction

    a. FAPG (23 CFR 140E): Administrative Settlement Costs-Contract Claims

    b. FAPG (23 CFR 140B): Construction Engineering Costs

    c. FAPG (23 CFR 17): Recordkeeping and Retention Requirements for Federal-Aid Highway Records of State Highway Agencies

    d. FAPG (23 CFR 635A): Contract Procedures

    e. FAPG (23 CFR 635B): Force Account Construction

    f. FAPG (23 CFR 645A): Utility Relocations, Adjustments and Reimbursement

g. FAPG (23 CFR 645B): Accommodation of Utilities (PPM 30-4.1)

h. FAPG (23 CFR 655F): Traffic Control Devices on Federal-Aid and other Streets and Highways

i. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments–Allowable Costs

3. Modification Or Construction Of Railroad Facilities

a. FAPG (23 CFR 140I): Reimbursement for Railroad Work

b. FAPG (23 CFR 646B): Railroad Highway Projects

C. In conformance with FAPG (23 CFR 630C) Project Agreements, the political subdivisions party to this contract, on those Federally funded projects which exceed a total cost of $100,000.00 stipulate the following with respect to their specific jurisdictions:

1. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.

2. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.

3. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.

D. Ensure that the PROJECT is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless modified or deleted by approval of the FHWA.

E. All the requirements, guidelines, conditions and restrictions noted in all other pertinent Directives and Instructional Memoranda of the FHWA will apply to this contract and will be adhered to, as applicable, by the parties hereto.

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

A. The DEPARTMENT shall provide such administrative guidance as it determines is required by the PROJECT in order to facilitate the obtaining of available federal and/or state funds.

B. The DEPARTMENT will advertise and award all contracted portions of the PROJECT work. Prior to advertising of the PROJECT for receipt of bids, the REQUESTING PARTY may delete any portion or all of the PROJECT work. After receipt of bids for the PROJECT, the REQUESTING PARTY shall have the right to reject the amount bid for the PROJECT prior to the award of the contract for the PROJECT only if such amount exceeds by twenty percent (20%) the final engineer's estimate therefor. If such rejection of the bids is not received in writing within two (2) weeks after letting, the DEPARTMENT will assume concurrence. The DEPARTMENT may, upon request, readvertise the PROJECT. Should the REQUESTING PARTY so request in writing within the aforesaid two (2) week period after letting, the PROJECT will be cancelled and the DEPARTMENT will refund the unused balance of the deposit less all costs incurred by the DEPARTMENT.

C. The DEPARTMENT will perform such inspection services on PROJECT work performed by the REQUESTING PARTY with its own forces as is required to ensure compliance with the approved plans & specifications.

D. On those projects funded with Federal monies, the DEPARTMENT shall as may be required secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.

E. All work in connection with the PROJECT shall be performed in conformance with the Michigan Department of Transportation Standard Specifications for Construction, and the supplemental specifications, Special Provisions and plans pertaining to the PROJECT and all materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. No extra work shall be performed nor changes in plans and specifications made until said work or changes are approved by the project engineer and authorized by the DEPARTMENT.

F. Should it be necessary or desirable that portions of the work covered by this contract be accomplished by a consulting firm, a railway company, or governmental agency, firm, person, or corporation, under a subcontract with the REQUESTING PARTY at PROJECT expense, such subcontracted arrangements will be covered by formal written agreement between the REQUESTING PARTY and that party.

This formal written agreement shall: include a reference to the specific prime contract to which it pertains; include provisions which clearly set forth the maximum reimbursable and the basis of payment; provide for the maintenance of accounting records in accordance with generally accepted accounting principles, which clearly document the actual cost of the services provided; provide that costs eligible for reimbursement shall be in accordance with clearly defined cost criteria such as 49 CFR Part 18, 48 CFR Part 31, 23 CFR Part 140, OMB Circular A-87, etc. as applicable; provide for access to the department or its representatives to inspect and audit all data and records related to the agreement for a minimum of three years after the department's final payment to the local unit.

All such agreements will be submitted for approval by the DEPARTMENT and, if applicable, by the FHWA prior to execution thereof, except for agreements for amounts less than $100,000 for preliminary engineering and testing services executed under and in accordance with the provisions of the "Small Purchase Procedures" FAPG (23 CFR 172), which do not require prior approval of the DEPARTMENT or the FHWA.

Any such approval by the DEPARTMENT shall in no way be construed as a warranty of the subcontractor's qualifications, financial integrity, or ability to perform the work being subcontracted.

G. The REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, shall make such arrangements with railway companies, utilities, etc., as may be necessary for the performance of work required for the PROJECT but for which Federal or other reimbursement will not be requested.

H. The REQUESTING PARTY, at no cost to the PROJECT, or the DEPARTMENT, shall secure, as necessary, all agreements and approvals of the PROJECT with railway companies, the Railroad Safety & Tariffs Division of the DEPARTMENT and other concerned governmental agencies other than the FHWA, and will forward same to the DEPARTMENT for such reviews and approvals as may be required.

I. No PROJECT work for which reimbursement will be requested by the REQUESTING PARTY is to be subcontracted or performed until the DEPARTMENT gives written notification that such work may commence.

J. The REQUESTING PARTY shall be responsible for the payment of all costs and expenses incurred in the performance of the work it agrees to undertake and perform.

K. The REQUESTING PARTY shall pay directly to the party performing the work all billings for the services performed on the PROJECT which are authorized by or through the REQUESTING PARTY.

L. The REQUESTING PARTY shall submit to the DEPARTMENT all paid billings for which reimbursement is desired in accordance with DEPARTMENT procedures.

M. All work by a consulting firm will be performed in compliance with the applicable provisions of 1980 PA 299, Subsection 2001, MCL 339.2001; MSA 18.425(2001), as well as in accordance with the provisions of all previously cited Directives of the FHWA.

N. The project engineer shall be subject to such administrative guidance as may be deemed necessary to ensure compliance with program requirement and, in those instances where a consultant firm is retained to provide engineering and inspection services, the personnel performing those services shall be subject to the same conditions.

O. The DEPARTMENT, in administering the PROJECT in accordance with applicable Federal and State requirements and regulations, neither assumes nor becomes liable for any obligations undertaken or arising between the REQUESTING PARTY and any other party with respect to the PROJECT.

P. In the event it is determined by the DEPARTMENT that there will be either insufficient Federal funds or insufficient time to properly administer such funds for the entire PROJECT or portions thereof, the DEPARTMENT, prior to advertising or issuing authorization for work performance, may cancel the PROJECT, or any portion thereof, and upon written notice to the parties this contract shall be void and of no effect with respect to that cancelled portion of the PROJECT. Any PROJECT deposits previously made by the parties on the cancelled portions of the PROJECT will be promptly refunded.

Q. Those projects funded with Federal monies will be subject to inspection at all times by the DEPARTMENT and the FHWA.

SECTION III

ACCOUNTING AND BILLING

A. Procedures for billing for work undertaken by the REQUESTING PARTY:

1. The REQUESTING PARTY shall establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this contract, said records to be hereinafter referred to as the "RECORDS". Separate accounts shall be established and maintained for all costs incurred under this contract.

   The REQUESTING PARTY shall maintain the RECORDS for at least three (3) years from the date of final payment of Federal Aid made by the DEPARTMENT under this contract. In the event of a dispute with regard to the allowable expenses or any other issue under this contract, the REQUESTING PARTY shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

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

   If any part of the work is subcontracted, the REQUESTING PARTY shall assure compliance with the above for all subcontracted work.

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

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

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

The REQUESTING PARTY shall comply with the Single Audit Act of 1984, P.L. 98-502.

The REQUESTING PARTY shall adhere to the following requirements associated with audits of accounts and records:

a. Agencies expending a total of $500,000 or more in federal funds, from one or more funding sources in its fiscal year, shall comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

The agency shall submit two copies of:

The Reporting Package
The Data Collection Form
The management letter to the agency, if one issued by the audit firm

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

b. Agencies expending less than $500,000 in federal funds must submit a letter to the Department advising that a circular audit was not required. The letter shall indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the Department federal programs, and the CFDA grant number(s). This information must also be submitted to the address below.

c. Address: Michigan Department of Transportation
Bureau of Highways Technical Services
425 W. Ottawa, P.O. Box 30050
Lansing, MI 48909

d. Agencies must also comply with applicable State laws and regulations relative to audit requirements.

e. Agencies shall not charge audit costs to Department's federal programs which are not in accordance with the OMB Circular A-133 requirements.

f. All agencies are subject to the federally required monitoring activities, which may include limited scope reviews and other on-site monitoring.

2. Agreed Unit Prices Work - All billings for work undertaken by the REQUESTING PARTY on an agreed unit price basis will be submitted in accordance with the Michigan Department of Transportation Standard Specifications for Construction and pertinent FAPG Directives and Guidelines of the FHWA.

3. Force Account Work and Subcontracted Work - All billings submitted to the DEPARTMENT for Federal reimbursement for items of work performed on a force account basis or by any subcontract with a consulting firm, railway company, governmental agency or other party, under the terms of this contract, shall be prepared in accordance with the provisions of the pertinent FHPM Directives and the procedures of the DEPARTMENT. Progress billings may be submitted monthly during the time work is being performed provided, however, that no bill of a lesser amount than $1,000.00 shall be submitted unless it is a final

or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number ______", or "Final Billing".

4. Final billing under this contract shall be submitted in a timely manner but not later than six months after completion of the work. Billings for work submitted later than six months after completion of the work will not be paid.

5. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with Federal monies, the DEPARTMENT will act as billing agent for the REQUESTING PARTY, consolidating said billings with those for its own force account work and presenting these consolidated billings to the FHWA for payment. Upon receipt of reimbursement from the FHWA, the DEPARTMENT will promptly forward to the REQUESTING PARTY its share of said reimbursement.

6. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with non-Federal monies, the DEPARTMENT will promptly forward to the REQUESTING PARTY reimbursement of eligible costs.

B. Payment of Contracted and DEPARTMENT Costs:

1. As work on the PROJECT commences, the initial payments for contracted work and/or costs incurred by the DEPARTMENT will be made from the working capital deposit. Receipt of progress payments of Federal funds, and where applicable, State Critical Bridge funds, will be used to replenish the working capital deposit. The REQUESTING PARTY shall make prompt payments of its share of the contracted and/or DEPARTMENT incurred portion of the PROJECT COST upon receipt of progress billings from the DEPARTMENT. Progress billings will be based upon the REQUESTING PARTY'S share of the actual costs incurred as work on the PROJECT progresses and will be submitted, as required, until it is determined by the DEPARTMENT that there is sufficient available working capital to meet the remaining anticipated PROJECT COSTS. All progress payments will be made within thirty (30) days of receipt of billings. No monthly billing of a lesser amount than $1,000.00 will be made unless it is a final or end of fiscal year billing. Should the DEPARTMENT determine that the available working capital exceeds the remaining anticipated PROJECT COSTS, the DEPARTMENT may reimburse the REQUESTING PARTY such excess. Upon completion of the PROJECT, payment of all PROJECT COSTS, receipt of all applicable monies from the FHWA, and completion of necessary audits, the REQUESTING PARTY will be reimbursed the balance of its deposit.

2. In the event that the bid, plus contingencies, for the contracted, and/or the DEPARTMENT incurred portion of the PROJECT work exceeds the estimated cost therefor as established by this contract, the REQUESTING PARTY may be advised and billed for the additional amount of its share.

C. General Conditions:

1. The DEPARTMENT, in accordance with its procedures in existence and covering the time period involved, shall make payment for interest earned on the balance of working capital deposits for all projects on account with the DEPARTMENT. The REQUESTING PARTY in accordance with DEPARTMENT procedures in existence and covering the time period involved, shall make payment for interest owed on any deficit balance of working capital deposits for all projects on account with the DEPARTMENT. This payment or billing is processed on an annual basis corresponding to the State of Michigan fiscal year. Upon receipt of billing for interest incurred, the REQUESTING PARTY promises and shall promptly pay the DEPARTMENT said amount.

2. Pursuant to the authority granted by law, the REQUESTING PARTY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its obligations as specified in PART I and PART II. If the REQUESTING PARTY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the REQUESTING PARTY and the State Treasurer of the State of Michigan or such other state officer or agency having charge and control over disbursement of the Michigan Transportation Fund, pursuant to law, of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, said State Treasurer or other state officer or agency is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the REQUESTING PARTY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the REQUESTING PARTY with payment thereof, and to notify the REQUESTING PARTY in writing of such fact.

3. Upon completion of all work under this contract and final audit by the DEPARTMENT or the FHWA, the REQUESTING PARTY promises to promptly repay the DEPARTMENT for any disallowed items of costs previously disbursed by the DEPARTMENT. The REQUESTING PARTY pledges its future receipts from the Michigan Transportation Fund for repayment of all disallowed items and, upon failure to make repayment for any disallowed items within ninety (90) days of demand made by the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold an equal amount from the REQUESTING PARTY'S share of any future distribution of Michigan Transportation Funds in settlement of said claim.

4. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT and upon completion of the PROJECT, payment of all items of PROJECT COST, receipt of all Federal Aid, if any, and completion of final audit by the DEPARTMENT and if applicable, by the FHWA, shall make final accounting to the REQUESTING PARTY. The final PROJECT accounting will not include interest earned or charged on working capital deposited for the PROJECT which will be accounted for separately at the close of the State of Michigan fiscal year and as set forth in Section C(1).

5. The costs of engineering and other services performed on those projects involving specific program funds and one hundred percent (100%) local funds will be apportioned to the respective portions of that project in the same ratio as the actual direct construction costs unless otherwise specified in PART I.

SECTION IV

MAINTENANCE AND OPERATION

A. Upon completion of construction of each part of the PROJECT, at no cost to the DEPARTMENT or the PROJECT, each of the parties hereto, within their respective jurisdictions, will make the following provisions for the maintenance and operation of the completed PROJECT:

1. All Projects:

   Properly maintain and operate each part of the project, making ample provisions each year for the performance of such maintenance work as may be required, except as qualified in paragraph 2b of this section.

2. Projects Financed in Part with Federal Monies:

   a. Sign and mark each part of the PROJECT, in accordance with the current Michigan Manual of Uniform Traffic control Devices, and will not install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the FHWA, pursuant to 23 USC 109(d).

   b. Remove, prior to completion of the PROJECT, all encroachments from the roadway right-of-way within the limits of each part of the PROJECT.

      With respect to new or existing utility installations within the right-of-way of Federal Aid projects and pursuant to FAPG (23 CFR 645B): Occupancy of non-limited access right-of-way may be allowed based on consideration for traffic safety and necessary preservation of roadside space and aesthetic quality. Longitudinal occupancy of non-limited access right-of-way by private lines will require a finding of significant economic hardship, the unavailability of practicable alternatives or other extenuating circumstances.

   c. Cause to be enacted, maintained and enforced, ordinances and regulations for proper traffic operations in accordance with the plans of the PROJECT.

   d. Make no changes to ordinances or regulations enacted, or traffic controls installed in conjunction with the PROJECT work without prior review by the DEPARTMENT and approval of the FHWA, if required.

B. On projects for the removal of roadside obstacles, the parties, upon completion of construction of each part of the PROJECT, at no cost to the PROJECT or the DEPARTMENT, will, within their respective jurisdictions, take such action as is necessary to assure that the roadway right-of-way, cleared as the PROJECT, will be maintained free of such obstacles.

C. On projects for the construction of bikeways, the parties will enact no ordinances or regulations prohibiting the use of bicycles on the facility hereinbefore described as the PROJECT, and will amend any existing restrictive ordinances in this regard so as to allow use of this facility by bicycles. No motorized vehicles shall be permitted on such bikeways or walkways constructed as the PROJECT except those for maintenance purposes.

D. Failure of the parties hereto to fulfill their respective responsibilities as outlined herein may disqualify that party from future Federal-aid participation in projects on roads or streets for which it has maintenance responsibility. Federal Aid may be withheld until such time as deficiencies in regulations have been corrected, and the improvements constructed as the PROJECT are brought to a satisfactory condition of maintenance.

SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

A. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the acquisition of right-of-way must be under construction by the close of the twentieth (20th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that right-of-way.

B. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the performance of preliminary engineering must be under construction by the close of the tenth (10th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that preliminary engineering.

C. On those projects funded with Federal monies, the REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, will provide such accident information as is available and such other information as may be required under the program in order to make the proper assessment of the safety benefits derived from the work performed as the PROJECT. The REQUESTING PARTY will cooperate with the DEPARTMENT in the development of reports and such analysis as may be required and will, when requested by the DEPARTMENT, forward to the DEPARTMENT, in such form as is necessary, the required information.

D. In connection with the performance of PROJECT work under this contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.

E. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

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

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.

2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.

3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.

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

7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.

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

March, 1998

APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. <u>Compliance with Regulations</u>: The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. <u>Nondiscrimination</u>: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. <u>Solicitations for Subcontracts, Including Procurements of Materials and Equipment</u>: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. <u>Information and Reports</u>: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. <u>Sanctions for Noncompliance</u>: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or

   (b) Cancellation, termination, or suspension of the contract, in whole or in part.

6. <u>Incorporation of Provisions</u>: The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Commission Meeting Date: September 25, 2007

Date:	**September 19, 2007**
To:	**Honorable Mayor & City Commission**
From:	**Planning & Economic Development Department**
RE:	**Nutritional Services for Older Americans, Inc/City of Muskegon Agreement**

SUMMARY OF REQUEST: The City of Muskegon has had an Agreement with Nutritional Services for Older Americans, Inc. (NSOA). They are requesting that this Agreement be renewed for another year (through September 30, 2008). NSOA will pay the City $200.00 a month for expenses associated with the McGraft Park Community Building, where they operate as a location for senior meals and support services for seniors in the area. The City will provide financial support in the amount of $8,316.00 for staff time for recreational programs provided at McGraft Park and their other locations.

FINANCIAL IMPACT: The City will receive $200.00 a month in rent from NSOA and will provide $8,316.00 in staff time and recreational programming.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Agreement between NSOA and the City and authorize the Mayor to sign the Agreement.

COMMITTEE RECOMMENDATION:

Nutritional Services

MEALS ON WHEELS

Sharon TerHaar, Executive Director

RECEIVED

SEP 18 2007

CITY OF MUSKEGON
LEISURE SERVICES

RECEIVED

SEP 18 2007

CITY OF MUSKEGON
PLANNING DEPARTMENT

September 13, 2007

Leisure Services
City of Muskegon
933 Terrace
Muskegon, MI 49440

Thank you for your collaboration in the past to work with us and allow us to provide programs for older adults in the City of Muskegon. Statistics show that seniors want to remain in their communities where they worked and raised their families and not retire somewhere else. It is important that we continue to provide an 'elder friendly community' within the City of Muskegon and continue to expand that philosophy as the aging population surges.

This letter is the formal request for the two hours of staffing time for recreation and activities provided in the City of Muskegon for the fiscal year 2008 (October 1, 2007-September 30, 2009) as per our agreement. The amount for this period is $ 8316.00.

Our programs for seniors in the City of Muskegon continue to be strong. Our focus remains at the McGraft Park Community Building for the City of Muskegon but we operate programs at other city locations as well. Seniors in the community are looking to City Centre Programs @ McGraft Park for their source for health and wellness. Our emphasis is on Nutrition, Enrichment and Wellness. We feel that offering a variety of programs will keep them active and healthy and involved in the community they live in.

While our focus is at McGraft Park, we are offering programs and meals at:
Jefferson Towers, Nelson Place, M-Tec and Bayview Towers. At the locations we also do recreation programs and health screenings, nutrition education and information and referral. We worked to provide assistance and enrollment for seniors in the Medicare Prescription Plan and secured a federal grant to help enroll over 3400 seniors in plans. And we continue to provide home delivered meals to the seniors throughout the City of Muskegon using the centers as satellite operations to coordinate the service and the drivers.

As I said, McGraft Park- City Centre@ the Park as we call it is the focal center for senior activities. I am attaching a listing of the variety of programs we offer and some statistics on which it is we are reaching. Your support of our program keeps it going in the City of Muskegon.

We are only able to provide this service in the City of Muskegon with your financial support. Without it, we could not provide the health and wellness programs that are keeping seniors more active. (See attached story of a client).

 / pc: Kirksey, Mazade, Brubaker-Clarke (original)

1540 W. Sherman Blvd. • Muskegon, MI 49441 • Phone (231) 755-0434 or Toll Free 1-800-442-6769 • Fax (231) 755-7805 • Email nsoamow@gte.net

Our staffing costs and operational costs continue to rise as does yours. We have not asked for any increases in the funding for 3 years now and will not again this 4^{th} year. We just ask you to continue to help us and we will work to secure additional grants to help with the costs. We try to keep the costs for programs as low as possible to ensure the low income have access to services they need. Based on the $8316, it cost the city only $14 per unduplicated person that went to a center. When adding in the homebound served, the cost is only $5.20 per senior.

The lease for McGraft Park is currently at $200 per month. We appreciate your flexibility in the hours we use the facility. I know this is a community center and a source of rental revenue and that comes first. So allowing us to use it occasionally in the evenings or later afternoon when available is very helpful to us.

Should you have any questions, please contact me. And again, thank you for your past support and I look forward to working with you in the future.

Sincerely,

Sharon TerHaar

Sharon TerHaar
Director

City of Muskegon Senior Statistics for the fiscal year October 1, 2006-September 30, 2007**

Number of Registered Seniors at our City Locations:
--- Seniors are not asked to register with us for attending occasionally, so these numbers are 'regular attendees' ---

Bayview Towers – 46
M-Tec – 27
McGraft Park – 173
Muskegon Jefferson Towers - 56
Nelson Place – 55
City Centre @ McGraft Park – 237

Of the above who attend regularly and participate in our programs:
13% are minority participants
68% live alone
29% are at a high nutrition risk
36% report being at the poverty level

MEAL SERVICES
Number of Meals Served to Senior's at a center in the City of Muskegon
25,955

Number of Meals Served to the Homebound Seniors due to one of the above locations who coordinate the meal service: 112,383

Number of Homebound Seniors receiving meals in the City of Muskegon: 1006

** *Last few weeks of September are estimated*

PROGRAMS CONDUCTED AT McGRAFT PARK
And other City of Muskegon locations

NUTRITION PROGRAMS – Continue to be held at least monthly at all locations with special programs occasionally held mostly at McGraft Park

- Osteoporosis
- Diabetic Eating – Counting Carbs
- Lowfat Cooking
- Eating Healthy in Restaurants
- 12 week nutrition class
- Hypertension
- Healthy Heart
- Benefits of Calcium – 3 a day!
- Guilt Free Fast Foods
- Special Diets and Eating Choices
- Good Nutrition Choices
- Eat to beat the Flu
- Lower your Cholesterol
- Taking Vitamins & Supplements
- Getting more Fruits and Vegetables into your diet

ENRICHMENT PROGRAMS

- Coffee Hour and Social Hour
- Cards – Cribbage, Spades, Pinochle, Euchre
- Bingo
- Scrabble
- Social Parties: Halloween, St Patrick's Day, Thanksgiving, Christmas, Mothers and Fathers Day, Grandparents Day, Valentines Day, Monthly Birthday Parties
- Picnics – visited Heritage Landing, Bronson, Margaret Elliot Drake Park, and
- Trivia Games
- Travel Opportunities & Tours
- Computer Classes – Intro to Computers, Googling, Web Based Email, Intro to Windows, Internet Genealogy, Intro to Word, Intro to Excel, On-line Shopping, Virus, spasm and Cookies, Email Basics, Internet Games
- Yard Sale, Antique Road Show
- Concert nights and Picnic
- Gardening Group
- Senior Stitching
- Videos
- Kitchen Band
- Soup Supper and Chinese Auction
- Volunteer Day
- Visits by Local Candidates and Politicians
- Dances and Dance Lessons
- Fine Arts Fest
- Recorder Music Lessons and Class
- Make Ahead Meals

WELLNESS PROGRAMS – Health Related

- 211 Services
- Arthritis Information
- Osteoporosis (RECEIVED A SPECIAL GRANT)
- Brown Bag Medicine with Pharmacist
- Medicare Prescription Drug Program (RECEIVED A SPECIAL GRANT)
- Hypertension Program & Blood Pressures weekly
- Diabetes
- Pro-Med Services
- Brain Aerobics
- Fire Safety
- Healthy Heart
- Alzheimers' Program & Support Network
- Stress and Anxiety
- Health Education
- Blood Pressure
- Parkinsons
- Lower Your Cholesterol
- Talking to Your Doctor
- Funeral Services
- Foot Care
- Trusts and Wills for Health Reasons

WELLNESS PROGRAMS – FITNESS

- National Senior Health & Fitness Day Event
- Walking Daily
- Walking Weekly
- Hiking in the Park
- Tai Chi – this includes beginning, intermediate, specialized programs for Diabetes and Arthritis in which we are the only certified program in Muskegon
- Senior Stretching and Weight Training
- Shuffleboard
- Tennis
- Line Dancing – Beginning and Intermediate
- Summer Slim Down
- Summer Wellness Challenge – exercise & nutrition
- Neurobics – Mind Exercise
- Golf
- Cross Country Skiing

SENIOR HEALTH & FITNESS DAY IN THE BANDSHELL @ MCGRAFT PARK

A lonely, depressed 80 year old woman who is caregiving for her husband is invited to participate in TaiChi classes. Her friend is worried about her as she is so stressed and not doing a good job taking care of herself. But the woman says it will be too hard to learn, she can't leave her frail husband unattended, she is not steady on her feet...she is too old. She gives 1000 excuses but her friend insisted and she tried the class.

After one year she is a changed person... ...she has made new friends...she is not depressed...she no longer walks with a hunched over shuffle...her balance has improved as has her arthritic hip...she is a better care giver for her husband not too AND she now takes line dancing class right after Tai Chi....and is dancing to the Boot Scootin Boogie!

This story is one example of many stories that we could share. We try to target programs to help with Chronic Disease Management.

AGREEMENT BETWEEN

NUTRITIONAL SERVICES FOR OLDER AMERICANS, INC. (NSOA)
AND
The City of Muskegon

FOR THE MCGRAFT PARK COMMUNITY BUILDING
and Senior Citizen Programs in the city of Muskegon

The purpose of the agreement is to establish the working arrangements for the occupancy of the City owned McGraft Park Community Building by the Senior Nutrition Program operated by Nutritional Services for Older American, Inc. (NSOA). The specifics of this agreement shall be as follows:

1. The City of Muskegon agrees to allow use of the McGraft Park Community Building to NSOA to operate as a location for senior meals and support services for seniors in the area.

2. NSOA will pay to the City $200.00 per month as a fee for expenses of rent and utilities including garbage service.

3. A telephone will be provided at the expense of NSOA.

4. The City will provide a locked office for the program. A locked cupboard for storage in the kitchen will also be provided.

5. NSOA will provide all materials for the program meal. NSOA has full and complete responsibility for the operation of the program.

6. NSOA agrees to work with City personnel to promote recreational opportunities for seniors.

7. NSOA agrees to try to secure grants if available towards facility improvements or for special programs within the facility.

8. The building will be available to NSOA from Monday through Friday during business hours – typically 9 - 3. Exceptions are voting days and the third Wednesday of the month "Shuffleboard Potlucks" during the summer. NSOA may use the building for an evening event when approved by the City.

9. The care and maintenance of the facility is the City's responsibility with NSOA responsible for routine daily clean-up; which is wiping tables, counters, sinks, and spills, and disposing of food and supply waste; leaving kitchen and dining area ready for use by any other tenants.

10. NSOA provides liability insurance for its centers. Written evidence is available upon request.

11. The City agrees to financial support in the amount of $ 8316.00 for staff time for recreational programs provided at McGraft Park and other locations within the city of Muskegon for seniors. These locations typically are: Bayview Towers, Nelson Place, Jefferson Towers, and M-TEC. These activities are wellness programs including exercise and health and a diversity of enrichment programs.

12. Either party with sixty- (60) day notice may terminate this agreement.

The inclusive dates of this agreement are October 1, 2007 through September 30, 2008.

FOR: City of Muskegon	FOR: Nutritional Services Meals on Wheels
933 Terrace Street Muskegon, MI 49440	1540 W. Sherman Blvd. Muskegon, MI 49441
Steve Warmington Mayor of Muskegon	Janet E. Hansen Chairperson of the Board
9-28-07 Date	9.13.07 Date

2007-83(e)

Date: September 25, 2007

To: Honorable Mayor and City Commissioners

From: DPW

RE: Service Agreement with Roosevelt Park

SUMMARY OF REQUEST:

Authorize the mayor & Clerk to sign the attached agreement with Roosevelt Park to maintain their fleet.

FINANCIAL IMPACT:

Potential revenue of $5,000 to $15,000

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Approve the service agreement with Roosevelt Park and authorize the Mayor & Clerk to sign agreement.

SERVICE AGREEMENT

Effective October 1, 2007, the City of Muskegon, 933 Terrace Street, Muskegon, Michigan 49440 ("Muskegon") and the City of Roosevelt Park, 900 Oak Ridge, Roosevelt Park, Michigan 49441 ("Roosevelt Park") agree as follows:

BACKGROUND

Roosevelt Park has police and public works vehicles which have specific performance requirements needing specialized service and maintenance work. Roosevelt Park is seeking assistance to properly service and maintain its police and public works vehicles. Muskegon has a facility at its Department of Public Works building located at 1350 East Keating Avenue, Muskegon, Michigan that houses the Muskegon Fleet Division. The Muskegon Fleet Division maintains a vehicle repair facility which is able to properly repair and maintain police and public works vehicles. It is the desire of Muskegon and Roosevelt Park (hereinafter collectively referred to as "Parties") to seek opportunities for functional consolidation of services to the mutual benefit of the parties.

1. **TERM.** The Parties acknowledge that performance under this contract will commence immediately upon the full execution of this Agreement and shall continue in full force and effect through October 01, 2008 unless terminated in accordance with Paragraphs 5 through 8 of this Agreement.

2. **MUSKEGON'S COMMITMENTS.** Muskegon agrees as follows:

   a. To provide repair and maintenance services during regular business hours from 7:30 a.m. until 3:30 p.m. Monday through Friday;

   b. To provide a mechanic on call 24 hours a day, 7 days a week. The mechanic can be reached at 231-737-2680; and 231-724-4100 during regular hours.

   c. To use the highest standards for repairs to all police, fire and public works vehicles and will not deviate from these standards even at the request of Roosevelt Park; and

   d.. That Muskegon will give priority to its own vehicles before servicing Roosevelt Park's vehicles, but will make every effort to make timely repairs for Roosevelt Park's vehicles.

3. **ROOSEVELT PARK'S COMMITMENTS** Roosevelt Park agrees as follows:

a. To pay compensation to Muskegon for the maintenance and repair services of the Muskegon Fleet Division at the rate of $60.00 per hour; calculated on a flat rate basis where possible.

b. To pay compensation to Muskegon for the maintenance and repair services of the Muskegon Fleet Division at the rate of $75.00 per hour for all services provided outside of regular business hours of 7:30 a.m. until 3:30 p.m. Monday through Friday;

c. To pay the actual costs plus 15% of all parts and supplies used in the repair and/or maintenance of police and public works vehicles;

d. To pay all invoices with thirty days;

e. To pay 1% interest per month on all invoices unpaid after thirty days; and

f. If its account with Muskegon reaches a balance of $5,000 more than 30 days past due, all work must be paid for in advance. So long as there is a balance of $5,000 more than 30 days past due, Muskegon may refuse to perform any services pursuant to this Agreement.

g. If Roosevelt Park has any concerns with the performance completed by the City of Muskegon, it shall promptly notify the City of Muskegon so that both cities can address such concerns.

4. **COST REVIEW.** Before February 1st of each year, Muskegon shall review its personnel costs, including mechanics' time, and any costs directly related to the ability of Muskegon to provide services under this Agreement. If these costs have increased, Muskegon shall notify Roosevelt Park in writing of the increase in cost and the justification for the increase in costs under this Agreement. The increase in costs will be effective March 1st of each year.

5. **TERMINATION.** This Agreement shall remain in effect until terminated by either party. Muskegon and Roosevelt Park may terminate this Agreement for any reason, including the convenience of either party, and without penalty. Termination notice shall be in writing and comply with Paragraph 7 and/or 8 of this Agreement. Termination shall become effective thirty days from the date of the Termination Notice.

6. **TERMINATION BY ROOSEVELT PARK.** Upon receipt of the Termination Notice from Roosevelt Park, Muskegon shall have thirty days to invoice Roosevelt Park for any outstanding balances that have not previously been invoiced. Roosevelt Park shall be responsible for all costs of services, maintenances and supplies either invoiced prior to receiving the Termination Notice or performed or purchased by Muskegon before receipt of the Termination Notice. Muskegon will attempt to return

any parts and supplies ordered for Roosevelt Park's vehicles that it is unable to use on non-Roosevelt Park's vehicles. If Muskegon is unable to obtain full refunds or partial refunds, Muskegon will send Roosevelt Park invoices for those non-refundable or partially refundable parts and supplies. If Roosevelt Park exercises its right to terminate this Agreement, it shall pay all outstanding invoices within ten days from the date of termination. If Muskegon has vehicles belonging to Roosevelt Park on its site, the Termination Notice shall state whether it is authorizing Muskegon to complete any necessary work on those vehicles or immediately cease all work on those vehicles. If the Termination Notice states that Muskegon is to cease work on all Roosevelt Park vehicles on its property, Roosevelt Park shall remove these vehicles within five days from the date of the Termination Notice. If the Termination Notice requests that Muskegon complete all work on vehicles on its site, this work shall be completed and payment in accordance with this Agreement.

7. **TERMINATION BY MUSKEGON.** Upon receipt of the Termination Notice from Muskegon, Roosevelt Park shall have thirty days to pay for all work, services, parts and materials provided or ordered pursuant to this Agreement, whether invoiced or not. Roosevelt Park shall have five days to remove all its vehicles, parts and materials from Muskegon's property.

8. **NOTICES.** Any notice that either party may give or is required to give under this agreement shall be in writing and, if mailed, be effective three days after being sent by certified or registered mail, postage prepaid, addressed to the City Clerk at the other party's address set forth in this agreement or at any other address the other party provides in writing.

9. **GENERAL PROVISIONS.**

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

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

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

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

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

f. ***Assignment or Delegation***. Except as otherwise specifically set forth in this agreement, neither party shall assign all or any portion of its rights and obligations contained in this agreement without the express prior written approval of the other party, which approval may be withheld in the other party's sole discretion.

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

CITY OF MUSKEGON

By: ______________________
Stephen J. Warmington,
Its Mayor

By: ______________________
Ann Becker,
Its Clerk

Date: 9-28, 2007

CITY OF ROOSEVELT PARK

By: W. David Boehm
W. David Boehm,
Its Manager

By: ______________________
Marcia Jeske,
Its Clerk

Date: 9/21, 2007

Commission Meeting Date: September 25, 2007

Date: **September 19, 2007**

To: **Honorable Mayor & City Commission**

From: **Planning & Economic Development & Leisure Services** CBC

RE: **Michigan Natural Resources Trust Fund Grant Application for Smith-Ryerson Park increase in Match Due to Items that can be done In-house (Force Account Labor/Materials).**

SUMMARY OF REQUEST:

The State has requested more information for the City's Michigan Natural Resources Trust Fund Grant Application regarding the first phase of proposed upgrades to Smith-Ryerson Park. The City is allowed to increase their points for the grant by including any in-house services that can be done to increase the match. The removal of one baseball/softball field, creation of two educational signs (dune and the creek), pier at the creek, trimming of enough overgrowth for placement of the pier, and the cost to re-stripe the current parking lot with appropriate handicap signage will be added as the City in-house (force account labor/materials) costs.

FINANCIAL IMPACT:

There is no impact for the 2007 budget year. If the application is approved, it will be budgeted in the 2008 budget year.

BUDGET ACTION REQUIRED:

The total estimated cost for the in-house (force account labor/materials) is $13,850. This will be budgeted in the 2008.

STAFF RECOMMENDATION:

To approve the resolution to increase the match by doing additional items in-house (force account labor/materials), and to have the Mayor and Clerk sign the attached resolution.

COMMITTEE RECOMMENDATION:

None.

RESOLUTION NO. 2007-83(k)
MUSKEGON CITY COMMISSION

RESOLUTION APPROVING THE SUBMITTAL OF THE MICHIGAN NATURAL RESOURCES TRUST FUND GRANT APPLICATION FOR SMITH-RYERSON PARK UPGRADES AND COMMITTING THE CITY'S IN-HOUSE SERVICES (FORCE ACCOUNT LABOR/MATERIAL) FOR A TOTAL OF $13,850 TO BE ADDED TO THE CURRENT MATCH AMOUNT OF $144,458.

WHEREAS, the City is going to perform in-house (force account labor/materials) services and the costs for the removal of one of the existing baseball/softball fields ($1,000), the construction and installation of two informative signs for the dunes and the creek ($3,000), the construction and installation of a pier at the creek ($9,000), the trimming of enough overgrowth for the installation of the pier ($400), and the cost to re-stripe the current parking lot with the appropriate handicap signage ($450) for the Michigan Natural Resources Trust Fund Grant application for the Smith-Ryerson Park upgrades, and

WHEREAS, the addition of a pier and the educational signage for the dunes and creek are new to the application; and

WHEREAS, a total in-house (force account labor/materials) would be $13,850, and

WHEREAS, the City Commission of the City of Muskegon must approve a resolution committing to the in-house services (force account labor) to increase the match for the grant, and

NOW, THEREFORE BE IT RESOLVED by the Muskegon City Commission of the City of Muskegon, Michigan that after holding the public hearing, the City Commission is approving the submittal of the additional in-house (force account labor/materials) to the Michigan Natural Resources Trust Fund Grant application for the Smith-Ryerson Park upgrades, committing to an additional $13,850 for the grant, and authorizing the Mayor and Clerk to sign the resolution for the grant.

Adopted this 25th day of September, 2007

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

Nays: None

Excused: None

By: ______________________
Stephen J. Warmington, Mayor

Attest: Ann Marie Becker

Ann Marie Becker, MMC, City Clerk

I do hereby certify that the foregoing is a true and original copy of a resolution adopted by the City Commission of the City of Muskegon at a regular meeting thereof held on September 25, 2007.

By: Ann Marie Becker

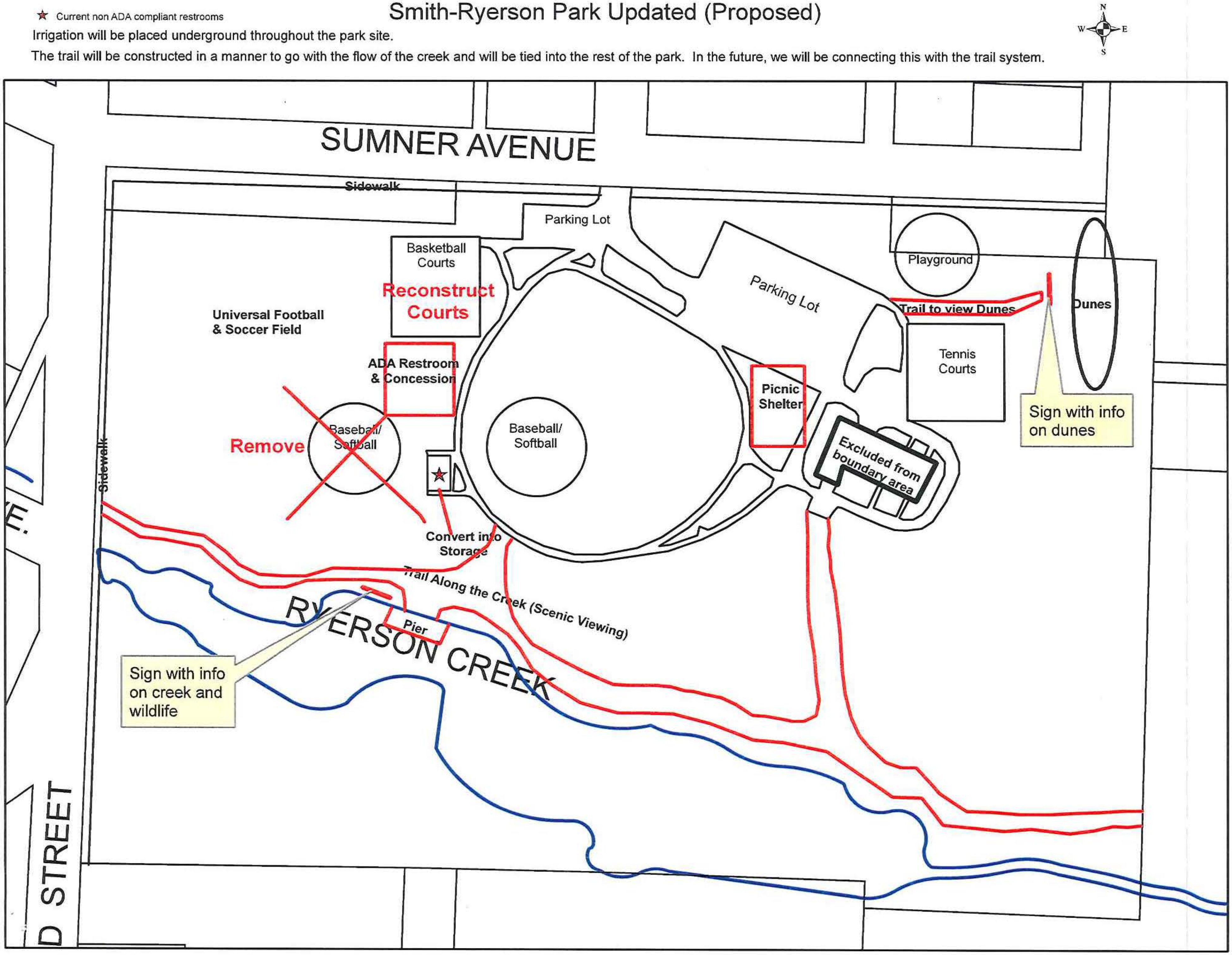
Ann Marie Becker, MMC, City Clerk

Smith-Ryerson Park Updated (Proposed)

★ Current non ADA compliant restrooms

Irrigation will be placed underground throughout the park site.

The trail will be constructed in a manner to go with the flow of the creek and will be tied into the rest of the park. In the future, we will be connecting this with the trail system.



Removed

Commission Meeting Date: September 24, 2007

Date: **September 17, 2007**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development**

RE: **Public Hearing - Request for a time extension for the Obsolete Property Rehabilitation Exemption Certificate at 790 Terrace**

SUMMARY OF REQUEST:

Promised Land Associates, 420 Carmen Street, Spring Lake MI 49456, was issued an Obsolete Property Rehabilitation Exemption Certificate (resolution number 2005-54 b, issued June 14, 2005) for the property located at 790 Terrace Street Muskegon, MI. The timeline to complete the rehabilitation was one year, giving them until June 14, 2006 to do so. However, a number of unforeseen problems occurred during this time, making the applicant unable to complete the rehabilitation. The applicant is now requesting an additional two (2) years to rehabilitate the building. The two (2) year extension would give the applicant until September 24, 2009 to complete the rehabilitation. Total capital investment for this project was stated to be $1,200,000. The project was to consist of a restaurant/banquet hall that would also feature live entertainment. This project was to result in the creation of 40+ new jobs in the City. Because of the new jobs, and the amount of investment, the applicant was granted a 12 year certificate.

FINANCIAL IMPACT:

If an extension to the Obsolete Property Rehabilitation Exemption Certificate is granted, the property taxes would be frozen for the duration of the certificate.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

If the City Commission decides to grant an extension for the Obsolete Property Rehabilitation Exemption Certificate, it is recommended that only one (1) additional year be granted. That would give the applicant until September 24, 2008 to rehabilitate the building.

COMMITTEE RECOMMENDATION:

Date: September 11, 2007

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: 2008 Budget Adoption

SUMMARY OF REQUEST: This is the time set for a public hearing on the City's proposed budget for the year 2008. The proposed budget has been made available for public inspection at City Hall, Hackley Public Library and the City's website (www.shorelinecity.com). After hearing public comments, the City Commission may take action to adopt the 2008 budget with whatever changes or adjustments it deems necessary. In any event, City Charter requires the budget be adopted no later than September 25, 2007.

FINANCIAL IMPACT: The budget sets forth the priorities and overall financial plan for operations in the year 2008. As proposed, the budget includes no property tax increase.

BUDGET ACTION REQUIRED: Adoption of the attached budget resolution provides the legal appropriation authority necessary for City departments to conduct operations in 2008.

STAFF RECOMMENDATION: After receiving comments, close the public hearing and approve the proposed 2008 City of Muskegon Budget resolution that is attached. Also, approval of the 3rd Quarter 2007 Budget Reforecast as shown in the Budget Book is recommended at this time.

COMMITTEE RECOMMENDATION: The Committee of the Whole will review the budget at their September 10th work session.

2007-84(a)

CITY OF MUSKEGON
RESOLUTION OF APPROPRIATION
2008 BUDGET

WHEREAS, the City Manager has submitted a proposed Budget for 2008 in accordance with the City Charter and Michigan Public Act 621 of 1978 known as the "Uniform Budgeting and Accounting Act"; and,

WHEREAS, the 2008 proposed Budget has been reviewed by the City Commission following a public hearing for which due notice was given; NOW, THEREFORE, BE IT RESOLVED that the Budget for the City of Muskegon for the fiscal year beginning January 1, 2008 is hereby determined and adopted as follows:

GENERAL FUND

FUND ACTIVITY NUMBER	FUND/ACTIVITY NAME	AMOUNT
101-10101	City Commission	83,128
101-10102	City Promotions & Public Relations	10,935
101-10145	City Attorney	426,338
101-10172	City Manager	218,527
101-10875	Contributions to Outside Agencies	184,324
101-10891	Contingency and Bad Debt Expense	400,000
101-20173	Administration	130,461
101-20215	City Clerk & Elections	333,051
101-20220	Civil Service	180,555
101-20228	Affirmative Action	77,924
101-30202	Finance Administration	431,098
101-30205	Income Tax Administration	380,443
101-30209	Assessing Services	431,366
101-30805	Arena Administration	235,000
101-30248	Information Systems Administration	358,656
101-30253	City Treasurer	418,156
101-30851	Insurance Premiums	368,834
101-30906	Debt Retirement	264,145
101-30999	Transfers to Other Funds	848,046
101-40301	Police	8,412,756
101-50336	Fire	3,471,316
101-50387	Fire Safety Inspections	1,011,807
101-60265	City Hall Maintenance	267,714
101-60446	Community Event Support	31,100
101-60448	Streetlighting	634,000
101-60523	Sanitation	1,653,479
101-60528	Recycling	168,179
101-60550	Stormwater Management	16,991
101-60770	Senior Citizen Transit	61,368
101-70276	Cemeteries Maintenance	527,196
101-70585	Parking Operations	7,269
101-70751	Parks Maintenance	1,321,663
101-70357	Graffiti Removal	4,644
101-70757	McGraft Park Maintenance	55,200
101-70775	General Recreation	276,612
101-70863	Farmers' Market and Flea Market	46,500
101-80387	Environmental Services	391,382
101-80400	Planning, Zoning and Economic Development	505,274
101-90000	Major Capital Improvements	134,000
	Grand Total General Fund Appropriations	$24,779,437

OTHER BUDGETED FUNDS

FUND ACTIVITY NUMBER	FUND/ACTIVITY NAME	AMOUNT
202,204	Major Streets and State Trunklines	5,110,997
203	Local Streets	2,779,631
264	Criminal Forfeitures	63,000
285	Tree Replacement	3,800

BE IT FURTHER RESOLVED that the revenues and other financing sources (including use of prior year balances) for Fiscal Year 2008 are estimated as follows:

GENERAL FUND

FUND/ACTIVITY NAME	AMOUNT
Taxes	$ 14,977,731
Licenses and Permits	1,028,000
Federal Grants	45,718
State Grants	28,000
State Shared Revenue	4,487,972
Charges for Sales & Services	2,290,813
Interest & Rentals	483,900
Fines & Fees	572,000
Other Revenue	395,919
Other Financing Sources	395,000
Use of Fund Balance	74,384
Total General Fund Revenue Appropriations	$24,779,437

OTHER BUDGETED FUNDS

FUND ACTIVITY NUMBER	FUND/ACTIVITY NAME	AMOUNT
202,204	Major Streets and State Trunklines	5,110,997
203	Local Streets	2,779,631
264	Criminal Forfeitures	63,000
285	Tree Replacement	3,800

BE IT FURTHER RESOLVED that the operating expense projections for the following non-budget funds are hereby approved:

FUND ACTIVITY NUMBER	FUND/ACTIVITY NAME	AMOUNT
305	TIFA Debt Service	$50,000
394	Downtown Development Authority Debt	449,292
290	Local Finance Development Authority Debt	283,547
402	Arena Improvement Fund	25,000
403	Sidewalk Improvement Fund	344,285
404	Public Improvement Fund	512,419
482	State Grants Fund	877,000
590	Sewer	5,711,614
591	Water	7,256,583
594	Marina/Launch Ramp	284,982
661	Equipment	2,527,667
642	Public Service Building	561,312
643	Engineering Services Fund	667,069
677	General Insurance Fund	4,716,508

BE IT FURTHER RESOLVED, that there is hereby appropriated for said fiscal year the several amounts set forth above which, pursuant to the "Uniform Budget and Accounting Act", define the City of Muskegon's appropriation centers, and

BE IT FURTHER RESOLVED, that the City Manager is hereby empowered to transfer appropriations within appropriation centers, and

BE IT FURTHER RESOLVED, that there is hereby levied a general tax as herein fixed on each dollar of taxable valuation for the purposes herein outlined, said levy to be applied on all taxable real and personal property in the City of Muskegon as set forth in the assessment roll dated May 2007:

PURPOSE	MILLAGE (MILLS)
General Operating	8.5000
Sanitation Service	2.5000
Promotion	.0685
Total	11.0685

At a regular meeting of the City Commission of the City of Muskegon, on the twenty-fifth Day of September 2007, the foregoing resolution was moved for adoption by Commissioner Spataro. Vice Mayor Gawron supported the motion.

Resolution declared adopted.

Mayor

City Clerk

DATE: August 21, 2007

TO: Honorable Mayor and Commissioners

FROM: Mark Kincaid, Deputy Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN-060030

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **2409 Crozier** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN-060030 – 2409 Crozier

Location and ownership: This structure is located on Crozier between Lincoln St and Fountain and is owned by Carl/Louie Hadix and Mary J. Bartels/Marilee Dolisager on a land contract.

Staff Correspondence: A dangerous building inspection was conducted on 05/04/06. The Notice and Order to Repair was issued on 05/05/06. A permit was issued 05/16/06 and expired in 90 days then the permit was renewed 03/15/07 and expired 06/01/07. A progress inspection was conducted on 08/24/06. The case went before the HBA January 4, 2007 and was tabled until March 2007. On 03/01/07 the HBA declared the structure substandard and dangerous. A progress inspection was conducted 04/12/07.

Owner Contact: The owner was present for the HBA meeting dated 01/04/07 and stated he was told to secure building, so he installed steel door and was waiting for tax refund to complete electrical work and planned on finishing project by February of 2007. Permits were renewed but have now expired again and project has not been completed.

Financial Impact: General Funds

Budget action required: None

State Equalized value: $21,500

Estimated cost to repair: $10,000

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

INSPECTION SUMMARY

FOR 2409 Crozier

This is a wood frame single family dwelling that is essentially stripped out inside. Initially the property owner made structural repairs and some cosmetic repairs. However during the past year progress has come to a standstill. All permits have expired and there has been no contact from the property owner since permits were renewed last winter.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Thursday, May 4, 2006

Enforcement # EN060030 **Property Address** 2409 CROZIER AVE
Parcel #24-205-673-0001-00 **Owner** HADIX CARL/HADIX LOUIE

Inspector: Henry Faltinowski

Date completed: 05/04/2006

DEFICENCIES:

Uncorrected

1. **Rotted siding, siding falling off home.**
2. **Sags in rafter system.**
3. **Interior ceiling missing sections of drywall.**
4. **Front concrete steps tilting.**
5. **Provide protection from decay on siding and framing on back section of home per section R 319 MRC 2003**
6. **Repairs windows - falling out.**

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

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

Henry Faltinowski, Building Inspector | Date

CITY OF MUSKEGON

DANGEROUS BUILDING PROGRESS INSPECTION REPORT

2409 CROZIER AVE
04/12/2007

Uncorrected

1. Installed main bearing beam on interior.
2. Completing framing on interior 85% complete.
3. Needs to install fire blocking on balloon portions of home interior.
4. Needs to complete electrical.

Making good progress.

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

HENRY FALTINOWSKI, BUILDING INSPECTOR

DATE

CITY OF MUSKEGON

DANGEROUS BUILDING PROGRESS INSPECTION REPORT

2409 CROZIER AVE
08/25/2006

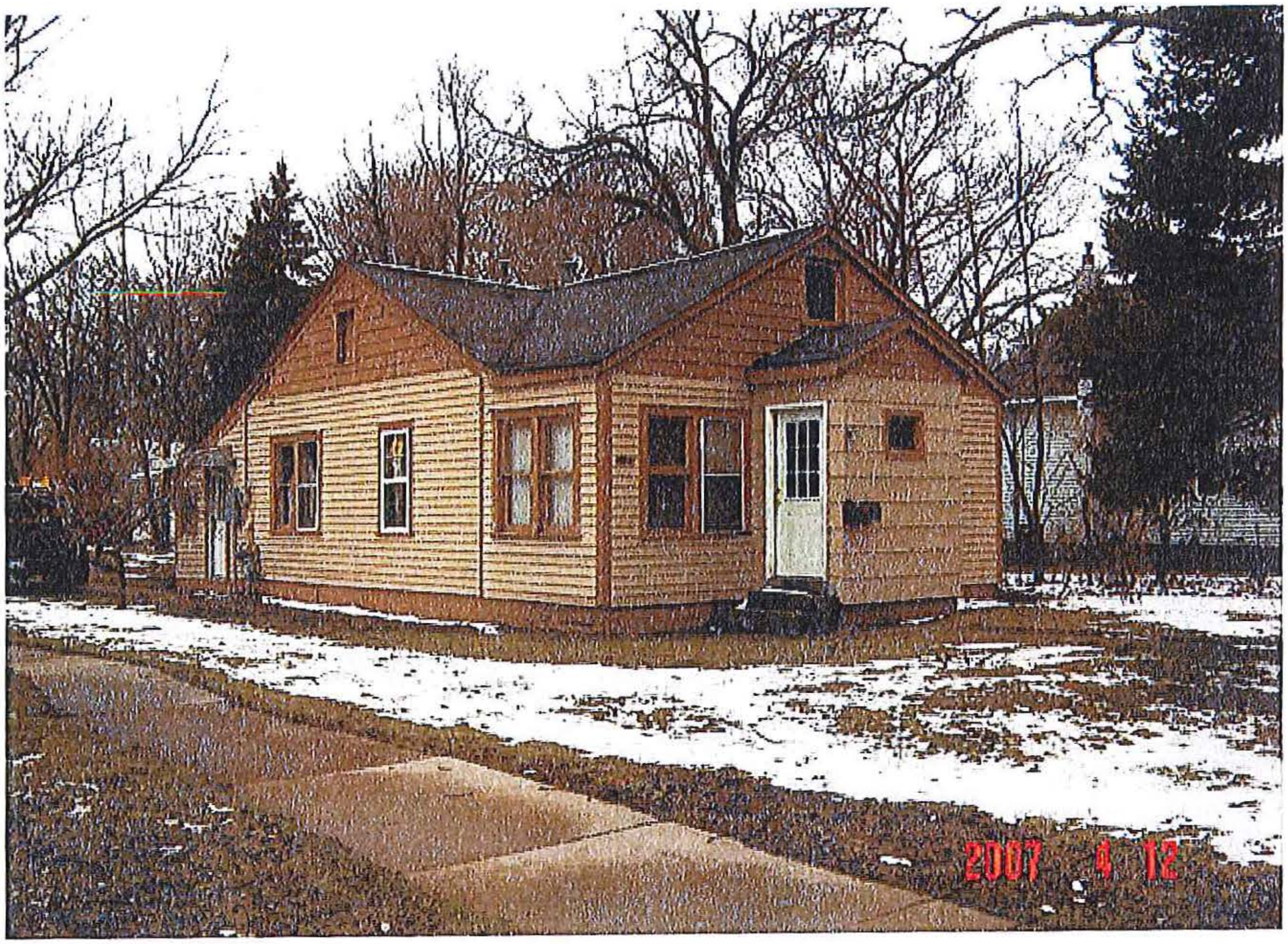
Uncorrected

1. Cleaning up home ready to start demo walls and framing.
2. Roof Investigation
3. Painted and installed new doors.

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

______________________________ ____________

HENRY FALTINOWSKI, BUILDING INSPECTOR DATE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2007 4 12

Date: 09/25/07

To: Honorable Mayor and City Commission

From: DPW

RE: Restrictive Covenant Purchase

SUMMARY OF REQUEST:

Authorize staff to make a $10,000 offer for restrictive covenant on 1385 E. Keating. The City had made a $9,000 offer which was rejected by the owner.

FINANCIAL IMPACT:

$10,000.00

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Approve purchase.

Date: September 25, 2007

To: Honorable Mayor and City Commissioners

From: Engineering

RE: Consideration of Bids
Spring St., 24" Sanitary Sewer Replacement (S-627)

SUMMARY OF REQUEST:

Authorize staff to enter into an emergency repair contract with McCormick Sand Inc. out of Twin Lakes to replace approximately 110' of partially collapsed 24" sanitary sewer in Spring Street at Wood since they were the lowest responsible bidder with a bid price of $48,410. The bid prices are inclusive of all labor, material and traffic control necessary to perform the replacement. Also; the bids were based on non-prevailing wage standards.

FINANCIAL IMPACT:

The construction cost of $48,410.00 plus engineering costs which is estimated at an additional 5%.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Award the contract to McCormick Sand, Inc.

COMMITTEE RECOMMENDATION:

S-627 SPRING STREET SEWER REPLACEMENT
BID TABULATION 09/18/07

CONTRACTOR ADDRESS CITY/STATE/ZIP	FELCO CONTRACTORS, INC. 874 PULASKI AVE. MUSKEGON, MI 49441	JACKSON-MERKEY CONTRACTORS, INC. 555 E. WESTERN AVE. MUSKEGON, MI 49441	MCCORMICK SAND, INC. 5430 RUSSELL RD. TWIN LAKE, MI 49457
DESCRIPTION			
OPTION "A" *	$ 54,800.00	$ 79,700.00	$ 48,410.00
OPTION "B" **	$ 35,200.00	$ 28,500.00	$ 24,750.00

*Consists of the replacement of the existing 115 feet of 24" clay sanitary sewer in Spring St. with 24" SDR 35 piping and all other related duties as necessary.

**Consists of the repair of the most damaged sections of the existing 24" clay sanitary sewer in Spring St. with 24" SDR 35 piping and all other related duties as necessary.

Commission Meeting Date: September 25, 2007

Date: **September 14, 2007**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development** CBC

RE: **Vacation of the West 200 feet of the dead end alley Block 690 Bounded by Crozier Avenue, Fountain Street and Harding Avenue**

SUMMARY OF REQUEST:

Request for vacation of the west 200 feet of the dead end alley bounded by Crozier Avenue, Fountain Street, and Harding Avenue, located in Muskegon Revised Plat of 1903, Block ~~609~~. 690.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends vacation of the west 200 feet of the dead end alley bounded by Crozier Avenue, Fountain Street, and Harding Avenue, with the condition that all utility easement rights be retained.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended denial of the vacation of the alley at their 9/13/07 meeting. The vote was T. Harryman, L. Spataro, B. Larson, B. Turnquist, S. Warmington, and B Mazade opposed, J. Aslakson in favor of the vacation and T. Michalski and B. Smith absent.

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

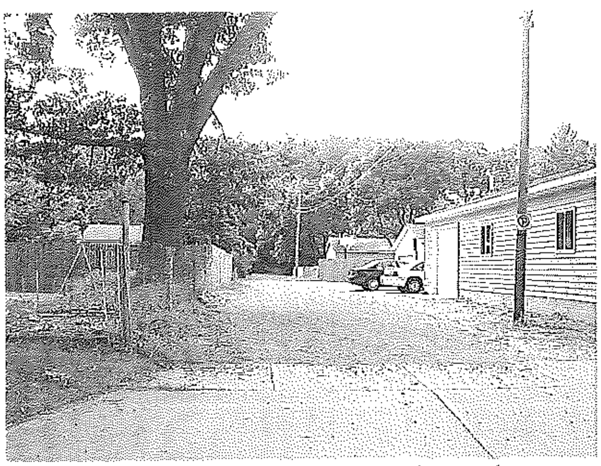
September 13, 2007

<u>Hearing; Case 2007-31:</u> Request to vacate the west 200 feet of the dead end alley in Block 690 of the City of Muskegon Revised Plat of 1903, bounded by Crozier Avenue, Fountain Street, and Harding Avenue, by Joseph Sidock, 2596 Crozier Avenue.

BACKGROUND

The applicant is the official owner of both 2596 and 2580 Crozier Avenue. These two properties are located at the end of the alley on the south side. The alley ends at the Muskegon Country Club property to the west. None of the homes bordering on this section of the alley need alley access, as they all have driveways off of either Crozier or Harding. Since the east half of the alley is used by adjacent property owners, the request is to vacate only the west 200 feet.

Staff has receive no public comments on this request.



Easterly portion of alley currently used.

Westerly portion of alley requested to vacate.

City of Muskegon
Planning Commission
Case # 2007-31

STAFF RECOMMENDATION

Staff recommends approval of the request.

DELIBERATION

I move that the vacation of the west 200 feet of the alley located in Block 690, bounded by Crozier Avenue, Fountain Street, and Harding Avenue, be recommended to City Commission for (approval/denial), based on (compliance/lack of compliance), with the City's 1997 Master Land Use Plan, with the following conditions:

1. All utility easements will be retained.

RESOLUTION #2006-______

Denied

RESOLUTION TO VACATE A PORTION OF A PUBLIC ALLEY

WHEREAS, a petition has been received to vacate the West 200 feet of the dead end alley in Block 690 of the City of Muskegon Revised Plat of 1903, bounded by Crozier Avenue, Fountain Street and Harding Avenue; and,

WHEREAS, the Planning Commission held a public hearing on September 13, 2007, to consider the petition and, subsequently, recommended the vacation; and,

WHEREAS, due notice had been given of said hearing as well as the September 25, 2007, City Commission meeting to consider the recommendation of the Planning Commission;

NOW, THEREFORE, BE IT RESOLVED that the City Commission deems it advisable for the public interest to vacate and discontinue the west 200 feet of the dead end alley in Block 690 of the City of Muskegon Revised Plat of 1903, bounded by Crozier Avenue, Fountain Street and Harding Avenue, County of Muskegon, State of Michigan.

BE IT FURTHER RESOLVED that the City Commission does hereby declare the said west 200 feet of the alley vacated and discontinued, provided, however, that this action on the part of the City Commission shall not operate so as to conflict with fire access or the utility rights heretofore acquired by the City or by any public service utility in the City of Muskegon operating in, over and upon said portion of alley hereby vacated, and it is hereby expressly declared that such rights shall remain in full force and effect.

BE IT FURTHER RESOLVED that after any maintenance and repair by the City, the City shall restore the disturbed area to the grade and paving in existence at the time of vacation. The City shall not be responsible to replace special planting, landscaping, fences or any structure. No structure shall be placed in the easement which, in the sole judgment of the City, will interfere with the repair or maintenance of utilities in the easement, public or private.

Adopted this 25th day of September, 2007.

Ayes:

Nays:

Absent:

By:______________________________
Stephen J. Warmington, Mayor

Attest:______________________________
Ann Marie Becker, MMC, City Clerk

CERTIFICATION

(Alley Vacation of the west 200 feet of alley in Block 690 of the City of Muskegon Revised Plan of 1903)

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 September 25, 2007.

Ann Marie Becker, MMC
Clerk, City of Muskegon

Date: September 25, 2007

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: MERS Administrative Cleanup Issues

SUMMARY OF REQUEST: The transfer of retirement assets to MERS is complete. A couple of "cleanup" issues have emerged, however, which we would like to address at this time:

Definition of "Hours per Month" for Firefighters

Rebalancing of Assets Among MERS Group Accounts

FINANCIAL IMPACT: Rebalancing assets among the various MERS groups will help reduce the City's required contribution rates.

BUDGET ACTION REQUIRED: None at this time. Any identified pension contribution savings will be factored in future quarterly budget reforecasts.

STAFF RECOMMENDATION: Approval of the attached resolutions implementing these changes.

COMMITTEE RECOMMENDATION: None.

Finance
Administration

Memo

To: City Commission

From: Finance Director

Date: September 17, 2007

Re: MERS Administrative Cleanup Issues

The transfer of retirement assets and retirement system administrative responsibilities to MERS (Municipal Employees' Retirement System of Michigan) is complete. However, a couple of administrative cleanup issues have emerged which we would like to address at this time:

1. **Definition of "Hours per Month" for Firefighters** – When the firefighters' unit was moved to MERS, we set the number of hours that defined a month of work at 216, based on the atypical work schedule followed by most firefighters. Overlooked was the fact that two members of the firefighters' unit have 40-hour workweeks (Fire Marshall, Fire Inspector). In discussions with MERS, it appears the best fix is to define the firefighters' minimum work month at the same level (150 hours) as other employees. The minimum work month is a factor only in determining service credit for partial month situations such as at the end of employment or the month in which an employee goes on unpaid leave or long-term disability. Partial months worked related to vacation, sick, workers compensation and other paid leave would not be affected.

2. **Reallocation of Assets** – Prior to joining MERS, the City maintained two pension funds - General Employees and Police & Fire. Pension assets for employee groups within each fund were not segregated. With the move to MERS, we are now maintaining eight employee groups and 2 legacy retiree

groups as separate accounts. Overall, City retirement accounts are 101.5% funded, however, due to some employee misclassifications and the timing differences when assets for each group were moved to MERS, we have groups that are unintentionally better funded than others. MERS has recommended that by rebalancing accounts to a consistent funding ratio, we can eliminate the unfunded actuarial liabilities that exist in some accounts and marginally reduce the City's 2008 required contribution rates.

Staff recommends approval of these actions and requests Commission consideration of the attached implementing resolutions.

Thank you

2007-85(c)

MERS

MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM OF MICHIGAN

RESOLUTION FOR DEFINING A DAY OF WORK OR HOURS PER MONTH FOR MERS RETIREMENT PURPOSES

Note: To adopt the part-time to full-time employee service credit program under Plan Document Section 4(6), the governing body must adopt the Uniform Resolution Defining Hours Per Month For Part-Time Employees and Service Credit Conversion Upon Promotion to Full-Time Status.

In accordance with Section 3(1) of the MERS Plan Document, as the ________________

City Commission (Governing Body) City of Muskegon (Municipality),

does hereby certify that a day of work, or the number of hours of work in a month, for

Union Fire Employees (Indicate all employees or division name and number) for retirement purposes, shall

consist of one of the following to be effective as of April 1 (Date), 2007.

(Please complete either A or B)

A. ________ A day shall consist of __________ hours.
(Ten (10) days a month of such work days equals one month of credited service.)

B. ✓ A month shall consist of 150 hours.
(Each month of such work hours equals one month of credited service.)

I hereby certify that the above is a true copy of a Resolution adopted at the meeting of the governing body held on September 25 (Date), 2007.

[signature] (Signature of Authorized Official) City Clerk (Title)

RETURN TO: Municipal Employees' Retirement System of Michigan
1134 Municipal Way
Lansing, MI 48917

Paul, Tim

From: Marlaine Taylor
Sent: Tuesday, September 11, 2007 2:55 PM
To: Jennifer Willis
Subject: FW: Asset Reallocation

Marlaine Taylor
Accounting Analyst
MERS of Michigan
800-767-6377 x253
Fax 517-703-9711

From: Marlaine Taylor
Sent: Tuesday, September 11, 2007 2:06 PM
To: 'Tim.Paul@postman.org'
Subject: Asset Reallocation

Hi Tim,
Attached you will find two documents. The first is an actual and proposed asset allocation. The data is from the 2006 Annual Actuarial Valuation, and I have included the two new divisions using their initial valuation data. This is only a proposal of what could be done; the final distribution is up to the city. I will adjust the worksheet and send any revisions needed to you. The second document is a resolution that must be passed by the board before these assets are moved by MERS. If you choose to reallocate assets, we would need a letter from the city explaining exactly what they want done and the effective date, the adopted and signed resolution, and a copy of the final asset allocation worksheet. These items should be mailed to my attention.

I understand that you would like your rates adjusted when the assets are moved. If you adopt the proposed reallocation, we could adjust your rates for each division to their normal cost as shown on the 2006 Annual Actuarial Valuation, and the normal cost on the initial valuations for the other two divisions. We can make this adjustment, because each of the divisions will be over 100% funded after the reallocation, thus eliminating the UAL as of the date on the valuations. If this is an option you want, that also must be indicated in the letter I mentioned above.

I welcome your review of the data and your comments. I will be happy to answer any questions you may have.

Marlaine Taylor
Accounting Analyst
MERS of Michigan
800-767-6377 x253
Fax 517-703-9711

RESOLUTION REQUESTING REALLOCATION OF ASSETS

WHEREAS, City of Muskegon has been a participating municipality in the Municipal Employees' Retirement System of Michigan ("MERS"); and

WHEREAS, pursuant to Municipal Employees' Retirement Board requirements, since December 31, 1994, asset accounting had been separate for each division, instead of aggregate for the entire municipality; and

WHEREAS, over time, significant disparities have arisen in City of Muskegon's MERS plan as a result of allocating the fair market value of plan assets on a divisional basis instead of on an aggregate basis, which disparities City of Muskegon wishes to eliminate; and

WHEREAS, in order to address the anticipated increase in unfunded liability for pensions to be provided participants in the defined benefit plan that is likely to occur as a result of diminished contributions to that plan, City of Muskegon wishes to reallocate divisional market assets on an equal-funded basis between the divisions;

NOW THEREFORE BE IT RESOLVED, that the governing body of the City of Muskegon, a participating municipality as defined in the Municipal Employees' Retirement Act as recodified by Act No. 427 of the Public Acts of 1984, as amended, and as the employer, hereby requests MERS to instruct the system's actuary to reallocate the total market value of assets that all divisions have the same funding level as a percentage of its actuarial accrued liabilities as of December 31, 2006; and

CERTIFICATION

I hereby certify that the above was adopted by the governing body of the City of City of Muskegon at its meeting held on September 25, 2007.

Ann Marie Becker

Signature of Clerk
Ann Marie Becker, MMC

RETURN ORIGINAL RESOLUTION TO:

MERS
Attn: Reallocations
1134 Municipal Way
Lansing MI 48917

SEND COPY OF RESOLUTION TO:

Gabriel, Roeder Smith & Company
Attn: MERS Reallocations
One Towne Square, Suite 800
Southfield MI 48076

City of Muskegon 6116

2006 AAV 31-Dec-06	Division 01 Non-Union Gen	Division 02 Non-Union Police	Division 05 Non-Union Fire	Division 10 General Ret	Division 11 Clerical	Division 12 DPW 517M	Division 20 PLC/Fire Ret	Division 21 Police Patrol	Division 22 Police Comm	Division 50 FF Local 370	Totals
Actuals											
Accrued Liabilities	$ 7,965,831	$ 162,347	$ 44,190	$ 14,669,054	$ 1,552,705	$ 6,642,692	$ 27,548,411	$ 7,401,658	$ 4,193,267	$ 8,134,944	$ 78,315,099
Valuation Assets	$ 7,765,432	$ 160,734	$ 38,626	$ 13,711,712	$ 883,156	$ 8,166,478	$ 29,525,294	$ 8,228,111	$ 3,339,098	$ 7,637,256	$ 79,455,897
* Percent Funded	97.5%	99.0%	87.4%	93.5%	56.9%	122.9%	107.2%	111.2%	79.6%	93.9%	101.5%
Before											
Proposed											
Accrued Liabilities	$ 7,965,831	$ 162,347	$ 44,190	$ 14,669,054	$ 1,552,705	$ 6,642,692	$ 27,548,411	$ 7,401,658	$ 4,193,267	$ 8,134,944	$ 78,315,099
Valuation Assets	$ 8,081,667	$ 164,712	$ 44,834	$ 14,882,735	$ 1,575,323	$ 6,739,455	$ 27,949,702	$ 7,509,476	$ 4,254,349	$ 8,253,444	$ 79,455,897
* Percent Funded	101.5%	101.5%	101.5%	101.5%	101.5%	101.5%	101.5%	101.5%	101.5%	101.5%	101.5%
After Increase/Decrease	316,435.42	3,977.87	6,207.71	1,171,022.73	692,166.90	(1,427,023.44)	(1,575,591.65)	(718,634.75)	915,251.35	616,187.85	(0.00)

Date: **September 25, 2007**

To: **Honorable Mayor and City Commission**

From: **Water Filtration Plant**

RE: **Participation in MML Legal Defense Fund to intervene in Consumers Energy's rate filing**

SUMMARY OF REQUEST:

To approve a financial contribution to the Michigan Municipal League Legal Defense Fund to intervene in the Consumers Energy rate filing request to the Michigan Public Service Commission to increase its rates for generation and distribution of electricity.

FINANCIAL IMPACT:

An in-kind contribution, along with the Cities of Grand Rapids and Wyoming, not to exceed $5,500.00.

BUDGET ACTION REQUIRED:

The in-kind contribution will be taken from the Water Fund.

STAFF RECOMMENDATION:

Staff recommends the Mayor and Commission authorize staff to make this contribution in an effort to mitigate the proposed twenty-one percent increase to the present cost of electricity at the Water Filtration Plant.

MEMORANDUM

9/7/07

TO: **M. AL-SHATEL**

FROM: **R. VENEKLASEN**

RE: **CONSUMERS ENERGY RATE RESTRUCTURING**

Consumers Power has filed a request for rate restructuring with the Michigan Public Service Commission (MPSC). This restructuring will increase the cost of electricity and will have a significant impact on the Water Filtration Plant budget. The electric cost at the Water Filtration Plant is by far the largest budget cost item at the facility.

The changes requested by Consumers Energy include elimination of the PS-3 (pumping service) rate we have enjoyed for over twenty years. This is the program where we observe on-peak and off-peak use resulting in savings over the flat rate of approximately $65,000.00 annually. Additionally, there are seasonal rate increases requested in order to reflect electric demand. This includes an approximate 5% increase during the winter months and an 11% increase during the summer months.

In summary the potential increases to the Water Filtration Plant budget for electricity will be approximately 21% if the proposal is approved by the MPSC.

Unfortunately we became aware of the restructuring request after the close of the public comment period so the appeal process alternatives are limited. The Cities of Grand Rapids, Wyoming, and possibly Holland are embarking on an effort with the Michigan Municipal League (MML) Legal Defense Fund to intervene in the Consumers case pending before the MPSC.

It is my recommendation that we consider joining with the other Municipalities in this effort to mitigate the extent of the proposed increases. I also believe that any financial contribution to this effort will likely be returned in the form of lower rates and subsequent savings far in excess of the initial contribution.

If you have any questions in this regard I will do my best to answer them. However, I do suggest that you contact either Eric DeLong, Deputy City Manager, or Phil Balkema, City Atttorney, at the City of Grand Rapids. Similarly contact Joe Stapf, Utilities Director, or Curtis Holt, City Manager, at the City of Wyoming. These individuals are taking the lead in conjunction with the MML to address the proposed rate changes/increases.

DATE: September 17, 2007

TO: Honorable Mayor and Commissioners

FROM: Mark Kincaid, Deputy Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN-060381

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **1235 Ransom - Area 11b** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN-060381 1235 Ransom

Location and ownership: This structure is located on Ransom between Iona and Delaware Streets and is owned by Steve & Amy Kelly, 4033 Athens, Muskegon, MI 49444

Staff Correspondence: A dangerous building inspection was conducted on 08/25/06 and the Notice and Order to Repair was issued on 09/01/06. 11/02/06 the HBA declared the home to be dangerous, substandard and a public nuisance. A Certificate of Appropriateness was issued by Historic District Commission 04/03/07.

Owner Contact: No one was present to represent case at HBA meeting dated 11/02/06. A letter was received by Plunkett & Cooney attorneys at law stating Independent Bank has set aside and withdrew it's Sheriff's deed on the property and has no interest in property. No permits have been issued, no interior inspections scheduled and no owner contact.

Financial Impact: CDBG

Budget action required: None

State Equalized value: $ 43,400

Estimated cost to repair: $ 30,000 (Exterior Only)

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

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Friday, September 1, 2006

Enforcement # EN060381 **Property Address** 1235 RANSOM ST
Parcel #24-205-240-0008-00 **Owner** INDEPENDENT BANK WEST MICHIGAN

Inspector: Henry Faltinowski

Date completed: 08/29/2006

DEFICENCIES:

Uncorrected

1. **Roof covering n home in need or repair and replacement.**
2. **Facsia and soffit on home rotting, missing - replace.**
3. **Entire exterior of home needs protection from weather elements. Scrape and paint, or install new siding, window frames, trim window sills, doors.**

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

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

Henry Faltinowski, Building Inspector　　　　　　Date

INSPECTION SUMMARY

FOR: 1235 Ransom

The is a two story wood frame residential building. This building has 8 residential units. This building is in a dilapidated condition. The roof is failing and the building is no longer protected from the elements. The Certificate of Compliance has been suspended for the past five years. There have been numerous attempts over the past five years by the Housing Inspector to get the property owner to make necessary repairs with no success.

1235 Ransom

DATE: September 18, 2007

TO: Honorable Mayor and Commissioners

FROM: Mark Kincaid, Deputy Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN-070025

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **740 Wesley** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN-070025 – 740 Wesley

Location and ownership: This structure is located on Wesley between Getty and Mulder Streets and is owned by Romana Medrano.

Staff Correspondence: A dangerous building inspection was conducted on 02/12/07. The Notice and Order to Repair was issued on 02/14/07. On 04/05/07 the case was before HBA and was tabled until July 2007. On 08/02/07 the HBA declared the structure substandard and dangerous.

Owner Contact: Romon Medrano, son of owner who is deceased was present at the HBA meeting dated 04/05/07. Mr. Medrano said he was cleaning debris and water heater had been installed and some plumbing done but house was still in his mother's name. The case was tabled to allow time for Mr. Medrano to obtain appropriate permits and submit timeline and schedule interior inspection. The case came back before HBA 08/02/07 at which time no one was present to represent case. Mr. Medrano called the day of hearing stating he had been sick and had not gotten contractor to complete repairs. The home was boarded up August 2007. No permits have been issued, no interior inspection scheduled and no timeline provided.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: $14,300

Estimated cost to repair: $40,000

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

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Monday, February 12, 2007

Enforcement # EN070025 **Property Address** 740 WESLEY AVE
Parcel #24-205-037-0001-03 **Owner** MEDRANO ROMANA

Inspector: Henry Faltinowski

Date completed: 02/12/2007

DEFICENCIES:

Uncorrected

1. Large amounts of debris piled up throughout home.
2. Walls have been stripped of drywall to bare studs.
3. Numerous floor damage.
4. Repair all wall, ceiling, floor damage throughout.
5. Interior Inspections required by trade inspectors when debris is cleared out of home.
6. Roof system to be analyzed when snow cover is non-existant.

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

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

Henry Faltinowski, Building Inspector Date

INSPECTION SUMMARY

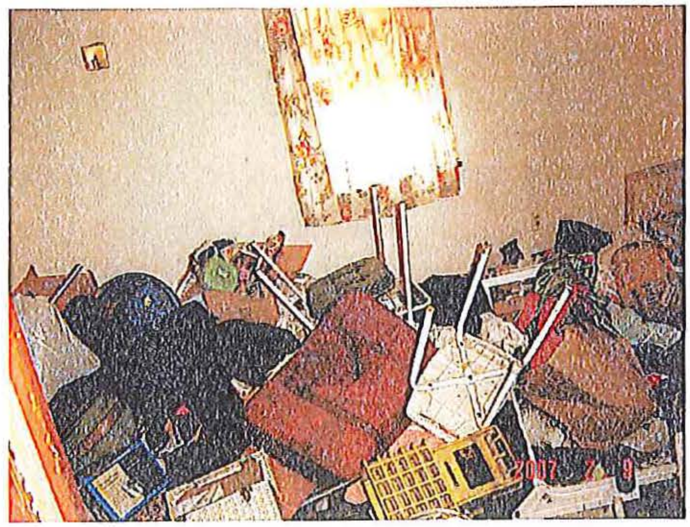
FOR: 740 Wesley Ave.

The building is a single family wood frame dwelling. The interior of this dwelling has been gutted out and is full of trash, debris. This building has no working electrical, plumbing or heating system. This building is not habitable and the property owner of record is deceased. It is unlikely the heirs will come to an agreement regarding the rehabilitation of this building.

740 Wesley

Wesley 740
2/12/2007


2/9/2007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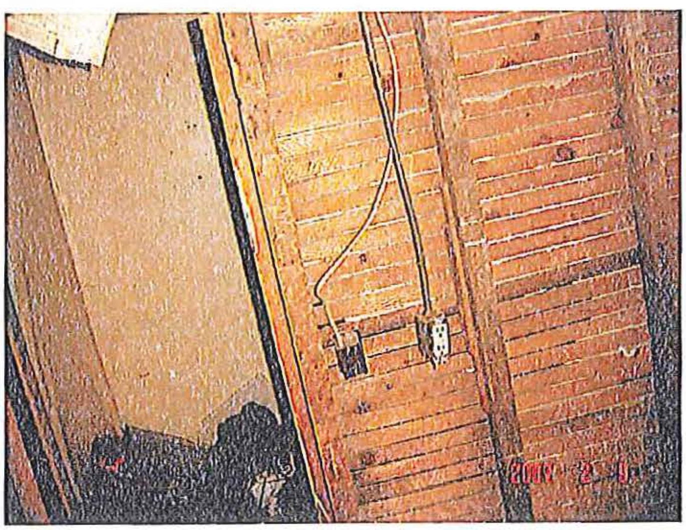
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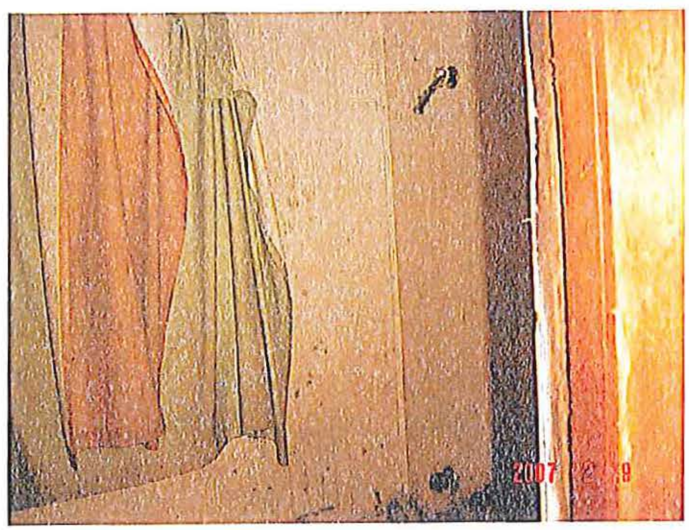

2/9/2007

DATE: September 18, 2007

TO: Honorable Mayor and Commissioners

FROM: Mark Kincaid, Deputy Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN-060431

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **273 Sumner** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN-060431 273 Sumner Ave.

Location and ownership: This structure is located on Sumner between Erickson and Yuba Streets and is owned by James Kitchen, 1445 Hillcrest, Muskegon, MI 49442

Staff Correspondence: A dangerous building inspection was conducted on 10/11/06. The Notice and Order to Repair was issued on 10/18/06. On 12/07/06 the HBA declared the structure substandard and dangerous. An interior inspection was conducted 04/13/07.

Owner Contact: No one was present at the HBA meeting. Owner met with Don LaBrenz 03/16/07 and an interior inspection was conducted 04/13/07. Owner met with Don LaBrenz again 06/28/07 but no timeline was submitted and no permits have been applied for.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: $21,900

Estimated cost to repair: $25, 000

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

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Tuesday, October 17, 2006

Enforcement # EN060431 **Property Address** 273 SUMNER AVE
Parcel #24-205-154-0014-00 **Owner** KITCHEN JAMES

Inspector: Henry Faltinowski

Date completed: 10/11/2006

DEFICENCIES:

Uncorrected

1. **Replace/repair all damaged missing siding.**
2. **Repair/replace all damaged missing windows.**
3. **Scrape and paint all exterior window frames.**
4. **Repair-replace all damaged fascia - soffitt.**
5. **Scrape and paint all exterior wood trim.**
6. **Replace all damaged roof covering and flashing.**
7. **Repair -replace doors thresholds.**
8. **Repair-replace front/back steps.**

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

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

Henry Faltinowski, Building Inspector Date

City of Muskegon
933 Terrace St., P.O. Box 536, Muskegon, MI 49443
(231) 724-6715

Tuesday, April 24, 2007

DANGEROUS BUILDING INTERIOR INSPECTION REPORT

Property Address: 273 SUMNER AVE **Parcel #** 24-205-154-0014-00

Owner: KITCHEN JAMES

Inspection Type: DB Interior Inspection **Inspector:** Henry Faltinowski

Date completed: 04/13/2007

DEFICIENCIES:

Uncorrected

1. House to be wired to current code.
2. Replace electric service to current code.
3. Install smoke alarms to current code.
4. Insure all habital spaces have supply & return air.
5. Inspect & repair plumbing & vents.
6. Need bath vent fans
7. Perform gas pressure test.
8. Inspect & certify water heater & furnace.
9.Inspect & certify chimney & vents.
10. Clean ductwork.
11. Hose spigots to have vac breakers.
12. Plumbing & mechanical to meet 2003 Mich Code.
13. Structural chimney damage.
14. Replace damaged ceilings interior -throughout numerous.
15. Replace all damaged flooring.
16. Replace all damaged walls windows - numerous.
17. Numerous floor system damage cracked main beams, cut floor joists, clean out entire home of debris and reschedule to analize damaged; numerous amounts of debris

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

HENRY FALTINOWSKI BUILDING INSPECTOR DATE

INSPECTION SUMMARY

FOR: 273 Sumner

This is a 2 story wood frame single family dwelling. This dwelling needs siding, windows, and roofing repairs. During an interior inspection of this building in April 2007, numerous deficiencies were noted including structural damage to the floors, chimney, numerous holes in walls and ceiling, and an electrical system that must be replaced. To date, no timeline has been submitted, no permit applications have been made and no permits issued.

273 Sumner D.B.

DATE: September 17, 2007

TO: Honorable Mayor and Commissioners

FROM: Mark Kincaid, Deputy Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN-060394

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **222 E. Forest (Area 13)** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN-060394 222 E. Forest

Location and ownership: This structure is located on Forest between E. Dale and E. Forest Streets and is owned by Nationstar Mortgage LLC, 350 Highland Dr, Lewisville, TX 75067

Staff Correspondence: A dangerous building inspection was conducted on 06/05/07 and the Notice and Order to Repair was issued on 06/05/07. On 08/02/07 the HBA declared the structure to be dangerous, substandard and a public nuisance.

Owner Contact: No one was present to represent case at HBA meeting dated 11/02/06. A letter was received by the mortgage company stating their plans to sell "as is" within 60 days and new owners would be responsible to make repairs.

Financial Impact: General Funds

Budget action required: None

State Equalized value: $ 26,300

Estimated cost to repair: $ 25,000 (Exterior Only)

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

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Tuesday, June 5, 2007

Enforcement # EN070107 **Property Address** 222 E FOREST AVE
Parcel #24-205-281-0008-10 **Owner** CONNOLLY KEVIN

Inspector: Henry Faltinowski

Date completed: 06/05/2007

DEFICENCIES:

Uncorrected

1. Roof has structural problems large sags in rafter system. Deteriorated roof covering. Large blue tarp on roof.
2. Scrape and paint all exterior wood on home.
3. Front porch deteriorated rotting deck pin and landing boards.
4. Chimney structural failure.
5. Front entry steps deteriorated, replace to code.

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

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

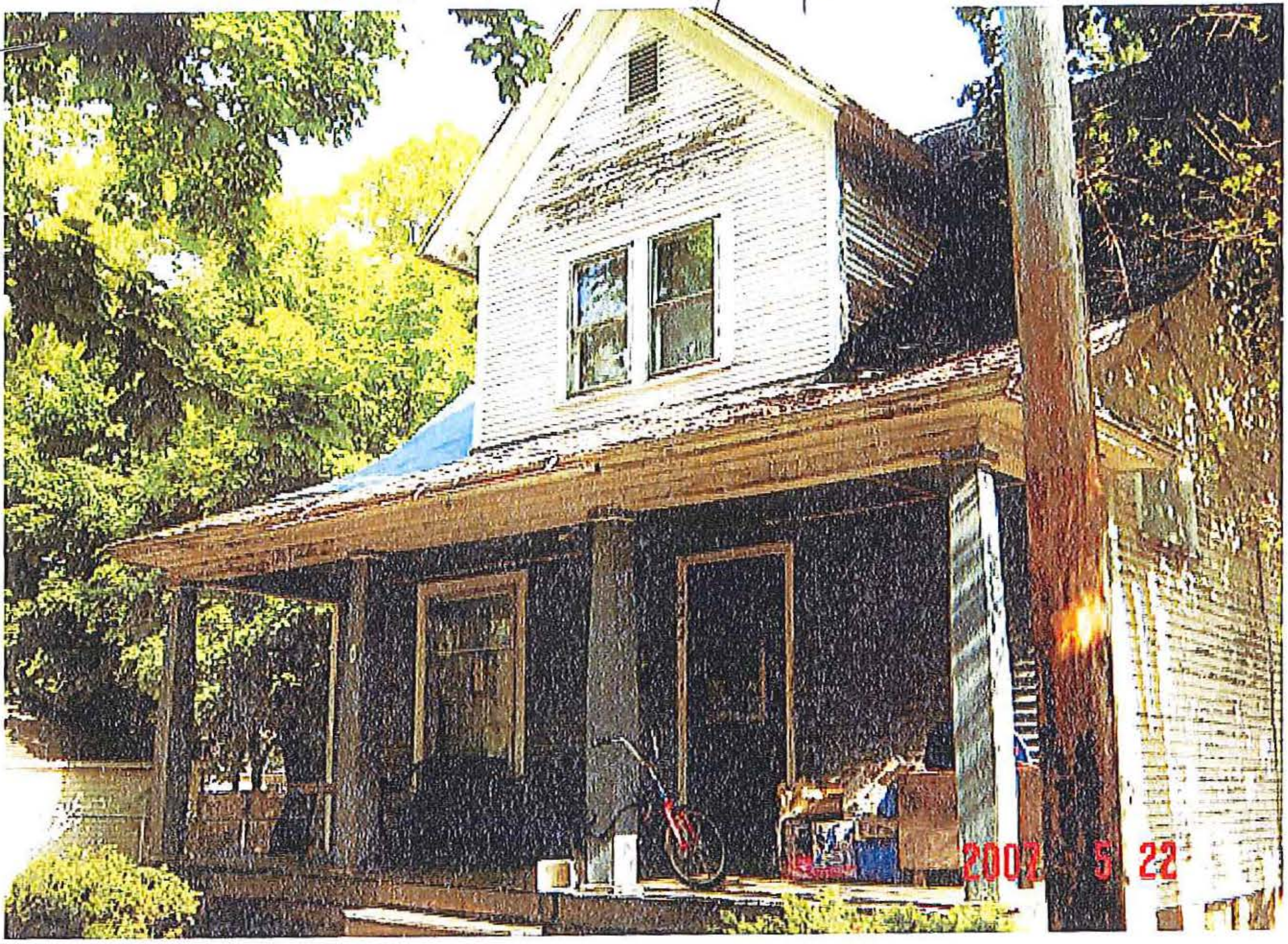
Henry Faltinowski, Building Inspector Date

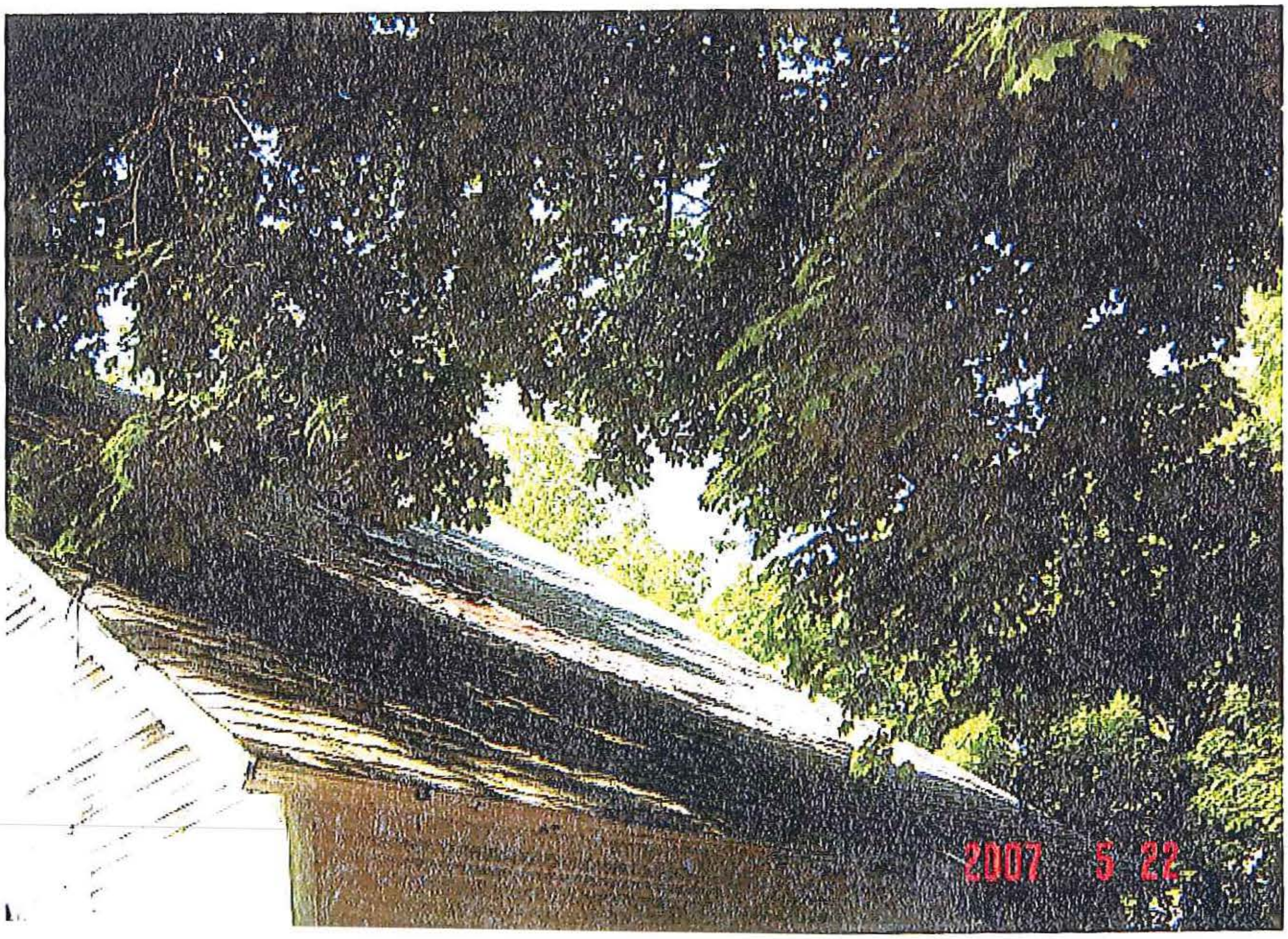
INSPECTION SUMMARY

FOR: 222 E. Forest

This is a two story single family wood frame building. The roof system is failing structurally and is covered by a tarp to keep the weather out. The front porch is deteriorated. No interior inspection has been done and has to be rebuilt. The property is currently owned by a mortgage company and it is their intention to sell the property without making any repairs to the building.

222 N. Forest 5/22/2007





Residential SWMRIC Client Detail Report

Listings as of 09/25/07 at 3:10pm

MLS#: 2742577 **St:** Active **PT:** RESI **LP:** 21,400
Area: M - 71 City of Muskegon E **SPT:** Single Family
Address: 222 E Forest Ave Muskegon, MI 49442
Municipality: Muskegon City
County: Muskegon
Tax ID: 6124205281000810 **Acres:** 0.090
LotDim: 48x80 **Rd Front:** 48
Body of Wtr: **Water Frontage:** **WtrFrnt:** No

	Upper	Main	Lower	Bsmt	Total
Bedrooms	2	1			3
Full Baths					0
Half Baths					0
Fin/Level	864	884			1748
Total Sqft				864	

Total Sqft Above Grade: 1748

Directions: Laketon to Hoyt to East Forest to home
Cross St: hoyt & terrace

Room Dimensions/Levels:
Kitchen:
FrmlDin:
DinArea:
Family:
Living:
Recreation:
Den/Study:
Laundry:
Mstr Bath:
Mstr Bedroom:
Bedroom 2:
Bedroom 3:
Bedroom 4:
Bedroom 5:
# of Rooms: 7
Additional Room:
# of Fireplaces:
Approx Year Built: 1937
Income Prop: No
Assn Fee:
Assn Fee Pay:
Assoc Buy In Fee:

Legal: On file
Taxable Value: 15953 **SEV:** 24600 **For Tax Year:** 2006
Annual Prop Taxes: 912 **Tax Year:** 2006 **Homestead%:** 0
Special Assmt/Typ: None Known **Zoning:** Residential
School District Muskegon **High School:**
Middle School: **Elementary School:**

Design: Traditional **Stories:** 2
Sewer: Public **Water:** Public
Driveway:

Garage None **Exterior Material** Wood **Roofing** Comp Shingle
Substructure Full Basement **Heat Source** Gas **Heat Type** Forced Air
Street Type Paved **Terms Available** Cash/Conventional

Owner says bring me an offer I Can't refuse, on this large 3 bedroom home in the city of Muskegon near hospital and high school, needs lots of TLC, but could make a wonderful first time or investment, full basement.

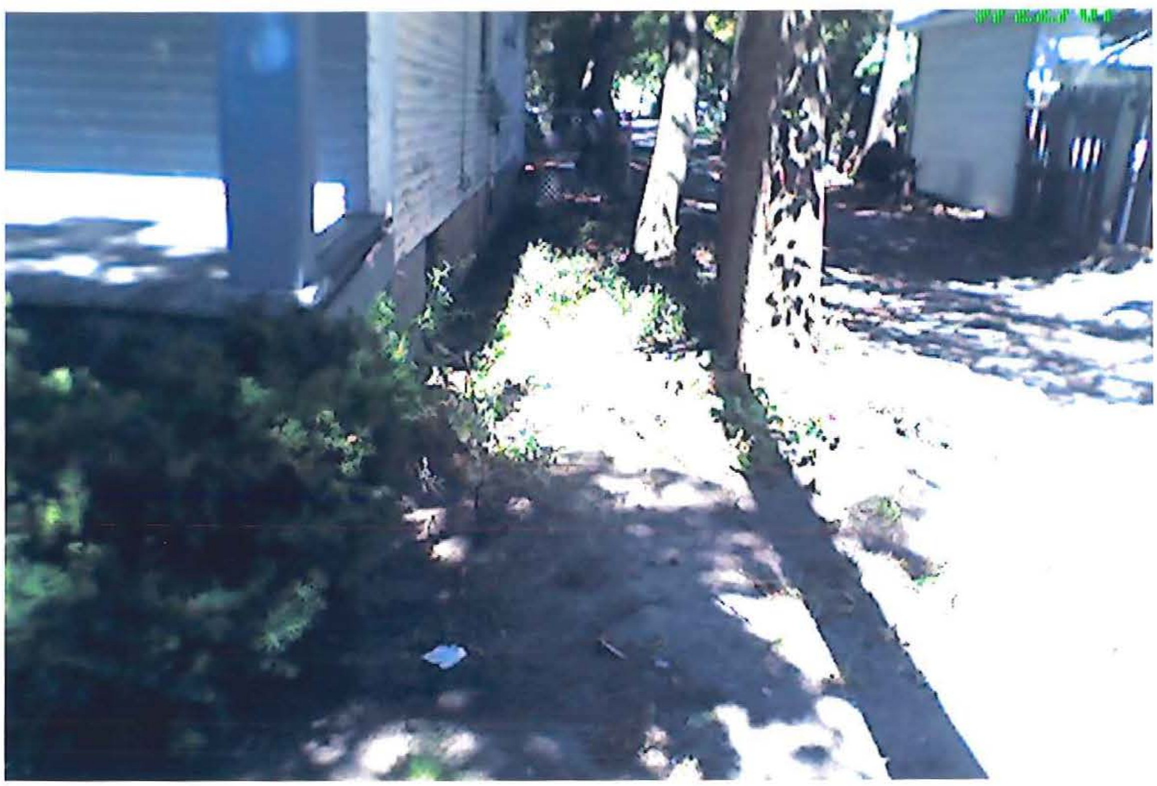
Presented By:

Doug J Loper
Primary: 231-733-8117
Secondary: 231-828-7653
Other: 231-830-3066
E-mail: dougsellhm@aol.com
Web Page: http://www.greenridge.com/douglasloper

Greenridge Realty - Muskegon
570 Seminole Rd. Ste. 201
Muskegon, MI 49444
231-733-8117
Fax: 231-733-7533

September 2007


GREENRIDGE
Realty, Inc.
830-3000



DATE: September 17, 2007

Removed

TO: Honorable Mayor and Commissioners

FROM: Mark Kincaid, Deputy Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN-070067

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **1497 Division - Area 12** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN-070067 1497 Division

Location and ownership: This structure is located on Division between Grand and Southern Streets and is owned by Anthony Gomez, 16500 Hickory St, Spring Lake, MI 49456.

Staff Correspondence: A dangerous building inspection was conducted on 04/04/07 and the Notice and Order to Repair was issued on 04/09/07. On 06/07/07 the HBA tabled case until August 2007 meeting. On 08/02/07 the HBA declared the home to be dangerous, substandard and a public nuisance.

Owner Contact: Anthony Gomez was present for HBA case dated 06/07/07 stating he planned to rehab home but wouldn't be available to start work until July 2007. The HBA board advised interior inspection needs to take place and then provide timeline and then apply for permits. A interior inspection was scheduled for 08/28/07 but no one was there. No permits have been issued, no inspections scheduled, no timeline provided and no contact with owner since June 2007.

Financial Impact: CDBG

Budget action required: None

State Equalized value: $ 27,700

Estimated cost to repair: $ 10,000 (Exterior Only)

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

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Monday, April 9, 2007

Enforcement # EN070067 **Property Address** 1497 DIVISION ST
Parcel #24-205-486-0019-00 **Owner** GOMEZ ANTHONY S

Inspector: Henry Faltinowski

Date completed: 03/30/07

DEFICENCIES:

Uncorrected

1. Foundation failing on front porch 1497 structural damage.
2. Roof sag on front porch.
3. Missing siding.
4. Back porch loaded on lower roof not to code on bearing points rebuild to code.
5. Guardrails and handrails not to code.
6. Repair chimney
7. Roof soffit falling out.
8. Interior by Trade Inspectors.

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

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

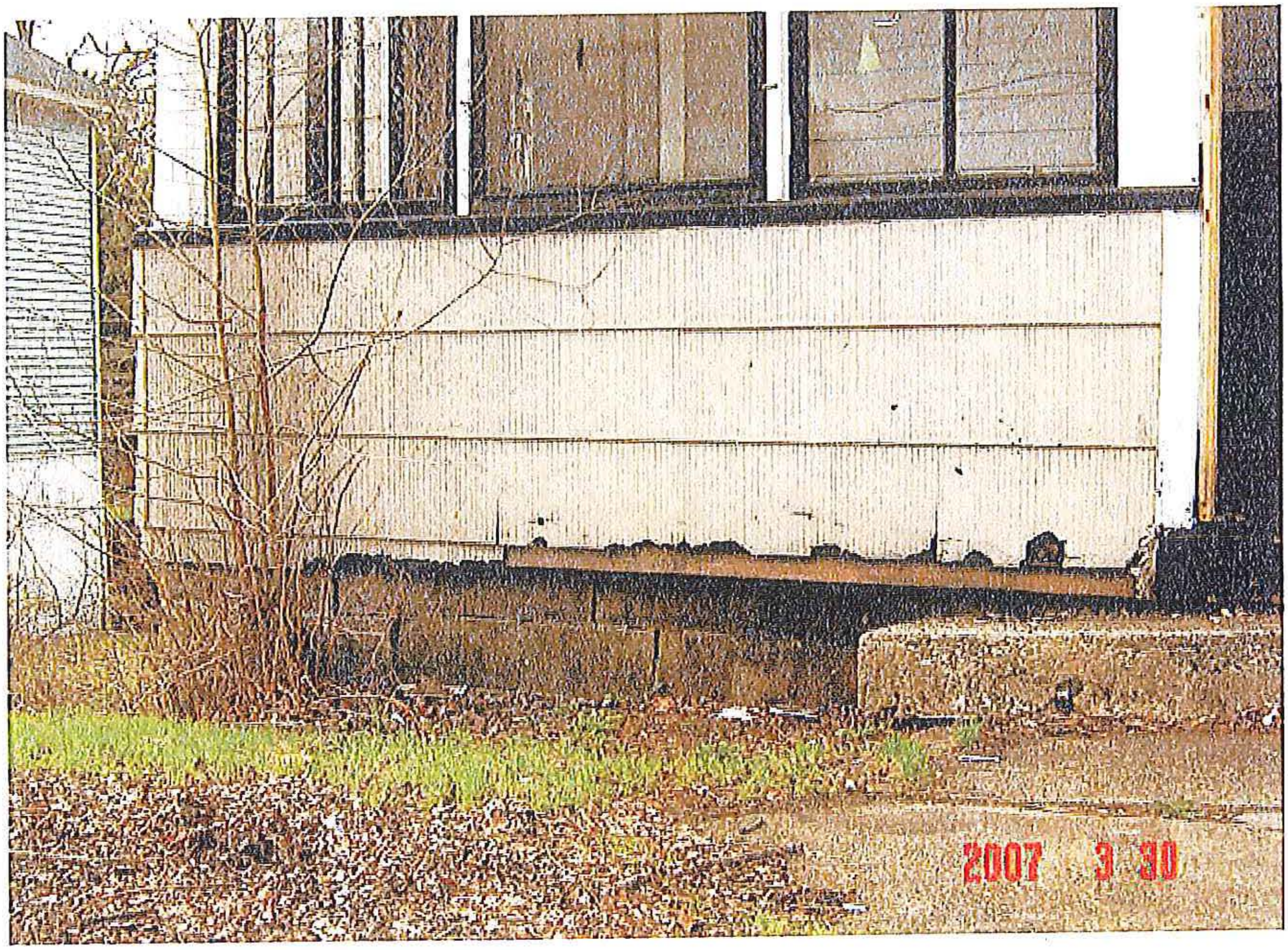
Henry Faltinowski, Building Inspector Date

INSPECTION SUMMARY

FOR: 1497 Division

This is a two story wood frame, two family dwelling. This building currently does not have a current Certificate of Compliance. The front porch foundation is failing and the roof is sagging. The back and front porches must be repaired or replaced to meet code. No interior inspections have occurred. An interior inspection was scheduled by the property owner for August 28, 2007, but no one met the inspectors to open the building. To date, no timeline for repairs has been submitted, no permits have been applied for or issued.

O.B. 1497 DIVISION 3/30/2007



1497 DIVISION