CITY OF MUSKEGON

CITY COMMISSION MEETING

SEPTEMBER 10, 2019 @ 5:30 P.M.

MUSKEGON CITY COMMISSION CHAMBERS

933 TERRACE STREET, MUSKEGON, MI 49440

AGENDA

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

  A. **Certificate of Recognition for John and Angie King**
- **PUBLIC COMMENT ON AGENDA ITEMS:**
- **CONSENT AGENDA:**

  A. **Approval of Minutes** City Clerk

  B. **MUPD Radar Message Trailer** Public Safety/MUPD

  C. **Increase in General Fund Transfer to LC Walker Arena Fund and Farmers Market/Kitchen 242 Fund** Finance

  D. **Updates to MERS Defined Contribution Plan Adoption Agreements** Finance

  E. **Update to MERS Defined Benefit Plan Adoption Agreement – Command** Finance

  F. **MDNR Urban Forestry Grant** DPW

  G. **Prein & Newhof Lakeshore Drive Amendment #1** DPW

  H. **Pavement Warranty Resolutions** DPW

  I. **Amendment to Vacant Building Ordinance and Vacant Building Registration Fees** Planning Department

  J. **LC Walker Arena Restroom Renovations** City Manager

  K. **AmeriBank RFP Recommendation** Economic Development

□ **PUBLIC HEARINGS:**

□ **UNFINISHED BUSINESS:**

□ **NEW BUSINESS:**

A. <u>PILOT – Samaritas</u> Planning Department

□ **ANY OTHER BUSINESS:**

□ **PUBLIC COMMENT ON NON-AGENDA ITEMS:**

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

□ **CLOSED SESSION:**

A. <u>Attorney/Client Privileged Communication</u>

□ **ADJOURNMENT:**

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

Memorandum

To: Mayor and Commissioners

From: Frank Peterson

Re: City Commission Meeting

Date: September 5, 2019

Here is a quick outline of the items on our agendas:

Work Session:

1. We will be considering a PILOT agreement for Samaritas to build affordable housing on the corner of Western Avenue and Spring Street.
2. We have received two proposal for the redevelopment of 880 First Street. Staff will be making a recommendation to select one of the proposals.
3. We are looking to establish a block party policy with associated fees. For many years, we did not allow block parties. Staff has met to discuss the value that these types of events bring to a neighborhood, and we are recommending that we begin allowing them. The parties offer a great opportunity for neighbors to build community.
4. We are seeking significant amendments to the vacant building ordinance and associated fees) to make it more user-friendly. The goal is to use the ordinance to help encourage redevelopment rather than simply to be a punitive fine for owners of long-vacant properties. We expect this to result in fewer registered structures.
5. DPW Director will be in attendance to provide an update on the 2020 construction schedule for Beach Street. If you recall, a significant portion of the street along PM Park will be rebuilt as part of a county water main project, and we will be breaking ground on the proposed traffic circle at Beach and Lakeshore Drive.
6. We would like to begin a conversation on the prohibition of smoking tobacco products at parks and in the public spaces downtown. We have had a problem with smoking-related litter throughout the downtown and much of Pere Marquette Park this year. Also, with the indoor smoking ban in place, many downtown restaurants and bars simply send their customers out the front door and onto Western Ave to smoke. We would like the ability to send these people to the rear of the buildings (alleys, etc). This proposal would help accomplish our objectives and would start treating the smoking of tobacco in public spaces similarly to the use of marijuana in public spaces throughout the city.

7. We would like to discuss the implementation of a signal warrant analysis. The signals that we would like to consider removing are on Wood/Irwin, Spring/Webster, and Sherman/Wickham.

Regular Session:

1. Under the Consent Agenda, we are asking the Commission to consider the following:
    a. Approval of meeting minutes from the most-recent City Commission meeting.
    b. The purchase of a radar/message trailer for the police department.
    c. Increasing the General Fund transfers to the Arena and Farmers Market Funds.
    d. We have a number of additional MERS agreements that need to be updated/approved related to the DEFINED CONTRIBUTION PROGRAM. This is similar to the group of agreements approved at the last Commission meeting.
    e. We have a number of additional MERS agreements that need to be updated/approved related to the DEFINED BENEFIT PROGRAM. This is similar to the group of agreements approved at the last Commission meeting.
    f. We are seeking approval to apply for an urban forestry grant to help guide the city when adding/replacing trees.
    g. We are seeking approval of an amendment to the contract with Prein & Newhof related to additional engineering work on the Lakeshore Drive project.
    h. We are seeking approval of the attached pavement warranty resolution. This is a requirement of the State for all projects that use a certain amount of state/federal funding.
    i. We are seeking approval of the changes to the vacant building ordinance and related fees, as per the work session.
    j. We are seeking approval to accept the bid from Platinum Construction for the relocation of the restrooms at the LC walker Arena.
    k. We are seeking to award the 880 First Street project to Ferguson development and Brianna Scott.
2. Under New Business, we are asking the Commission to consider the following:
    a. A PILOT Agreement with Samaritas for the construction of affordable housing at the corner of Spring Street and Western Ave.
3. Closed Session – Attorney/Client Correspondence

Let me know if you have any questions/comments/concerns

Frank

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 9/10/19	Title: Approval of Minutes
Submitted By: Ann Marie Meisch, MMC	Department: City Clerk
Brief Summary: To approve the minutes of the August 27, 2019 Regular Meeting.	
Detailed Summary: N/A	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: To approve the minutes of the August 27, 2019 Regular Meeting.	
For City Clerk Use Only: Commission Action:	

CITY OF MUSKEGON

CITY COMMISSION MEETING

AUGUST 27, 2019 @ 5:30 P.M.

MUSKEGON CITY COMMISSION CHAMBERS

933 TERRACE STREET, MUSKEGON, MI 49440

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, August 27, 2019, Pastor Darrin Longmire, Forest Park Covenant Church, opened the meeting with prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen J. Gawron, Vice Mayor Eric Hood, Commissioners Byron Turnquist, Ken Johnson, Debra Warren, Dan Rinsema-Sybenga, and Willie German, Jr., City Manager Frank Peterson, City Attorney John Schrier, and City Clerk Ann Meisch.

2019-66 CONSENT AGENDA:

A. <u>Approval of Minutes</u> City Clerk

SUMMARY OF REQUEST: To approve the minutes of the August 12, 2019 Worksession meeting and the August 13, 2019 Regular Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

C. <u>1531 Beidler Street Sale</u> City Manager

SUMMARY OF REQUEST: City Staff is requesting approval of the Quit Claim Deed to sell 1531 Beidler to Alfredo Fajardo Godoy for $1.00. This property was acquired via tax reversion. Subsequent staff analysis determined that the time commitment to the property's renovation exceeded the city's abilities, and staff began to prep the structure for demolition. Mr. Godoy is a renter in the area and inquired about rehabilitating the property into an owner-occupied home for his family. He has met with SAFEbuilt on site and they have a tentative plan for renovation that includes immediately replacing the roof, installing new internal structural supports, and completing exterior landscaping. The remainder of the renovation will take 6-9 months. Staff recommends providing Mr. Godoy the opportunity to purchase and save the structure.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To authorize the Mayor and Clerk to sign the Quit Claim Deed.

E. Approval of a Neighborhood Enterprise Zone Certificate – 301 Terrace Point Planning & Economic Development

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone certificate has been received from John Spruit for the new construction of a home at 301 Terrace Point. The estimated cost for construction is $414,636. The applicant has met local and state requirements for the issuance of the NEZ certificate.

FINANCIAL IMPACT: Taxation will be applied as one-half of the previous years state average principal residence millage rate to the value of the facility.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the NEZ Certificate.

F. Zoning Ordinance Amendment – Critical Dunes Planning & Economic Development

SUMMARY OF REQUEST: Staff initiated request to amend section 2310 of the zoning ordinance to make minor changes to the critical dune ordinance.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the zoning ordinance amendment.

COMMITTEE RECOMMENDATION: The Planning Commission unanimously recommended approval of the request at their August 15, 2019 meeting.

H. Certification of MERS Representatives Finance

SUMMARY OF REQUEST: The MERS plan document provides that "the governing body for each municipality shall certify the names of two (2) delegates to the Annual Meeting. One delegate shall be a member who is an officer of the municipality appointed by the governing body of the municipality. The other delegate shall be a member who is not an office of the municipality, elected by the member officer/employees of the municipality."

The City's employee units previously agreed to a rotating system (based on date of joining MERS) to select one official employee representative. This year the official employee representative attending the MERS conference will be Steve Waltz from the Police Command Unit.

It is recommended that Kenneth Grant (Assistant Finance Director) be designated as the City's employer delegate.

FINANCIAL IMPACT: Registration for the MERS conference in Traverse City, MI is $175 per person. Additionally, mileage, hotel and related costs will be incurred.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Certification of Kenneth Grant and Steve Waltz to be the City's officer and employee delegates at the MERS annual meeting in Grand Rapids on October 4 and 5, 2019.

I. Transformer Replacement – Harvey Station DPW – Filtration

SUMMARY OF REQUEST: Authorize staff to enter into an agreement with Newkirk Electric to replace 500 KVA transformer at Harvey Station since they submitted the lowest responsible bid of $18, 125.

Three bids were submitted for this project.

Newkirk Electric	$18,125.00
Wirtz Electric	$19,950.00
Windemuller	$23,520.00

FINANCIAL IMPACT: $18,125.00

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with Newkirk Electric for a cost of $18,125.

J. Relocating Power pole to Harvey Station DPW – Filtration

SUMMARY OF REQUEST: Authorize staff to enter into an agreement with Wirtz Electric to remove power pole from Filtration Plant and relocate to Harvey Station since they submitted the lowest responsible bid of $11,450.

Two bids were submitted for this project.

Newkirk Electric	$12,430.00
Wirtz Electric	$11,450.00

FINANCIAL IMPACT: $11,450.00

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with Wirtz Electric for a cost of $11,450.

K. MTU PLC Programming Services DPW – Filtration

SUMMARY OF REQUEST: Authorize staff to enter into a professional services agreement with MTU PLC Programming Services at Water Filtration Plant with

Tetra Tech per their proposal for $16,000.

Tetra Tech is being recommended since they were the engineer for the control systems upgrades project and their familiarity with the filtration plant.

FINANCIAL IMPACT: $16,000.00

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with Tetra Tech for a cost of $16,000.

L. <u>Fleet Vehicle Replacement – Chevy Traverse</u> DPW – Equipment

SUMMARY OF REQUEST: The Equipment Division is requesting permission to purchase one (1) Chevy Traverse coming from Berger Chevrolet off the Oakland County Contract, the lowest available price. The price of this vehicle is $30,396.00 coming from the Equipment Division Budget.

FINANCIAL IMPACT: $30,396.00

BUDGET ACTION REQUIRED: None. Amount is what was budgeted.

STAFF RECOMMENDATION: Authorize staff to purchase one (1) Chevy Traverse from Berger Chevrolet.

M. <u>Fleet Vehicle Replacement – Chevy Impala</u> DPW – Equipment

SUMMARY OF REQUEST: The Equipment Division is requesting permission to purchase one (1) Chevy Impala coming from Berger Chevrolet off the Oakland County Contract, the lowest available price. The price of this vehicle is $22,843.00 coming from the Equipment Division Budget.

FINANCIAL IMPACT: $22,843.00

BUDGET ACTION REQUIRED: None. Amount is what was budgeted.

STAFF RECOMMENDATION: Authorize staff to purchase one (1) Chevy Impala from Berger Chevrolet.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to approve the consent agenda as presented, except items B, D, G, and N.

ROLL VOTE: Ayes: Turnquist, Johnson, Gawron, Hood, Warren, German, and Rinsema-Sybenga

Nays: None

MOTION PASSES

2019-67 ITEMS REMOVED FROM CONSENT AGENDA:

B. <u>Cooperation Agreement – Disability Network West Michigan</u> City Manager

SUMMARY OF REQUEST: City staff is requesting approval of the service proposal from Disability Network West Michigan. The proposal will allow Disability Network to assist the city with an accessibility audit, as well as technical assistance during the design process on various city/community projects.

FINANCIAL IMPACT: $7,500

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To authorize the City Manager to accept the proposal and sign the contract.

Motion by Commissioner Warren, second by Commissioner German, to authorize the City Manager to accept the proposal and sign the contract.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Warren, German, Rinsema-Sybenga, and Turnquist.

Nays: None

MOTION PASSES

D. <u>Opportunity Zone Incentive Program</u> Economic Development

SUMMARY OF REQUEST: The City of Muskegon is fortunate to have its entire downtown corridor within an Opportunity Zone. The Economic Development Department is recommending additional localized, Commission reviewed incentives in order to encourage large scale investment in this competitive market.

FINANCIAL IMPACT: None at this time, all incentives would be paid out 15 years after the eligible Opportunity Zone Investment.

Funds would be allocated and reserved based on new income tax created and property tax collection increases as a result of opportunity fund investments, such as new apartment/housing buildings or businesses.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To authorize the incentive package as presented.

Motion by Commissioner German, second by Commissioner Johnson, to authorize the City Manager to accept the proposal and sign the contract.

ROLL VOTE: Ayes: Rinsema-Sybenga, Turnquist, Johnson, Gawron, Hood, and Warren

Nays: German

MOTION PASSES

G. <u>Amendment to PILOT – Gencap 1021 Jefferson Limited Dividend Housing Association, LLC</u> Planning & Economic Development

SUMMARY OF REQUEST: The City Commission approved a Payment in Lieu of

Taxes (PILOT) for Gencap 1021 Jefferson Limited Dividend Housing Association, LLC on February 26, 2019. The development will include 73 residential units and 2,300 square feet of commercial space. There will be 55 one-bedroom units and 18 two-bedroom units. Ten units will be at 30% AMI, nine units will be at 40% AMI, 11 units will be low-income disability units, 14 units will be at 60% AMI and 29 units will be at 80% AMI. A service charge of 4% will be imposed, as well as a municipal services fee of 2%. As directed by the Michigan State Housing Development Authority (MSHDA), the developer is requesting a few minor changes to the agreement that reiterates that the development will be for low income persons and families, not seniors.

FINANCIAL IMPACT: Although the PILOT for project will be less than the taxes captured for a similar market-rage project, the situation with this particular property is that the contribution towards the City will be greater to the City with the development under a PILOT than it is a vacant lot. In addition, taxes would apply to the commercial square footage within the building.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the revised "Contract for Housing Exemption."

Motion by Commissioner German, second by Commissioner Warren, to approve the revised "Contract for Housing Exemption".

ROLL VOTE: Ayes: Turnquist, Johnson, Gawron, Hood, Warren, German, and Rinsema-Sybenga

Nays: None

MOTION PASSES

N. <u>Notice of Intent to Bond Resolution for Scattered Housing Development</u>
Finance

SUMMARY OF REQUEST: The Notice of Intent is the first step in the bonding process. This resolution authorizes the publication of the Notice of Intent to bond for the purpose of acquisition and construction of residential housing units in the City for economic development purposes. The total project shall not exceed $3,000,000.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Resolution of Intent.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to approve the resolution of intent.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Warren, German, Rinsema-Sybenga, and Turnquist

Nays: None

MOTION PASSES

2019-68 PUBLIC HEARINGS:

A. <u>Public Hearing - Request to Establish an Obsolete Property District – 1208 8th Street</u> Planning & Economic Development

SUMMARY OF REQUEST: Pursuant to Public Act 146 of the Michigan Public Acts of 2000, Core Development Corp, LLC has requested the establishment of an Obsolete Property District for their property at 1208 8th Street. The establishment of the Obsolete Property District would allow them to apply for an Obsolete Property Rehabilitation Exemption Certificate.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the creation of the district.

PUBLIC HEARING COMMENCED: No public comments were received.

Motion by Commissioner Warren, second by Commissioner Johnson, to close the public hearing and approve creation of the district.

ROLL VOTE: Ayes: Gawron, Hood, Warren, German, Rinsema-Sybenga, Turnquist, and Johnson

Nays: None

MOTION PASSES

B. <u>Public Hearing - Request to Issue an Obsolete Property Certificate – Core Development Corp, LLC</u> Planning & Economic Development

SUMMARY OF REQUEST: Pursuant to Public Act 146 of the Michigan Public Acts of 2000, Core Development Corp, LLC has requested the issuance of an Obsolete Property Certificate for their property located at 1208 8th Street. Total capital investment for this project is estimated to be $550,000, which qualifies them for the full 12-year abatement.

FINANCIAL IMPACT: If an Obsolete Property Certificate is issued, the property taxes would be frozen at the pre-rehabilitated rate for the duration of the certificate.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval of the Obsolete Property Rehabilitation Exemption Certificate.

PUBLIC HEARING COMMENCED: No public comments were received.

Motion by Commissioner Warren, second by Commissioner Johnson, to close

the public hearing and approve creation of the district.

ROLL VOTE: Ayes: Gawron, Hood, Warren, German, Rinsema-Sybenga, Turnquist, and Johnson

Nays: None

MOTION PASSES

PUBLIC HEARING COMMENCED: Michael Haueisen, 903 Turner, stated support of the project.

Motion by Vice Mayor Hood, second by Commissioner Rinsema-Sybenga, to close the public hearing and approve issue the Obsolete Property Rehabilitation Exemption Certificate.

ROLL VOTE: Ayes: Hood, Warren, German, Rinsema-Sybenga, Turnquist, Johnson, and Gawron

Nays: None

MOTION PASSES

2019-69 NEW BUSINESS:

A. **Designation of Voting Delegates for the Michigan Municipal League Annual Business Meeting** City Clerk

SUMMARY OF REQUEST: To designate by action of the Commission, one of our officials who will be in attendance at the Convention as an official representative to cast the vote of the municipality at the Annual Meeting; and, if possible, to designate one other official to serve as an alternate.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval

Motion by Commissioner Johnson, second by Commissioner German, to designate Mayor Stephen J. Gawron as delegate, and Vice Mayor Eric Hood as alternate as official representative to cast the vote of the municipality at the Annual Meeting.

ROLL VOTE: Ayes: Warren, German, Rinsema-Sybenga, Turnquist, Johnson, Gawron, and Hood.

Nays: None

MOTION PASSES

B. **Request to Create a New Neighborhood Enterprise Zone District at 292 W Western Avenue** Planning & Economic Development

SUMMARY OF REQUEST: Pursuant to Public Act 147 of the Michigan Public Acts of 1992, Sweetwater Development, LLC has requested to create a new Neighborhood Enterprise Zone (NEZ) district for the parcel at 292 W. Western Avenue. Properties located in this NEZ district will be eligible to apply for NEZ Certificates, which will lower the residential property taxes on new construction. Notice letters were sent to the taxing jurisdictions on June 11, 2019 and a public hearing was held on June 25, 2019. State law requires that the resolution must be adopted at least 60 days after the notice letters were sent.

FINANCIAL IMPACT: No financial impact at this point. However, being in a district will allow them to apply for a rehab NEZ certificate, which will lower the residential property taxes for 1 to 15 years.

BUDGET ACTION REQURIED: None

STAFF RECOMMENDATION: Staff recommends approval of the new NEZ district.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to approve the new Neighborhood Enterprise Zone District at 292 W. Western.

ROLL VOTE: Ayes: Hood, Warren, German, Rinsema-Sybenga, Turnquist, Johnson, and Gawron

Nays: None

MOTION PASSES

C. **<u>Approval of a Neighborhood Enterprise Zone Certificate – 292 W. Western</u>**
Planning & Economic Development

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone Certificate has been received from Sweetwater Development, LLC for the construction of 18 market-rate apartments as part of a mixed-use development project. The estimated project cost is $222,975 per unit. The applicant has met local and state requirements for the issuance of the NEZ certificate. They have requested the maximum 15 years for the exemption.

FINANCIAL IMPACT: One-half of the previous year's state average principal residence millage rate will be applied to the value of the facility for a duration of 15 years, with a three-year phase out (they will receive 75% of the abatement in year 13, 50% in year 15 and 25% in year 15).

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the NEZ certificate for 15 years.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to approve the new Neighborhood Enterprise Zone Certificate at 292 W. Western.

ROLL VOTE: Ayes: Rinsema-Sybenga, Turnquist, Johnson, Gawron, hood, Warren, and German.

Nays: None

MOTION PASSES

D. Updates to MERS Defined Benefit Plan Adoption Agreements Finance

SUMMARY OF REQUEST: After an audit conducted by MERS of our payroll system, it was discovered that we need to update our agreements for changes made per union agreements, compensation included in MERS wages and hours included in calculating Final Average Compensation that weren't included in current agreements.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the updates to our MERS Defined Benefit Agreements.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Warren, to approve the updates to our MERS Defined Benefit Agreements.

ROLL VOTE: Ayes: Turnquist, Johnson, Gawron, hood, Warren, German, and Rinsema-Sybenga

Nays: None

MOTION PASSES

E. Revised City Commission Rules and Procedures Office of the Mayor

SUMMARY OF REQUEST: To adopt revisions to the City Commission Rules and Procedures discussed at the Legislative Policy Committee meeting held July 31, 2019.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

RECOMMENDATION: To adopt the revised City Commission Rules and Procedures as discussed.

Motion by Commissioner Johnson, second by Commissioner German, to further revise the City Commissioner Rules and Procedures by adding that the City Clerk will provide the Worksession Audio file to all City Commissioners after each Worksession meeting as well as retain the file for two years, changing L. 5. to read all purchases over $15,000, removing L. 6., revising L. 9. to be for agreements extending beyond one year or in excess of $15,000.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Warren, German, Rinsema-Sybenga, and Turnquist

Nays: None

MOTION PASSES

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to adopt the revised City Commission Rules and Procedures as discussed at the Legislative Policy meeting on July 31, 2019 and as revised by the previous motion.

ROLL VOTE: Ayes: Gawron, Hood, Warren, German, Rinsema-Sybenga, Turnquist, and Johnson

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Chief Lewis provided an update regarding on-going matters in the City.

PUBLIC PARTICIPATION: Public Comments were received.

ADJOURNMENT: The City Commission Meeting adjourned at 8:12 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date:09/10/19	Title: MUPD Radar Message Trailer
Submitted By: Jeffrey Lewis, Director	Department: Public Safety/MUPD
Brief Summary: Commission authorization for the purchase of a Speed Alert Radar Message Trailer to provide drivers with speed feedback, messages specific to vehicle speeds, or dedicated messages. This is a versatile tool for both traffic calming and messaging.	
Detailed Summary:	
Amount Requested:$15,985.00	Amount Budgeted: $15,000.00
Fund(s) or Account(s):101-40301-5720	Fund(s) or Account(s): 101-40301-5720
Recommended Motion: To approve the purchase of a Speed Alert Radar Message Trailer from All Traffic Solutions for $15,985.00.	
For City Clerk Use Only: Commission Action:	

ALL TRAFFIC SOLUTIONS

A sign of the future.™

All Traffic Solutions Inc.
12950 Worldgate Dr.,
Ste 310
Herndon, VA 20170
Phone: 814-237-9005
Fax: 814-237-9006

Tax ID: 25-1887906

QUOTE Q-40150

DATE/TIME: 8/7/2019 3:52:57 PM

PAGE NO: 1

Questions contact:
MANUFACTURER:
All Traffic Solutions
Julie Styskin
(866) 366-6602
x 250
jstyskin@alltrafficsolutions.com

Independent Sales Rep:

Mail Purchase Orders to:
3100 Research Dr.
State College, PA
16801

BILL TO:
Muskegon Police Department
980 Jefferson Street
P.O. Box 536
Muskegon, MI 49443-0536

Attn: Scott Zonnebelt

SHIP TO:
Muskegon Police Department

Muskegon, MI 49443

PAYMENT TERMS: Net 30 **CUSTOMER:** 212203 **CONTACT:** (231) 724-6751

ITEM NO:	DESCRIPTION:	QTY:	EACH:	EXT. PRICE:
4000745	SpeedAlert 24 Radar Message Sign (RMS); base unit (select mount separately)	1.00	$8,800.00	$8,800.00
4000879	Violator Strobe, Red and Blue for ATS-5 for use with SA24	1.00	$500.00	$500.00
4000647	App, Traffic Suite (12mo); Equip Mgmt, Reporting, Image Mgmt, Alerts, Mapping and PremierCare	1.00	$1,500.00	$1,500.00
4000874	All Options Activation: Bluetooth, Traffic Data, Violator Alert, Pictures, ($3000 Value, requires Traffic or Message Suite)	1.00	$0.00	$0.00
4000173	Trailer, ATS-5 (select power separately)	1.00	$3,200.00	$3,200.00
4000750	App, Mobile User Interface perpetual license (only 1 req'd per account)	1.00	$0.00	$0.00
~~4000636~~	~~Trailer Battery kit for ATS-5, 470Ah deep cycle~~ batteries w/cover, hold down, cables& hdwr	~~1.00~~	~~$990.00~~	~~$990.00~~
4000740	Trailer Certificate of Origin	1.00	$0.00	$0.00
4000754	USB cable, 16ft, extra long for trailer or pole	1.00	$0.00	$0.00

4000641	Shipping Common Carrier	1.00	$700.00	$700.00
4900041	crate, ATS-5 trailer shipping crate	1.00	$250.00	$250.00
4000857	Trade-in CREDIT: Non-ATS Unit, RMS purchase, requires one year TraffiCoud service	1.00	($850.00)	($850.00)
4000977	Solar panel, 100W: includes bracket for ATS-5 trailer and harness	1.00	$895.00	$895.00
4001299	3 Year Warranty	1.00	$0.00	$0.00

Special Notes:		
SA24 – Combined Radar and message sign – trailer mounted with 100 watt solar assist – all features activated perpetually (Bluetooth – Data and imaging) 1 year of web services (TraffiCloud) to all 6 Apps (Remote Management – Imaging – Data – Alerts, Mapping and Premier Care warranty) - shipping and training. Red/Blue flashers, 3 year warranty.	**SALES AMOUNT:**	$15,985.00
	SHIPPING:	
	TOTAL:	**$15,985.00**

Duration: This quote is good for 60 days from date of issue.
Shipping Notes: Unless shipping charges are specifically indicated, prices are FOB Destination. Shipping charges may apply
Taxes: Taxes are not included in quote. Please provide a tax exempt certificate or sales tax will be applied.
Warranty: Unless otherwise indicated, all products have a three year warranty from date of sale. Warranty extensions are a component of some applications that are available at time of purchase. A Finance Charge of 1.5% per month will be applied to overdue balances. GSA GS-07F-6092R

Authorization: By Signing below I indicate that I am authorized to commit my organization to the above.

Print Name, Title   Signature   Date

ALL TRAFFIC
SOLUTIONS

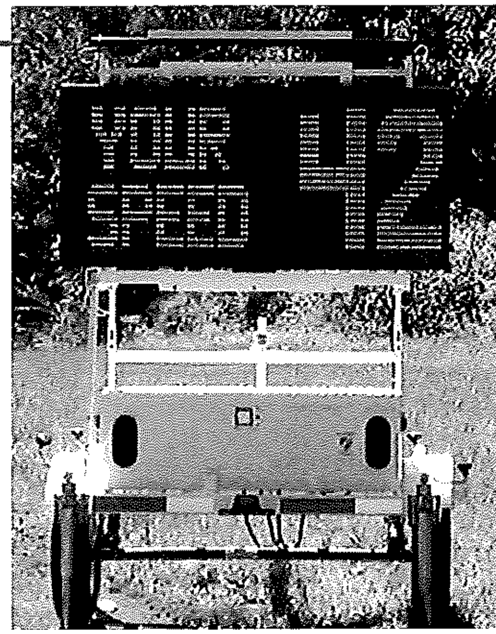
Connected Solutions for
Better Traffic Safety Outcomes

SPEEDALERT RADAR MESSAGE SIGN

AllTrafficSolutions.com

SpeedAlert Radar Message Sign Product Highlights

By combining radar feedback with variable messages, our SpeedAlert family of radar message signs provide drivers with speed feedback, messages specific to vehicle speeds or dedicated messages. This hybrid of features makes the SpeedAlert an extremely versatile tool for both traffic calming and messaging.



SIMPLE, UNIVERSAL MOUNTING

Mount this sign almost anywhere—post, pole, trailer or vehicle—in about a minute.

DURABLE CONSTRUCTION

The welded aluminum enclosure, concealed mounting hardware, shatterproof Lexan and graffiti-resistant powder coating make it super tough.

SPEED-DEPENDENT MESSAGING

Slow traffic by using the sign as a large speed display and show custom messages directed toward drivers at specific speeds.

MESSAGING VERSATILITY

Go beyond basic messages with a full matrix sign that makes it easy to display multiple screens of text, chevrons or custom images.

Plus, conditional sensor messaging allows different messages to be displayed based on live inputs, including time to destination, road surface or air temperatures, timer values, vehicle weights, high winds, and available parking spaces.

Product Specs

SPEEDALERT 18

- Speed - 2 or 3 digits; 18" H
- Text - 1 Line; 4 Characters; 10" H
- Text - 2 Line; 6 Characters; 7" H

Dimensions: 20" H x 30" W x 2.96" D

Weight: 25 lbs

SPEEDALERT 24

- Speed – 2 or 3 digits; 24" H
- Text - 1 Line; 4 Characters; 24" H
- Text - 2 Line; 8 Characters; 11" H
- Text - 3 Line; 12 Characters; 7" H

Dimensions: 28" H x 60" W x 1.6" D

Weight: 43 lbs

COMMON HARDWARE OPTIONS

Bluetooth, Datalogging, Pictures and Metric.

CLOUD-BASED REPORTING AND ACCESSIBILITY

Access traffic data, generate reports and share with your constituents from any Internet-ready device. Identify hot spots and prioritize resources. No more traffic data file management!

Easily sync messages across mobile devices over the Internet and instantly share messages with others.

Our enhanced TraffiCloud™ features and always-current user interface will keep you in contact with your signs and all your traffic management equipment and data.

Make your traffic management system more productive and effective.

All Your Traffic Safety Program Data In One Place

TraffiCloud is our secure, web-based ecosystem for managing all your traffic safety data and equipment.

View dashboards and reports of all collected data. Make more insightful decisions based on data analytics from all your program components. Save time by managing the status of connected devices and dynamic messaging all from one central location. TraffiCloud functionality includes:

TraffiCloud™

PREMIERCARE

Get a perpetual warranty and remote diagnostics for the duration of your subscription.

- 50% discount on accidental damage
- Real-time remote diagnostic monitoring

REPORTING

Save time collecting, organizing, compiling and distributing information.

- Automated, daily uploads of new data into a centralized, SAS70-certified environment
- Identify trends to allocate resources and be proactive
- Schedule reports for regular delivery to your inbox

EQUIPMENT MANAGEMENT

Stop wasting time driving to equipment to update and monitor it.

- Check status and change settings from any Internet-connected device
- Send single message to multiple signs at once
- Respond immediately to changing situations

IMAGE MANAGEMENT

Achieve greater awareness with alarms or by requesting generated images.

- Capture images based on speeds, tampering, time intervals or upon request*
- Review, edit, print and act on useful images

ENFORCEMENT

Automate the collection of Lidar captures.

- Ensure data accuracy
- Minimize data collection time

MAPPING

Manage your entire program through an intuitive visual interface.

- Interactive map provides a window to all system information

ALERTS

Specify when and whom to notify upon occurrence of certain conditions.

- Receive email or text as events happen
- Be aware of low batteries, high speeds, tampering, congestion and more

*Images can be used to identify vehicle make and color but are not ALPR quality.

Take a demo of TraffiCloud, our secure, web-based traffic management and reporting solution that manages all your traffic safety devices and data remotely!

Call **866.366.6602** or email **sales@alltrafficsolutions.com**

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: September 10, 2019	Title: Increase in General Fund transfer to LC Walker Arena Fund and Farmers Market/Kitchen 242 Fund
Submitted By: Finance Director	Department: Finance

Brief Summary: The LC Walker Fund and the Farmers Market/Kitchen 242 Fund required a larger transfer from the General Fund then what was budgeted to prevent a deficit. Increases are needed of $50,000 and $15,000 for LC Walker Arena Fund and Farmers Market/Kitchen 242 Fund respectively.

Detailed Summary: Based on the financial results for the fiscal year ended June 30, 2019 the LC Walker Arena and the Farmers Market/Kitchen 242 Fund required a larger transfer from the General Fund then what was budgeted for in the 3rd quarter reforecast, to prevent a fund deficit. The LC Walker Fund needs to be increased from $425,000 to $475,000 and the Farmers Market/Kitchen 242 needs to be increased for $20,000 to $35,000.

Amount Requested: $510,000	Amount Budgeted: $445,000
Fund(s) or Account(s): Fund 101,252,254	Fund(s) or Account(s): Fund 101,252,254

Recommended Motion: To approve the increase to the General Fund transfers for the LC Walker Arena to $475,000 and Farmers Market/Kitchen 242 fund to $35,000.

For City Clerk Use Only:

Commission Action:

REVENUE AND EXPENDITURE REPORT FOR CITY OF MUSKEGON
PERIOD ENDING 06/30/2019
% Fiscal Year Completed: 100.00
CITY OF MUSKEGON
MONTHLY BUDGET SUMMARY REPORT

GL NUMBER DESCRIPTION	2018-19 AMENDED BUDGET	YTD BALANCE 06/30/2019	AVAILABLE BALANCE	% BDGT USED	YTD BALANCE 06/30/2018
Fund 252 - FARMERS MARKET & KITCHEN 242					
FEDERAL GRANTS	0.00	0.00	0.00	0.00	8,264.07
STATE GRANTS	0.00	0.00	0.00	0.00	78,819.91
CHARGES FOR SERVICE	173,482.00	149,470.83	24,011.17	86.16	184,107.70
CONTRIBUTIONS & MISCELLANEOUS	75,021.00	62,188.28	12,832.72	82.89	72,766.14
INTEREST & OPERATING TRANSFERS IN	35,200.00	35,206.86	(6.86)	100.02	20,064.37
TOTAL REVENUES	283,703.00	246,865.97	36,837.03	87.02	364,022.19
SALARIES & BENEFITS	60,522.00	57,322.65	3,199.35	94.71	40,904.54
SUPPLIES	24,770.00	30,234.10	(5,464.10)	122.06	4,997.70
CONTRACTUAL SERVICES	147,232.00	160,099.23	(12,867.23)	108.74	217,574.28
OTHER EXPENSES	2,000.00	914.53	1,085.47	45.73	2,055.96
CAPITAL OUTLAYS	18,000.00	16,732.62	1,267.38	92.96	90,053.02
TOTAL EXPENDITURES	252,524.00	265,303.13	(12,779.13)	105.06	355,585.50
Fund 252 - FARMERS MARKET & KITCHEN 242:					
TOTAL REVENUES	283,703.00	246,865.97	36,837.03	87.02	364,022.19
TOTAL EXPENDITURES	252,524.00	265,303.13	(12,779.13)	105.06	355,585.50
NET OF REVENUES & EXPENDITURES	31,179.00	(18,437.16)	49,616.16	59.13	8,436.69
BEG. FUND BALANCE	24,660.91	24,660.91			16,224.22
END FUND BALANCE	55,839.91	6,223.75			24,660.91

REVENUE AND EXPENDITURE REPORT FOR CITY OF MUSKEGON
PERIOD ENDING 06/30/2019
% Fiscal Year Completed: 100.00
CITY OF MUSKEGON
MONTHLY BUDGET SUMMARY REPORT

GL NUMBER	DESCRIPTION	2018-19 AMENDED BUDGET	YTD BALANCE 06/30/2019	AVAILABLE BALANCE	% BDGT USED	YTD BALANCE 06/30/2018
Fund 254 - L C WALKER ARENA						
	CHARGES FOR SERVICE	1,044,000.00	1,304,796.90	(260,796.90)	124.98	1,153,445.81
	CONTRIBUTIONS & MISCELLANEOUS	5,000.00	8,913.16	(3,913.16)	178.26	646.42
	INTEREST & OPERATING TRANSFERS IN	425,000.00	475,000.00	(50,000.00)	111.76	450,018.56
	TOTAL REVENUES	1,474,000.00	1,788,710.06	(314,710.06)	121.35	1,604,110.79
	SALARIES & BENEFITS	70,500.00	66,081.35	4,418.65	93.73	0.00
	SUPPLIES	282,000.00	354,884.23	(72,884.23)	125.85	236,783.34
	CONTRACTUAL SERVICES	1,230,371.00	1,311,267.79	(80,896.79)	106.57	1,330,370.69
	OTHER EXPENSES	0.00	0.00	0.00	0.00	13.00
	CAPITAL OUTLAYS	70,000.00	74,579.11	(4,579.11)	106.54	117,010.41
	TOTAL EXPENDITURES	1,652,871.00	1,806,812.48	(153,941.48)	109.31	1,684,177.44
Fund 254 - L C WALKER ARENA:						
TOTAL REVENUES		1,474,000.00	1,788,710.06	(314,710.06)	121.35	1,604,110.79
TOTAL EXPENDITURES		1,652,871.00	1,806,812.48	(153,941.48)	109.31	1,684,177.44
NET OF REVENUES & EXPENDITURES		(178,871.00)	(18,102.42)	(160,768.58)	10.12	(80,066.65)
BEG. FUND BALANCE		43,253.02	43,253.02			123,319.67
END FUND BALANCE		(135,617.98)	25,150.60			43,253.02

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: September 10, 2019	Title: Updates to MERS Defined Contribution Plan Adoption Agreements
Submitted By: Finance Director	Department: Finance

Brief Summary: MERS of Michigan has requested we update our Defined Contribution Plan Adoption Agreements to ensure MERS has the correct information regarding what is included and excluded for MERS wage calculations.

Detailed Summary: After an audit conducted by MERS of our payroll system it was discovered that MERS needed many updates to our Plan Adoption Agreements for our Defined Contribution groups. Please see the attached list by division or group of the updates.

Amount Requested: none	Amount Budgeted: none
Fund(s) or Account(s):	Fund(s) or Account(s):

Recommended Motion: To approve the updates to the MERS Defined Contribution Plan Adoption Agreements.

For City Clerk Use Only:

Commission Action:

Defined Contribution (DC) Plan:

- Per the agreements on file with MERS, the following need to be included as compensation:
    - 106125 - All wages, also including overtime, includes: deferred comp match, opt-out, longevity, leave buy outs, EMT bonus, acting pay
    - 106126 - All wages except overtime and resident bonus, also includes: deferred comp match, opt-out, leave buy outs, longevity
    - 106185 - All wages except overtime and resident bonus, also includes: deferred comp match, opt-out, leave buy outs, longevity
    - 106211 - All wages, including overtime, includes: deferred comp match, opt-out, longevity, leave buy outs, certification bonus
    - 106242 - All wages, also including overtime, includes: deferred comp match, opt-out, longevity, leave buy outs, education bonus
    - 110192 - All wages, also includes: deferred comp match, opt-out, longevity, leave buy outs, education bonus, training bonus, acting pay

MERS Defined Contribution Plan Adoption Agreement

MERS® Municipal Employees' Retirement System

1134 Municipal Way Lansing, MI 48917 | 800.767.MERS (6377) | Fax 517.703.9711 | www.mersofmich.com

The Employer, a participating municipality or court within the state of Michigan that has adopted MERS coverage, hereby establishes the following Defined Contribution Plan provided by MERS of Michigan, as authorized by 1996 PA 220 in accordance with the MERS Plan Document.

I. Employer Name City of Muskegon **Municipality #:** 6116

II. Effective Date

Check one:

A. ☐ If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of ____________, 20___.

☐ This municipality or division is new to MERS, so vesting credit prior to the **initial** MERS effective date by each eligible employee shall be credited as follows (choose one):

☐ Vesting credit from date of hire ☐ No vesting credit

☐ This division is for new hires, rehires, and transfers of current Defined Benefit* division #__________ and/or current Hybrid division #__________

Closing this division will change future invoices to a flat dollar amount instead of a percentage of payroll, as provided in your most recent annual actuarial valuation. (The amount may be adjusted for any benefit modifications that may have taken place since then.)

Current active (defined benefit or hybrid) employees (select one of the following and see *Plan Document, Section 64* for more information):

☐ Will have a one-time opportunity to convert the value of their current defined benefit from the existing defined benefit or hybrid plan into the new Defined Contribution Plan as a lump sum, or continue accruing service in the Defined Benefit. (Complete *MERS Defined Contribution Conversion Addendum*.)

☐ Will have a one-time opportunity to cease service accrual in the current plan and transfer to the new Defined Contribution plan for future service accrual, or continue accruing service in the Defined Benefit. The deadline for employees to make their election is: ___/___/_____

☐ Will be required to cease service accrual in Defined Benefit and will transfer to Defined Contribution for future service accrual.

** By completing the section above, the Employer acknowledges receiving Projection Study results and understands the municipality's obligation to continue funding the liability associated with the closed Defined Benefit division.*

B. ☒ If this is an **amendment** of an existing Adoption Agreement (existing division number 106211), the effective date shall be the first day of January, 2006.

Note: You only need to mark ***changes*** to your plan throughout the remainder of this Agreement.

C. ☐ If this is to **separate employees** *from an existing Defined Contribution division* (existing division number(s) ________________________________) into a new division, the effective date shall be the first day of ________________, 20____.

D. ☐ If this is to **merge division(s)**________________ into division(s) ________________, the effective date shall be the first of ________________, 20____.

III. Eligible Employees

Only those Employees eligible for MERS membership may participate in the MERS Defined Contribution Plan. A copy of ALL employee enrollment forms must be submitted to MERS. The following groups of employees are eligible to participate:

____

(Name of Defined Contribution division – e.g. All Full Time Employees, or General After 7/01/13)

To further define eligibility, (check all that apply):

☐ **Probationary periods** are allowed in one-month increments, no longer than 12 months. During this introductory period the Employer will not report or make contributions for this period, including retroactively. Service will begin after the probationary period has been satisfied.

The probationary period will be ______ month(s).

☐ **Temporary employees** in a position normally requiring less than a total of 12 whole months of work in the position may be *excluded* from membership. These employees must be notified in writing by the participating municipality that they are excluded from membership within 10 business days of date of hire or execution of this Agreement.

The temporary exclusion period will be ______ month(s).

IV. Provisions

1. **Vesting** (Check one):
   - ❒ Immediate
   - ❒ Cliff Vesting (fully vested after below number years of service)
     ❒ 1 year ❒ 2 years ❒ 3 years ❒ 4 years ❒ 5 years
   - ❒ Graded Vesting
     _____ % after 1 year of service
     _____ % after 2 years of service
     _____ % after 3 years of service (min 25%)
     _____ % after 4 years of service (min 50%)
     _____ % after 5 years of service (min 75%)
     _____ % after 6 years of service (min 100%)

   Vesting will be credited using (check one):
   - ❒ Elapsed time method – Employees will be credited with one vesting year for each 12 months of continuous employment from the date of hire.
   - ❒ Hours reported method – Employees will be credited with one vesting year for each calendar year in which _____ hours are worked

In the event of disability or death, an employee's (or his/her beneficiary's) entire employer contribution account shall be 100% vested, to the extent that the balance of such account has not previously been forfeited.

Normal Retirement Age (presumed to be age 60 unless otherwise specified) _________

If an employee is still employed with the municipality at the age specified here, their entire employer contribution balance will become 100% vested regardless of years of service.

2. **Contributions**
   a. Will be remitted according to Employer's payroll withholding which represents the actual period amounts are withheld from employee paychecks, or within the month during which amounts are withheld (check one):
      - ❒ Weekly
      - ❒ Bi-Weekly (every other week)
      - ❒ Semi-Monthly (twice each month)
      - ❒ Monthly
      - ❒ Other (must specify) ____

   b. Required Employee Contribution Structure to DC (subject to Internal Revenue Code 415(c) limitations). Select one:
      - ❒ Employees are required to contribute per payroll period, the percentage _____% OR flat dollar amount $________
      - ❒ Employees are required to contribute within the following range for each payroll:
        Percentage range from _____% to _____% OR
        dollar amount range $________ to $_______

      ❒ Direct Required Employee Contributions pre-tax

c. **Employer Contributions**

☐ **Non-Matching Contributions**

The Employer hereby elects to make contributions to the Program without regard to an employee's contribution to the Program. The Employer elects the following contribution formula (check one):

- ☐ **Annual Contributions:** A one-time annual contribution of $________ OR _______% of compensation per employee.
- ☐ $ _______ or ______% of compensation per employee for each payroll period.

☐ **Matching Contributions**

The Participating Employer may make matching contributions and/or non-matching contributions into the Defined Contribution plan based on an employee's voluntary election as outlined in the *Matching Employer Contribution Addendum (MD-073).*

d. Post-tax voluntary employee contributions are allowable into a Defined Contribution account subject to Section 415(c) limitations of the Internal Revenue Code.

3. **Compensation**

Employers may designate the definition of compensation per division participating in Defined Contribution pursuant to section 49 of the MERS Plan Document (check one):

☐ All income subject to income tax reported in Box 1 of Form W-2, plus elective deferrals (Note: this definition aligns to MERS' 457 definition of compensation)

☐ Medicare taxable wages reported in Box 5 of Form W-2

☒ Base wages, to which any of the following may be included:

- ☐ Longevity pay
- ☐ Overtime pay
- ☐ Shift differentials
- ☐ Pay for periods of absence from work by reason of vacation, holiday, and sickness
- ☐ Workers' compensation weekly benefits (if reported and are higher than regular earnings)
- ☐ A member's pre-tax contributions to a plan established under Section 125 of the IRC
- ☐ Transcript fees paid to a court reporter
- ☐ A taxable car allowance
- ☐ Short term or long term disability payments
- ☐ Payments for achievement of established annual (or similar period) performance goals
- ☐ Payment for attainment of educational degrees from accredited colleges, universities, or for acquisition of job-related certifications
- ☐ Lump sum payments attributable to the member's personal service rendered during the FAC period
- ☐ Other: deferred comp match, opt-out, leave buy-outs, longevity, certification bonus, overtime
- ☐ Other 2: exclude. resident bonus

NOTE: For purposes of applying the Internal Revenue Code Section 415(c) limits on annual additions, compensation shall be defined as required under that law.

4. **Loans:** ☐ shall be permitted ☐ shall not be permitted
   If Loans are elected, please complete and attach the *MERS Defined Contribution Loan Addendum*.

5. **Rollovers** from qualified plans are permitted and the plan will account separately for pre-tax and post-tax contributions and earnings thereon.

V. Appointing MERS as the Plan Administrator

The Employer hereby agrees to the provisions of this *MERS Defined Contribution Plan Adoption Agreement* and appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan. The Employer also agrees that in the event of any conflict between the MERS Plan Document and the MERS Defined Contribution Plan Adoption Agreement, the provisions of the Plan Document control.

VI. Modification of the terms of the Adoption Agreement

If the Employer desires to amend any of its elections contained in this Adoption Agreement, including attachments, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Adoption Agreement. The amendment of the new Agreement is not effective until approved by MERS.

VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. The Employer acknowledges that employee contributions (if any) and employer contributions must be submitted in accordance with the *MERS Reporting and Contribution Enforcement Policy*, the terms of which are incorporated herein by reference;
4. The Employer acknowledges that late or missed contributions will be required to be made up, including any applicable gains, pursuant to the Internal Revenue Code;
5. Should the Employer fail to make its required contribution(s) when due, MERS may implement any applicable interest charges and penalties pursuant to the *MERS Reporting and Contribution Enforcement Policy* and Plan Document Section 79, and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended.
6. It is expressly agreed and understood as an integral and non-severable part of this Agreement that Section 43 of the Plan Document shall not apply to this Agreement and its administration or interpretation. In the event any alteration of the terms or conditions of this Agreement is made or occurs, under Section 43 or other plan provision or law, MERS and the Retirement Board, as sole trustee and fiduciary of the MERS plan and its trust reserves, and whose authority is non-delegable, shall have no obligation or duty to administer (or to have administered) the MERS Defined Contribution Plan, to authorize the transfer of any defined benefit assets to the MERS Defined Contribution Plan, or to continue administration by MERS or any third-party administrator of the MERS Defined Contribution Plan.

VIII. Execution

Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Adoption Agreement is hereby approved by Muskegon City Council on
(Name of Approving Employer)
the _____ day of ____________________, 20_____.

Authorized signature: ____

Title: ____

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: ________________________, 20_____ Signature: ________________________________
(Authorized MERS Signatory)

MERS Defined Contribution Plan Adoption Agreement

MERS® Municipal Employees' Retirement System

1134 Municipal Way Lansing, MI 48917 | 800.767.MERS (6377) | Fax 517.703.9711 | www.mersofmich.com

The Employer, a participating municipality or court within the state of Michigan that has adopted MERS coverage, hereby establishes the following Defined Contribution Plan provided by MERS of Michigan, as authorized by 1996 PA 220 in accordance with the MERS Plan Document.

I. Employer Name City of Muskegon **Municipality #:** 6116

II. Effective Date

Check one:

A. ☐ If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of ____________, 20___.

☐ This municipality or division is new to MERS, so vesting credit prior to the **initial** MERS effective date by each eligible employee shall be credited as follows (choose one):

☐ Vesting credit from date of hire ☐ No vesting credit

☐ This division is for new hires, rehires, and transfers of current Defined Benefit* division #__________ and/or current Hybrid division #__________

Closing this division will change future invoices to a flat dollar amount instead of a percentage of payroll, as provided in your most recent annual actuarial valuation. (The amount may be adjusted for any benefit modifications that may have taken place since then.)

Current active (defined benefit or hybrid) employees (select one of the following and see *Plan Document, Section 64* for more information):

☐ Will have a one-time opportunity to convert the value of their current defined benefit from the existing defined benefit or hybrid plan into the new Defined Contribution Plan as a lump sum, or continue accruing service in the Defined Benefit. (Complete *MERS Defined Contribution Conversion Addendum*.)

☐ Will have a one-time opportunity to cease service accrual in the current plan and transfer to the new Defined Contribution plan for future service accrual, or continue accruing service in the Defined Benefit. The deadline for employees to make their election is: ___/___/_____

☐ Will be required to cease service accrual in Defined Benefit and will transfer to Defined Contribution for future service accrual.

** By completing the section above, the Employer acknowledges receiving Projection Study results and understands the municipality's obligation to continue funding the liability associated with the closed Defined Benefit division.*

B. ■ If this is an **amendment** of an existing Adoption Agreement (existing division number 106126), the effective date shall be the first day of January, 2026.

Note: You only need to mark ***changes*** to your plan throughout the remainder of this Agreement.

C. ❒ If this is to **separate employees** *from an existing Defined Contribution division* (existing division number(s) ____) into a new division,

the effective date shall be the first day of ________________, 20____.

D. ❒ If this is to **merge division(s)**________________ into division(s) ________________, the effective date shall be the first of ________________, 20____.

III. Eligible Employees

Only those Employees eligible for MERS membership may participate in the MERS Defined Contribution Plan. A copy of ALL employee enrollment forms must be submitted to MERS. The following groups of employees are eligible to participate:

____

(Name of Defined Contribution division – e.g. All Full Time Employees, or General After 7/01/13)

To further define eligibility, (check all that apply):

❒ **Probationary periods** are allowed in one-month increments, no longer than 12 months. During this introductory period the Employer will not report or make contributions for this period, including retroactively. Service will begin after the probationary period has been satisfied.

The probationary period will be ______ month(s).

❒ **Temporary employees** in a position normally requiring less than a total of 12 whole months of work in the position may be *excluded* from membership. These employees must be notified in writing by the participating municipality that they are excluded from membership within 10 business days of date of hire or execution of this Agreement.

The temporary exclusion period will be ______ month(s).

MERS Defined Contribution Plan Adoption Agreement

IV. Provisions

1. **Vesting** (Check one):
   - ☐ Immediate
   - ☐ Cliff Vesting (fully vested after below number years of service)
     ☐ 1 year ☐ 2 years ☐ 3 years ☐ 4 years ☐ 5 years
   - ☐ Graded Vesting
     _____ % after 1 year of service
     _____ % after 2 years of service
     _____ % after 3 years of service (min 25%)
     _____ % after 4 years of service (min 50%)
     _____ % after 5 years of service (min 75%)
     _____ % after 6 years of service (min 100%)

   Vesting will be credited using (check one):
   - ☐ Elapsed time method – Employees will be credited with one vesting year for each 12 months of continuous employment from the date of hire.
   - ☐ Hours reported method – Employees will be credited with one vesting year for each calendar year in which _____ hours are worked

In the event of disability or death, an employee's (or his/her beneficiary's) entire employer contribution account shall be 100% vested, to the extent that the balance of such account has not previously been forfeited.

Normal Retirement Age (presumed to be age 60 unless otherwise specified) _________

If an employee is still employed with the municipality at the age specified here, their entire employer contribution balance will become 100% vested regardless of years of service.

2. **Contributions**
   a. Will be remitted according to Employer's payroll withholding which represents the actual period amounts are withheld from employee paychecks, or within the month during which amounts are withheld (check one):
      - ☐ Weekly
      - ☐ Bi-Weekly (every other week)
      - ☐ Semi-Monthly (twice each month)
      - ☐ Monthly
      - ☐ Other (must specify) ____

   b. Required Employee Contribution Structure to DC (subject to Internal Revenue Code 415(c) limitations). Select one:
      - ☐ Employees are required to contribute per payroll period, the percentage _____% OR flat dollar amount $_________
      - ☐ Employees are required to contribute within the following range for each payroll:
        Percentage range from _____% to _____% OR
        dollar amount range $_________ to $________

      ☐ Direct Required Employee Contributions pre-tax

c. **Employer Contributions**

☐ **Non-Matching Contributions**

The Employer hereby elects to make contributions to the Program without regard to an employee's contribution to the Program. The Employer elects the following contribution formula (check one):

☐ **Annual Contributions:** A one-time annual contribution of $________ OR ______% of compensation per employee.

☐ $ ______ or ______% of compensation per employee for each payroll period.

☐ **Matching Contributions**

The Participating Employer may make matching contributions and/or non-matching contributions into the Defined Contribution plan based on an employee's voluntary election as outlined in the *Matching Employer Contribution Addendum (MD-073)*.

d. Post-tax voluntary employee contributions are allowable into a Defined Contribution account subject to Section 415(c) limitations of the Internal Revenue Code.

3. **Compensation**

Employers may designate the definition of compensation per division participating in Defined Contribution pursuant to section 49 of the MERS Plan Document (check one):

☐ All income subject to income tax reported in Box 1 of Form W-2, plus elective deferrals (Note: this definition aligns to MERS' 457 definition of compensation)

☐ Medicare taxable wages reported in Box 5 of Form W-2

☒ Base wages, to which any of the following may be included:

- ☐ Longevity pay
- ☐ Overtime pay
- ☐ Shift differentials
- ☐ Pay for periods of absence from work by reason of vacation, holiday, and sickness
- ☐ Workers' compensation weekly benefits (if reported and are higher than regular earnings)
- ☐ A member's pre-tax contributions to a plan established under Section 125 of the IRC
- ☐ Transcript fees paid to a court reporter
- ☐ A taxable car allowance
- ☐ Short term or long term disability payments
- ☐ Payments for achievement of established annual (or similar period) performance goals
- ☐ Payment for attainment of educational degrees from accredited colleges, universities, or for acquisition of job-related certifications
- ☐ Lump sum payments attributable to the member's personal service rendered during the FAC period
- ☐ Other: Includes deferred comp match, opt out, leave buy outs, longevity
- ☐ Other 2: excludes overtime + resident bonus

NOTE: For purposes of applying the Internal Revenue Code Section 415(c) limits on annual additions, compensation shall be defined as required under that law.

4. **Loans:** ☐ shall be permitted ☐ shall not be permitted
   If Loans are elected, please complete and attach the *MERS Defined Contribution Loan Addendum*.

5. **Rollovers** from qualified plans are permitted and the plan will account separately for pre-tax and post-tax contributions and earnings thereon.

V. Appointing MERS as the Plan Administrator

The Employer hereby agrees to the provisions of this *MERS Defined Contribution Plan Adoption Agreement* and appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan. The Employer also agrees that in the event of any conflict between the MERS Plan Document and the MERS Defined Contribution Plan Adoption Agreement, the provisions of the Plan Document control.

VI. Modification of the terms of the Adoption Agreement

If the Employer desires to amend any of its elections contained in this Adoption Agreement, including attachments, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Adoption Agreement. The amendment of the new Agreement is not effective until approved by MERS.

VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. The Employer acknowledges that employee contributions (if any) and employer contributions must be submitted in accordance with the *MERS Reporting and Contribution Enforcement Policy*, the terms of which are incorporated herein by reference;
4. The Employer acknowledges that late or missed contributions will be required to be made up, including any applicable gains, pursuant to the Internal Revenue Code;
5. Should the Employer fail to make its required contribution(s) when due, MERS may implement any applicable interest charges and penalties pursuant to the *MERS Reporting and Contribution Enforcement Policy* and Plan Document Section 79, and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended.
6. It is expressly agreed and understood as an integral and non-severable part of this Agreement that Section 43 of the Plan Document shall not apply to this Agreement and its administration or interpretation. In the event any alteration of the terms or conditions of this Agreement is made or occurs, under Section 43 or other plan provision or law, MERS and the Retirement Board, as sole trustee and fiduciary of the MERS plan and its trust reserves, and whose authority is non-delegable, shall have no obligation or duty to administer (or to have administered) the MERS Defined Contribution Plan, to authorize the transfer of any defined benefit assets to the MERS Defined Contribution Plan, or to continue administration by MERS or any third-party administrator of the MERS Defined Contribution Plan.

MERS Defined Contribution Plan Adoption Agreement

VIII. Execution

Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Adoption Agreement is hereby approved by Muskegon City Council ______ on
(Name of Approving Employer)
the _____ day of ____________________, 20_____.

Authorized signature: ______________________________

Title: ______________________________

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: ____________________, 20_____ Signature: ______________________________
(Authorized MERS Signatory)

MERS Defined Contribution Plan Adoption Agreement

MERS
Municipal Employees' Retirement System

1134 Municipal Way Lansing, MI 48917 | 800.767.MERS (6377) | Fax 517.703.9711 | www.mersofmich.com

The Employer, a participating municipality or court within the state of Michigan that has adopted MERS coverage, hereby establishes the following Defined Contribution Plan provided by MERS of Michigan, as authorized by 1996 PA 220 in accordance with the MERS Plan Document.

I. Employer Name City of Muskegon **Municipality #:** 6116

II. Effective Date

Check one:

A. ☐ If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of ____________, 20___.

☐ This municipality or division is new to MERS, so vesting credit prior to the **initial** MERS effective date by each eligible employee shall be credited as follows (choose one):

☐ Vesting credit from date of hire ☐ No vesting credit

☐ This division is for new hires, rehires, and transfers of current Defined Benefit* division #__________ and/or current Hybrid division #__________

Closing this division will change future invoices to a flat dollar amount instead of a percentage of payroll, as provided in your most recent annual actuarial valuation. (The amount may be adjusted for any benefit modifications that may have taken place since then.)

Current active (defined benefit or hybrid) employees (select one of the following and see *Plan Document, Section 64* for more information):

☐ Will have a one-time opportunity to convert the value of their current defined benefit from the existing defined benefit or hybrid plan into the new Defined Contribution Plan as a lump sum, or continue accruing service in the Defined Benefit. (Complete *MERS Defined Contribution Conversion Addendum*.)

☐ Will have a one-time opportunity to cease service accrual in the current plan and transfer to the new Defined Contribution plan for future service accrual, or continue accruing service in the Defined Benefit. The deadline for employees to make their election is: ___/___/_____

☐ Will be required to cease service accrual in Defined Benefit and will transfer to Defined Contribution for future service accrual.

** By completing the section above, the Employer acknowledges receiving Projection Study results and understands the municipality's obligation to continue funding the liability associated with the closed Defined Benefit division.*

B. ■ If this is an **amendment** of an existing Adoption Agreement (existing division number 106185), the effective date shall be the first day of January, 20 06.

Note: You only need to mark ***changes*** to your plan throughout the remainder of this Agreement.

C. ☐ If this is to **separate employees** *from an existing Defined Contribution division* (existing division number(s) ____________________________________) into a new division, the effective date shall be the first day of ________________, 20____.

D. ☐ If this is to **merge division(s)**________________ into division(s) __________________, the effective date shall be the first of ________________, 20____.

III. Eligible Employees

Only those Employees eligible for MERS membership may participate in the MERS Defined Contribution Plan. A copy of ALL employee enrollment forms must be submitted to MERS. The following groups of employees are eligible to participate:

____

(Name of Defined Contribution division – e.g. All Full Time Employees, or General After 7/01/13)

To further define eligibility, (check all that apply):

☐ **Probationary periods** are allowed in one-month increments, no longer than 12 months. During this introductory period the Employer will not report or make contributions for this period, including retroactively. Service will begin after the probationary period has been satisfied.

The probationary period will be ______ month(s).

☐ **Temporary employees** in a position normally requiring less than a total of 12 whole months of work in the position may be *excluded* from membership. These employees must be notified in writing by the participating municipality that they are excluded from membership within 10 business days of date of hire or execution of this Agreement.

The temporary exclusion period will be ______ month(s).

MERS Defined Contribution Plan Adoption Agreement

IV. Provisions

1. **Vesting** (Check one):
   - ❐ Immediate
   - ❐ Cliff Vesting (fully vested after below number years of service)
     ❐ 1 year ❐ 2 years ❐ 3 years ❐ 4 years ❐ 5 years
   - ❐ Graded Vesting
     _____ % after 1 year of service
     _____ % after 2 years of service
     _____ % after 3 years of service (min 25%)
     _____ % after 4 years of service (min 50%)
     _____ % after 5 years of service (min 75%)
     _____ % after 6 years of service (min 100%)

   Vesting will be credited using (check one):
   - ❐ Elapsed time method – Employees will be credited with one vesting year for each 12 months of continuous employment from the date of hire.
   - ❐ Hours reported method – Employees will be credited with one vesting year for each calendar year in which _____ hours are worked

In the event of disability or death, an employee's (or his/her beneficiary's) entire employer contribution account shall be 100% vested, to the extent that the balance of such account has not previously been forfeited.

Normal Retirement Age (presumed to be age 60 unless otherwise specified) __________

If an employee is still employed with the municipality at the age specified here, their entire employer contribution balance will become 100% vested regardless of years of service.

2. **Contributions**
   a. Will be remitted according to Employer's payroll withholding which represents the actual period amounts are withheld from employee paychecks, or within the month during which amounts are withheld (check one):
      - ❐ Weekly
      - ❐ Bi-Weekly (every other week)
      - ❐ Semi-Monthly (twice each month)
      - ❐ Monthly
      - ❐ Other (must specify) ____

   b. Required Employee Contribution Structure to DC (subject to Internal Revenue Code 415(c) limitations). Select one:
      - ❐ Employees are required to contribute per payroll period, the percentage _____% OR flat dollar amount $_________
      - ❐ Employees are required to contribute within the following range for each payroll:
        Percentage range from _____% to _____% OR
        dollar amount range $_________ to $________

      ❐ Direct Required Employee Contributions pre-tax

c. **Employer Contributions**

☐ **Non-Matching Contributions**

The Employer hereby elects to make contributions to the Program without regard to an employee's contribution to the Program. The Employer elects the following contribution formula (check one):

- ☐ **Annual Contributions:** A one-time annual contribution of $________ OR ______% of compensation per employee.
- ☐ $ ______ or ______% of compensation per employee for each payroll period.

☐ **Matching Contributions**

The Participating Employer may make matching contributions and/or non-matching contributions into the Defined Contribution plan based on an employee's voluntary election as outlined in the *Matching Employer Contribution Addendum (MD-073)*.

d. Post-tax voluntary employee contributions are allowable into a Defined Contribution account subject to Section 415(c) limitations of the Internal Revenue Code.

3. **Compensation**

Employers may designate the definition of compensation per division participating in Defined Contribution pursuant to section 49 of the MERS Plan Document (check one):

☐ All income subject to income tax reported in Box 1 of Form W-2, plus elective deferrals (Note: this definition aligns to MERS' 457 definition of compensation)

☐ Medicare taxable wages reported in Box 5 of Form W-2

☒ Base wages, to which any of the following may be included:

- ☐ Longevity pay
- ☐ Overtime pay
- ☐ Shift differentials
- ☐ Pay for periods of absence from work by reason of vacation, holiday, and sickness
- ☐ Workers' compensation weekly benefits (if reported and are higher than regular earnings)
- ☐ A member's pre-tax contributions to a plan established under Section 125 of the IRC
- ☐ Transcript fees paid to a court reporter
- ☐ A taxable car allowance
- ☐ Short term or long term disability payments
- ☐ Payments for achievement of established annual (or similar period) performance goals
- ☐ Payment for attainment of educational degrees from accredited colleges, universities, or for acquisition of job-related certifications
- ☐ Lump sum payments attributable to the member's personal service rendered during the FAC period
- ☐ Other: includes deferred comp match, opt-out, leave buy-outs, longevity
- ☐ Other 2: excludes overtime & resident bonus

NOTE: For purposes of applying the Internal Revenue Code Section 415(c) limits on annual additions, compensation shall be defined as required under that law.

4. **Loans:** ☐ shall be permitted ☐ shall not be permitted
If Loans are elected, please complete and attach the *MERS Defined Contribution Loan Addendum*.

5. **Rollovers** from qualified plans are permitted and the plan will account separately for pre-tax and post-tax contributions and earnings thereon.

V. Appointing MERS as the Plan Administrator

The Employer hereby agrees to the provisions of this *MERS Defined Contribution Plan Adoption Agreement* and appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan. The Employer also agrees that in the event of any conflict between the MERS Plan Document and the MERS Defined Contribution Plan Adoption Agreement, the provisions of the Plan Document control.

VI. Modification of the terms of the Adoption Agreement

If the Employer desires to amend any of its elections contained in this Adoption Agreement, including attachments, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Adoption Agreement. The amendment of the new Agreement is not effective until approved by MERS.

VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. The Employer acknowledges that employee contributions (if any) and employer contributions must be submitted in accordance with the *MERS Reporting and Contribution Enforcement Policy*, the terms of which are incorporated herein by reference;
4. The Employer acknowledges that late or missed contributions will be required to be made up, including any applicable gains, pursuant to the Internal Revenue Code;
5. Should the Employer fail to make its required contribution(s) when due, MERS may implement any applicable interest charges and penalties pursuant to the *MERS Reporting and Contribution Enforcement Policy* and Plan Document Section 79, and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended.
6. It is expressly agreed and understood as an integral and non-severable part of this Agreement that Section 43 of the Plan Document shall not apply to this Agreement and its administration or interpretation. In the event any alteration of the terms or conditions of this Agreement is made or occurs, under Section 43 or other plan provision or law, MERS and the Retirement Board, as sole trustee and fiduciary of the MERS plan and its trust reserves, and whose authority is non-delegable, shall have no obligation or duty to administer (or to have administered) the MERS Defined Contribution Plan, to authorize the transfer of any defined benefit assets to the MERS Defined Contribution Plan, or to continue administration by MERS or any third-party administrator of the MERS Defined Contribution Plan.

VIII. Execution

Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Adoption Agreement is hereby approved by Muskegon City Council on
(Name of Approving Employer)
the _____ day of ______________________, 20_____.

Authorized signature: ______________________________

Title: ______________________________

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: __________________________, 20_____ Signature: ______________________________
(Authorized MERS Signatory)

MERS Defined Contribution Plan Adoption Agreement

MERS Municipal Employees' Retirement System

1134 Municipal Way Lansing, MI 48917 | 800.767.MERS (6377) | Fax 517.703.9711 | www.mersofmich.com

The Employer, a participating municipality or court within the state of Michigan that has adopted MERS coverage, hereby establishes the following Defined Contribution Plan provided by MERS of Michigan, as authorized by 1996 PA 220 in accordance with the MERS Plan Document.

I. Employer Name City of Muskegon **Municipality #:** 6116

II. Effective Date

Check one:

A. ☐ If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of ____________, 20___.

☐ This municipality or division is new to MERS, so vesting credit prior to the **initial** MERS effective date by each eligible employee shall be credited as follows (choose one):

☐ Vesting credit from date of hire ☐ No vesting credit

☐ This division is for new hires, rehires, and transfers of current Defined Benefit* division #__________ and/or current Hybrid division #__________

Closing this division will change future invoices to a flat dollar amount instead of a percentage of payroll, as provided in your most recent annual actuarial valuation. (The amount may be adjusted for any benefit modifications that may have taken place since then.)

Current active (defined benefit or hybrid) employees (select one of the following and see *Plan Document, Section 64* for more information):

☐ Will have a one-time opportunity to convert the value of their current defined benefit from the existing defined benefit or hybrid plan into the new Defined Contribution Plan as a lump sum, or continue accruing service in the Defined Benefit. (Complete *MERS Defined Contribution Conversion Addendum*.)

☐ Will have a one-time opportunity to cease service accrual in the current plan and transfer to the new Defined Contribution plan for future service accrual, or continue accruing service in the Defined Benefit. The deadline for employees to make their election is: __/__/____

☐ Will be required to cease service accrual in Defined Benefit and will transfer to Defined Contribution for future service accrual.

** By completing the section above, the Employer acknowledges receiving Projection Study results and understands the municipality's obligation to continue funding the liability associated with the closed Defined Benefit division.*

B. ☒ If this is an **amendment** of an existing Adoption Agreement (existing division number 106125), the effective date shall be the first day of January, 20 05.

Note: You only need to mark ***changes*** to your plan throughout the remainder of this Agreement.

C. ☐ If this is to **separate employees** *from an existing Defined Contribution division* (existing division number(s) ____) into a new division, the effective date shall be the first day of ________________, 20____.

D. ☐ If this is to **merge division(s)**________________ into division(s) _________________, the effective date shall be the first of ________________, 20____.

III. Eligible Employees

Only those Employees eligible for MERS membership may participate in the MERS Defined Contribution Plan. A copy of ALL employee enrollment forms must be submitted to MERS. The following groups of employees are eligible to participate:

____

(Name of Defined Contribution division – e.g. All Full Time Employees, or General After 7/01/13)

To further define eligibility, (check all that apply):

☐ **Probationary periods** are allowed in one-month increments, no longer than 12 months. During this introductory period the Employer will not report or make contributions for this period, including retroactively. Service will begin after the probationary period has been satisfied.

The probationary period will be ______ month(s).

☐ **Temporary employees** in a position normally requiring less than a total of 12 whole months of work in the position may be *excluded* from membership. These employees must be notified in writing by the participating municipality that they are excluded from membership within 10 business days of date of hire or execution of this Agreement.

The temporary exclusion period will be ______ month(s).

IV. Provisions

1. **Vesting** (Check one):
   - ❒ Immediate
   - ❒ Cliff Vesting (fully vested after below number years of service)
     ❒ 1 year ❒ 2 years ❒ 3 years ❒ 4 years ❒ 5 years
   - ❒ Graded Vesting
     _____ % after 1 year of service
     _____ % after 2 years of service
     _____ % after 3 years of service (min 25%)
     _____ % after 4 years of service (min 50%)
     _____ % after 5 years of service (min 75%)
     _____ % after 6 years of service (min 100%)

   Vesting will be credited using (check one):
   - ❒ Elapsed time method – Employees will be credited with one vesting year for each 12 months of continuous employment from the date of hire.
   - ❒ Hours reported method – Employees will be credited with one vesting year for each calendar year in which _____ hours are worked

In the event of disability or death, an employee's (or his/her beneficiary's) entire employer contribution account shall be 100% vested, to the extent that the balance of such account has not previously been forfeited.

Normal Retirement Age (presumed to be age 60 unless otherwise specified) __________

If an employee is still employed with the municipality at the age specified here, their entire employer contribution balance will become 100% vested regardless of years of service.

2. **Contributions**
   a. Will be remitted according to Employer's payroll withholding which represents the actual period amounts are withheld from employee paychecks, or within the month during which amounts are withheld (check one):
      - ❒ Weekly
      - ❒ Bi-Weekly (every other week)
      - ❒ Semi-Monthly (twice each month)
      - ❒ Monthly
      - ❒ Other (must specify) ____

   b. Required Employee Contribution Structure to DC (subject to Internal Revenue Code 415(c) limitations). Select one:
      - ❒ Employees are required to contribute per payroll period, the percentage _____% OR flat dollar amount $_________
      - ❒ Employees are required to contribute within the following range for each payroll:
        Percentage range from _____% to _____% OR
        dollar amount range $_________ to $________

      ❒ Direct Required Employee Contributions pre-tax

c. **Employer Contributions**

☐ **Non-Matching Contributions**

The Employer hereby elects to make contributions to the Program without regard to an employee's contribution to the Program. The Employer elects the following contribution formula (check one):

- ☐ **Annual Contributions:** A one-time annual contribution of $________ OR ______% of compensation per employee.
- ☐ $ ______ or ______% of compensation per employee for each payroll period.

☐ **Matching Contributions**

The Participating Employer may make matching contributions and/or non-matching contributions into the Defined Contribution plan based on an employee's voluntary election as outlined in the *Matching Employer Contribution Addendum (MD-073).*

d. Post-tax voluntary employee contributions are allowable into a Defined Contribution account subject to Section 415(c) limitations of the Internal Revenue Code.

3. **Compensation**

Employers may designate the definition of compensation per division participating in Defined Contribution pursuant to section 49 of the MERS Plan Document (check one):

- ☐ All income subject to income tax reported in Box 1 of Form W-2, plus elective deferrals (Note: this definition aligns to MERS' 457 definition of compensation)
- ☐ Medicare taxable wages reported in Box 5 of Form W-2
- ☒ Base wages, to which any of the following may be included:
  - ☒ Longevity pay
  - ☒ Overtime pay
  - ☐ Shift differentials
  - ☐ Pay for periods of absence from work by reason of vacation, holiday, and sickness
  - ☐ Workers' compensation weekly benefits (if reported and are higher than regular earnings)
  - ☐ A member's pre-tax contributions to a plan established under Section 125 of the IRC
  - ☐ Transcript fees paid to a court reporter
  - ☐ A taxable car allowance
  - ☐ Short term or long term disability payments
  - ☐ Payments for achievement of established annual (or similar period) performance goals
  - ☐ Payment for attainment of educational degrees from accredited colleges, universities, or for acquisition of job-related certifications
  - ☐ Lump sum payments attributable to the member's personal service rendered during the FAC period
  - ☐ Other: Including overtime, deferred comp match, opt-out, longevity, leave buyout, EMT Bonus, Acting pay
  - ☐ Other 2: exclude resident bonus

NOTE: For purposes of applying the Internal Revenue Code Section 415(c) limits on annual additions, compensation shall be defined as required under that law.

4. **Loans:** ☐ shall be permitted ☐ shall not be permitted
   If Loans are elected, please complete and attach the *MERS Defined Contribution Loan Addendum.*

5. **Rollovers** from qualified plans are permitted and the plan will account separately for pre-tax and post-tax contributions and earnings thereon.

V. Appointing MERS as the Plan Administrator

The Employer hereby agrees to the provisions of this *MERS Defined Contribution Plan Adoption Agreement* and appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan. The Employer also agrees that in the event of any conflict between the MERS Plan Document and the MERS Defined Contribution Plan Adoption Agreement, the provisions of the Plan Document control.

VI. Modification of the terms of the Adoption Agreement

If the Employer desires to amend any of its elections contained in this Adoption Agreement, including attachments, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Adoption Agreement. The amendment of the new Agreement is not effective until approved by MERS.

VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. The Employer acknowledges that employee contributions (if any) and employer contributions must be submitted in accordance with the *MERS Reporting and Contribution Enforcement Policy*, the terms of which are incorporated herein by reference;
4. The Employer acknowledges that late or missed contributions will be required to be made up, including any applicable gains, pursuant to the Internal Revenue Code;
5. Should the Employer fail to make its required contribution(s) when due, MERS may implement any applicable interest charges and penalties pursuant to the *MERS Reporting and Contribution Enforcement Policy* and Plan Document Section 79, and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended.
6. It is expressly agreed and understood as an integral and non-severable part of this Agreement that Section 43 of the Plan Document shall not apply to this Agreement and its administration or interpretation. In the event any alteration of the terms or conditions of this Agreement is made or occurs, under Section 43 or other plan provision or law, MERS and the Retirement Board, as sole trustee and fiduciary of the MERS plan and its trust reserves, and whose authority is non-delegable, shall have no obligation or duty to administer (or to have administered) the MERS Defined Contribution Plan, to authorize the transfer of any defined benefit assets to the MERS Defined Contribution Plan, or to continue administration by MERS or any third-party administrator of the MERS Defined Contribution Plan.

VIII. Execution

Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Adoption Agreement is hereby approved by Muskegon City Council on
(Name of Approving Employer)
the _____ day of _____________________, 20_____.

Authorized signature: ____

Title: ____

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: ________________________, 20_____ Signature: ______________________________
(Authorized MERS Signatory)

MERS Defined Contribution Plan Adoption Agreement

MERS®
Municipal Employees' Retirement System

1134 Municipal Way Lansing, MI 48917 | 800.767.MERS (6377) | Fax 517.703.9711 | www.mersofmich.com

The Employer, a participating municipality or court within the state of Michigan that has adopted MERS coverage, hereby establishes the following Defined Contribution Plan provided by MERS of Michigan, as authorized by 1996 PA 220 in accordance with the MERS Plan Document.

I. Employer Name City of Muskegon **Municipality #:** 6116

II. Effective Date

Check one:

A. ☐ If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of ____________, 20___.

☐ This municipality or division is new to MERS, so vesting credit prior to the **initial** MERS effective date by each eligible employee shall be credited as follows (choose one):

☐ Vesting credit from date of hire ☐ No vesting credit

☐ This division is for new hires, rehires, and transfers of current Defined Benefit* division #__________ and/or current Hybrid division #__________

Closing this division will change future invoices to a flat dollar amount instead of a percentage of payroll, as provided in your most recent annual actuarial valuation. (The amount may be adjusted for any benefit modifications that may have taken place since then.)

Current active (defined benefit or hybrid) employees (select one of the following and see *Plan Document, Section 64* for more information):

☐ Will have a one-time opportunity to convert the value of their current defined benefit from the existing defined benefit or hybrid plan into the new Defined Contribution Plan as a lump sum, or continue accruing service in the Defined Benefit. (Complete *MERS Defined Contribution Conversion Addendum*.)

☐ Will have a one-time opportunity to cease service accrual in the current plan and transfer to the new Defined Contribution plan for future service accrual, or continue accruing service in the Defined Benefit. The deadline for employees to make their election is: __/__/____

☐ Will be required to cease service accrual in Defined Benefit and will transfer to Defined Contribution for future service accrual.

** By completing the section above, the Employer acknowledges receiving Projection Study results and understands the municipality's obligation to continue funding the liability associated with the closed Defined Benefit division.*

B. ■ If this is an **amendment** of an existing Adoption Agreement (existing division number 106242), the effective date shall be ~~the first day of~~ July 28, 20 06.

Note: You only need to mark ***changes*** to your plan throughout the remainder of this Agreement.

C. ☐ If this is to **separate employees** *from an existing Defined Contribution division* (existing division number(s) ______________________________) into a new division,

the effective date shall be the first day of ________________, 20____.

D. ☐ If this is to **merge division(s)**________________ into division(s) ________________, the effective date shall be the first of ________________, 20____.

III. Eligible Employees

Only those Employees eligible for MERS membership may participate in the MERS Defined Contribution Plan. A copy of ALL employee enrollment forms must be submitted to MERS. The following groups of employees are eligible to participate:

____

(Name of Defined Contribution division – e.g. All Full Time Employees, or General After 7/01/13)

To further define eligibility, (check all that apply):

☐ **Probationary periods** are allowed in one-month increments, no longer than 12 months. During this introductory period the Employer will not report or make contributions for this period, including retroactively. Service will begin after the probationary period has been satisfied.

The probationary period will be ______ month(s).

☐ **Temporary employees** in a position normally requiring less than a total of 12 whole months of work in the position may be *excluded* from membership. These employees must be notified in writing by the participating municipality that they are excluded from membership within 10 business days of date of hire or execution of this Agreement.

The temporary exclusion period will be ______ month(s).

IV. Provisions

1. **Vesting** (Check one):
   - ☐ Immediate
   - ☐ Cliff Vesting (fully vested after below number years of service)
     ☐ 1 year ☐ 2 years ☐ 3 years ☐ 4 years ☐ 5 years
   - ☐ Graded Vesting
     _____ % after 1 year of service
     _____ % after 2 years of service
     _____ % after 3 years of service (min 25%)
     _____ % after 4 years of service (min 50%)
     _____ % after 5 years of service (min 75%)
     _____ % after 6 years of service (min 100%)

   Vesting will be credited using (check one):
   - ☐ Elapsed time method – Employees will be credited with one vesting year for each 12 months of continuous employment from the date of hire.
   - ☐ Hours reported method – Employees will be credited with one vesting year for each calendar year in which _____ hours are worked

In the event of disability or death, an employee's (or his/her beneficiary's) entire employer contribution account shall be 100% vested, to the extent that the balance of such account has not previously been forfeited.

Normal Retirement Age (presumed to be age 60 unless otherwise specified) _________

If an employee is still employed with the municipality at the age specified here, their entire employer contribution balance will become 100% vested regardless of years of service.

2. **Contributions**
   a. Will be remitted according to Employer's payroll withholding which represents the actual period amounts are withheld from employee paychecks, or within the month during which amounts are withheld (check one):
      - ☐ Weekly
      - ☐ Bi-Weekly (every other week)
      - ☐ Semi-Monthly (twice each month)
      - ☐ Monthly
      - ☐ Other (must specify) ____

   b. Required Employee Contribution Structure to DC (subject to Internal Revenue Code 415(c) limitations). Select one:
      - ☐ Employees are required to contribute per payroll period, the percentage _____% OR flat dollar amount $________
      - ☐ Employees are required to contribute within the following range for each payroll:
        Percentage range from _____% to _____% OR
        dollar amount range $________ to $_______

      ☐ Direct Required Employee Contributions pre-tax

c. **Employer Contributions**

☐ **Non-Matching Contributions**

The Employer hereby elects to make contributions to the Program without regard to an employee's contribution to the Program. The Employer elects the following contribution formula (check one):

- ☐ **Annual Contributions:** A one-time annual contribution of $________ OR _______% of compensation per employee.
- ☐ $ _______ or ______% of compensation per employee for each payroll period.

☐ **Matching Contributions**

The Participating Employer may make matching contributions and/or non-matching contributions into the Defined Contribution plan based on an employee's voluntary election as outlined in the *Matching Employer Contribution Addendum (MD-073).*

d. Post-tax voluntary employee contributions are allowable into a Defined Contribution account subject to Section 415(c) limitations of the Internal Revenue Code.

3. **Compensation**

Employers may designate the definition of compensation per division participating in Defined Contribution pursuant to section 49 of the MERS Plan Document (check one):

☐ All income subject to income tax reported in Box 1 of Form W-2, plus elective deferrals (Note: this definition aligns to MERS' 457 definition of compensation)

☐ Medicare taxable wages reported in Box 5 of Form W-2

☒ Base wages, to which any of the following may be included:

- ☐ Longevity pay
- ☒ Overtime pay
- ☐ Shift differentials
- ☐ Pay for periods of absence from work by reason of vacation, holiday, and sickness
- ☐ Workers' compensation weekly benefits (if reported and are higher than regular earnings)
- ☐ A member's pre-tax contributions to a plan established under Section 125 of the IRC
- ☐ Transcript fees paid to a court reporter
- ☐ A taxable car allowance
- ☐ Short term or long term disability payments
- ☐ Payments for achievement of established annual (or similar period) performance goals
- ☐ Payment for attainment of educational degrees from accredited colleges, universities, or for acquisition of job-related certifications
- ☐ Lump sum payments attributable to the member's personal service rendered during the FAC period
- ☒ Other: include deferred comp match, opt-out, longevity, leave buyouts, education bonus
- ☐ Other 2: ______

NOTE: For purposes of applying the Internal Revenue Code Section 415(c) limits on annual additions, compensation shall be defined as required under that law.

4. **Loans:** ☐ shall be permitted ☐ shall not be permitted
If Loans are elected, please complete and attach the *MERS Defined Contribution Loan Addendum*.

5. **Rollovers** from qualified plans are permitted and the plan will account separately for pre-tax and post-tax contributions and earnings thereon.

V. Appointing MERS as the Plan Administrator

The Employer hereby agrees to the provisions of this *MERS Defined Contribution Plan Adoption Agreement* and appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan. The Employer also agrees that in the event of any conflict between the MERS Plan Document and the MERS Defined Contribution Plan Adoption Agreement, the provisions of the Plan Document control.

VI. Modification of the terms of the Adoption Agreement

If the Employer desires to amend any of its elections contained in this Adoption Agreement, including attachments, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Adoption Agreement. The amendment of the new Agreement is not effective until approved by MERS.

VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. The Employer acknowledges that employee contributions (if any) and employer contributions must be submitted in accordance with the *MERS Reporting and Contribution Enforcement Policy*, the terms of which are incorporated herein by reference;
4. The Employer acknowledges that late or missed contributions will be required to be made up, including any applicable gains, pursuant to the Internal Revenue Code;
5. Should the Employer fail to make its required contribution(s) when due, MERS may implement any applicable interest charges and penalties pursuant to the *MERS Reporting and Contribution Enforcement Policy* and Plan Document Section 79, and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended.
6. It is expressly agreed and understood as an integral and non-severable part of this Agreement that Section 43 of the Plan Document shall not apply to this Agreement and its administration or interpretation. In the event any alteration of the terms or conditions of this Agreement is made or occurs, under Section 43 or other plan provision or law, MERS and the Retirement Board, as sole trustee and fiduciary of the MERS plan and its trust reserves, and whose authority is non-delegable, shall have no obligation or duty to administer (or to have administered) the MERS Defined Contribution Plan, to authorize the transfer of any defined benefit assets to the MERS Defined Contribution Plan, or to continue administration by MERS or any third-party administrator of the MERS Defined Contribution Plan.

MERS Defined Contribution Plan Adoption Agreement

VIII. Execution

Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Adoption Agreement is hereby approved by Muskegon City Council on the ____ day of ____________________, 20____.
(Name of Approving Employer)

Authorized signature: ______________________________

Title: ______________________________

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: ____________________, 20____ Signature: ______________________________
(Authorized MERS Signatory)

MERS Defined Contribution Plan Adoption Agreement

MERS
Municipal Employees' Retirement System

1134 Municipal Way Lansing, MI 48917 | 800.767.MERS (6377) | Fax 517.703.9711 | www.mersofmich.com

The Employer, a participating municipality or court within the state of Michigan that has adopted MERS coverage, hereby establishes the following Defined Contribution Plan provided by MERS of Michigan, as authorized by 1996 PA 220 in accordance with the MERS Plan Document.

I. Employer Name City of Muskegon **Municipality #:** 6116

II. Effective Date

Check one:

A. ☐ If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of __________, 20__.

☐ This municipality or division is new to MERS, so vesting credit prior to the **initial** MERS effective date by each eligible employee shall be credited as follows (choose one):

☐ Vesting credit from date of hire ☐ No vesting credit

☐ This division is for new hires, rehires, and transfers of current Defined Benefit* division #________ and/or current Hybrid division #________

Closing this division will change future invoices to a flat dollar amount instead of a percentage of payroll, as provided in your most recent annual actuarial valuation. (The amount may be adjusted for any benefit modifications that may have taken place since then.)

Current active (defined benefit or hybrid) employees (select one of the following and see *Plan Document, Section 64* for more information):

☐ Will have a one-time opportunity to convert the value of their current defined benefit from the existing defined benefit or hybrid plan into the new Defined Contribution Plan as a lump sum, or continue accruing service in the Defined Benefit. (Complete *MERS Defined Contribution Conversion Addendum*.)

☐ Will have a one-time opportunity to cease service accrual in the current plan and transfer to the new Defined Contribution plan for future service accrual, or continue accruing service in the Defined Benefit. The deadline for employees to make their election is: __/__/____

☐ Will be required to cease service accrual in Defined Benefit and will transfer to Defined Contribution for future service accrual.

** By completing the section above, the Employer acknowledges receiving Projection Study results and understands the municipality's obligation to continue funding the liability associated with the closed Defined Benefit division.*

B. ■ If this is an **amendment** of an existing Adoption Agreement (existing division number 10/92), the effective date shall be ~~the first day of~~ July 28, 20 06.

Note: You only need to mark ***changes*** to your plan throughout the remainder of this Agreement.

C. ☐ If this is to **separate employees** *from an existing Defined Contribution division* (existing division number(s) ______________________________) into a new division,

the effective date shall be the first day of ________________, 20____.

D. ☐ If this is to **merge division(s)**________________ into division(s) ________________, the effective date shall be the first of ________________, 20____.

III. Eligible Employees

Only those Employees eligible for MERS membership may participate in the MERS Defined Contribution Plan. A copy of ALL employee enrollment forms must be submitted to MERS. The following groups of employees are eligible to participate:

____

(Name of Defined Contribution division – e.g. All Full Time Employees, or General After 7/01/13)

To further define eligibility, (check all that apply):

☐ **Probationary periods** are allowed in one-month increments, no longer than 12 months. During this introductory period the Employer will not report or make contributions for this period, including retroactively. Service will begin after the probationary period has been satisfied.

The probationary period will be ______ month(s).

☐ **Temporary employees** in a position normally requiring less than a total of 12 whole months of work in the position may be *excluded* from membership. These employees must be notified in writing by the participating municipality that they are excluded from membership within 10 business days of date of hire or execution of this Agreement.

The temporary exclusion period will be ______ month(s).

MERS Defined Contribution Plan Adoption Agreement

IV. Provisions

1. **Vesting** (Check one):
   - ☐ Immediate
   - ☐ Cliff Vesting (fully vested after below number years of service)
     ☐ 1 year ☐ 2 years ☐ 3 years ☐ 4 years ☐ 5 years
   - ☐ Graded Vesting
     _____ % after 1 year of service
     _____ % after 2 years of service
     _____ % after 3 years of service (min 25%)
     _____ % after 4 years of service (min 50%)
     _____ % after 5 years of service (min 75%)
     _____ % after 6 years of service (min 100%)

   Vesting will be credited using (check one):
   - ☐ Elapsed time method – Employees will be credited with one vesting year for each 12 months of continuous employment from the date of hire.
   - ☐ Hours reported method – Employees will be credited with one vesting year for each calendar year in which _____ hours are worked

In the event of disability or death, an employee's (or his/her beneficiary's) entire employer contribution account shall be 100% vested, to the extent that the balance of such account has not previously been forfeited.

Normal Retirement Age (presumed to be age 60 unless otherwise specified) _________

If an employee is still employed with the municipality at the age specified here, their entire employer contribution balance will become 100% vested regardless of years of service.

2. **Contributions**
   a. Will be remitted according to Employer's payroll withholding which represents the actual period amounts are withheld from employee paychecks, or within the month during which amounts are withheld (check one):
      - ☐ Weekly
      - ☐ Bi-Weekly (every other week)
      - ☐ Semi-Monthly (twice each month)
      - ☐ Monthly
      - ☐ Other (must specify) ____

   b. Required Employee Contribution Structure to DC (subject to Internal Revenue Code 415(c) limitations). Select one:
      - ☐ Employees are required to contribute per payroll period, the percentage _____% OR flat dollar amount $_________
      - ☐ Employees are required to contribute within the following range for each payroll:
        Percentage range from _____% to _____% OR
        dollar amount range $_________ to $________

      ☐ Direct Required Employee Contributions pre-tax

c. **Employer Contributions**

☐ **Non-Matching Contributions**

The Employer hereby elects to make contributions to the Program without regard to an employee's contribution to the Program. The Employer elects the following contribution formula (check one):

- ☐ **Annual Contributions:** A one-time annual contribution of $________ OR ______% of compensation per employee.
- ☐ $ ______ or ______% of compensation per employee for each payroll period.

☐ **Matching Contributions**

The Participating Employer may make matching contributions and/or non-matching contributions into the Defined Contribution plan based on an employee's voluntary election as outlined in the *Matching Employer Contribution Addendum (MD-073)*.

d. Post-tax voluntary employee contributions are allowable into a Defined Contribution account subject to Section 415(c) limitations of the Internal Revenue Code.

3. Compensation

Employers may designate the definition of compensation per division participating in Defined Contribution pursuant to section 49 of the MERS Plan Document (check one):

- ☐ All income subject to income tax reported in Box 1 of Form W-2, plus elective deferrals (Note: this definition aligns to MERS' 457 definition of compensation)
- ☐ Medicare taxable wages reported in Box 5 of Form W-2
- ☒ Base wages, to which any of the following may be included:
  - ☐ Longevity pay
  - ☐ Overtime pay
  - ☐ Shift differentials
  - ☐ Pay for periods of absence from work by reason of vacation, holiday, and sickness
  - ☐ Workers' compensation weekly benefits (if reported and are higher than regular earnings)
  - ☐ A member's pre-tax contributions to a plan established under Section 125 of the IRC
  - ☐ Transcript fees paid to a court reporter
  - ☐ A taxable car allowance
  - ☐ Short term or long term disability payments
  - ☐ Payments for achievement of established annual (or similar period) performance goals
  - ☐ Payment for attainment of educational degrees from accredited colleges, universities, or for acquisition of job-related certifications
  - ☐ Lump sum payments attributable to the member's personal service rendered during the FAC period
  - ☐ Other: Includes deferred comp match, opt-out, longevity, leave buy-outs, education bonus, Hiring bonus, acting pay
  - ☒ Other 2: Excludes resident bonus.

NOTE: For purposes of applying the Internal Revenue Code Section 415(c) limits on annual additions, compensation shall be defined as required under that law.

4. **Loans:** ☐ shall be permitted ☐ shall not be permitted
   If Loans are elected, please complete and attach the *MERS Defined Contribution Loan Addendum*.

5. **Rollovers** from qualified plans are permitted and the plan will account separately for pre-tax and post-tax contributions and earnings thereon.

V. Appointing MERS as the Plan Administrator

The Employer hereby agrees to the provisions of this *MERS Defined Contribution Plan Adoption Agreement* and appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan. The Employer also agrees that in the event of any conflict between the MERS Plan Document and the MERS Defined Contribution Plan Adoption Agreement, the provisions of the Plan Document control.

VI. Modification of the terms of the Adoption Agreement

If the Employer desires to amend any of its elections contained in this Adoption Agreement, including attachments, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Adoption Agreement. The amendment of the new Agreement is not effective until approved by MERS.

VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. The Employer acknowledges that employee contributions (if any) and employer contributions must be submitted in accordance with the *MERS Reporting and Contribution Enforcement Policy*, the terms of which are incorporated herein by reference;
4. The Employer acknowledges that late or missed contributions will be required to be made up, including any applicable gains, pursuant to the Internal Revenue Code;
5. Should the Employer fail to make its required contribution(s) when due, MERS may implement any applicable interest charges and penalties pursuant to the *MERS Reporting and Contribution Enforcement Policy* and Plan Document Section 79, and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended.
6. It is expressly agreed and understood as an integral and non-severable part of this Agreement that Section 43 of the Plan Document shall not apply to this Agreement and its administration or interpretation. In the event any alteration of the terms or conditions of this Agreement is made or occurs, under Section 43 or other plan provision or law, MERS and the Retirement Board, as sole trustee and fiduciary of the MERS plan and its trust reserves, and whose authority is non-delegable, shall have no obligation or duty to administer (or to have administered) the MERS Defined Contribution Plan, to authorize the transfer of any defined benefit assets to the MERS Defined Contribution Plan, or to continue administration by MERS or any third-party administrator of the MERS Defined Contribution Plan.

VIII. Execution

Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Adoption Agreement is hereby approved by Muskegon City Council on
(Name of Approving Employer)
the ____ day of ____________________, 20____.

Authorized signature: ____

Title: ____

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: ______________________, 20____ Signature: ______________________
(Authorized MERS Signatory)

Defined Benefit Plan Adoption Agreement

MERS®
Municipal Employees' Retirement System

1134 Municipal Way Lansing, MI 48917 | 800.767.MERS (6377) | Fax 517.703.9711 | www.mersofmich.com

The Employer, a participating municipality or participating court within the state of Michigan, hereby agrees to adopt and administer the MERS Defined Benefit Plan provided by the Municipal Employees' Retirement System of Michigan, as authorized by 1996 PA 220, in accordance with the MERS Plan Document, as both may be amended, subject to the terms and conditions herein.

I. Employer Name City of Muskegon **Municipality #:** 6116

If new to MERS, please provide your municipality's fiscal year: ____________ (Month) through ____________ (Month).

II. Effective Date

Check one:

A. ☐ If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of ____________, 20___.

- ☐ This municipality or division is new to MERS, so vesting credit prior to the **initial** MERS effective date by each eligible employee shall be credited as follows (choose one):
  - ☐ All prior service from date of hire
  - ☐ Prior service proportional to assets transferred; all service used for vesting
  - ☐ Prior service and vesting service proportional to assets transferred
  - ☐ No prior service but grant vesting credit
  - ☐ No prior service or vesting credit
- ☐ Link this new division to division number ______ for purposes of determining contributions (Unless otherwise specified, the standard transfer/rehire rules apply)

B. ☒ If this is an **amendment** of an existing Adoption Agreement (Defined Benefit division number 22), the effective date shall be the first day of January, 20 19. *Please note:* You only need to mark ***changes*** to your plan throughout the remainder of this Agreement.

C. ☐ If this is a **temporary benefit** that lasts 2-6 months, the effective dates of this temporary benefit are from ___/01/___ through ___/___/___ (Last day of month) for Defined Benefit division number ________.
Please note: You only need to mark ***changes*** to your plan throughout the remainder of this Agreement.

D. ☐ If this is to **separate employees** *from an existing Defined Benefit division* (existing division number(s) ________________________) into a new division, the effective date shall be the first day of ________________, 20___.

E. ☐ If this is to merge division(s) ________________ into division(s) ________________, the effective date shall be the first of ________________, 20___.

III. Eligible Employees

Only those Employees eligible for MERS membership may participate in the MERS Defined Benefit Plan. A copy of ALL employee enrollment forms must be submitted to MERS. The following groups of employees are eligible to participate:

____
(Name of Defined Benefit division – e.g. All Full Time Employees, or General after 7/01/13)

☐ Only retirees will be in this division.

These employees are (check one or both):

☐ In a collective bargaining unit (attach cover page, retirement section, signature page)

☐ Subject to the same personnel policy

To receive one month of service credit (check one):

☐ An employee shall work 10 ______ hour days.

☐ An employee shall work ______ hours in a month.

All employees as classified under eligible employees, whether full or part time, who meet this criteria must be reported to MERS. If you change your current day of work definition to be more restrictive, the new definition only applies to employees hired after the effective date.

To further define eligibility, check all that apply:

☐ **Probationary Periods** are allowed in one-month increments, no longer than 12 months. During this introductory period, the Employer will not report or provide service time for this period, including retroactively. Service will begin after the probationary period has been satisfied.

The probationary period will be ______ month(s).

☐ **Temporary employees** in a position normally requiring less than a total of 12 whole months of work in the position may be *excluded* from membership. These employees must be notified in writing by the participating municipality that they are excluded from membership within 10 business days of date of hire or execution of this Agreement.

The temporary exclusion period will be ______ month(s).

IV. Provisions

Valuation Date: ______________________, 20___

1. Review the valuation results

It is recommended that your MERS representative presents and explains the valuation results to your municipality before adopting. Please choose one:

☐ Our MERS representative presented and explained the valuation results to the

______________________ on ________________.
(Board, Finance Cmte, etc.) (mm/dd/yyyy)

☐ As an authorized representative of this municipality, I ______________________________
(Name)
______________________________ waive the right for a presentation of the results.
(Title)

Defined Benefit Plan Adoption Agreement

This Adoption Agreement will be implemented in conjunction with a current actuarial valuation certified by a MERS actuary that sets contribution rates.

Annually, the MERS actuary will conduct an actuarial valuation to determine the employers' contribution rates. Employers are responsible for payment of said contributions at the rate, in the form and at the time that MERS determines.

2. Benefit Multiplier (1%-2.5%, increments of 0.05%) ________ % (max 80% for multipliers over 2.25%)

   ☐ Check here if multiplier will be effective for existing active members' future service only (Bridged Benefit as of effective date on page 1)

   If checked, select one below:

   ☐ Termination Final Average Compensation (calculated over the members entire wage history)

   ☐ Frozen Final Average Compensation (FAC is calculated twice, once for the timeframe that matches the original multiplier, and once for the new multiplier)

3. Final Average Compensation (Min 3 yr, increments of 1 yr) ________ years
4. Vesting (5 -10 yrs, increments of 1 yr) ________ years
5. Normal Retirement Age will be the later of: ______ (any age from 60-70), or the vesting provision selected above (#4).
6. Required employee contribution (Max 10%, increments of 0.01%) _________ %
7. Compensation for the Defined Benefit Plan means the salary or wages paid to an employee for personal services rendered while a member of MERS. Compensation and any applicable employee contributions must be reported to MERS on a monthly basis.

   Employers shall define compensation using the following options (choose one):

   ☒ Compensation including all items as allowed in the MERS Plan Document (Section 14). If anything varies, specify here:

   Included: Overtime

   Excluded: ________

   ☐ Base wages only.
   If any items should be included, specify here:

   Included: ________

   ☐ Medicare taxable wages as reported on W2.

   ☐ Wages plus amounts otherwise not reported as gross compensation, such as elected amounts for Section 125(a) or 457(b) deferrals.

8. Unreduced Early Retirement/Service Requirements:

☐ Age 50 – 54_______ Service of either ☐ 25 or ☐ 30 years	
☐ Age 55 – 65_______ Service between 15 and 30 years _______	
☐ Service only (must be any number from 20 – 30 years accrued service): _______	
☐ Age + Service Points (total must be from 70 – 90): ______ points	

9. Other
   - ☐ Surviving Spouse will receive ______% of Straight Life benefit without a reduction to the employee's benefit
   - ☐ Duty death or disability enhancement (add up to additional 10 years of service credit not to exceed 30 years of service)
   - ☐ Deferred Retirement Option Program (DROP)
   - ☐ Annuity Withdrawal Program (AWP)

     Calculation of the actuarial equivalent of the lump sum distribution made under AWP will be done using:
     - ☐ Interest rate for employee contributions as determined by the Retirement Board, or
     - ☐ MERS' assumed rate of return as of the date of the distribution.

10. Cost-of-Living Adjustment

☐ All **current** retirees as of effective date ☐ Retirees who retire **between** ____/01/____ and ____/01/____	☐ **Future** retirees who retire after effective date
Increase of _____% or $_____ per month	Increase of _____% or $_____ per month
Select one: ☐ Annual automatic increase ☐ One-time increase	☐ Annual automatic increase
Select one: ☐ Compounding ☐ Non-compounding	Select one: ☐ Compounding ☐ Non-compounding
Employees must be retired _____ months (6-12 months, increments of 1 month)	Employees must be retired _____ months (6-12 months, increments of 1 month)

☐ Check here if the existing COLA will be bridged for active participants as of the effective date selected on this form. Benefits accrued for service after the effective date will have no COLA increase applied.

11. Service Credit Purchase Estimates are:
    - ☐ Not permitted
    - ☐ Permitted

V. Appointing MERS as the Plan Administrator

The Employer hereby agrees to the provisions of this *MERS Defined Benefit Plan Adoption Agreement* and appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan. The Employer also agrees that in the event of any conflict between the MERS Plan Document and the MERS Defined Benefit Plan Adoption Agreement, the provisions of the Plan Document control.

VI. Modification Of The Terms Of The Adoption Agreement

If the Employer desires to amend any of its elections contained in this Adoption Agreement, including attachments, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Adoption Agreement. The amendment of the new Agreement is not effective until approved by MERS.

VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired, and prohibits the use of the Employer's required current service funding to finance unfunded accrued liabilities.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. In accordance with the Constitution and this Agreement, if at any time the balance standing to the Employer's credit in the reserve for employer contributions and benefit payments is insufficient to pay all service benefits due and payable to the entity's retirees and beneficiaries, the Employer agrees and covenants to promptly remit to MERS the amount of such deficiency as determined by the Retirement Board within thirty (30) days notice of such deficiency.
4. The Employer acknowledges that wage and service reports are due monthly, and the employee contributions (if any) and Employer contributions are due and payable monthly, and must be submitted in accordance with the MERS Enforcement Procedure for Prompt Reporting and Payment, the terms of which are incorporated herein by reference.
5. Should the Employer fail to make its required contribution(s) when due, the retirement benefits due and payable by MERS on behalf of the entity to its retirees and beneficiaries may be suspended until the delinquent payment is received by MERS. MERS may implement any applicable interest charges and penalties pursuant to the MERS Enforcement Procedure for Prompt Reporting and Payment and Plan Document Section 79, and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended.
6. The Employer acknowledges that changes to the Employer's MERS Defined Benefit Plan must be made in accordance with the MERS Plan Document and applicable law, and agrees that MERS will not administer any such changes unless the MERS Plan Document and applicable law permit same, and MERS is capable of administering same.

Defined Benefit Plan Adoption Agreement

VIII. Execution

Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Adoption Agreement is hereby approved by Muskegon City Council (Name of Approving Employer) on the _____ day of ____________________, 20_____.

Authorized signature: ______________________________

Title: ______________________________

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: ____________________, 20_____ Signature: ______________________________ (Authorized MERS Signatory)

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: September 10, 2019	Title: Update to MERS Defined Benefit Plan Adoption Agreement - Command
Submitted By: Finance Director	Department: Finance
Brief Summary: Per the 2019-2022 Police Command contract, overtime pay is included in calculating MERS wages beginning January 1, 2019, this change requires an update to our MERS Plan Agreement.	
Detailed Summary: After an audit was conducted by MERS of our payroll system it was discovered that we need to update many of our Plan Agreements for changes made per union agreements, or for policy/procedures not communicated to MERS in the past. The current Police Command contract calls for overtime wages to be included in the MERS wage calculation beginning January 1, 2019. This change requires an update to the Plan Adoption Agreement.	
Amount Requested: none	Amount Budgeted: none
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the update to the MERS Plan Adoption Agreement for Police Command to include overtime pay in MERS wage calculation.	
For City Clerk Use Only: Commission Action:	

Defined Contribution (DC) Plan:

- Per the agreements on file with MERS, the following need to be included as compensation:
  - 106125 - All wages, also including overtime, includes: deferred comp match, opt-out, longevity, leave buy outs, EMT bonus, acting pay
  - 106126 - All wages except overtime and resident bonus, also includes: deferred comp match, opt-out, leave buy outs, longevity
  - 106185 - All wages except overtime and resident bonus, also includes: deferred comp match, opt-out, leave buy outs, longevity
  - 106211 - All wages, including overtime, includes: deferred comp match, opt-out, longevity, leave buy outs, certification bonus
  - 106242 - All wages, also including overtime, includes: deferred comp match, opt-out, longevity, leave buy outs, education bonus
  - 110192 - All wages, also includes: deferred comp match, opt-out, longevity, leave buy outs, education bonus, training bonus, acting pay

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 9/10/19	Title: MDNR Urban Forestry Grant
Submitted By: Leo Evans	Department: DPW

Brief Summary: Staff is seeking approval to apply for an Urban Forestry Grant from the Michigan Department of Natural Resources. If awarded the grant would be used to complete an inventory of the existing street and park trees within the City of Muskegon, to prepare an urban tree canopy analysis, and to develop a long-range plan for the management and development of the urban forest within the City of Muskegon.

Detailed Summary:

Amount Requested: $20,000	Amount Budgeted: $0
Fund(s) or Account(s): Public Improvement	Fund(s) or Account(s): N/A

Recommended Motion:

Authorize staff to apply for an MDNR Urban Forestry Grant and commit to providing matching funds for the grant application of up to $20,000.

For City Clerk Use Only:

Commission Action:

Urban Forestry Consultants in Michigan

The following is a listing of companies and individuals who have indicated to the Michigan Department of Natural Resources (DNR) that they provide urban forestry consulting services in Michigan. The DNR presents this list with no intended endorsement of particular consultants, their qualifications, or service rendered, nor is criticism implied of consultants not listed. Additional consultants are available in Michigan, but have not contacted the DNR and are, therefore, not listed below. It is your responsibility to research, contact and select a consultant best suited to meet your needs. If you are a consultant and wish to be listed here, please contact Kevin Sayers at sayersk@mi.gov or (517) 284.5898.

Key to Consulting Forestry Services Offered:

A. Management Plans: *Advises and/or develops long-term community street/park tree management plans.*

B. Ordinance / Specification Development: *Advises and/or develops municipal tree ordinances and/or specifications, policies or regulations for public tree work.*

C. Inventories: *Advises and/or conducts street/park tree inventories according to local needs/goals. Consultant should be familiar with use of various inventory software programs and geographic info. systems (GIS).*

D. Urban Tree Canopy Analysis (UTC): *Provides aerial imagery mapping and analysis of urban tree canopy.*

E. Planting Design & Selection: *Provides landscape design services and species selection advice.*

F. Tree Protection on Construction Sites: *Assists client in design & implementation of tree protection systems*

G. Municipal Program Administration: *Provides contracted services for municipal forestry program admin.*

H. Training / Education: *Provides technical and educational training in arboriculture and urban forestry.*

I. Grant Applications: *Assists client in developing project proposals and applying for grants and funding*

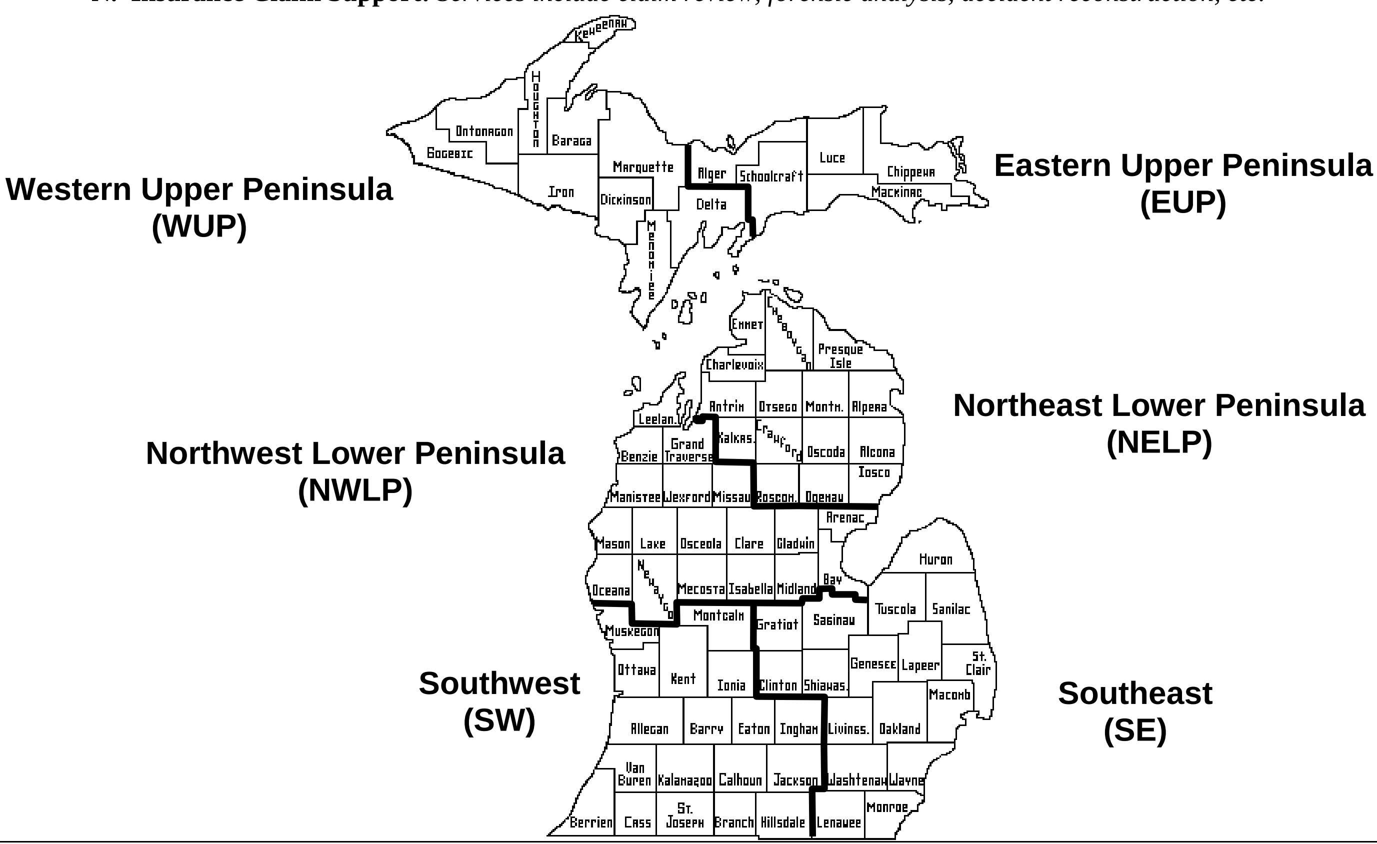
J. Expert Witness: *Investigates litigious situations involving trees and can serve as an expert witness for clients*

K. Certified Arborist on Staff: *Organization employs at least one ISA certified arborist on staff.*

L. Landscape Tree Appraisal: *Uses Council of Tree & Landscape Appraiser (CTLA) method for tree valuation*

M. i-Tree Analysis: *Advises and/or conducts various i-Tree (www.itreetools.org) analysis for urban forests.*

N. Insurance Claim Support: *Services include claim review, forensic analysis, accident reconstruction, etc.*



Company	Address	Contact	Area	A	B	C	D	E	F	G	H	I	J	K	L	M	N
	1464 Hartwig Ave. Troy, MI 48098 Phone: 248.879.6737	Karen Auch	SE					✓	✓		✓			✓			
	14146 Wagon Wheel Ct. Chelsea, MI 48118 Phone: 734.255.5148 Email: Cybair@aol.com	Paul Bairley	NELP, NWLP, SW, SE	✓	✓	✓		✓	✓	✓	✓	✓	✓		✓		
Mike's Tree Surgeons, Inc.	263 Park St. Troy, MI 48084 Phone: 248.588.0202 Email: mbarger@mikestree.com Web: www.mikestree.com	Mike Barger, Gary Eichen	SE						✓	✓	✓		✓	✓	✓		
Azavea	340 N 12th St. Ste. 402, Philadelphia, PA Phone: 215.701.7506 Email: dboyer@azavea.com Web: azavea.com	Deborah Boyer	ALL			✓						✓					
Forecon, Inc	1890 East Main St. Falconer, NY 14782 Phone 716.664.5602 E: lbrockelbank@foreconinc.com Web: www.foreconinc.com	Lori Brockelbank, John Gifford	ALL	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓		
BC Tree Consulting	21659 Bedford Dr. Northville, MI 48167 Phone: 313.300.3479 Email: Arbor2000@aol.com	Brian Colter	SE			✓								✓			
Jones Tree Consulting, LLC	3427 Beechway Blvd. Toledo, OH 43614 Phone: 484.798.2870 E: jonestreeconsulting@gmail.com W: facebook.com/JonesTreeConsulting	Grant Jones	SE		✓				✓		✓				✓		
Davey Resource Group, Inc.	Grand Rapids and Royal Oak, MI Phone: 248.221.0439 Email: lee.mueller@davey.com Web: www.davey.com	Lee Mueller	ALL	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Drysdale Forestry & Consulting	408 Leeson Ave. Cadillac, MI 49601 Phone: 231.779.2989 Email: paul@drysdaleforestry.com Web: www.drysdaleforestry.com	Paul Drysdale	SW, EUP, WUP, NELP, MWLP	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		
Natural Path Urban Forestry Consultants	5455 S. Ingleside Ave. # 1E Chicago, IL 60615 Phone: 773.699.7284 Email: natpath@earthlink.net Web: www.naturalpathforestry.com	Mark Duntemann	ALL	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		
Arbor Consultants	2146 Dean Lake Rd. NE Grand Rapids, MI 49505 Phone: 616.364.4558 E: vfoerster@grandarborgroup.com	Vic Foerster	ALL	✓	✓	✓			✓	✓	✓		✓	✓	✓		
Company	**Address**	**Contact**	**Area**	**A**	**B**	**C**	**D**	**E**	**F**	**G**	**H**	**I**	**J**	**K**	**L**	**M**	**N**

A. Management Plans
B. Ordinance / Specification Development
C. Inventories
D. Urban Tree Canopy Analysis (UTC)

E. Planting Design and Selection
F. Tree Protection on Construction Sites
G. Municipal Program Administration
H. Training / Education
I. Grant Applications

J. Expert Witness
K. Certified Arborist on Staff
L. Landscape Tree Appraisal
M. i-Tree Analysis
N. Insurance Claim Support

Company	Address	Contact	Area	A	B	C	D	E	F	G	H	I	J	K	L	M	N
SavATree	5330 Port Royal Rd. Suite A Springfield, VA 22151 Phone: 571.282.2500 Email: mgalvin@savatree.com Web: http://www.savatree.com/	Michael Galvin	ALL	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	
Graham Forestry Services, Inc.	6729 Trotwood Portage, MI 49024 Phone: 269.207.4176 Email: mgrahamforester@aol.com Web: www.grahamforestry.com	Michael Graham	SW	✓	✓			✓	✓	✓			✓	✓	✓		
Plan-It Geo, LLC.	5690 Webster St. Arvada, CO 80002 Phone: 720.988.2048 Email: ianhanou@planitgeo.com Web: www.plantigeo.com	Ian Hanou	ALL				✓									✓	
Rootwell	3246 Gateway Ledge Commerce Twp., MI 48390 Phone: 248.227.5705 Email: scottharris@rootwell.com Web: www.rootwell.com	Scott Harris	ALL		✓			✓	✓		✓			✓			
Unique Trees and Shrubs	14081 Warner Ct. Livonia, MI 48154 Phone: 734.718.2702 Email: joneswinktree@cs.com	Melinda Jones	NWLP, NELP, SW, SE	✓	✓			✓	✓	✓	✓						
Forestry Solutions LLC	215 West Ave. D Newberry, MI 49868 Phone: 906.293.5627 Email: forestmeister@sbcglobal.net	Bernard Hubbard	ALL	✓	✓	✓				✓	✓	✓					
	4696 Huron Hills Dr. Okemos, MI 48864 Phone: 517.355.7533 Email: kielbas3@msu.edu	Jim Kielbaso	ALL	✓	✓			✓	✓		✓		✓		✓		
Lawrence Arborcare, LLC.	8300 W. Waters Rd. Ann Arbor, MI 48103 734.913.8050 Email: lawrencetrees@aol.com Web: www.lawrencearborcare.com	William C. Lawrence	ALL	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓			
Bartlett Tree Expert Co.	900 Kenosha Industrial Dr. SE Grand Rapids, MI 49508 Phone: 616.245.9449 Email: bmckenzie@bartlett.com Web: www.bartlett.com	Brian McKenzie	NWLP, SW	✓		✓		✓	✓		✓		✓	✓			
Global Ecosystem Center	9200 Nana Russell Road Owings, MD 20736 Phone: 202.290.3530 Email: gmoll@systemecology.org Web: www.systemecology.com	Gary Moll	ALL				✓										
Knowles Municipal Forestry, LLC.	1293 Gale Dr. Kent, OH, 44240 Phone: 330. 554.3387 Email jason@knowlesforestry.com Web: http://knowlesforestry.com/	Jason Knowles	SW, SE	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓	
Company	**Address**	**Contact**	**Area**	**A**	**B**	**C**	**D**	**E**	**F**	**G**	**H**	**I**	**J**	**K**	**L**	**M**	**N**

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Eric A. Olson & Associates	1008 Odessa Dr. Holly, MI 48442 Phone: 248.634.4320 Email: EOlsonRLA@sbcglobal.net	Eric A. Olson, RLA	SE	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓		
Jud Scott Consulting Arborist, LLC	4721 E. 146th St. Carmel, IN 46033 Phone: 317.815.8733 Email: treeconsultant@aol.com http://www.arboristexpert.com	Jud Scott	ALL	✓					✓	✓	✓		✓	✓	✓		✓
Schillinger Forestry, LLC	5138 Hidden Glen Drive Traverse City, MI Phone: 231.633.8733 E: schillingerforestry@gmail.com	Daniel Schillinger	NELP NWLP SE SW	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓			
Wachtel Tree Service, Inc.	PO Box 716 Merton, WI 53056 Phone: 262.538.1900 Email: nates@wachteltree.com Web: www.healthytrees.com/	Nathan Schuettpelz, John Gall	ALL	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Steigerwaldt Land Services, Inc.	856 North 4th St. Tomahawk WI, 54487 Phone: 715.453.3274 Email: lees@slstomahawk.com Web: www.slstomahawk.com/	Lee, Edward Steigerwaldt	EUP, WUP	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		
Owen Tree Service	225 N. Lake George Rd Attica, MI 48412 Phone: 734-845-0636 cell Email: kays@owentree.com Web: http://www.owentree.com	Kay Sicheneder	SE	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	
Site Specific, Inc.	3650 Brighton Howell, MI 48843 Phone: 810.599.0343 Email: stachec1@me.com	Julie Stachecki	ALL	✓		✓		✓	✓		✓	✓		✓			
Bluestem Forestry Consulting, Inc.	49910 South Loop Rd. Drummond, WI 54832 Phone: 715.739.6831 E: bluestemforest@cheqnet.net	Kelli Tuttle	EUP, WUP	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		
Webber Landscaping Company	8172 Hemple Rd. Dayton, OH 45417 Phone: 937.835.3381 E: mwebber@webberlandscaping.com Web: www.webberlandscaping.com	Mark and Kim Webber	ALL	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Denny Worst Consulting Forestry	3409 Scenic Dr. North Muskegon, MI 49036 Phone: 231.766.2711 Email: kathyworst@gmail.com	Dennis Worst	NWLP, SW	✓	✓	✓		✓	✓	✓	✓	✓	✓				
The Visiting Arborist	Lansing, MI Phone: 517.980.3532 E: thevisitingarborist@gmail.com Web: www.thevisitingarborist.com	Paul Dykema	ALL	✓	✓			✓	✓				✓	✓	✓		
Graf Tree Care	Batavia, IL 60510 PhoneL630.762.2400 E: steve@graftreecare.com Web: www.graftreecare.com	Steve Lane	ALL	✓		✓	✓	✓	✓					✓	✓	✓	
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Willoughby Consulting	832 S. Main St. Ann Arbor, MI 48104 Phone: 734.545.6459 Email: mark.willoughby@verizon.net Web: www.willoughbyconsulting.net	Mark Willoughby	ALL	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Planned Forest Solutions, LLC	4315 N. Kenmore Ave. #3S Chicago, IL 60613 Phone: 773.243.7442 Email: andrew@plannedforest.com Web: www.plannedforest.com	Andrew Lueck	ALL	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Tree First	Royal Oak, MI Phone: 248.980.1637 Email: info@treefirst.org Web: www.treefirst.org	Jeremiah Sandler	SE	✓				✓	✓		✓			✓			
Company	**Address**	**Contact**	**Area**	**A**	**B**	**C**	**D**	**E**	**F**	**G**	**H**	**I**	**J**	**K**	**L**	**M**	**N**

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Michigan Department of Natural Resources, Urban and Community Forestry Grant Program

Fiscal Year 20 Application and Information Packet

Submit by September 20, 2019

DNR Forest Resources Division – Michigan.gov/UCF
PR4107, Rev.07/23/2019

Contents

GENERAL INFORMATION

The Michigan Department of Natural Resources (DNR), Urban and Community Forestry (UCF) Program in cooperation with the U.S. Department of Agriculture Forest Service (USFS) has established the Community Forestry Grants program. Federal funding is provided by the USFS, State and Private Forestry, UCF Program (CFDA 10.664).

Cost-share funds will be available to communities and organizations on a competitive basis for UCF projects in Michigan. A total of up to $100,000 may be granted to eligible projects. This is a 1:1 cost-share match program. Federal funds may not be used as part of the required match. Projects must be completed by September 1, 2020.

The purposes and objectives of this program include:

- providing financial assistance to communities and organizations to support UCF projects,

- building local community capacity to manage and care for trees through education, training and technical assistance,
- developing long-term street/park and community forestry plans and policies,
- promoting projects that assist communities in developing sustainable local tree management programs,
- improving public awareness and understanding of the benefits of preserving and expanding community tree cover,
- promoting volunteerism and partnership between public, private and nonprofit organizations for public tree care,
- supporting innovative projects and partnerships that address UCF issues in Michigan,
- enhancing the technical skills of people involved in planning, managing or maintaining urban and community forests and,
- Promoting and celebrating Arbor Day, Tree City/Campus/Line USA and related events.

FY 20 COMMUNITY FORESTRY GRANT FUNDING PRIORITIES

Based on the total pool of applications received, up to $100,000 in available funding may be distributed according to the following breakdown:

Management, Planning and Innovation projects - 65%
Education and Training projects - 30%
Arbor Day Celebration projects - 5%

This is a reimbursement grant program. Federal grant monies awarded under this program will be paid only upon evidence of completion of approved projects and required 1:1 match.

For additional information, visit the DNR's UCF web page at Michigan.gov/ucf, or contact Program Coordinator Kevin Sayers at SayersK@Michigan.gov, 517-284-5898.

ELIGIBILITY INFORMATION

NOTE - Priority consideration will be given to first-time applicants and to those who have not received any DNR-administered UCF program grants in the last year.

ELIGIBLE APPLICANTS:

Applications will be accepted from the following:

- local units of government (e.g. city, village, township, county, and other legal entities of local government)
- educational institutions (school district, public university)
- tribal governments
- non-profit organizations* ([501(c)(3)] or other granted legal status)
- Individuals, private businesses, and for-profit institutions are **not** eligible to apply but may partner with an eligible organization on a proposal.

*Non-profit Information: Non-profit organizations submitting applications must also:

1. Provide a copy of the IRS letter of determination indicating non-profit status.

2. Provide documented permission from the landowning authority (e.g. city forester, city manager etc.) where the project will be performed, if it is not your own. Lands owned by non-profit organizations and tribal lands are eligible for use, but applicants must submit a letter from the organization or tribe ensuring that the lands are open to the public for educational purposes.

SUSPENDED AND DEBARRED PARTIES:

*Sec. 3016.35 Subawards to debarred and suspended parties. Grantees and subgrantees must not make any award or permit any award (subgrant or contract) as any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension." See list of debarred parties for details.

LIMIT ON NUMBER OF PROPOSALS:

One application per category, per organization.

ELIGIBLE ACTIVITIES:

Several activities will be eligible for funding under the following categories:

1. Management, Planning and Innovation
2. Education and Training
3. Arbor Day Celebrations

Maintenance projects such as tree trimming, removal, etc are **not** eligible.

Management, Planning & Innovation

Includes activities such as:

- street and park tree inventories
- community forestry management plans
- urban tree canopy (UTC) assessments
- tree ordinance development/revision
- tree protection plans
- street/landscape/arboretum designs and plans
- urban wood utilization initiatives (not equipment)
- purchase of tree inventory software (one time only)
- temporary staffing support (labor/admin, students/interns – 1yr max)

Maximum grant request: $20,000.00

Education & Training

Includes activities/items such as:

- develop/host urban forestry related workshops
- purchase of educational and training materials/resources/supplies including books, videos, brochures, and hand tools etc., focused on tree care, environment or natural resource issues
- registration expenses for worker training events
- initial costs (e.g. study guide, test fee etc.) associated with staff certification by the International Society of Arboriculture (e.g. certified arborist)

- develop/host youth education programs/events
- develop/purchase tree ID tags, interpretive trail signage, etc.

Maximum grant request: $10,000.00

NOTE - Educational products developed may be locally focused but will ideally have statewide or regional applicability and include a mechanism for information distribution.

Arbor Day Celebrations

Includes activities such as:

- Arbor Day tree planting (typically one tree)
- Arbor Day/Tree City celebration supplies (brochures, pencils, stickers, awards etc.).
- School library books/materials related to trees, forestry, environmental or natural resource issues. All materials must be approved by the grant supervisor.

Maximum grant request: $500.00

HOW TO APPLY

1. E-mail the application packet as a PDF attachment to Urban and Community Forestry Program Coordinator Kevin Sayers at SayersK@Michigan.gov by the date listed on the packet cover. Late applications or those submitted in the wrong format will not be accepted. Additional items such as letters of recommendation may be included in the same message as part of the package or as labeled attachments (Ex: Organization, Item); **or**:

2. Submit one (1) original and one (1) copy of the application via mail by the date listed on the packet cover. Late and/or faxed applications will not be accepted. Application materials are available on the DNR's website or may be sent via mail upon request. Mail to:

   Michigan Department of Natural Resources
   Urban and Community Forestry Program
   PO Box 30452
   Lansing, MI 48909-7952

Applications should contain detailed information for the review committee to consider when rating your proposal. Items to include (as applicable):

1. Project Narrative
2. Budget
3. Attachments (e.g. site map, IRS determination, etc.)

Narrative Information:

Include statement of project purpose/need, goals, deliverables, anticipated results, and people involved/responsible with project as listed on the Urban & Community Forestry Grant Application.

Budget Information:

Applications must include the total estimated project cost, grant funds requested (no more than 50% of the total project costs), and the amount and type of matching funds (cash, in-kind contributions).

Federal monies may not be used as matching funds. In-kind contributions such as in-house or volunteer labor costs, equipment usage, donation of goods, services, etc. should be identified.

Volunteer labor should be valued as follows: Adults - $20/hr.; Youths (up to age 16) - $10/hr. Professional or technical services contributed by persons, or businesses may be valued at commercial/ professional rates that are reasonable and customary but must be documented in writing by the donor.

Applicants that have an approved overhead/indirect rate from a cognizant federal agency may include indirect costs as part of their match portion. Proof of certification will be required. This amount will be limited to 20% of the grant funds requested.

All matching funds must be directly related to the proposed project and have been incurred within the grant period. Some acceptable sources of match include:

- salaries/wages and fringes
- contractor / consulting fees
- equipment (purchase, rental or donated, in-kind, etc.)
- supplies (i.e., trees, tools, books, brochures, etc.)
- travel (current federal rate of $.58/mile)
- delivery costs

The project budget breakdown should include information in a similar format to the example below:

Project Title: Community Street Tree Inventory
Total Project Cost: $41,500
Requested Grant Funds: $20,000
Anticipated Matching Funds: $21,500

	Grant Funds	**Local Match**
Personnel/fringes		$ 3,000
Contracted	$20,000	$11,000
Supplies		$ 7,500
Other		
Total	**$20,000**	**$21,500**

Budget Detail:
Personnel: 150 hours @$20/hr.
Contracted: consultant fees for inventory
Supplies: 3 computers, software and misc. other

Applicant must provide a final project report summarizing the project and outcomes an any additional data, plans, or literature developed through the grant. Project records must be available for audits for up to 3 years and site reviews for up to 5 years. Applicants must comply with all applicable state and federal requirements and regulations.

REVIEW AND SELECTION PROCESS

The application process is competitive. Proposals submitted for consideration will be reviewed by the DNR UCF Coordinator and others including Forest Resources Division staff and/or members of the Michigan Urban and Community Forestry Advisory Council.

Proposals will be reviewed and rated to formulate a recommendation of award or no award. Awarded proposals may be funded at the requested amount or less at the recommendation of the committee. Final awards will be made by the DNR UCF Coordinator in consideration of all applicant review ratings and recommendations.

Criteria:

Applications will be evaluated based on following:

- completeness of application
- project/program goals and appropriateness
- project quality and technical merit
- budget accuracy
- other factors including past grant performance

Project/program goals include responsiveness to stated Community Forestry Grant Program Objectives.

Project quality includes completeness of application, well-defined project outcomes, short/long-term impacts, cost effectiveness, and proposed plan for continuation or maintenance of project beyond the grant period.

Budget accuracy will consider eligibility of requested funds (based on project category), adequate match and source.

In addition, several items related to statewide program administration may be considered including:

- likelihood that the proposed project will yield products/results that could benefit the broader Michigan UCF community
- likelihood that the proposed project will result in a community/organization/utility achieving or maintaining designation as a Tree City/Campus/Line USA
- geographic location in Michigan
- length of time since last grant award (if any)
- applicant past performance on grants

The DNR reserves the right to refine or alter these criteria at any time.

GRANT AWARD AND EXECUTION

Grants will be awarded to the highest rated proposals, as determined by the review committee and the grant supervisor, based on application comparisons and other program administration considerations listed above. Following the rating, each applicant will be notified of their status (award and allocation, or no award.)

Every effort is made to review and notify applicants as soon as possible. However, official notifications typically are not made for up to 2 months after the application closing date.

Grant recipients will receive grant documents for processing following the initial notification. In addition, grant recipients may be required to meet with DNR UCF program staff prior to beginning the grant to review and discuss project plans and activities.

Approved projects may begin only after all appropriate forms are signed and submitted by the grantee and countersigned by the DNR Grant Supervisor. Grant monies awarded will be paid ONLY upon evidence of completion of project. Project must be completed by September 1, 2020.

Recipients must comply with all applicable state and federal regulations and requirements.

This publication is available in alternative formats upon request.

Projects receiving funds must acknowledge the support of the DNR, Urban and Community Forestry Program, and the USDA Forest Service, State and Private Forestry Program.

The DNR, FRD reserves the right to withhold award of available grant monies.

For information or assistance on this publication, contact Forest Resources Division, Michigan Department of Natural Resources, PO Box 30452, Lansing MI 48909-7952, Telephone 517-284-5900.

APPLICATION

Michigan Department of Natural Resources, Forest Resources Division

URBAN AND COMMUNITY FORESTRY PROGRAM
FY20 URBAN AND COMMUNITY FORESTRY GRANT

This information is required by Authority of Part 5, 1994 PA451, as amended, and the U. S. Cooperative Forestry Assistance Act of 1978, CFDA 10.664, in order to be considered for a grant.

Organization Name (Community or Organization)	Contact Person (Person responsible for all project correspondence)
Address	Email
City, State, Zip	County
Telephone ( )	Federal Employer Identification Number (FEIN): **(This 9 Digit Number <u>Must</u> be Provided)**

TO BETTER HELP US DETERMINE EACH APPLICANT'S CAPACITY AND/OR LEVEL OF ASSISTANCE NEEDED TO DELIVER URBAN FORESTRY PROJECTS, PLEASE INDICATE WHICH OF THE FOLLOWING URBAN & COMMUNITY FORESTRY PROGRAM COMPONENTS YOUR COMMUNITY CURRENTLY HAS IN PLACE. (check all that apply)

- ☐ **Not Applicable** (e.g. non-profit organization, educational institution, tribe, etc.)
- ☐ **Current Street/Park Community Forest Management Plan** (Provide copy of plan, or website link)
- ☐ **Current Street/Park Tree Inventory or community-wide tree canopy assessment** (Provide a summary or website link)
- ☐ **Tree/Landscaping Ordinance** (Provide copy or provide website link)
- ☐ **Tree Board or Responsible Department** (Provide Chair or primary contact person information)
- ☐ **Current Tree City/Campus USA certification** (view list at: https://www.arborday.org/programs/treecityusa/directory.cfm)
- ☐ **Professional Staffing** (Should be relevant to urban forestry, natural resources mgmt. or planning. May include consultants)
  TITLE: ____________________

PROJECT BUDGET SUMMARY

GRANT AMOUNT REQUESTED
(no more than 50% of total project cost) $ ....

MATCH AMOUNT
(at least 50% of the total project cost) $ ....

TOTAL PROJECT COST $ ....

Estimated project starting date:

Estimated projection completion date:
(**must be completed by 9/1/2020**)

PROJECT TYPE (Check ONLY one project type)

- ☐ **Management, Planning & Innovation** ($20,000 or less)
- ☐ **Education & Training** ($10,000 or less)
- ☐ **Arbor Day Celebrations** ($500 or less)

TYPE OF APPLICANT (Check one)

- ☐ Local Unit of Government
- ☐ Non-Profit organization (must be designated as 501c3)
- ☐ Educational Institution
- ☐ Tribe
- ☐ Other (specify)

APPLICATION QUESTIONNAIRE

A. Describe the purpose and objectives of the project you are proposing (i.e. why are you undertaking this project, what is the need?)

B. Describe specific project outcomes and deliverables anticipated (i.e. what will be the major accomplishment(s) from this project?)

C. Describe your strategy/timeline for completing the project. Be sure to include specific steps and preplanning info (e.g. preliminary designs, quotes, estimates, etc.)

D. Please list the names and responsibilities of key individuals and organizations involved with the project.

E. Upon completion of your project, what plans do you have (if any) to continue, maintain, update or assess it?

BUDGET INFORMATION

A budget chart must be included (see example). Budget detail must specify total project costs, grant amount requested and matching funds. Grant amount request may be no more than 50% of the total project costs. Budgets must identify matching funds (cash, value of in-kind contributions etc.). Matching funds may not be federal and must be directly related to proposed project.

In-kind contributions include in-house or volunteer labor costs, goods and services. Volunteer labor should be valued as: Adults at $20/hr., Youths up to age 16 at $10/hr. Professional or technical services contributed by consultants, businesses or companies should be considered in-kind match valued at commercial/professional rates that are reasonable and customary and must be documented in writing by the donor.

Some acceptable sources of match may include:

- Labor (in-house, volunteer, contract)
- Facility rental fees
- Program administration (up to 20% of requested grant funds)
- Travel / Delivery costs
- Equipment (rented, in-house, purchased)
- Donations
- Supplies (i.e., books, brochures, tools, mulch, food, etc.)
- Tree Maintenance (1st yr. estimated costs only)

Expenses	Requested Grant Funds	Match	Budget Detail
Personnel/Fringe	$ ______	$ ______	______
Overhead	$ ______	$ ______	______
Volunteer		$ ______	______
Travel	$ ______	$ ______	______
Equipment	$ ______	$ ______	______
Supplies	$ ______	$ ______	______
Contractual Services	$ ______	$ ______	______
Other	$ ______	$ ______	______
TOTAL	$ ______	$ ______	______

Do you have written permission from the landowner (if applicable)? ☐Yes, provide copy ☐No, (a copy is required prior to beginning)	
*Non-Profit Organizations: Have you attached a copy of IRS determination indicating non-profit status?	☐Yes ☐No
Are you currently debarred or suspended from participation in Federal Assistance Programs? (See page 2)	☐Yes ☐No

As designated representative of above-named Applicant, I hereby agree to implement this project according to the application and to abide by the provisions of the Community Forestry Grant Program, including compliance with all applicable federal and state laws and regulations.

Applicant's Designated Representative (please print)	Signature	Date

APPLICATION CHECKLIST

Use the following checklist to ensure that your grant application is complete.

- ☐ If sending by mail, have you included a total of two (2) copies of the application (one original, one copy)?
- ☐ If sending by e-mail, is your application in the correct format? Are your attachments labeled with titles and your organization's name?
- ☐ Did you provide the required contact information (including FIN#) and answer all questions on the application?
- ☐ Did you include copies of any quotes or bids you received for the project? (as applicable)
- ☐ Have you verified budget figures and correctly calculated the required matching funds?
- ☐ Did you provide copies of any Urban Forestry Program components? (as applicable)
- ☐ Have you obtained written approval from landowners? (as applicable)
- ☐ Have you obtained all necessary required signatures?
- ☐ Are there any letters of support that you would like to include? (not required)
- ☐ Have you attached a copy of your IRS Letter of Determination? (nonprofit organizations only)

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 9/10/19	Title: P&N Lakeshore Drive Amendment #1
Submitted By: Leo Evans	Department: DPW
Brief Summary: A number of items were added to the Lakeshore Drive Project that were not included in the original scope of work, including replacement of two water mains and additions to streetscaping, causing an increase in engineering services.	
Detailed Summary: During design of the project at the request of the City a number of items were added to the project that were not included in the original scope of work. The largest of these items was the addition of replacement of the two existing 100+ year old water mains. A number of other additions to the streetscape work were added relative to the project. The 18-19 budget included $200K in the water fund budget to cover these additional costs. The unused portion of the 18-19 budget will be carried forward to the 19-20 budget in a future reforecast. The major street fund budget between the 18-19 and 19-20 fiscal years budgeted to cover the other increases relative to the changes in the streetscape. The overall Engineering Services charge for this $6.1M project stands at 11% with inclusion of this amendment which is a lower overall rate than other comparable projects.	
Amount Requested: $279,000	Amount Budgeted: $279,000
Fund(s) or Account(s): Water ($200K) & Major Streets ($79K)	Fund(s) or Account(s): Water ($200K) & Major Streets ($79K)
Recommended Motion: Authorize staff to sign Amendment #1 to the Professional Services Agreement with Prein & Newhof for the Lakeshore Drive project in the amount $279,000.	
For City Clerk Use Only: Commission Action:	

Prein&Newhof
Engineers ▪ Surveyors ▪ Environmental ▪ Laboratory

Project No. 2180199

Professional Services Agreement Amendment

Amendment Number : 01

Project Name: Lakeshore Drive Reconstruction, McCracken to Laketon

P&N Representative: Dan Sorek, PE

Client: City of Muskegon

Client Representative: Leo Evans, PE

AGREEMENT: The Agreement Amendment modifies the original agreement for professional services dated: March 28, 2019

Client hereby requests and authorizes a change in services in accordance with the following:

SCOPE OF SERVICES MODIFICATION:

1. Add water transmission main preliminary design (modeling, planning, estimates, alternatives, etc) and then design and construction engineering services for replacement of water transmission main on Lakeshore. This includes services for 54 temporary access agreements for water service replacements into the buildings. Also includes preparing preliminary bid package for purchasing parts ahead of the job.

2. Add decorative wall design and construction engineering services at Ruddiman Creek.

3. Estes and McCracken ROW research and additional topographic survey.

4. Driveway and private parking lot conceptual designs for Bait Shop, Ghezzi parking layout, Emporium, RCP for driveway configurations.

5. Redesign South Curb and sidewalk without utility pole relocations after bidding

6. Redesign Parking on Lakeshore and widening on Torrent after bidding

7. Reconfigure water main at McCracken and Oil Line Research for tie-ins

8. Temporary Grading Easements

9. Groundwater testing during Design and Construction

SCHEDULE OF SERVICES MODIFICATION:

No revision in project schedule.

BUDGET MODIFICATION:

1. Water Main design and construction engineering - $190,600
2. Decorative Wall Design and Construction Engineering - $41,300

3-7. Private parking and driveway concepts, ROW Research, Curb and Torrent Redesign after bidding, McCracken changes - $38,400
8. Temporary Grading Easements (2 @ $600 each) - $1,200
9. Groundwater testing during Design and Construction - $7,500

Total of Changes = $279,000

Original Contract = $389,900

New Total of $668,900

METHOD OF COMPENSATION:

- ☐ **Lump Sum for Defined Scope of Services**
- ☒ **Hourly Billing Rates plus Reimbursable Expenses**
- ☐ **Other:**

ADDITIONAL PROVISIONS (IF ANY):

None

Prepared by:		**Accepted for:**	
Prein&Newhof, Inc.		**Client** ______________________	
By:	______________________	**By:**	______________________
Print Name:	______________________	**Print Name:**	______________________
Title:	______________________	**Title:**	______________________
Date:	______________________	**Date:**	______________________

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 9/10/19	Title: Pavement Warranty Resolutions
Submitted By: Leo Evans	Department: DPW

Brief Summary:

Resolutions to adopt and implement pavement warranty guidelines are a requirement of MCL 247.663. The proposed resolutions are as recommended for adoption by MDOT and the Michigan Municipal League. Adoption of the guidelines is required prior to September 18th, 2019.

Detailed Summary:

Amount Requested: $0	Amount Budgeted: $0
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A

Recommended Motion:

Authorize the Mayor and Clerk to sign the resolutions to adopt and implement the pavement warranty guidelines as required by law.

For City Clerk Use Only:

Commission Action:

GUIDELINES FOR
LOCAL AGENCY PAVEMENT
WARRANTY PROGRAM

By
CRA Engineering Committee
Local Agency Pavement Warranty Task Force

Revised 8-13-2018

TABLE OF CONTENTS

PREFACE- Intent of the Local Agency Warranty Program

The Legislature (P.A. 175 of 2015) requires each local road agency to adopt a Local Pavement Warranty Program acceptable to the Michigan Department of Transportation. Warranties have the potential to improve the quality of road projects, benefitting the drivers, taxpayers and road agencies of Michigan

The intent of the Local Agency Pavement Warranty Program is to provide a warranty program that all local agencies can use for all hot mix asphalt and plain jointed concrete paving projects on public roads and streets. This pavement warranty program was created by the Local Agency Pavement Warranty Task Force, to establish a common pavement warranty program for all local agencies in Michigan. The goals of this Local Agency Pavement Warranty program is to standardize the review, to provide oversight of pavement warranty projects, and to make this program more transparent and uniform for private sector contractors.

This Local Agency Pavement Warranty Program is available for all local road agencies if they choose to use it. Local road agencies vary dramatically in size and sophistication; therefore the Local Road Warranty Task Force developed a warranty program to address the capabilities of the rural, the mid-sized urban and the large urban agencies. This approach provides a warranty program that meets the intent of Public Act 175 of 2015 (MCL 247.662 and 247.663), and provides all local road agencies with a pavement warranty program that provides value to the public.

The Local Road Warranty Task Force recognizes there may be substantial benefits and public confidence resulting from a comprehensive pavement warranty program. However, the existing pavement structure, drainage and planned improvements for each project will need to be evaluated on an individual basis to critically assess a justification or basis for a pavement warranty. Road agencies should anticipate increased project costs related to higher bid prices and costs for the warranty administration such as: pavement monitoring, defect documentation, official notifications, joint field inspections; defect remediation and dispute resolution.

The intent of this GUIDELINES FOR LOCAL AGENCY PAVEMENT WARRANTY PROGRAM, is to provide an overview and guidance on implementing a pavement warranty project. This guideline is intended for local agency use and it not intended to be a contract document.

Pavement Warranty Reporting and General Warranty Project Selection

Acceding to PA 175 of 2015, all local road agencies must submit an annual report to the state for all projects where the pavement-related bid items exceeded $ 2 million, regardless of whether or not the agency included a pavement warranty on the project. Each local road agency must submit and maintain its records to comply with the reporting requirements included in Appendix E.

The Task Force determined that the Legislature's intent for local pavement warranties is to provide assurances to elected officials and taxpayers in the use of the new funds arriving for road and bridge infrastructure. Assurances which include that local road projects would be held to a higher standard in the future.

At the same time, there are logical explanations why a local road agency may choose to not require a warranty such as unjustifiably higher costs for a warrantied project that may or may not be affordable to the community and may or may not be justified by the scope of the project; recognition of a limit to the contractor's ability to bond for every project; some projects are simple preservation or resurfacing over an existing imperfect road base wherein the contractor cannot control such pre-existing conditions; and many other engineering factors that indicate a pavement warranty would not serve the taxpayer's best interests. Whether or not a warranty is selected on a project with $2 million in pavement related items, this must be reported to the Legislature on an annual, state fiscal year basis.

The Legislature had the wisdom to specify that warranties would be left to the discretion and justification of the local road agency and its road engineering expertise. Agencies can waive a pavement warranty with a written justification. The agency's written justification identifies reasons such as project appropriateness, scope and type of project improvements, why this is in the best interest of the local agency, project cost justification, and effectiveness of the warranty provisions. It is highly recommended for all local road agencies with paving projects where the engineer's opinion of cost exceeds $ 1.8 million in pavement related items that serious consideration should be given to include the pavement warranty special provisions in the project proposal prior to advertisement.

The Task Force does not believe the Legislature intended every local new construction, reconstruction, rehabilitation, and overlay road project to be warranted, and thus included the $2 million threshold. Because pavement is the road component most likely to fail – and the area most aggravating to the motoring public – the Task Force believed the Local Pavement Warranty Program was intended to focus on pavement-related items. The Task Force has relied on customary and basic engineering principles in defining pavement-related items that are recommended for consideration of a warranty. As a result of the Local Agency Warranty Task Force believes the Michigan Legislature intended a local road agency to use its best judgment in requiring a warranty, consistent with the scope of the intended project and the ability to enforce it.

This Local Agency Pavement Warranty Program considers the vast array of project types and sizes. Local road agency projects often involve short stretches of pavement resurfacing to address a surface condition or safety concern. These types of projects are accomplished with very limited budgets, often with funding from non-MTF sources. In addition, often these types of projects do not address the subgrade, existing aggregate base or drainage systems; which all are major factors in determining the longevity of a pavement surface. If the road segment may be subjected to a significant amount of overloads (higher than average daily truck counts and/ or heavier than normal axle loading) during the anticipated warranty term, the road may not be a good candidate for pavement warranties. Therefore, the Local Agency Pavement Warranty Program is recommended for road segments designated as “all-season road” which are designed for year-round normal loading.

While the law indicates where possible a pavement warranty shall be secure when the paving project exceeds $2 million, the Task Force recognizes project bids are often 10 percent over the engineer’s opinion of cost, and that a warranty requirement cannot be retroactively applied to a road project after the bids are opened. Thus, the Task Force has recommended the more conservative $1.8 million engineer’s opinion of cost for pavement related items, as the point when the local agency decides if the warranty special provisions are included in the bid documents, rather than the $2 million stated in the law.

The Task Force believes the Michigan Legislature was speaking in the context of new Michigan Transportation Funds for roads, which are exclusively state revenue sources, when it included the Local Agency Pavement Warranty Program alongside the new funding legislation in the 2015 Transportation Package. It also seems clear the Legislature was speaking not just to the new transportation funds, but also to the other road funds under its control, which includes the federal fund**s** flowing through MDOT to the local road agencies.

The Local Agency Pavement Warranty Program also recognizes that if the only source of revenue for a local road agency paving or reconstruction projects is entirely locally derived revenue (non- Act 51 or Federal Funds) such as local general fund, millage revenue, special assessment districts or other locally raised revenue; then these projects will not be subject to the Local Agency Pavement Warranty Program reporting requirements.

It’s important to note that this Local Agency Pavement Warranty Program may also be used by that local road agency on any paving project regardless if the $2 million dollar threshold for pavement related items has been reached or not. This approach ensures that Local Pavement Warranties can be used on any project with any funding source, including Michigan Transportation Funds, and can utilize the same requirements to provide greater understanding and transparency to contractors, stakeholders and the public.

Warranty Contract Process

For those construction projects advertised and let through the MDOT Local Agency Programs, the construction contract is between the prime contractor and MDOT. The prime contractors’ surety company names MDOT as the obligee in the performance bond in the original contract. For Local Agency Pavement Warranty projects, an additional warranty contract and pavement warranty bond will be required prior to award, see Appendix D. The bid proposal shall include a contract consistent with the model contract and bond form shown in Appendix D. These documents will serve as the contract and warranty bond between the local road agency and the paving contractor for the warranty work. The warranty bond will be provided by the paving contractor in the name of the local road agency.

The MDOT Local Agency Agreement will reference the local road agency’s responsibility to administer the warranty portion of the contract. Upon the acceptance of the construction work, the prime contractor’s contract and performance bond with MDOT will be released and no longer in effect. At this point the warranty contract and warranty bond are triggered to begin the new contract for the warranted work during the warranty term.

The local road agency will be solely responsible for administering the warranty contract, inspection of warranted work during the warranty period, approving remediation work and seeking resolution through the warranty bond if the contractor is unresponsive in performing corrective work and declaring acceptance of all warranted / corrective work at the end of the warranty period.

General Guidelines of Local Road Agency Warranties

These General Guidelines are recommended for all local road agencies administering pavement warranties for public road and street construction contracts. The responsibility and authority for administering pavement warranties rest with the road owner and/or the local road agency that conducted the construction administration phase of the project.

To determine the pavement-related cost for a hot mixed asphalt pavement warranty project, the Local Agency is required to prepare an opinion of cost for all of the pavement-related items which include: the pavement, curb, shoulders, aggregate base, subbase and underdrain pay items. To determine the pavement-related cost for concrete pavements, the local road agency engineer is required to prepare an opinion of cost for all of the pavement-related items which include: pavement, curb, shoulders, joint sealing, dowel bars, load transfer devices, aggregate base, subbase and underdrain. If the total estimated cost of these pavement-related items exceeds $1.8 million in the opinion of the Engineer, the local road agency should review the existing pavement variables, stated in the “Pavement Warranty Reporting and General Warranty Project Selection” section of this document, to determine if the pavement warranty special provisions should be included in the bid documents.

The contractor is responsible for correcting defects attributable to elements within the contractor’s control. Each warranty specification includes condition parameters and distress thresholds to provide a basis for evaluating the warranted work. Each distress parameter includes threshold limits that, if exceeded during the warranty period, would trigger notifying the contractor to participate in a joint field investigation. Depending on the outcome of the investigation the contractor may be required to prepare a remediation plan to correct distresses that are attributable to its materials and/or workmanship or there may be a call for further investigation. If the agency and the contractor cannot agree, either side can call for a Conflict Resolution Team to resolve the dispute as described in the Local Road Agency Special Provision for Hot Mix Asphalt and Concrete Pavement Warranty.

Once a remediation plan is agreed-to by the local road agency and the contractor, the corrective action shall be performed. The corrective actions and/or repairs shall be performed to correct deficiencies in the warranted work in order to achieve acceptance at the end of the warranty period. If the contractor fails to perform the remediation work within specified timeframes, the local road agency shall notify the surety company to perform the work. Further, if a defect is declared as an imminent safety problem by the agency, the local agency may complete the work and seek reimbursement from the contractor or submit a claim against the warranty bond.

All required corrective action must be performed by the contractor at no cost to the owner. The condition parameter thresholds and warranty requirements may vary depending on the date the specification was developed; type of warranty; and the application to the construction work. It is important, therefore, to refer to the specific warranty special provision in the contract when administering warranties.

The warranty administration phase should follow the documentation procedures outlined in Appendix A, B, C, D and E of these guidelines. The warranty administration can be performed by qualified local agency staff members or under a consultant service contract.

Warranty Documents

The Local Agency Pavement Warranty consists of the warranty contract and warranty bond as well as the appropriate special provisions:

- Local Road Agency Special Provision for Hot Mix Asphalt and Concrete Pavement Warranty
- Local Road Agency Special Provision for Warranty Work Requirements for Hot Mix Asphalt Pavement
- Local Road Agency Special Provision for Warranty Work Requirements for Jointed Plain Concrete Pavement
- Local Road Agency Special Provision for Pavement Warranty Information

The Local Road Agency Special Provision for Hot Mix Asphalt and Concrete Pavement Warranty establishes the common terms and definitions applied to pavement projects requiring a warranty. The Local Road Agency Special Provision for Warranty Work Requirements for Hot Mix Asphalt Pavements warrants the Local Road Agency against specific defects in HMA pavements. The Local Road Agency Special Provision for Warranty Work Requirements for Jointed Plain Concrete Pavement warrants the Local Road Agency against specific defects in concrete pavements. Local Road Agency Special Provision for Pavement Warranty Information provides the beginning and ending locations for warranted work and the applicable warranty work requirements special provision.

Under the Local Agency Pavement Warranty special provisions the Prime Contractor is responsible for correcting defects in the pavement caused by elements within the contractor's control (i.e., the materials supplied, the workmanship, etc.), during the warranty period. The Pavement Warranty Contract Provisions and Warranty Bond may pass through to subcontractors, and with this the responsibility to correct warranty defects, at the direction of the Prime Contractor and upon written notice to the agency prior to the start of the work.

The contractor assumes no responsibility for defects that are design related unless the paving contract is design-build. When a defect is attributable to the materials and/or workmanship and/or the design, the responsibility for correcting the defect (or defects) will be shared by the agency and the contractor. The contractor is responsible for the percentage of fault attributable to the workmanship and/or materials, and the agency is responsible for the percentage of fault attributable to the design. Note: The agency may elect to require the contractor to provide the pavement design(s) in the contract documents and specifications. In this case, the Contractor shall also be responsible for the percentage of fault attributable to the pavement design.

Warranty Process

The process flow charts as shown in Appendix A describe the steps involved in the warranty administration process. The warranty term begins with the acceptance of the warranted work during construction of the project. Warranty Administration involves periodic condition inspections of the mainline pavement areas throughout the warranty term; joint field inspections; documentation of findings, official notifications; joint determination of defects; initiation of corrective action, inspection & documentation of the corrective action taken, filing those inspection reports as necessary, and if necessary a conflict resolution process. If at any time, a safety issue or significant defect is observed or reported, prior to a scheduled inspection, an interim inspection will be initiated by the agency. If emergency repairs are determined to be necessary the agency can perform these repairs without altering the contractor's responsibilities under the warranty contract.

A joint field review between the local road agency and the warranty contractor may be held to verify and confirm of findings documented during the various inspections. MDOT should be included in any official communication dealing with the warranty if the construction project had MDOT oversight. The findings of the final inspection at the end of the warranty term are distributed to the owner, (and MDOT if construction had MDOT oversight), the warranty contractor and the Surety Company.

The appeal process, when needed, involves assembling a conflict resolution team (CRT) to conduct investigations as needed to determine distress cause & effect and establish concurrence between the local agency and the warranty contractor regarding warranty compliance issues. More on the CRT can be found in the section j, Correction of Defects of the Local Road Agency Special Provision for Hot Mix Asphalt and Concrete Pavement Warranty.

The final step of the process, after the project or warranty work has been deemed acceptable is closing out the warranty project through notification of the contractor, the bonding company and Local agency's Finance and /or Administration Division.

Rights and Responsibilities of the Local Agency

The agency administering the project should inform the appropriate local road agency maintenance staff about sections of roadway incorporated in a warranty contract. The local road agency has the right to perform, or have performed, routine and emergency reactive maintenance during the warranty period. Major planned maintenance projects conducted during a warranty period need to be evaluated in terms of possible impact to the ongoing warranty coverage.

If corrective work is required to bring the project back into compliance with the requirements found in the warranty special provisions; the local agency in charge of the construction project must approve the schedule, materials and methods of construction repair. If the contractor is unable to comply with this provision, or fails to comply with it to the local agency's satisfaction, the local agency reserves the right to arrange for the work to be completed at the contractor's expense. If this action by the local agency is required, it will in no way relieve the contractor from meeting the warranty requirements stated in the project documents.

The rights and responsibilities are further detailed in Section e, Rights and Responsibilities of the Agency in the Local Agency Special Provision for Hot Mix Asphalt and Concrete Pavement Warranty.

Rights and Responsibilities of the Contractor

The contractor must provide a written work plan for any necessary corrective warranty work. A request for a work permit must be submitted through the local road agency's permit process and work should be coordinated with the construction inspection agency if different from the local agency issuing the permit. All corrective warranty work should be completed within the warranty term. If scheduling conflicts necessitate corrective work being completed outside of the warranty term, the local road agency shall be notified as soon as the contractor is aware of the conflict.

The rights and responsibilities of the contractor are further detailed in Section f. Rights and Responsibilities of the Contractor in the Local Agency Special Provision for Hot Mix asphalt and Concrete Pavement Warranty.

Supplemental Lien Bonds and Liability Insurance

In addition to the warranty bond that is in place, if corrective work is necessary the contractor must furnish supplemental lien bond to the local agency covering the corrective work. The Engineer is responsible for estimating the amount of the supplemental lien bond required. The amount should be approximately equal to the dollar amount of the corrective work. The contractor must also have liability insurance in place prior to performing corrective work during the warranty period. The contractor should not be allowed on-site to perform corrective work during the warranty period until the supplemental lien bond is in place and the proper insurances verified. Depending on the nature and scope of the corrective work, the local agency may waive this supplemental lien bond, but not the liability insurance.

Warranty Inspections

Warranty inspections are limited to only mainline pavement areas. There are two types of inspections conducted during the warranty period. The cursory inspection is a simplified inspection to quickly identify segments in the project that may have distresses that exceed threshold values. This cursory inspection normally does not require a lane closure and is conducted from the roadway shoulder estimating distress lengths and widths. The detailed inspection requires direct measuring and reporting of all observed distress in each segment. Traffic control may be required to complete the detailed inspection.

The minimum inspection frequency for the various warranty provisions are specified in the applicable warranty inspection guidelines, see Appendix B. The minimum number of inspections is dependent upon the warranty duration. The local road agency may elect to perform additional inspections over & above the recommended minimum interim inspections. The suggested time frames in the inspection guidelines allow local road agencies to notify the contractor regarding warranty compliance. Interim inspections may be delayed if weather makes it difficult to inspect the road or creates an unsafe condition. Final inspections shall be completed in a timely manner to ensure that there is enough time to document any thresholds that exceed the condition thresholds and notify the contractor prior to the expiration of the warranty.

The designation of lanes during the warranty inspection shall be detailed adequately so that it is clear to all involved in the warranty process which lane is being referenced. If necessary, a sketch should be included. It is important to use the same lane numbering designation for all inspections conducted throughout the warranty period.

If defects are found in any inspection, they should be carefully and accurately documented, even if the severity or number does not meet the threshold to require corrective work. These notes shall be kept in the inspection files and reviewed prior to all future inspections of the work. The inspectors of the work should pay specific attention to areas previously noted, record those defects, and list any changes in those defects differing from the last inspection.

Correction of Defects

If inspections during the warranty term show a defect has exceeded the allowable threshold as defined in either the Hot Mixed Asphalt or Concrete Warranty specification, the contractor shall be notified of the finding. The agency should call for a joint field investigation to determine the cause of the defect, and to discuss the best possible remediation of the problem. If additional forensic investigation is desired, the scope of the investigation, party or consultant to conduct the investigation, and the cost split shall be agreed to by the engineer and contractor prior to scheduling the investigation.

If the contractor and engineer are in agreement, the Engineer shall send notice to contractor in writing the defect(s), location(s), recommended remediation and a request for a schedule to complete the work. The contractor will reply back to the Engineer**,** copying the local agency (and MDOT if MDOT had original construction oversight) with a schedule to complete the work. The local agency will issue a permit to the contractor to complete the warranty work according to the Local Agency's Right-of-way permit policy. The contractor will complete the work under the inspection of the Engineer.

If the contractor and engineer disagree, then a Conflict Resolution Team (CRT) may be convened. The CRT will be made of:

- One (1) member selected, and compensated by the agency.
- One (1) member selected and compensated by the contractor.
- One (1) member mutually selected by the Agency and the contractor. Compensation for the third party member will be equally shared by the agency and the contractor.

At least two members of the CRT must vote in favor of a motion to make a decision. If the CRT decides to conduct a forensic investigation, the CRT will determine the scope of work and select the party to conduct the investigation. All costs related to the forensic investigation will be shared proportionately between the contractor and the agency based on the determined cause of the warranty defect condition.

Emergency Repairs

When the agency determines that emergency repairs of the warranted work are necessary for public safety, the agency or its agent may take immediate and sufficient repair action to address the imminent danger and to safeguard the traveling public. Prior to emergency repairs of warranted work, the agency will document the basis for the emergency action. In addition, the agency will preserve all documentation of the defective condition, including failed materials samples if applicable.

Once the imminent danger to the public has been addressed, the local road agency shall notify the contractor to explain the situation, identify the work temporarily done by the agency, and to what further actions need to happen to return the warranted work and pavement to threshold compliance. A joint inspection may be called to investigate the situation.

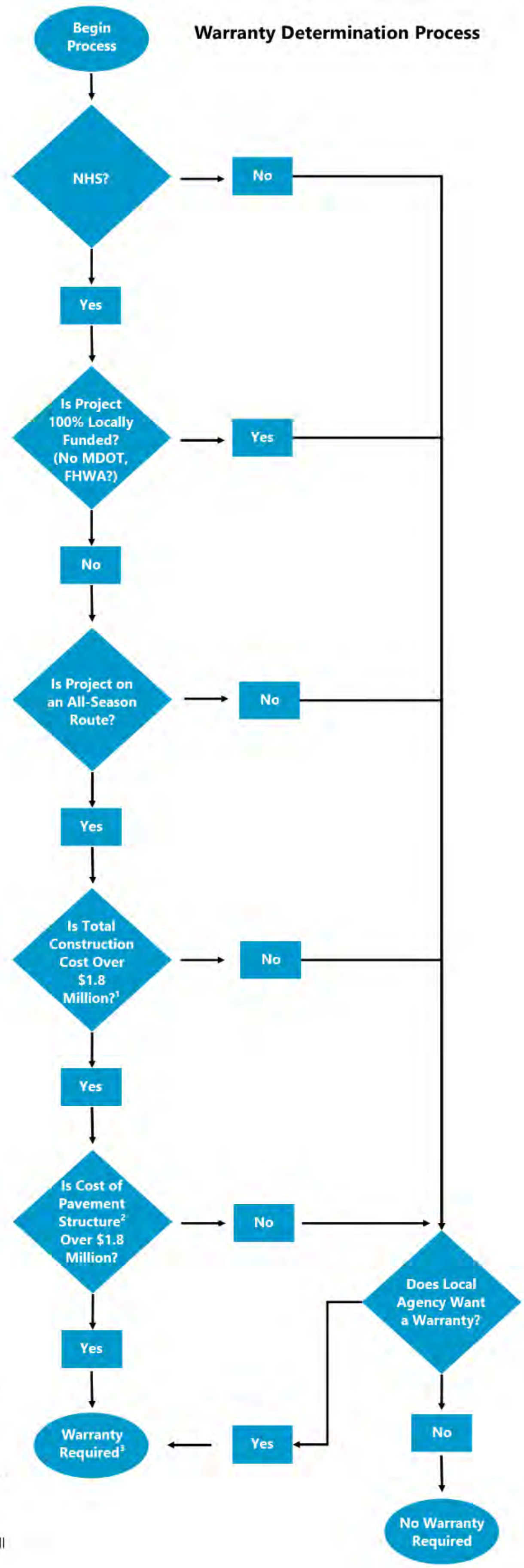
The emergency repairs of warranted work by the contractor must be authorized by the agency's engineer.

Should the contractor be unable to perform the emergency repair to the agency's satisfaction and/or within the time frame required by the agency, the agency will perform, or have performed any emergency repairs deemed necessary. Any such emergency repairs undertaken will not relieve the contractor from meeting the warranty requirements. Any costs associated with the emergency repairs will be paid by the contractor when due to a cause from defective materials and/or workmanship.

APPENDIX A

Flow Charts

Warranty Determination Process

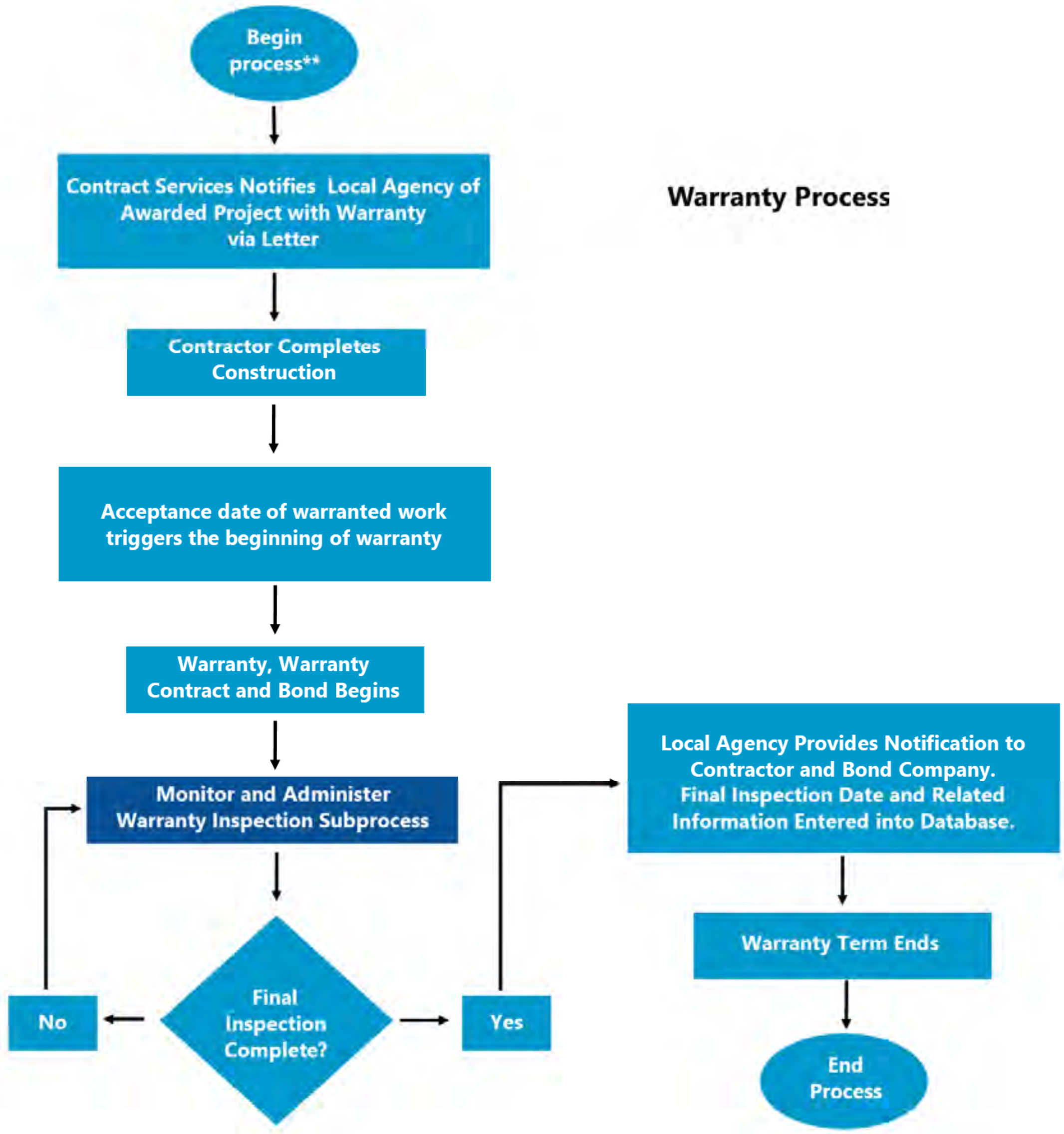


[1]Use $1.8 million as cost to account for bid variability.

[2]Pavement structure as defined by MDOT Standard Specifications includes: HMA or concrete pavement, curbs, shoulders, aggregate or granular base, subbase and underdrain.

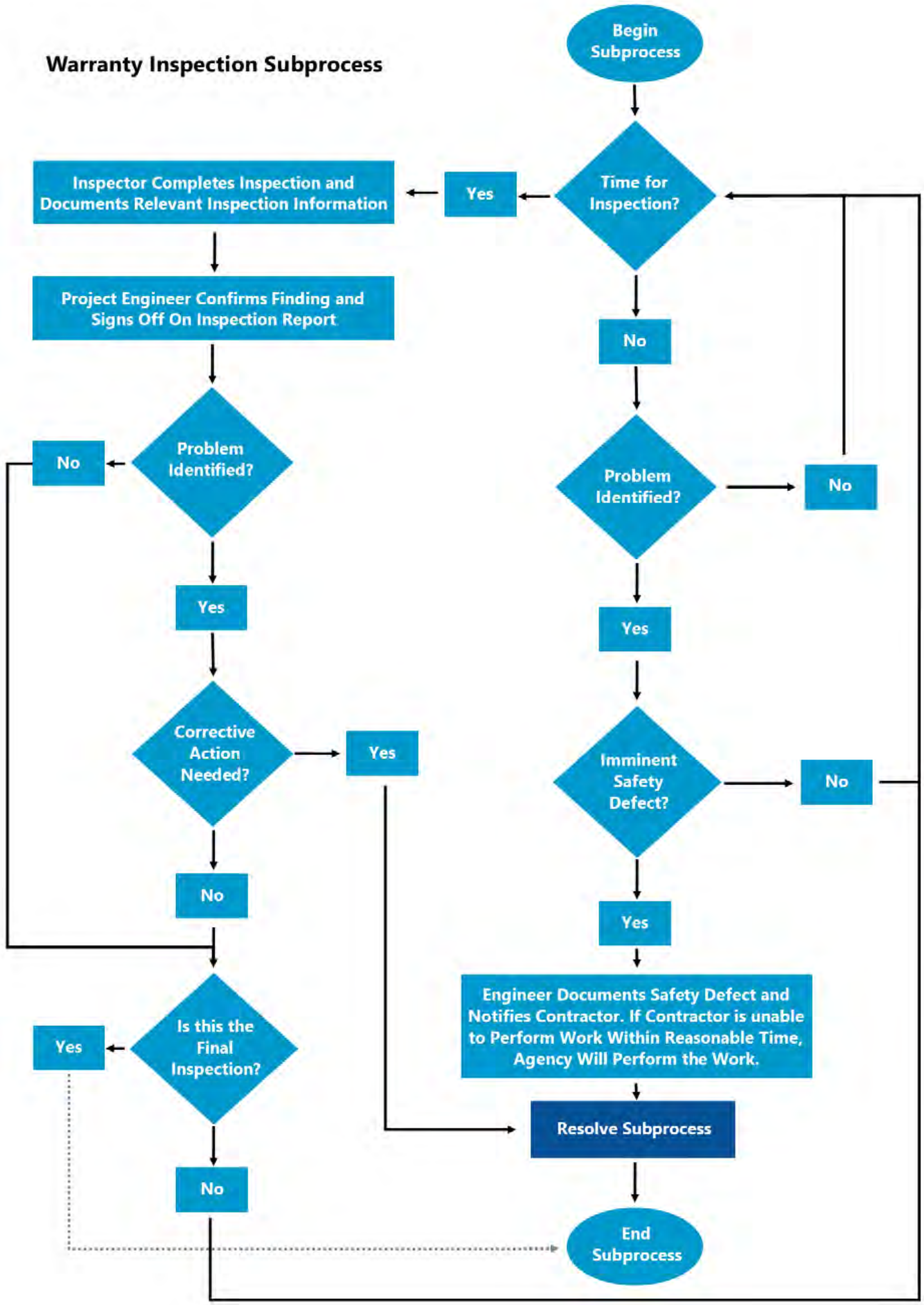
[3]If a local agency waives a warranty, an explanation will need to be reported.

Warranty Process

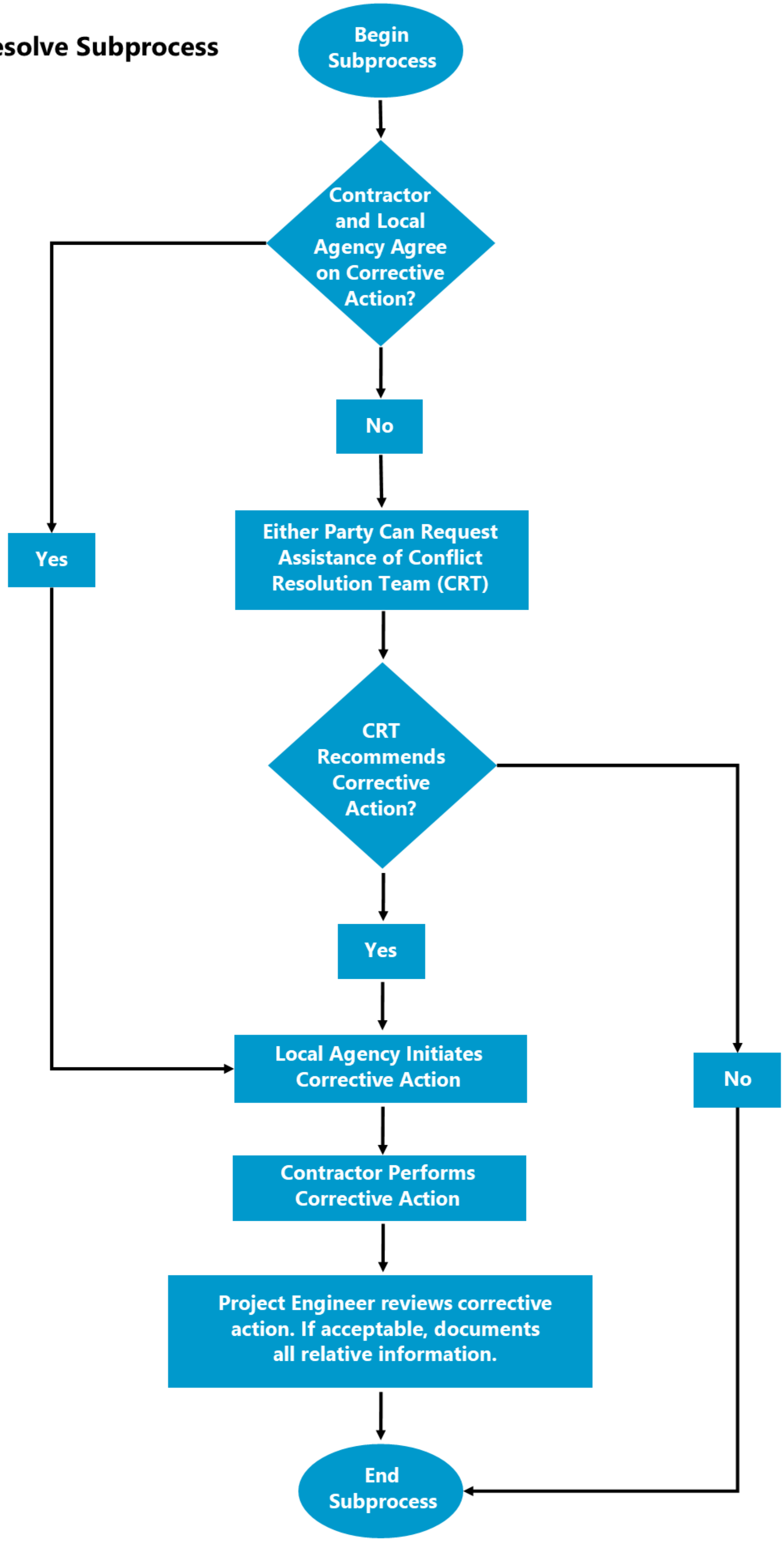


**This is the process if MDOT has oversight and/or MDOT let bid.
If project is locally let, with no MDOT oversight, the local agency shall determine the process.

Warranty Inspection Subprocess



Resolve Subprocess



APPENDIX B

Inspection Guidelines

HMA NEW CONSTRUCTION / RECONSTRUCTION

Warranty period: 5 Year

Inspection Period Begins: Interim - 6 months after Initial Acceptance
Final - 56 months after initial Acceptance
(Local Agency may do additional inspections)

Notes:
1. Segments defined as 528 foot (1/10 mile).
2. Each lane will be evaluated separately.
3. The threshold level for each distress type is determined separately.

Procedure: For both **INTERIM** & **FINAL** inspections

1. **Perform overview inspection**. Based on results of overview inspection, recommend the project for either:
   a. Acceptable – no corrective work needed. If this is the final inspection recommend acceptance of the work, or
   b. Detailed inspection – more detailed inspection and / or measurements are needed

2. **Perform detailed inspection if required**. Based on the results of detailed inspection, either:
   a. Acceptable – no corrective work needed. If this is the final inspection recommend acceptance of the work, or
   b. Warranty work is needed – Provide contactor written notice of the distresses and locations needing corrective work.

Condition Parameter Measurement:

Performance parameters will be measured as described for each of the following distress types in mainline pavement areas:

1. **Transverse Cracking -** Total number of transverse cracks in a segment. Each individual crack must exceed 5 feet in length to be included in the total.
2. **Longitudinal Cracking -** Total linear feet of longitudinal cracks in a segment. Each individual crack must exceed 5 feet in length to be included in the total.
3. **De-bonding**- Total longitudinal length, in feet, of de-bonding in a segment. Potholes are to be classified as de-bonding. Measure individual de-bonding locations in the longitudinal direction, regardless of width of the distress location and sum these lengths for the segment.
4. **Raveling -** Total longitudinal length, in feet, of raveling in a segment. Measure individual raveling locations in the longitudinal direction, regardless of width of the distress location and sum these lengths for the segment.
5. **Flushing -** Total longitudinal length, in feet, of flushing in a segment. Measure individual flushing locations in the longitudinal direction, regardless of width of the distress location and sum these lengths for the segment.
6. **Rutting -** The average rut depth, in inches, in a segment. Each wheel path shall be evaluated separately. If rutting is found, the pavement surface will be measured beginning at the POB and every 132 feet thereafter to determine average rut depth to quantify rutting for a

particular segment. Rut measurements will be done using a straight rigid device that is a minimum of 7 feet long and of sufficient stiffness that it will not deflect from its own weight, or a wire under sufficient tension to prevent sag when extended 7 feet. Measurements will be taken by placing this “straightedge” across the pavement surface perpendicular to the direction of travel. The straightedge shall contact the surface on at least two bearing points with one located on either side of the rut. The straightedge is properly located when sliding the straightedge along its axis does not change the location of the contact points. Rut depth is then measured at the point of greatest perpendicular distance from the bottom of the straightedge to the pavement surface.

7. **Alligator Cracking** – Total area, in square feet, of alligator cracking in a segment. Measure individual alligator cracked areas and sum the areas for the segment.

Overview Inspection Procedure:

1. Review any notes from previous inspections.

2. Perform a “windshield” survey of the entire location length. Based solely on visual examination and estimated measurements, approximate the individual distress quantities for the questionable segment(s) of each distress type and record on the inspection form. Details which should be noted for the inspection include, but are not limited the following:
    a. The lane or ramp where the distress was noted and the associated direction.
    b. Approximate distress location (i.e. 1/4 mile north of the POB, or at the intersection of 1st St in SW quadrant, or near drive for house #123..)
    c. The distress quantity, in general terms (i.e. minor amounts of longitudinal cracking; mid lane flushing).
    d. Areas where temporary maintenance makes it difficult to determine the type of distress, (i.e. presence of cold patching material).

3. Estimate if any of the following distress threshold conditions are exceeded
    a. Transverse Cracking exceeds 3 total in the segment length (3 cracks within 528 feet) for any single segments.
    b. Longitudinal Cracking exceeds 10 percent of the segment length (53 feet within 528 feet) for any single segments.
    c. Debonding exceeds 5 percent (5%) of the segment length (26 feet within 528 longitudinal feet) for any 1 segment.
    d. Raveling exceeds 8 percent (8%) of the segment length (42 feet within 528 longitudinal feet) for any 1 segment.
    e. Flushing exceeds 5 percent (5%) of the segment length (26 feet within 528 longitudinal feet) for any 1 segment.
    f. Average rut depth exceeds 0.375 (3/8) inches for any 1 segment.
    g. Any amount of alligator cracking.

4. If <u>**any**</u> condition above is estimated to be true:
    a. Perform Detailed Inspection; and

b. Provide a description of the magnitude and location(s) of the distress condition(s) observed which justify the Detailed Inspection.

5. If **all** conditions above are false:
    a. Recommend work is acceptable.
    b. If this is an interim or other non-final inspection, put notes in file.
    c. If this is final inspection recommend final acceptance.

Detailed Inspection Procedure:

1. Determine the questionable segments suspected of exceeding threshold limits for each individual distress type based on the overview inspection notes.

2. Document the lane, direction and distance from POB, of each questionable segment identified in Step 1.

3. For each questionable segment, measure and record the amount of each individual distress type and record on the inspection form.
    a. Transverse Cracking
    b. Longitudinal Cracking
    c. De-bonding
    d. Raveling
    e. Flushing
    f. Rutting
    g. Alligator Cracking

4. Determine if any of the threshold limits for transverse cracking, longitudinal cracking, de-bonding, raveling, flushing, or alligator cracking, listed under Overview Inspection, are exceeded.

5. Evaluate segments where the average rut depth appears to exceed 0.25 inches as follows.
    a. Measure the average rutting at all questionable segments to verify that the threshold was exceeded.

6. Warranty work is required at those segments for which any of the threshold limits for transverse cracking, longitudinal cracking, de-bonding, raveling, flushing, rutting, or alligator cracking are exceeded. Provide the contractor with results of the inspection indicating segments where warranty work is required.

LOCAL AGENCY
WARRANTY INSPECTION GUIDELINES
HMA CONSTRUCTION OVER AGGREGATE BASE
WITHOUT BASE OR DRAINAGE IMPROVEMENT

Warranty period: 3 Year

Inspection Period Begins: Interim **-** 6 months after Initial Acceptance
Final - 32 months after initial Acceptance
(Local Agency may do additional inspections)

Notes:
1. Segments defined as 528 foot (1/10 mile).
2. Each lane will be evaluated separately
3. The threshold level for each distress type is determined separately.

Procedure: For both **INTERIM** & **FINAL** inspections

1. **Perform overview inspection**. Based on results of cursory inspection, recommend the project for either:
   a. Acceptable – no corrective work needed. If this is the final inspection recommend acceptance of the work, or
   b. Detailed inspection – more detailed inspection and / or measurements are needed

2**. Perform detailed inspection if required**. Based on the results of detailed inspection, either:
   a. Acceptable – no corrective work needed. If this is the final inspection recommend acceptance of the work, or
   b. Warranty work is needed – Provide contactor written notice of the distresses and locations needing corrective work.

Condition Parameter Measurement:

Performance parameters will be measured as described for each of the following distress types in mainline pavement areas:

1. **Transverse Cracking -** Total number of transverse cracks in a segment. Each individual crack must exceed 5 feet in length to be included in the total.
2. **Longitudinal Cracking -** Total linear feet of longitudinal cracks in a segment. Each individual crack must exceed 5 feet in length to be included in the total.
3. **De-bonding**- Total longitudinal length, in feet, of de-bonding in a segment. Potholes are to be classified as de-bonding. Measure individual de-bonding locations in the longitudinal direction, regardless of width of the distress location and sum these lengths for the segment.
4. **Raveling -** Total longitudinal length, in feet, of raveling in a segment. Measure individual raveling locations in the longitudinal direction, regardless of width of the distress location and sum these lengths for the segment.
5. **Flushing -** Total longitudinal length, in feet, of flushing in a segment. Measure individual flushing locations in the longitudinal direction, regardless of width of the distress location and sum these lengths for the segment.
6. **Rutting -** The average rut depth, in inches, in a segment. Each wheel path shall be evaluated separately. If rutting is found, the pavement surface will be measured beginning at the POB and every 132 feet

thereafter to determine average rut depth to quantify rutting for a particular segment. Rut measurements will be done using a straight rigid device that is a minimum of 7 feet long and of sufficient stiffness that it will not deflect from its own weight, or a wire under sufficient tension to prevent sag when extended 7 feet. Measurements will be taken by placing this "straightedge" across the pavement surface perpendicular to the direction of travel. The straightedge shall contact the surface on at least two bearing points with one located on either side of the rut. The straightedge is properly located when sliding the straightedge along its axis does not change the location of the contact points. Rut depth is then measured at the point of greatest perpendicular distance from the bottom of the straightedge to the pavement surface.

7. **Alligator Cracking** – Total area, in square feet, of alligator cracking in a segment. Measure individual alligator cracked areas and sum the areas for the segment.

Overview Inspection Procedure:

1. Review any notes from previous inspections.

2. Perform a "windshield" survey of the entire location length. Based solely on visual examination and estimated measurements, approximate the individual distress quantities for questionable segment(s) of each distress type and record on the inspection form. Details which should be noted for the inspection include, but are not limited the following:
    a. The lane or ramp where the distress was noted and the associated direction.
    b. Approximate distress location (i.e. 1/4 mile north of the POB, or at the intersection of 1st St in SW quadrant, or near drive for house #123..)
    c. The distress quantity, in general terms (i.e. minor amounts of longitudinal cracking; mid lane flushing).
    d. Areas where temporary maintenance makes it difficult to determine the type of distress, (i.e. presence of cold patching material).

3. Estimate if any of the following distress threshold conditions are exceeded
    a. Transverse Cracking exceeds 3 total in the segment length (3 cracks within 528 feet) for any 2 segments. All reflective cracking shall be ignored as these will not count against the allowable amount.
    b. Longitudinal Cracking exceeds 25 percent of the segment length (132 feet within 528 feet) for any 2 segments. All reflective cracking shall be ignored as these will not count against the allowable amount.
    c. Debonding exceeds 5 percent (5%) of the segment length (26 feet within 528 longitudinal feet) for any 1 segment..
    d. Raveling exceeds 8 percent (8%) of the segment length (42 feet within 528 longitudinal feet) for any 1 segment.
    e. Flushing exceeds 5 percent (5%) of the segment length (26 feet within 528 longitudinal feet) for any 1 segment.
    f. Average rut depth exceeds 0.375 (3/8) inches for any 1 segment.

g. Any amount of alligator cracking.

4. If **any** condition above is estimated to be true:
    a. Perform Detailed Inspection; and
    b. Provide a description of the magnitude and location(s) of the distress condition(s) observed which justify the Detailed Inspection.

5. If **all** conditions above are false,
    a. Recommend work is acceptable.
    b. If this is an interim or other non-final inspection, put notes in file.
    c. If this is final inspection recommend final acceptance.

Detailed Inspection Procedure:

1. Determine the questionable segments suspected of exceeding threshold limits for each individual distress type based on the overview inspection notes.

2. Document the lane, direction and distance from POB, of each questionable segment identified in Step 1.

3. For each questionable segment, measure and record the amount of each individual distress type and record on the inspection form.
    a. Transverse Cracking
    b. Longitudinal Cracking
    c. De-bonding
    d. Raveling
    e. Flushing
    f. Rutting
    g. Alligator Cracking

4. Determine if any of the threshold limits for transverse cracking, longitudinal cracking, de-bonding, raveling, flushing, or alligator cracking, listed under Overview Inspection, are exceeded.

5. Evaluate segments where the average rut depth appears to exceed 0.25 inches as follows.
    a. Measure the average rutting at all questionable segments to verify that the threshold was exceeded.

6. Warranty work is required at those segments for which any of the threshold limits for transverse cracking, longitudinal cracking, de-bonding, raveling, flushing, rutting, or alligator cracking are exceeded. Provide the contractor with results of the inspection indicating segments where warranty work is required.

LOCAL AGENCY
WARRANTY INSPECTION GUIDELINES
HMA OVERLAY

Warranty period: 1 Year

Inspection Period Begins: Final - 10 months after Initial Acceptance
(Local Agency may do additional inspections such as at 6 months after initial acceptance, after spring break up, etc.)

Notes:
1. Segments defined as 528 foot (1/10 mile).
2. Each lane will be evaluated separately.
3. The threshold level for each distress type is determined separately.

Procedure:

1. Preform **overview inspection**. Based on results of cursory inspection, recommend the project for either:
   a. Acceptable – no corrective work needed. If this is the final inspection recommend acceptance of the work, or
   b. Detailed inspection – more detailed inspection and / or measurements are needed

2**. Perform detailed inspection if required**. Based on the results of detailed inspection, either:
   a. Acceptable – no corrective work needed. If this is the final inspection recommend acceptance of the work, or
   b. Warranty work is needed – Provide contactor written notice of the distresses and locations needing corrective work.

Condition Parameter Measurement:

Performance parameters will be measured as described for each of the following distress types in mainline pavement areas:

1. **Transverse Cracking -** Total number of transverse cracks in a segment. Only count cracks that are not “reflective” from a prior crack or joint. Count all transverse cracks that cannot be positively identified as “reflective” or are questionable. Each individual crack must exceed 5 feet in length to be included in the total. Ignore transverse cracking for all single course overlays, or if the total thickness of multiple course overlays is 2” or less.
2. **Longitudinal Cracking -** Total linear feet of longitudinal cracks in a segment. Only count cracks that are ***not*** “reflective” from a prior crack or joint. Count all longitudinal cracks that cannot be positively identified as “reflective” or are questionable. Each individual crack must exceed 5 feet in length to be included in the total. Ignore transverse cracking for all single course overlays, or if the total thickness of multiple course overlays is 2” or less.
3. **De-bonding**- Total longitudinal length, in feet, of de-bonding in a segment. Potholes are to be classified as de-bonding. Measure individual de-bonding locations in the longitudinal direction, regardless of width of the distress location and sum these lengths for the segment.
4. **Raveling -** Total longitudinal length, in feet, of raveling in a segment. Measure individual raveling locations in the longitudinal direction, regardless of width of the distress location and sum these lengths for the segment.

5. **Flushing -** Total longitudinal length, in feet, of flushing in a segment. Measure individual flushing locations in the longitudinal direction, regardless of width of the distress location and sum these lengths for the segment.
6. **Rutting -** The average rut depth, in inches, in a segment. Each wheel path shall be evaluated separately. If rutting is found, the pavement surface will be measured beginning at the POB and every 132 feet thereafter to determine average rut depth to quantify rutting for a particular segment. Rut measurements will be done using a straight rigid device that is a minimum of 7 feet long and of sufficient stiffness that it will not deflect from its own weight, or a wire under sufficient tension to prevent sag when extended 7 feet. Measurements will be taken by placing this "straightedge" across the pavement surface perpendicular to the direction of travel. The straightedge shall contact the surface on at least two bearing points with one located on either side of the rut. The straightedge is properly located when sliding the straightedge along its axis does not change the location of the contact points. Rut depth is then measured at the point of greatest perpendicular distance from the bottom of the straightedge to the pavement surface.
7. **Alligator Cracking** – Total area, in square feet, of alligator cracking in a segment. Measure individual alligator cracked areas and sum the areas for the segment.

Overview Inspection Procedure:

1. Review any notes from previous inspections.

2. Perform a "windshield" survey of the entire location length. Based solely on visual examination and estimated measurements, approximate the individual distress quantities for the questionable segment(s) of each distress type and record on the inspection form. Details which should be noted for the inspection include, but are not limited the following:
    a. The lane or ramp where the distress was noted and the associated direction.
    b. Approximate distress location (i.e. 1/4 mile north of the POB, or at the intersection of 1st St in SW quadrant, or near drive for house #123..)
    c. The distress quantity, in general terms (i.e. minor amounts of longitudinal cracking; mid lane flushing).
    d. Areas where temporary maintenance makes it difficult to determine the type of distress, (i.e. presence of cold patching material).

3. Estimate if any of the following distress threshold conditions are exceeded
    a. Transverse Cracking exceeds 3 total in the segment length (3 cracks within 528 feet) for any 3 segments. All reflective cracking shall be ignored as these will not count against the allowable amount.
    b. Longitudinal Cracking exceeds 25 percent of the segment length (132 feet within 528 feet) for any 3 segments. Ignore all reflective cracking. All reflective cracking shall be ignored as these will not count against the allowable amount.

c. Debonding exceeds 5 percent (5%) of the segment length (26 feet within 528 longitudinal feet) for any 1 segment.
d. Raveling exceeds 8 percent (8%) of the segment length (42 feet within 528 longitudinal feet) for any 1 segment.
e. Flushing exceeds 5 percent (5%) of the segment length (26 feet within 528 longitudinal feet) for any 1 segment.
f. Average rut depth exceeds 0.375 (3/8) inches for any 1 segment.
g. Any amount of alligator cracking.

4. If **any** condition above (in item 2) is estimated to be true:
   a. Perform Detailed Inspection; and
   b. Provide a description of the magnitude and location(s) of the distress condition(s) observed which justify the Detailed Inspection.

5. If **all** conditions above are false,
   a. Recommend work is acceptable.
   b. If this is an interim or other non-final inspection, put notes in file
   c. If this is final inspection recommend final acceptance.

Detailed Inspection Procedure:

1. Determine the questionable segments suspected of exceeding threshold limits for each individual distress type based on the overview inspection notes.

2. Document the lane, direction and distance from POB, of each questionable segment identified in Step 1.

3. For each questionable segment, measure and record the amount of each individual distress type and record on the inspection form.
   a. Transverse Cracking
   b. Longitudinal Cracking
   c. De-bonding
   d. Raveling
   e. Flushing
   f. Rutting
   g. Alligator Cracking

4. Determine if any of the threshold limits for transverse cracking, longitudinal cracking, de-bonding, raveling, flushing, or alligator cracking, listed under Overview Inspection, are exceeded.
5. Evaluate segments where the average rut depth appears to exceed 0.25 inches as follows.
   a. Measure the average rutting at all questionable segments to verify that the threshold was exceeded.

6. Warranty work is required at those segments for which any of the threshold limits for transverse cracking, longitudinal cracking, de-bonding, raveling, flushing, rutting, or alligator cracking are exceeded. Provide the contractor with results of the inspection indicating segments where warranty work is required.

LOCAL AGENCY
WARRANTY INSPECTION GUIDELINES
NEW/RECONSTRUCTED JOINTED PLAIN CONCRETE PAVEMENT

Warranty period: 5 Years

Inspection Period Begins: Interim **-**30 months after Initial Acceptance
Final - 56 months after initial Acceptance
(Local Agency may do additional inspections)

Notes:

1. **Segment -** 528 feet in a specific driving lane. For inspection a segment begins at the point where the joint sealant failure or pavement distress begins to appear and extends for 528 feet from that point.
2. **Slab -** The pavement outlined between consecutive transverse joints and longitudinal joints or a longitudinal joint and the outer pavement edge. Segments consist of one or more slabs.
3. **Driving Lanes -** Each of the following is considered a Driving Lane.
   a. Each individual mainline lane.
   b. The sum of all ramp lanes and associated acceleration/deceleration lanes.
   c. The sum of all auxiliary lanes, such as passing lanes and turn lanes.
4. **Condition Parameters -** Each condition parameter has a threshold level applied to each segment and a maximum number of defective segments before corrective action is required. A segment is defective if the threshold level is exceeded.
5. **Longitudinal Joint Designation -** All inspections relate to the driving lane as defined in the warranty special provision. For tallying joint sealant failure and pavement distress (spalling), consider the entire perimeter of the slab in all cases. The condition parameter of the full joint associated with the slab being evaluated is considered even though two adjacent slabs may share the same interior longitudinal joint.
6. The contractor will not be required to take corrective measures as a result of the interim inspection unless the Engineer determines emergency repairs are needed for public safety. Any faults or distresses noted will be logged and verified with the final inspection.

Procedure: For both **INTERIM** & **FINAL** inspections

1. **Perform overview inspection**. Based on results of overview inspection, recommend the project for either:
   a. Acceptable – no corrective work needed. If this is the final inspection recommend acceptance of the work, or
   b. Detailed inspection – more detailed inspection and / or measurements are needed

2. **Perform detailed inspection if required.** Based on the results of detailed inspection, either:
   a. Acceptable – no corrective work needed. If this is the final inspection recommend acceptance of the work, or
   b. Warranty work is needed – Provide contactor written notice of the distresses and locations needing corrective work.

Overview Inspection Procedure:

1. Review any notes from previous inspections of the work.

2. Perform a "windshield" survey of the entire project length. Inspect all driving lanes. Based solely on visual examination and estimated measurements, approximate the individual distress quantities for the questionable segment(s) of each distress type and record on the inspection form. Details which should be noted for the inspection include, but are not limited the following:
   a. The lane or ramp where the distress was noted and the associated direction.
   b. Approximate distress location (i.e. 1/4 mile north of the POB, or at the intersection of 1st St in SW quadrant, or near drive for house #123..)
   c. Estimate the distress quantity. Also include a description of distress in general terms (i.e. minor amounts of longitudinal cracking; every joint has loss of sealant).
   d. Areas where temporary maintenance makes it difficult to determine the type of distress, (i.e. presence of cold patching material).

3. If this is an **interim** or other non-final inspection, Put notes in file and STOP HERE.

4. If this is the final inspection, estimate if any of the following distress threshold conditions are exceeded
   a. Transverse Cracking exceeds 2 total for any 1 segment. (2 cracks within 528 feet).
   b. Longitudinal Cracking exceeds 5 percent (5%) of the segment length (26 feet within 528 feet) for any 1 segment.
   c. Map Cracking exceeds 10 percent (10%) of the segment area (632 square feet within 528 longitudinal feet assuming 12 foot lane width) for any 1 segment.
   d. Spalling exceeds 10 percent (10%) of each slab. Can be non-contiguous. Include all 4 sides of the slab.
   e. Scaling exceeds 15 percent (15%) of the slab area.
   f. Corner cracking exceeds 1 for any 1 segment.
   g. Joint Sealant failure exceeds 10 percent (10%) total joint length in a segment. Include both longitudinal & transverse joints
   h. Any shattered slabs.

5. If any condition above is true:
   a. Perform Detailed Inspection; and
   b. Provide a description of the magnitude and location(s) of the distress condition(s) observed which justify the Detailed Inspection.

6. If all conditions above are false and this is the final inspection, recommend Final Acceptance.

Detailed Inspection Procedure: This will be done at **FINAL** inspection when distresses are estimated to be at threshold levels, and at **INTERIM** inspections as directed by the engineer.

1. Determine the questionable segments suspected of exceeding threshold limits for each individual distress type based on the overview inspection notes.

2. Document the lane, direction and distance from POB, of each questionable segment identified in Step 1.

3. For each questionable segment, measure and record the amount of each individual distress type and record on the inspection form.
   a. Transverse Cracking
   b. Longitudinal Cracking
   c. Map Cracking
   d. Spalling
   e. Flushing
   f. Scaling
   g. Joint sealant failure
   h. Shattered slabs

4. Determine if any of the threshold limits for the various distresses are exceeded.

5. Warranty work is required at those segments for which any of the threshold limits are exceeded. Provide the contractor with results of the inspection indicating segments where warranty work is required.

APPENDIX C

Inspection Forms

Under Development

The inspections forms have not been developed to-date; the Task Force Education Committee is working with LTAP to create inspection forms compatible with the RoadSoft program to enable tracking the warranty inspection forms to the actual location along a road segment

INSPECTION FORM FOR HMA WARRRANTY WORK

Inspected By: ____ Date: ______________________

Type of inspetion: ___ Interim ___ Final ___ Special

Type of Construction: ___ New HMA Construction / Reconstruction

___ HMA over Ag. Base without other imrovements

___ HMA Overlay

Condition Parameter	NEW CONSTRUCTION / RECONSTRUCTION		OVER AGGREGATE BASE WITHOUT BASE OR DRAINAGE IMPROVEMENTS		SINGLE COURSE & MULTIPLE COURSE OVERLAY (a)	
	Threshold Limits Per Segment (Segment Length = 528 feet = 1/10 mile)	**Max. Defective Segments Per Driving Lane-Mile**	**Threshold Limits Per Segment (Segment Length = 528 feet = 1/10 mile)**	**Max. Defective Segments Per Driving Lane-Mile**	**Threshold Limits Per Segment (Segment Length = 528 feet = 1/10 mile)**	**Max. Defective Segments Per Driving Lane-Mile**
Warranty period	5 years		3 years		1 year	
Transverse Cracking	3	1	3	2 (b)	3	3 (b)
Open Joints & Long. cracking	10% of Segment length	1	25% of Segment length	2 (b)	25% of Segment length	3 (b)
De-bonding	5% of Segment length	1	5% of Segment length	1	5% of Segment length	1
Raveling	8% of Segment length	1	8% of Segment length	1	8% of Segment length	1
Flushing	5% of Segment length	1	5% of Segment length	1	5% of Segment length	1
Rutting (c, d, e)	Ave. rut depth = 3/8 inch	1 (c)	Ave. rut depth = 3/8 inch	1 (c)	Ave. rut depth = 3/8 inch	1 (c,d)
Alligator cracking (f)	Any amount	0 (none allowed)	Any amount	0 (none allowed)	Any amount	0 (none allowed)

Distresses Found? _____Yes (Describe below, attach additonal sheets if needed) _____No

Distresses Found: (Describe type, severity & location)

Corrective action needed? ______ Yes ______ No ______ Needs further evaluation

Signed (INSPECTOR):____

Checked by (ENGINEER):____

INSPECTION FORM FOR CONCRETE WARRRANTY WORK

Inspected By: ____ Date: ______________________

Type of inspetion: ___ Interim ___ Final ___ Special

Type of Construction: ___ Plain Concrete
___ Reinforced Concrete

Condition Parameter or Defect	Threshold Limits Per Segment (Length = 528 feet)	Max. Defective Segments Per Driving Lane-Mile (a)
Transverse Crack	2	1
Longitudinal Crack	5% of segment length	1
Map Cracking	10% of segment area	1
Edge Spalling	10% each slab (b) < 2 slabs	1
Surface Scaling	15% of the slab area < 1 slab	1
Corner Cracking	1	1
Joint Sealant Failure	10% joint length (c) < 2 slabs	1
Shattered Slab	0 (d)	0

Distresses Found? ____Yes (Describe below, attach additonal sheets if needed) ____No

Distresses Found: (Describe type, severity & location)

____
____
____
____
____
____
____
____
____
____
____
____

Corrective action needed? _____ Yes _____ No _____ Needs further evaluation

Signed (INSPECTOR):____

Checked by (ENGINEER):____

APPENDIX D

Model Pavement Warranty Contract and Bond Forms

MICHIGAN
LOCAL AGENCY
SPECIAL PROVISION
FOR

PASS-THROUGH WARRANTY BONDS

a. Description. This special provision establishes the conditions under which and method for a contractor to assign responsibility for the warranty obligations and the providing of a warranty bond to a warranty contractor(s). Second tier subcontractor assignments are prohibited.

b. Requirements. Ensure the Warranty Contract(s) and warranty bond(s) are on forms provided by the Local Agency. Ensure the bonds meet the requirements of Michigan law and of the Local Agency and include other items such as the powers of Attorney and Endorsement as specified by the Local Agency.

c. Method. The assignment must be made to the warranty contractor(s) that will perform the work covered by the warranty. If for any reason after signing the Warranty Contract and providing the Warranty Bond, the warranty contractor does not perform the work, the warranty contractor will remain obligated for the warranty obligations and the warranty bond obligations will remain in effect unless the Local Agency consents in writing to substituting a different contractor to assume those warranty obligations and accepts a substitute warranty bond.

The assignment of warranty work must be designated with and at the time of electronic bid submittal. To become a warranty contractor responsible for the warranty obligations of the contract, and providing a warranty bond, the warranty contractor must complete and submit to the Local Agency a Warranty Contract and a Warranty Bond for each warranty it will be responsible for. Ensure the Warranty Contract is signed by an authorized signer of the warranty contractor, as identified in its prequalification application.

Submit the Warranty Contract and Warranty Bond to the Local Agency prior to award of the construction contract to the prime contractor for the work to which the warranty applies. Ensure the warranty contractor is prequalified in the work classification for the type of work to be warranted. The Warranty Bond must guarantee performance of all warranty obligations for the covered work, in accordance with the Warranty Contract. All provisions of the prime contract will be applicable to the warranty contractor in regard to the warranty work, except as otherwise expressly provided in the Warranty Contract.

Under no circumstances does the assignment of the warranty work and the execution of a Warranty Contract create any obligations to the Local Agency beyond the obligations undertaken in the prime contract. The purpose of the Local Agency accepting the assignment of warranty obligations is to allow a warranty contractor to stand in place of the prime contractor for purposes of the warranty work without increasing any obligation or liability that the Local Agency would have had if the prime contractor had not assigned the warranty work.

d. Measurement and Payment. This work will not be paid for separately, but will be included in costs for other pay items.

<local agency name>

LOCAL AGENCY

PASS-THROUGH WARRANTY BOND

Bond Number:________________________________

KNOWN ALL MEN BY THESE PRESENTS

That we,____(hereinafter called the "Principal" and ____(hereinafter called "Surety") a corporation duly organized under the laws of the State of _______________and duly licensed to transact business in the State of Michigan, are held and firmly bound unto the ___*<local agency name>*___________ (hereinafter called the "Obligee"), in the sum of $__________________________ dollars for the payment of which sum well and truly to be made, we, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal has heretofore entered into a contract with the Obligee, under Contract ID_________and;

WHEREAS, the said Principal is required to guarantee the:

installed under said contract, against defects in materials or workmanship which may develop during the period of__years beginning the date of the Acceptance Date of Warranted Work by the Obligee.

In no event shall losses paid under this bond aggregate more than the amount of the bond.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Principal shall faithfully carry out and perform the said guarantee, and shall, on due notice, repair and make good at its own expense any and all defects in materials or workmanship in the said work which may develop during the period specified above or shall pay over, make good and reimburse to the said Obligee all loss and damage which said Obligee may sustain by reason of failure or default of said Principal so to do, then this obligation shall be null and void; otherwise shall remain in full force and effect.

PROVIDED HOWEVER, that in the event of any default on the part of said Principal, a written statement of the particular facts showing such default and the date thereof shall be delivered to the Surety by registered mail, promptly in any event within ten (10) days after the Obligee or his representative shall learn of such default and that no claim, suit or action by reason of any default of the Principal shall be brought hereunder after the expiration of thirty (30) days from the end of the warranty period as herein set forth.

Signed by:________________ day of ________________ 20_____________.

Contractor ____

By____

Surety____

By____

PASS THROUGH WARRANTY CONTRACT

This contract ID number___________is executed on the date signed below by the_________________________ of the <local agency name> between the Warranty Contractor, Prime Contractor and the Local Agency in conjunction with the execution of this contract ID number, between the Local Agency and the Prime Contractor.

(Warranty Contractor)

(Prime Contractor)

The work included within this Warranty Contract is, described here:

The Warranty Contractor represents that it has entered into a subcontract with the Prime Contractor to perform Warranted Work for the project, but that any failure to have properly done so, or any breach or failure in the performance of that subcontract, shall not diminish or otherwise affect the obligations of the Warranty Contractor to the Local Agency under this warranty contract. Nor shall the obligations of the Warranty Contractor to the Local Agency under this warranty contract be diminished or affected if the Prime Contractor or some other person performs some or all of the Warranted Work or warranty obligations for the project, unless the Local Agency consents to, and executes, a written amendment to this warranty contract.

Insofar as they pertain to the warranty rights and obligations, the terms of the contract are hereby incorporated by reference into this warranty contract and, for purposes of this warranty contract, references in the contract to the contractor shall be deemed to refer to the Warranty Contractor.

The Warranty Contractor hereby agrees to fulfill and perform, without qualification or exception, all of the warranty obligations under the terms of the contract, as if they were the Prime Contractor. Until acceptance of the Warranted Work, the Prime Contractor will be responsible to the Department for ensuring completion of the Warranted Work and to the Local Agency for fulfilling the terms of the warranty for that work. Upon acceptance of the Warranted Work, the Warranty Contractor shall have full responsibility for the warranty obligations and the Prime Contractor will be relieved of further obligation for performing those warranty obligations.

The Warranty Contractor agrees that its obligations to the Local Agency under this warranty contract are the same as if the Warranty Contractor was the Prime Contractor; the Warranty Contractor can assert no rights, defenses or qualifications to the warranty obligations under the contract that would have been unavailable to the Prime Contractor, if the Prime Contractor had retained contractual responsibility for the warranty. The Warranty Contractor may assert the same rights under the terms of the warranty as could have been asserted by the Prime Contractor, if the Prime Contractor had retained contractual responsibility for the warranty.

This warranty contract may be executed prior to execution of the contract with the Prime Contractor, provided that if the Local Agency fails to execute the contract with the Prime Contractor this warranty contract shall be null and void.

By:____ By:____

Title:____ Title:____

By:____

Typed name: ___________________________________

Local Agency: __________________________________

Date: ____

APPENDIX E

Reporting Forms

Under Development

Local Road Agencies Warranty Program Reporting

We have partnered with the Transportation Asset Management Council to modify the Investment Reporting Tool to provide an open and transparent reporting method for each local transportation agency. The reporting fields will be enabled as soon as the Local Agency Pavement Warranty Program is approved by MDOT

We have also partnered with the Michigan Technological University - CTT to modify the Roadsoft Program to provide a common data entry method for each local road agency. The Roadsoft warranty data fields will be imported into the TAMC ITR module to provide a statewide presentation of the warranty projects that exceed the $ 2,000,000 threshold.

APPENDIX F

Education and Training

Under Development

Education of Local Road Agencies on Local Pavement Warranty Program

Since the passage of the 2015 Transportation Package, the CRA has been informing its members of the coming warranty requirement; the *Engineering Updates* provided by the CRA-MML Engineering Specialist have also described the imminent Local Pavement Warranty Program. The CRA provided updates about the Local Pavement Warrant Program at its nine regional Council meetings during fall-winter 2017-2018; at its County Engineers Workshop in February 2018; at its Highway Conference in March 2018, and at its Road Commissioners Conference in April 2018. The CRA is also developing this Guidance Document on Local Pavement Warranties to serve as the training manual for. The CRA has scheduled and dedicated a large portion of its annual 2017 Law Symposium to a session on Implementing the New Local Pavement Warranties on December 5, 2017; speakers include the legal counsel from the Road Commission for Oakland County and CRA-MML Engineering Specialist Steve Puuri. The CRA-MML Engineering Specialist Steve Puuri and two bond counsel representatives provided an update at the Michigan Concrete Association.

In addition, the Local Pavement Warranty Task Force has created an Education Committee that has been developing model agency adoption resolutions and training materials. The Task Force has partnered with the Local Technical Assistance Program to develop and conduct training program for decision makers and project staff. The Education Committee is poised to distribute adoption and training materials upon approval of the Local Agency Pavement Warranty Program by MDOT. Finally, the Task Force has developed this Guidance Document to assist local agency decision makers and project staff with implementing their Local Agency Pavement Warranty program.

Affirmative Action
(231)724-6703
FAX (231)722-1214

Assessor/
Equalization Co.
(231)724-6386
FAX (231)724-1129

Cemetery/Forestry
(231)724-6783
FAX (231)724-4188

City Manager
(231)724-6724
FAX (231)722-1214

Clerk
(231)724-6705
FAX (231)724-4178

Comm. & Neigh.
Services
(231)724-6717
FAX (231)726-2501

Computer Info.
Technology
(231)724-4126
FAX (231)722-4301

Engineering
(231)724-6707
FAX (231)727-6904

Finance
(231)724-6713
FAX (231)726-2325

Fire Department
(231)724-6795
FAX (231)724-6985

Human Resources
Co. (Civil Service)
(231)724-6442
FAX (231)724-6840

Income Tax
(231)724-6770
FAX (231)724-6768

Mayor's Office
(231)724-6701
FAX (231)722-1214

Planning/Zoning
(231)724-6702
FAX (231)724-6790

Police Department
(231)724-6750
FAX (231)722-5140

Public Works
(231)724-4100
FAX (231)722-4188

SafeBuilt
(Inspections)
(231)724-6715
FAX (231)728-4371

Treasurer
(231)724-6720
FAX (231)724-6768

Water Billing
(231)724-6718
FAX (231)724-6768

Water Filtration
(231)724-4106
FAX (231)755-5290

MUSKEGON

West Michigan's Shoreline City
www.shorelinecity.com

RESOLUTION TO ADOPT A LOCAL PAVEMENT WARRANTY PROGRAM

WHEREAS, the Michigan Legislature (MCL 247.663) requires each city or village to adopt a Local Agency Pavement Warranty Program that was approved by the Michigan Department of Transportation in 2018;

WHEREAS, the Michigan Local Agency Pavement Warranty Program was developed by the Local Agency Pavement Warranty Task Force for use by all 533 cities and villages in the format approved by the Michigan Department of Transportation in 2018;

WHEREAS, the Michigan Department of Transportation has reviewed and approved the Michigan Local Agency Pavement Warranty Program consisting of Special Provisions (Boilerplate, Concrete, HMA, Location, Pass-Through Warranty Bond); a Warranty Bond Form and Contract Form; and Guidelines for Local Agency Pavement Warranty Programs;

NOW THEREFORE BE IT RESOLVED, the City of Muskegon hereby adopts the Michigan Local Agency Pavement Warranty Program and accompanying documents in accordance to the requirements of MCL 247.663;

BE IT FURTHER RESOLVED, this resolution is made a part of the minutes of the City of Muskegon meeting on September 10, 2019.

Approved on September 10, 2019 by:

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

____

Ann Marie Meisch
City Clerk

Affirmative Action
(231)724-6703
FAX (231)722-1214

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FAX (231)722-1214

Clerk
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FAX (231)724-4178

Comm. & Neigh.
Services
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FAX (231)726-2501

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Technology
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FAX (231)726-2325

Fire Department
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FAX (231)724-6985

Human Resources
Co. (Civil Service)
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FAX (231)724-6840

Income Tax
(231)724-6770
FAX (231)724-6768

Mayor's Office
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FAX (231)722-1214

Planning/Zoning
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Police Department
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FAX (231)722-5140

Public Works
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FAX (231)722-4188

SafeBuilt
(Inspections)
(231)724-6715
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Treasurer
(231)724-6720
FAX (231)724-6768

Water Billing
(231)724-6718
FAX (231)724-6768

Water Filtration
(231)724-4106
FAX (231)755-5290

MUSKEGON

West Michigan's Shoreline City
www.shorelinecity.com

RESOLUTION TO IMPLEMENT A LOCAL PAVEMENT WARRANTY PROGRAM

WHEREAS, The Michigan Legislature created a requirement (MCL 247.663) as part of the Transportation Funding Package of 2015 that requires each city and village to adopt a Local Agency Pavement Warranty Program that was approved by the Michigan Department of Transportation in 2018;

WHEREAS, the City of Muskegon adopted the Michigan Local Agency Pavement Warranty Program on September 10, 2019.

WHEREAS, the City of Muskegon agrees to consider a local pavement warranty on each project that includes $2 million or more in paving-related items *and* includes any state or federal funds;

WHEREAS, the Local Agency Pavement Warranty Program law requires each city and village to report annually on each project that includes $2 million or more in paving-related items *and* includes any state or federal funds, whether or not a warranty was utilized in the project;

WHEREAS, the City of Muskegon agrees to implement the Michigan Local Agency Pavement Warranty Program consistent with the Guidelines for Local Agency Pavement Warranty Program document that was approved by the Michigan Department of Transportation in 2018; and which the City of Muskegon adopted Implementation Policy defines the City of Muskegon's intent of its pavement warranty program;

NOW THEREFORE BE IT RESOLVED, the City of Muskegon hereby agrees to implement the Local Agency Pavement Warranty Program and annually report in accordance with the law.

Approved on September 10, 2019 by:

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

____

Ann Marie Meisch
City Clerk

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 9/10/2019	Title: Amendment to Vacant Building Ordinance and Vacant Building Registration Fees
Submitted By: LeighAnn Mikesell	Department: Planning

Brief Summary: Amend Section 10-107 of the City Code of Ordinances to require seasonal homes to be registered with the Public Safety Division, allow additional circumstances for waiving vacant building fees, and eliminate additional fees being applied when registration fees are not paid. Staff is also seeking approval of modification to Vacant Building Registration Fees for buildings zoned for Residential use and for buildings zoned for Commercial or Industrial Use.

Detailed Summary: To amend Section 10-107 of the City Code of Ordinances to modify which buildings must be registered and the process and circumstances for waiving fees. The amendment would require seasonal homes to be registered with the Public Safety Division, allow additional circumstances for waiving vacant building fees, and eliminate additional fees being applied when registration fees are not paid. Staff is also seeking approval of modification to Vacant Building Registration Fees for buildings zone for Residential use and for buildings zoned for Commercial or Industrial Use. No fees will be charged until the building has been vacant for one year.

Vacant Building Zoned for Residential Use	**$100 per year**
Vacant Building Zoned for Commercial or Industrial Use	**$500 per year**

Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A

Recommended Motion: To approve the amendments to Section 10-107 of the City Code of Ordinances and to approve modification of Vacant Building Registration Fees.

For City Clerk Use Only:

Commission Action:

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN
ORDINANCE NO. ____

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

1. Chapter 10, Article III, Division 2, Subdivision II of the Code of Ordinances of the City of Muskegon, Michigan, Section 10-107(b)(2) is being amended to read as follows:

   (2) *Applicability*. The requirements of this section shall be applicable to each owner of any building that is not a dwelling that shall have been vacant for more than 90 consecutive days and to each owner of residential property consisting of one or more vacant dwellings that shall have been vacant for more than 90 consecutive days, unless the dwelling is a seasonal home. All seasonal homes must be registered with the Department of Public Safety. Each such owner shall cause to be filed a registration statement, which shall include the street address and parcel number of each such vacant building, the names and addresses of all owners, as hereinafter described, and any other information deemed necessary by the city. The registration fees as required by subsection (b)(3) of this section shall be billed annually by the city and shall be paid within 30 days of the invoice date. For purposes of this section, the following shall also be applicable:

   a. If the owner is a corporation or a limited liability corporation, the registration statement shall provide the names and residence addresses of all officers, directors and/or members and shall be accompanied by a copy of the most recent annual tax report filed with the state;

   b. If an estate, the name and business address of the executor of the estate;

   c. If a trust, the name and address of all trustees, grantors, and beneficiaries;

   d. If a partnership, the names and residence addresses of all partners with an interest of ten percent or greater;

   e. If any other form of unincorporated association, the names and residence addresses of all principals with an interest of ten percent or greater;

   f. If an individual person, the name and residence address of that individual person.

2. Chapter 10, Article III, Division 2, Subdivision II of the Code of Ordinances of the City of Muskegon, Michigan, Section 10-107(b)(3) is being amended to read as follows:

   (3) *Registration statement and fees; local agent.* If none of the persons listed, as above, are shown at an address within the state or the home is a qualified vacation home or seasonal residence, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local part or agent, both for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open or vacant and boarded, and shall be required whenever any building has remained vacant for 90 consecutive days or more, except in the case of seasonal homes. All seasonal homes must be registered with the Department of Public Safety. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other state construction code requirement. The owner of the vacant property, at the time of billing, shall be responsible for the payment of the nonrefundable registration fee. Said fee shall be billed annually by the city and based on the duration of the vacancy as determined by the master fee resolution.

3. Chapter 10, Article III, Division 2, Subdivision II of the Code of Ordinances of the City of Muskegon, Michigan, Section 10-107(b)(5) is being amended to read as follows:

   (5) *~~One-time w~~Waiver of registration fee.* A one-time waiver of the registration fee may be granted by the committee appointed by the city manager upon application of the owner, if all taxes and fees, such as, but not limited to, property taxes, mowing charges, past vacant building registration fees, landlord registrations, business registrations, utilities and any other applicable charges, have been paid prior to application for the waiver. ~~If the~~ The owner must:

   a. Demonstrates with satisfactory proof that he is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and

   b. Objectively demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building, or

c. Provides satisfactory proof, such as sales contract with realtor, advertisement for sale, etc., ~~-~~that he was actively attempting to sell or lease the property during the vacancy period.

Formatted: List Paragraph, No bullets or numbering

Upon the issuance of a certificate of occupancy, the committee appointed by the City Manager may waive vacant building fees attributable to a prior owner if the certificate of occupancy is issued within 12 months of the applicant's acquisition of ownership. The Committee may waive up to ten years of vacant building registration fees. All other taxes and fees must be paid in full prior to the application being considered.

After the sale of tax foreclosed real property by Muskegon County or the Muskegon County Land Bank, the committee appointed by the City Manager may waive vacant building fees attributable to owners acquiring title after the tax foreclosure if the certificate of occupancy is issued within 12 months of the applicant's acquisition of ownership. All other taxes and fees must be paid in full prior to the application being considered.
~~e.~~

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4. Chapter 10, Article III, Division 2, Subdivision II of the Code of Ordinances of the City of Muskegon, Michigan, Section 10-107(b)(7)(e) is being amended to read as follows:

(e) *Violations; penalties.* The failure or refusal for any reason of any owner~~,~~ or agent of an owner acting on behalf of the owner~~,~~ to register a vacant building ~~or to pay any fees required to be paid pursuant to the provisions of this section,~~ within 30 days the registration is ~~after they become~~ due~~,~~ shall constitute a violation punishable upon conviction thereof by a fine in the amount of not less than $100.00 not more than $500.00 for each failure or refusal to register~~, or for each failure or refusal to pay a required vacant building fee, as applicable~~. In such cases, whenever the minimum fine of $100.00 is imposed, it shall not be subject to suspension or reduction for any reason.

5 This Ordinance is to become effective ten (10) days after adoption.

Ayes:

Nays:

First Reading:

Second Reading:

<u>CERTIFICATE</u>

The undersigned, being the duly qualified Clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the ____ day of _______________, 2019, at which meeting a quorum was present and remained throughout, and that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Date:_______________________, 2019

____
Ann Marie Meisch, MMC
City Clerk

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

CITY OF MUSKEGON
NOTICE OF ADOPTION

TO: ALL PERSONS INTERESTED

Please take notice that on ___________________, 2019, the City Commission of the City of Muskegon amended Chapter 10, Article III, Section 10-107 summarized as follows:

1. TO BE DRAFTED LATER
2.

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

This ordinance amendment is effective ten (10) days from the date of this publication.

Published: _________________, 2019

CITY OF MUSKEGON

By________________________
Ann Marie Meisch, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN
ORDINANCE NO. ____

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

1. Chapter 10, Article III, Division 2, Subdivision II of the Code of Ordinances of the City of Muskegon, Michigan, Section 10-107(b)(2) is being amended to read as follows:

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   a. If the owner is a corporation or a limited liability corporation, the registration statement shall provide the names and residence addresses of all officers, directors and/or members and shall be accompanied by a copy of the most recent annual tax report filed with the state;

   b. If an estate, the name and business address of the executor of the estate;

   c. If a trust, the name and address of all trustees, grantors, and beneficiaries;

   d. If a partnership, the names and residence addresses of all partners with an interest of ten percent or greater;

   e. If any other form of unincorporated association, the names and residence addresses of all principals with an interest of ten percent or greater;

   f. If an individual person, the name and residence address of that individual person.

2. Chapter 10, Article III, Division 2, Subdivision II of the Code of Ordinances of the City of Muskegon, Michigan, Section 10-107(b)(3) is being amended to read as follows:

   (3) *Registration statement and fees; local agent.* If none of the persons listed, as above, are shown at an address within the state or the home is a qualified vacation home or seasonal residence, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local part or agent, both for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open or vacant and boarded, and shall be required whenever any building has remained vacant for 90 consecutive days or more, except in the case of seasonal homes. All seasonal homes must be registered with the Department of Public Safety. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other state construction code requirement. The owner of the vacant property, at the time of billing, shall be responsible for the payment of the nonrefundable registration fee. Said fee shall be billed annually by the city and based on the duration of the vacancy as determined by the master fee resolution.

3. Chapter 10, Article III, Division 2, Subdivision II of the Code of Ordinances of the City of Muskegon, Michigan, Section 10-107(b)(5) is being amended to read as follows:

   (5) *Waiver of registration fee.* A one-time waiver of the registration fee may be granted by the committee appointed by the city manager upon application of the owner, if all taxes and fees, such as, but not limited to, property taxes, mowing charges, past vacant building registration fees, landlord registrations, business registrations, utilities and any other applicable charges, have been paid prior to application for the waiver. If the owner:

   a. Demonstrates with satisfactory proof that he is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and

   b. Objectively demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building, or

c. Provides satisfactory proof, such as sales contract with realtor, advertisement for sale, etc., that he was actively attempting to sell or lease the property during the vacancy period.

Upon the issuance of a certificate of occupancy, the committee appointed by the City Manager may waive vacant building fees attributable to a prior owner if the certificate of occupancy is issued within 12 months of the applicant's acquisition of ownership. The Committee may waive up to ______ years of vacant building registration fees. All other taxes and fees must be paid in full prior to the application being considered.

4. Chapter 10, Article III, Division 2, Subdivision II of the Code of Ordinances of the City of Muskegon, Michigan, Section 10-107(b)(7)(e) is being amended to read as follows:

(e) *Violations; penalties.* The failure or refusal for any reason of any owner or agent of an owner acting on behalf of the owner to register a vacant building within 30 days the registration is due shall constitute a violation punishable upon conviction thereof by a fine in the amount of not less than $100.00 not more than $500.00 for each failure or refusal to register. In such cases, whenever the minimum fine of $100.00 is imposed, it shall not be subject to suspension or reduction for any reason.

5 This Ordinance is to become effective ten (10) days after adoption.

Ayes:

Nays:

First Reading:

Second Reading:

CERTIFICATE

The undersigned, being the duly qualified Clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the ____ day of ________________, 2019, at which meeting a quorum was present and remained throughout, and that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Date:________________________, 2019

____
Ann Marie Meisch, MMC
City Clerk

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

CITY OF MUSKEGON
NOTICE OF ADOPTION

TO: ALL PERSONS INTERESTED

Please take notice that on ___________________, 2019, the City Commission of the City of Muskegon amended Chapter 10, Article III, Section 10-107 summarized as follows:

1. Require seasonal homes to be registered with the Public Safety Division
2. Allow additional circumstances for waiving vacant building fees
3. Eliminate additional fees being applied when registration fees are not paid

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

This ordinance amendment is effective ten (10) days from the date of this publication.

Published: _________________, 2019

CITY OF MUSKEGON

By________________________
Ann Marie Meisch, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: September 10, 2019	Title: LC Walker Restroom Renovation
Submitted By: Frank Peterson	Department: City Manager

Brief Summary:

City staff is requesting approval of the attached proposal to undertake significant upgrades to the arena restrooms. The upgrades will include relocating the Western Avenue restrooms to the alley-side of the concourse.

Detailed Summary:

As part of our effort to better-utilize the LC Walker Arena's Western Avenue frontage, we are relocating the restrooms to the alley side of the building. The DDA completed a $1 Million transfer to the Public Improvement Fund in FY 18-19; $250,000 was allocated to the restroom relocation. All costs above $250,000 will be absorbed by the Public Improvement Fund.

Staff receive two bids for this project; which included construction of the new restaurant along Western Ave. Platinum Contracting submitted the lowest bid. Platinum's Bid of $407,767.66 was 46% less than A.J. Veneklasen's bid of $763,250.00.

Platinum's original bid allocated $233,214.07 to the restroom portion of the project. After a number of changes to the construction scheduling and finishes/products, we settled on a project cost of $246,925.92. Staff is requesting a 15% contingency and soft cost budget (unforeseen changes, architect, etc.).

Amount Requested: $284,000	Amount Budgeted: $250,000
Fund(s) or Account(s): Public Improvement	Fund(s) or Account(s): Public Improvement

Recommended Motion: Accept the Bid from Platinum Construction in the amount of $246,925.92 and further authorize a contingency and soft-costs budget for the project equal to 15% of construction costs, with a total project not to exceed amount of $284,000.

For City Clerk Use Only:

Commission Action:

PLATINUM CONTRACTING GROUP LLC

9/3/2019

Owner Name		LC Walker Arena						
Building SF					**Estimator**	Anisko		
Location		LC Walker - Muskegon Mi			**Checked by:**	Bush		
Description		Sports Bar / Restroom - Budget Pricing			**Architect**	AJR		
QB Item	Spec Section	Description			**Project duration**	2.00	months	
1		**Division 1 General Requirements**	Qty	Unit	$/Unit	Sub Contractor	Total	
01-180		Site Superintendent 100%	8	Week	$1,817.31	Platinum	$ 14,538.46	
01-180		Project Manager 30%	8	Week	$759.63	Platinum	$ 6,077.08	
01-140		Project sign	1	Each	$400.00	Platinum	$ 400.00	
01-160		Office supplies	1	LSUM	$200.00	Platinum	$ 200.00	
01-120		Reproductions	2	Month	$200.00	Platinum	$ 400.00	
01-250		Progress Clean-up (4 hrs. / wk.)	4	Week	$200.00	Platinum	$ 800.00	
01-260		Final Clean-Up -- 24 laborer hrs	1	days	$1,000.00	Platinum	$ 1,000.00	
01-280		Dumpsters--20 c.y..	4	ea	$400.00	Platinum	$ 1,600.00	
01-030		Safety Mtgs.--First Aid--Etc.	2	Month	$150.00	Platinum	$ 300.00	
01-270		FINAL Punch List	5	Days	$240.00	Platinum	$ 1,200.00	
01-010		Permits	1	LSUM	$4,000.00	ALLOWANCE	$ 4,000.00	
01-080		Temporary Gas	-	Month	$0.00	By Owner	$ -	
01-080		Temporary Electric	-	Month	$0.00	By Owner	$ -	
01-075		Temporary Enclosures	-	LSUM	$0.00	By Owner	$ -	
01-075		Temporary Protection / Wall	1	LSUM	$500.00	Platinum	$ 500.00	
		Division 1 Total						$ 31,015.54
2		**Division 2 Site work / Demo**						
		Demolition	1	LSUM	$9,850.00	Walsh	$ 9,850.00	
		Division 2 Total						$ 9,850.00
3		**Division 3 Concrete**						
		Saw Cutting / Trench Infill	1	LSUM	$7,000.00	Allowace	$ 7,000.00	
		Division 3 Total						$ 7,000.00
4		**Division 4 Masonry**						
		Division 4 Total						$ -
5		**Division 5 Metals**						
		Division 5 Total						$ -
6		**Division 6 Woods and Plastics**						
		Rough Lumber - Blocking	1	LSUM	$500.00	Allowance	$ 500.00	
		General Trades	1	LSUM	$3,500.00	Calstra	$ 3,500.00	
		Division 6 Total						$ 4,000.00
7		**Division 7 Thermal and Moisture Protection**						

PLATINUM CONTRACTING GROUP LLC

	Insulation - Sound							
	Roofing - Penetrations	1	LSUM	$0.00	In Drywall	$	-	
	Caulking	5	ea	$300.00	Allowance	$	1,500.00	
	Division 7 Total	1	LSUM	$1,800.00	Custom Caulking	$	1,800.00	
8	**Division 8 Doors and Windows**							$ 3,300.00
	Division 8 Total							
9	**Division 9 Finishes**							
	Framing / Drywall							
	Epoxy Flooring - Patching at Sawcuts - Existing flooring	1	LSUM	$15,000.00	D9	$	15,000.00	
	Painting	1	LSUM	$5,000.00	Allowance	$	5,000.00	
	Division 9 Total	1	LSUM	$10,000.00	Bid	$	10,000.00	
10	**Division 10 Specialties**							$ 30,000.00
	Toilet Partitions - Includes Install							
	Bath Accessories	1	LSUM	$26,625.00	SA Morman	$	26,625.00	
	Division 10 Total	1	LSUM	$5,915.00	SA Morman	$	5,915.00	
11	**Division 11 Equipment**							$ 32,540.00
	Division 11 Total							
12	**Division 12 Furnishings**							$ -
	FFE - Excluded							
	Division 12 Total				By Owner	$	-	
13	**Division 13 Special Construction**							$ -
	Division 13 Total				By Owner	$	-	
14	**Division 14 Conveying Systems**							$ -
	Division 14 Total							
15	**Division 15 Mechanical**							$ -
	Plumbing:					$	-	
	HVAC:	1	LSUM	$69,746.00	Accurate	$	69,746.00	
	Distribution from Existing					$	-	
	Fire Protection:	1	LSUM	$28,000.00	Allowance	$	28,000.00	
	Relocation / Distribution					$	-	
	Division 15 Total	1	LSUM	$1,950.00	Brigade	$	1,950.00	
16	**Division 16 Electrical**							$ 99,696.00
	Service / Distribution / Finishes / Lighting							
	Fire Alarm	1	Lsum	$16,266.00	Newton Electric	$	16,266.00	
	Division 16 Total	1	LSUM	$1,500.00	Allowance	$	1,500.00	
								$ 17,766.00
		Project Direct Cost				$	235,167.54	$235,167.54

PLATINUM CONTRACTING GROUP LLC

9/3/2019

Insurance - Builders Risk by Owner	$ -	
Sub total	$ 235,167.54	
Overhead	$ -	0.0%
Profit	$ 11,758.38	5%
Total Project Cost	**$ 246,925.92**	

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 9/10/2019	Title: AmeriBank RFP Recommendation
Submitted By: Jake Eckholm	Department: Economic Development

Brief Summary: Staff has reviewed proposals from developers for 880 First Street and have selected a preferred developer in 880 First Street, LLC, a partnership of Ferguson Development and Brianna Scott.

Detailed Summary: See attached memo

Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A

Recommended Motion: To endorse the development proposal submitted by 880 First Street, LLC and allow staff to negotiate and execute a development agreement.

For City Clerk Use Only:

Commission Action:

City of Muskegon Economic Development Department

Memo

To: Frank Peterson, City Manager

From: Jake Eckholm, Director of Economic Development

cc: LeighAnn Mikesell, Director of Development Services

Date: 8/22/2019

Re: 880 First Street RFP Responses

The City of Muskegon has received two (2) responses to our Request for Proposals regarding a mixed use development featuring commercial lower floors with upper floor housing at 880 First Street, commonly known as the AmeriBank Building. We specifically avoided a sale price component to the RFP, as it would potentially complicate/discourage preliminary responses. After reviewing the applications pursuant to the Evaluation Criteria stated in the RFP, I offer the following findings for your consideration.

- **Samaritas** submitted a very well detailed proposal that is contingent on the award of Low Income Housing Tax Credits, or LIHTC. This LIHTC proposal includes the rehabilitation of the existing structure, the expansion and addition of the existing rear annex from one story to three stories, and the buildout of a pitched roof connected townhome structure. The 53 units proposed in the development would be reserved for income restricted applicants of 55 and older, with 10 units for 30% Area Median Income applicants (AMI), 9 units at 40%, 19 units at 60%, and 15 units at 80% AMI. All of the units would be one-bedroom, with a top rental threshold of $917/month. The design features exhibited in the drawing are limited, but it does feature a commercial leasable office space to fulfill the mixed use requirement in the RFP. The developers reference marketing this space to a service oriented business that would benefit the older population living in the building such as banking, insurance, tax services, etc. They also mentioned the possibility that they could move their existing Samaritas office from the Frauenthal Center into this space.

- **Ferguson Development/Brianna Scott** submitted a proposal through a newly formed, project specific LLC with Joel Ferguson and Brianna Scott as owners. This proposal calls for a market rate housing development at the existing site with two development scenarios pending the opportunity to conduct a construction analysis and other due diligence. The two scenarios have the same vision for the development, and simply differ as to whether or not the existing structure will be rehabbed and incorporated into the project or demolished and removed to make way for new construction. The concept vision calls for a commercial first floor that will activate the block with an aesthetic and accessible street wall, and the development proposal contains two letters of intent for these commercial spaces. One LOI is for a bar/restaurant development that would be owned and operated by the Potent Potables Project, a conglomerate of Lansing area restauranteurs, and the other is for an event space. This development does not commit to a specific number of units, rather calls for a market study to determine number, size, and amenities of units to accommodate what the downtown housing climate will support. It does specifically commit to 3 to 4 floors of multifamily housing.

Based on the criteria set forth in the Request for Proposals, staff is recommending **Ferguson Development/Brianna Scott's** response as the developer to be engaged by the city. Their rendering was more complete, their financials and project team composition was more in depth and detailed, and crucially, they approached the project with the appropriate amount of due diligence built in. This is a buildout concept that has already proven difficult for two other developers, and their request for the ability to conduct construction analysis and market study reflects a strong background in commercial housing development. They also featured a more robust commercial portion of their mixed-use proposal, which will better serve to "activate" the corridor as highlighted in the City's RFP.

In addition to these factors, we have had some discussions with the community and internally as staff regarding increased diversity in the downtown area. 880 First LLC, the project specific company that will own and develop this project is a completely minority-owned business, and is 50% woman owned. By selecting this developer, we afford an opportunity for a local developer that will help move us towards a goal of increasing diversity of ownership in the community.

Respectfully,

Jake Eckholm
Director of Economic Development

880 First Street, LLC

City of Muskegon
Attn: Frank Peterson, City Manager
933 Terrance Street
Muskegon, Michigan 49440

August 12, 2019

Dear Mr. Peterson and Staff,

It is an honor to introduce our Development Team relating to the Request for Proposals (RFP) for the City of Muskegon's (City) 880 First Street redevelopment project. We, collectively as a team of professionals, recognize and appreciate the City's desire to redevelop the 880 First Street location to continue the significant economic growth and re-emergence of this downtown area within the Muskegon community.

To begin, the Principals of 880 First Street, LLC, Brianna T. Scott and Joel I. Ferguson, have established a project-specific development company for this Project. Both Brianna and Joel are passionate and dedicated individuals with a desire to instill positive change within their communities through social and economic engagement, which has led us to the enclosed RFP submission.

With more than 40 years of development experience between the Principals along with an experienced and creative development team, we believe that we have the undeniable capability and capacity to achieve success on a mixed-use development on the 880 First Street Project. We will achieve this Project by coordinating the skills and expertise from many disciplines. Having said this, in the enclosed response to the City's RFP are the resumes and background of our team along with the proven development experience that each member brings to the table to achieve this result. By assembling a strong, experienced team will go a long way toward enabling the Project's success.

Our company has all the components necessary to plan, design, construct and manage an incredible mixed-use product that will add to the successes already established but will also function as a continuing catalyst for future economic opportunities within the Muskegon community. As a full-service development team, the engagement process with all Stakeholders will be one of the most important relationships for the success of the City and the development. Christopher Stralkowski, our Executive Project Manager will lead this responsibility along with Eric Helzer and Muskegon resident and Principal Brianna Scott. Christopher, Eric and Brianna have the skill set and the experience necessary to engage, inform and manage the Project from the aspect of Stakeholder involvement and community endorsement of the proposed Project.

The extensive housing portfolio of Joel Ferguson and Amboy Gleason illicit not only a proven track record of capacity but an ability to manage all of the fiscal aspects of a development successfully. Eric Helzer is also a skilled and accomplished manager of the entitlement piece of any development. His resume is broad, and his knowledge of the process is unquestionable.

Terry Terry is a vital piece of the Development team. The information, messaging and branding of the project is critical to the overall success of any mixed-use project. He is a proven professional with more than 40 years of experience in the communications business with a diverse set of clients and companies.

Finally, Patrick Reid, Project Counsel has many years of legal experience working with a variety of real estate developments across the state from Grand Rapids, to Lansing to Detroit. He is a dedicated attorney and brings an insight to the process that is invaluable

Up front, the planning and design stage will be a critical piece of the redevelopment puzzle based upon the presence of the existing structure on this property. We see this structure as an opportunity towards an adaptive reuse Project. If after our evaluation of this structure we cannot accomplish our collective City and Development Team Vision for this property, we will reboot this site with a newly constructed building to accomplish the Vision. We identify these two approaches as our Program options in the RFP response.

The Vision we have for this property is the same, regardless of which Program approach option is selected. This Project will feature at grade level commercial and retail spaces that creates a dynamic street wall aesthetic and enhances the public's experience as they walk along sidewalk cafe spaces, seating areas and activity generated by the exciting new hospitality venues. The upper levels will feature residential units bringing additional residents to live, work and play downtown.

On behalf of the entire development team, I want to thank you sincerely for the opportunity to present to you our response to the City of Muskegon as it relates to the 880 First Street redevelopment. We look forward to your hearing from you and are pleased to have this opportunity to engage both you, your staff and most importantly, your community.

Christopher Stralkowski
Executive Project Manager
Registered Agent for 880 First Street, LLC

Enclosure: Response to the City of Muskegon's Request for Proposal, August 12, 2019

Response to the City of Muskegon's Request for Proposal

880 First Street
Redevelopment Project

August 12, 2019

880 First Street, LLC

Section I

Qualifications and Experience

880 First Street, LLC (Developer) is a single purpose project specific company formed specifically by two qualified members for the 880 First Street Redevelopment Project under the City of Muskegon's (City) Request for Proposal. In addition to the Developer's members we have assembled an impressive and experienced team consisting of the following individuals and companies.

DEVELOPER

880 First Street, LLC
75 West Apple Avenue, Muskegon MI 49440
Email: brianna@briannascott.com
Phone: 231-740-4512

Brianna T. Scott, Principal

Joel I. Ferguson, Principal

PROJECT TEAM MEMEBERS

Christopher Stralkowski of Ferguson Development, Executive Project Manager

Eric P. Helzer of Advanced Redevelopment Solutions, Incentives and Site Construction Manager

O/X Architects as Lead Design and Architect

Gleason Amboy of First Housing Corp., Financial/Programming/Strategic Advisor

Patrick Reid of Reid and Reid, Project Counsel

Paul Fort of the Spicer Group - Grand Rapids Office, Project Engineer

Terry Terry of Message Makers, Project Communication, Messaging and Marketing Consultant

DEVELOPER - 880 FIRST STREET, LLC

Brianna T. Scott, Principal

Brianna T. Scott was born and raised in Muskegon, Michigan. Brianna attended Michigan State University and graduated with a Bachelor of Art's degree in Marketing. Among the honors she received were the COGIC Center Aspiring Law Student Scholarship, winner of the Delta Sigma Theta Sorority, Inc essay contest and making the Dean's list in 1996. Ms. Scott was Chapter President of Epsilon Chapter of Delta Sigma Theta Sorority, Inc., Executive Board member of Wonders Black Caucus and a member in both the MSU Prelaw and MSU Marketing associations as an undergraduate.

Ms. Scott attended Wayne State University Law School where she received her Juris Doctorate in May 2000. She was active in variety of law school activities. She successfully competed in various law school competitions including, but not limited to Moot Court evidence competitions, acting as Article Editor of The Journal of Law in Society, Executive Board member of Moot Court (Director of Outside Competitions), working on the academic committee of the Black Law Student Association, and being an active student member of the Wolverine Bar Association. In addition, Ms. Scott received many scholarships throughout her law school career.

Ms. Scott became an attorney in 2000 and was immediately recruited and hired as the first African American Assistant Prosecutor in the Muskegon County Prosecutor's office. As an assistant prosecutor, her initial responsibility was handling district court cases, including misdemeanors, ordinance violations and other hearings within the district court. After much success and proving herself a great trial attorney, she was promptly promoted to doing felony matters in Circuit Court, where she handled cases before the Honorable William C. Marietti and the Honorable Gregory C. Pittman until she left the Prosecutor's office in 2003.

Following her tenure at the Muskegon County Prosecutor's office, Ms. Scott was hired by the law firm of Williams Hughes Corwin & Sininger, PC (k/n/a Williams Hughes, PLLC), where she embarked on the journey of a different practice of law; namely the handling of cases for municipalities, civil cases for the county, family law, corporate law, real estate and social security disability matters. As part of her practice at Williams Hughes Corwin & Sininger, PC, she was also awarded a public defender contract handling one of the Abuse and Neglect dockets in Muskegon County. Ms. Scott remained an associate at Williams Hughes Corwin & Sininger, PC, until 2005.

In 2005 she decided that after five years of significant experience handling all types of cases that she wanted to become an entrepreneur and start her own Law Practice. Becoming a business owner, in fact, the first minority (African American and female) law firm in Muskegon County was exciting, challenging and very rewarding. Her law firm has grown significantly over the years and she now employs a full-time staff of five (5).

In November 2018, Ms. Scott was elected to the Michigan State University Board of Trustees. She is currently the Vice President of the Muskegon Heights Alumnae Chapter of Delta Sigma Theta Sorority, Inc. A testament to the high regard placed on Ms. Scott for her professional accomplishments, ethical standards and peer recognition, Ms. Scott was named a 2013 &2018 Finalist for the Lakeshore Athena Award. Currently, Ms. Scott serves on the board for Access Health and the Boy's & Girl's Club of the Muskegon Lakeshore; serves on Panel One for the Attorney Disciplinary Commission for the County of Muskegon; and is a member of the Muskegon Rescue Mission's Personnel Committee. In the past she has served on the following boards: United Way of the Lakeshore, Muskegon Lakeshore Chamber of Commerce and MI Works - Family Services Center. Additionally, she serves as legal counsel for the International Churches of God In Christ, which is the largest African American church in the world. She is also one of the only attorneys in West Michigan to be dually licensed to practice law in the State of New York. She is married to her husband Stan and the mother of one son, a fourth year Engineering major at Michigan State University.

Bar Admissions

- Michigan, 2000
- New York, 2002
- U.S. District Court for Western District of Michigan, 2005
- U.S. District Court for Eastern District of Michigan, 2010
- U.S. District Court for Northern District of Illinois, 2010

Education

- Wayne State University Law School, Detroit, Michigan
  J.D.
  Honors: Executive Board Member, Moot Court (Director of Outside Competitions)
  Law Journal: The Journal of Law in Society, Article Editor

- Michigan State University, East Lansing, Michigan
  B.A.
  Honors: Dean's List
  Honors: COGIC Center Aspiring Law Student Scholarship
  Honors: President, Delta Sigma Theta Sorority, Inc.
  Honors: Executive Board Member, Wonders Black Caucus
  Honors: Member, Both the MSU Prelaw and Marketing Associations
  Major: Marketing

Joel I. Ferguson, Principal

Joel Ferguson is the co-founder of F&S Development Company, then became First Housing Corporation, the developer of 15 multi-family residential complexes throughout Michigan. In 1980, he was the co-founder, president, and owner of WFSL-TV, Channel 47, a Lansing independent affiliate. In addition, Joel Ferguson was the founder, owner and president of WLAJ-TV, Channel 53, Lansing's ABC affiliate; and one of the original organizers of several banks including Capitol National Bank, the only locally owned bank in Lansing. Joel Ferguson has created over 30,000 jobs for the people of Michigan. In 1999, Joel founded and serves as the President of Ferguson Development, a development company located in Lansing. Currently, Joel, along with Frank Kass of Columbus-based Continental Real Estate, are the Principals in the $260 million-dollar Red Cedar mixed-use development located in Lansing. This mixed-use development programming contains a full-service hotel and a select service hotel, multi-family housing units, a senior housing component and commercial/ retail space. Construction is set to begin in September of 2019. Joel also is the developer of the 16-acre Woodward Avenue mixed-use project located on the former Michigan State Fairgrounds site in Detroit. Another current project is the SXW Lansing site that was the childhood school of Malcom X. This former elementary school is being redeveloped into a community-based mixed-use project containing medical users, community space, art/music/design incubator space along with several units of Active Senior 55+ living units. Retail and commercial space is also being considered to support the medical and community-based programming.

Joel has been a four-time elected member of Michigan State Board of Trustees. Since 1988, Joel Ferguson has been an At-Large member of the Democratic National Committee (DNC), and he is currently a member of the DNC's Standing Committee on Credentials. He was elected Vice-Chairman of the Democratic National Committee Black Caucus in 2001. In 1995, President Clinton appointed Joel Ferguson a member of the Board of Directors of the Federal Home Loan Mortgage Corporation (Fannie Mae). In 1989, Ferguson was appointed to the Board of Directors of Blue Cross-Blue Shield of Michigan Foundation. In 1987 Joel Ferguson received the NAACP's A. Philip Randolph Institute Award for achievements.

<u>Experience in developing and managing property</u>

- First Housing Corp. have built & rehabilitated over $284,000,000 million in multi-family real estate
- During the last six years, First Housing Corp. have done over $69,000,000 million in rehabilitation on 16 developments totaling over 2,200 Apartments and Townhouses
- Joel redeveloped the offices for the State House of Representatives in downtown Lansing
- Joel remodeled the building on S. Pennsylvania in Lansing into the Channel 53 (ABC affiliate) studios

- First Housing Corp. redeveloped a Lansing industrial site on the riverfront from W. Saginaw to Shiawassee into 278 apartments and a retail mall
- Joel designed, developed and constructed a Lansing office building on the riverfront at Kalamazoo and Grand Ave. for the Michigan State Police Headquarters
- Joel converted the former Estes Furniture Warehouse on Turner Street in north Lansing (Old Town) into commercial office space
- Joel completed the Lansing Capitol Commons re-development project for the City of Lansing First Housing Corp.
- Joel redeveloped the office for the State of Michigan on the Corner of Pine and Kalamazoo in Lansing
- First Housing Corp. have developed studio and office space in the Channel 47 (Fox affiliate) building on the corner of St Joseph and Pine in Lansing
- First Housing Corp. developed Capitol Commons Senior, Capitol Commons 1, 2 and 3 totaling over 500 residential units in Lansing

<u>First Housing Corporation manages 3,400 Apartments across the State of Michigan</u>

- Managed four developments for the Michigan State Housing Development Authority (MSHDA) from Highland Park in Metro Detroit to the East, Benton Harbor to the West, rehabilitated the properties so they could be successfully marketed to new owners.
- First Housing Corp. manages successfully for all types of owners, for profit, non-profit, syndicators, public and private partnership and multi-family cooperatives.

PROJECT TEAM MEMBERS

Christopher Stralkowski, *MSEd.* of Ferguson Development

Executive Project Manager

Christopher has been the Executive Project Manager at Ferguson Development since 2011. He is currently managing several projects with a total investment exceeding $300 million dollars. Those include the Red Cedar Development, a $260 million-dollar mixed-use development in Lansing, Michigan that is comprised of 2 hotels, 3 mixed-use buildings comprised of student housing, market rate housing, retail and restaurants, standalone restaurant and an assisted living center with memory care facility. He is also managing the Woodward Avenue project, a mixed-use development in Detroit consisting of housing, retail, commercial and restaurants. Another project is the SXW Lansing development, a community-based development that includes medical, housing and community programming with possible retail/commercial uses. Mr. Stralkowski is an excellent communicator and project leader that keeps any project he tackles on task and on time. Christopher earned his master's degree from the Illinois Institute of Technology.

ADVANCED
REDEVELOPMENT
SOLUTIONS

Eric P. Helzer, EDFP of Advanced Redevelopment Solutions

Incentives and Site Construction Manager

Eric P. Helzer, EDFP is the Principal of Advanced Redevelopment Solutions which provides specialized real estate consulting services to developers, investors, public agencies and other real estate professionals throughout the Midwest. Their uniquely crafted solutions are customized for each assignment to provide their clients with transformative options toward the redevelopment of distressed and underperforming real estate assets. Eric's more than 27 years of multi-disciplinary real estate experience in economic development finance, environmental & civil engineering, consulting, development, owner's representation, and construction management provides the essential skills and knowledge to maximize a property's value. Mr. Helzer is a resourceful thinker that combined with his persistence, unique and diverse background and expertise makes him extremely adept at resolving issues and creating opportunities to reposition real estate assets.

Prior to founding Advanced Redevelopment Solutions, Eric was Vice President of Economic Development & Incentives at AKT Peerless, a nation-wide consulting firm. His role included facilitating, evaluating, recommending and coordinating all types of economic development incentives at the federal, various states and local units of government level (such as Cash Grants & Low-Interest or Forgivable Loans, Tax Increment Financing and Tax Abatements to name a few). Before AKT Peerless he served the Michigan Economic Development Corporation (MEDC) as its Brownfield Program Team Leader where he was responsible for developing/implementing Brownfield strategies, policy & guidance documents for the State. His role included coordinating, evaluating, and recommending the approval of Michigan's Brownfield Programs (Tax Increment Financing & Credits).

Over the first 15 years of his career Eric was directly involved with real estate development from land acquisition through construction, environmental assessment through remediation and preliminary cost projections through secured financing. His roles included ownership, Vice President, Principal Consultant, Project Manager and Engineer. Eric's experience includes over 60 enhancement programs at the federal, various states & local government level including, Incentive Packaging, Strategic Planning & Policy Structuring/Facilitation and Securing over $1 billion in numerous types of: Grants & Loans, Tax Increment Financing & Abatement incentives, Tax Credits, and other programs.

His 27 years of economic development work has resulted in thousands of new jobs and several billion dollars in new private investment within over 100 communities on over 400 transformational projects (including planned community and mixed-use development projects, industrial, residential, and commercial developments). He approaches the redevelopment of difficult sites by identifying not only the physical obstacles, but the financial hurdles, quantifying their cost and facilitating and structuring the correct incentives to position the property for redevelopment and success. Eric earned a Bachelor of Science in Civil/Environmental Engineering from Michigan State University in 1992.

O|X Studio

Lead Design and Architect

Since 2002, O|X Studio has excelled at developing innovative, integrated and imaginative solutions through pragmatic and holistic design. O|X Studio approaches the design process with an entrepreneurial spirit—developing a team that demonstrates a true passion for building something great and willing to push itself to the limits to achieve their clients' goals. As such, O|X Studio fosters a hands-on, design-centered, collaborative and open-work environment where team members can align their passions and expertise with the common goal of exceeding its clients' expectations.

The O|X Studio collaborative process, nimble structure and size are key assets that provide a competitive advantage for its clients. With a staff of 12 architects, interior designers and planners, their office is structured to enable fluid and flexible teaming on each individual project—naturally coalescing the distinct talents of the team to produce a unified and unique outcome. Working on multiple projects in a variety of capacities and roles, including direct client interface, team members work together to exceed project goals while bringing to bear their individual knowledge, design solutions and technological resources. Allowing the team to quickly adapt and shift focus, the hive mindset results in efficiencies and cost-savings for its clients.

The O|X Studio design approach is neither a linear process nor a layer to just be applied at only certain points throughout the project. Regardless of a project's size or scope, each one has an element of complexity requiring a creative design solution. Because O|X does not advocate for a "one design style fits all" approach, they utilize their design talents and expertise to artfully craft projects that reflect the uniqueness of each individual client. By integrating and melding design with the art and science of architecture and technology from the beginning, their design process and fluid and collaborative teaming structure cultivates creative design solutions for its clients.

The O|X Studio commitment to investing in game-changing technologies is grounded in its commitment to quality. In 2005, when only 16% of all U.S. architecture firms had acquired Building Information Modeling (BIM) software—and only 10% of firms were using it on billable projects—O|X Studio was using BIM on 100% of all their active projects. Today, while only 70% of U.S. architecture firms are using BIM, O|X Studio's work process involves a fully integrated adaptation of BIM, 3-D modeling and laser scanning. O|X Studio's commitment to staying ahead of the technology curve results in a collaborative and streamlined process with time- and cost-savings for its clients.

Project leads for O|X Studio on this initiative will include:

Robb Burroughs RA, NCARB Principal - During Robb's 28-year career, he has led and managed design teams for large-scale athletic developments, retail development, multi-family housing, mixed-use developments, high-density residential, commercial offices and educational projects. As a State Qualified Historic Architect, he also has extensive experience with the restoration, rehabilitation, renovation and adaptive reuse of historic structures. He is especially fluent in the integration of zoning and site-specific nuances of a project in conjunction with the requirements of owners' needs in order to maximize the projects appeal and value proposition of each project.

Aaron Vermeulen, AIA, NCARB, CDT Principal - Aaron has over 20 years' experience in architectural design for new construction, adaptive re-use and large-scale rehabilitation for hospitality, retail and workplace environments. He takes the time to understand the unique needs of his clients and leverages this understanding with his experience to create interior environments that reflect and identify their business goals. His approach to architecture contains a special emphasis on materials and how they work within a larger building system. He has noteworthy expertise in the design and construction of green roofs, masonry cladding systems and in high-performance building envelopes for cold climates

FIRSTHOUSING
CORPORATION

Gleason E. Amboy of First Housing Corporation

Financial/Programming/Strategic Advisor

As President of First Housing Corporation, Gleason E. Amboy, CPM, RAM, presides over a staff of topflight Property Management professionals and has overseen the management of First Housing properties since its inception in 1978. Currently, First Housing manages thirty-one multi-family housing developments consisting of 4,232 total units. He is also the Management member of 16 apartment communities with a total of 2842 units. He also serves as President of Apartment Specialist Incorporated, Safgo Vending Incorporate and Management Member of Capcon Construction.

He received his college education at Mott Community College in Flint, Michigan and at Michigan State University where he majored in Finance and Accounting.

He began his career in 1968 with Erickson Management Agency year and after returned to college, in 1973 with his formal training behind him and his career goals firmly established, he re-entered the property management field with Kassuba Development Corporation. At Kassuba Development, he specialized in handling distressed properties. In 1975, Mr. Amboy secured a position with P.M. One, Inc. where he worked with all forms of subsidized housing including, Cooperatives, for Profit and Non-profit form of HUD and MSHDA financed developments. In 1977, Mr. Amboy joined Mid-America Management Corporation as Vice President of Property Management. He controlled the entire company portfolio until formation of its governmental housing division and then became head of that division. As Vice President of the Government Housing Division for Mid-America, Mr. Amboy was responsible for the day-to-day operation of 2,400 units which were financially sponsored by the United States Department of Housing and Urban Development and the Michigan State Housing Development Authority. In 1978 he left to become a shareholder and President of First Housing Corporation.

Mr. Amboy is active in the Institute of Real Estate Management where he is accredited as a Certified Property Manager (CPM) and was certified as a Course 101 Instructor. He holds the designation of Senior Registered Apartment Manager (RAM) through the National Home Builder Association. He is a licensed Michigan Real Estate Broker, a member of the National Federation of Independent Businesses, the Lansing Chamber of Commerce, the Downtown Business Association of Lansing, the National Home Builders Association and a founding member of the Board of Directors of the Michigan Housing Council. He has been awarded a Lifetime Achievement Award by the Apartment Association of Michigan. After retiring from the day to day operation of First Housing Corporation, he formed FHC Developer LLC and FHC Group LLC to direct the resale, syndication and rehabilitation of 16 developments. He now is, of council, to the Control Group of companies, First Housing Corporation, Apartment Specialists Incorporated, Capcon Construction LLC and Safgo Vending.

R&R

Patrick Reid of Reid and Reid

Project Counsel

Mr. Reid is a Member in the Law Firm of Reid and Reid, PLLC II. He received his bachelor's degree from Eastern Michigan University and his Juris Doctor Degree from Wayne State University. He is a Certified Public Account and has been an Instructor at Cooley Law School. He has professional memberships with the State Bar of Michigan, and the Michigan Association of Certified Public Accountants. He has been a Bank Board Director for seven individual banks and a Director for a Wealth Management Company. He has maintained a law practice in the City of Lansing for 40 years with major concentrations in business and real estate law.

Specifically, for real estate development projects, Pat has experience with the development of the Michigan Legislative office building, Michigan State Police building, include the Heart of the City building, which is 185,000 square-foot commercial office building in downtown Lansing, the redevelopment of a 120,000 square-foot building in downtown Grand Rapids, and the development of a 80,000 square-foot office building in Saint Joseph Michigan in addition to multiple other development projects in Lansing, and statewide throughout Michigan.

Paul Fort of the Spicer Group - Grand Rapids Office

Project Engineer

Spicer offers an entire group of engineers and designers who specialize in providing quality design plans necessary before the construction of a development—whether building, neighborhood, or business park—can begin. These professionals focus on planning and designing sites that fit the specific needs of its clients. They also work with clients to improve and expand existing sites. Spicer's site engineers are experienced in providing site due diligence and analysis to ensure a section of property can be developed and identify what has to be done to make it developable. Knowing what utilities exist, how far utilities must be expanded or extended, knowing what type of permitting and even floodplain issues is key in today's development business. When deemed buildable or beneficial, these same professionals can design necessary site tasks to be made and prepare them for bid. They are experts at designing adequate drainage, incorporating environmentally friendly and energy-saving design techniques, providing accurate cost estimates, and designing proper utility extensions, as well as working with construction contractors to ensure the design is constructed as planned.

Construction/Engineering/Administration- Spicer Group assists with fulfilling all administration tasks on construction. During construction, Spicer attends preconstruction and progress meetings, prepares and distributes minutes, answers contractor, subcontractor and supplier questions, responds to requests for information, prepare progress reports for the client and their associated stakeholders. Spicer reviews shop drawings, review progress payments, process change orders, prepare bulletins as necessary and coordinate all aspects of the project on behalf of the client. Spicer's construction inspectors are very experienced with using Field Manager and keep track of the plan changes made in the field during construction. The inspectors' field plan data are used to develop as-constructed plans.

MessageMakers

Terry Terry of Message Makers

Communications, Messaging and Marketing Consultant

Terry is the CEO of Message Makers and has over 42 years of experience as founder and president of Message Makers, a creative communications agency. He has served as executive producer, creative director, advertising executive, and communications consultant. He has produced marketing programs internationally in Africa, Asia, China, Japan, Europe and South America. He has worked extensively in the areas of instructional design, video production, event production, marketing, branding, advertising and public engagement.

In 2003, Terry received a special tribute from the governor of the State of Michigan, recognizing him as someone who "...possesses social awareness and civic pride...has worked diligently to help guide Old Town *(in the City of Lansing)* along the road to revitalization.... and is precisely the type of citizen that this city and country needs."

Message Makers is a hands-on creative team, focused on projects that help people to learn and connect with purpose. For over 42 years, Message Makers has delivered quality creative services for a globally diverse clientele nationally and in more than 38 international markets. Representing businesses, governments, associations, non-profits, industries, and educational institutions, Message Makers' clients depend on our ability to complete complex projects on schedule and within budget.

Terry's talents and community minded vision is why he and his firms' capabilities have been specifically selected for this Project.

Section II

Proposed Development Vision and Program

This Project presents both an opportunity and a challenge. As the City knows, the existing structural steel skeleton remaining of the old 5-story building may have some value and support the Vision of our proposed development Project. However, careful evaluation of the structure to determine structural integrity and end-use redevelopment design will be critical factors in determining feasibility of reuse of that structure. That is why we are approaching this development Project with two potential Program options. In either option, our Proposed Development Vision is the same.

Proposed Development Vision

Regardless of which Program approach option is selected, this Project would feature at grade level commercial and retail spaces with a dynamic street wall aesthetic to enhance the public's experience as they walk along sidewalk cafe spaces, seating areas and activity generated by the exciting new hospitality venues. The upper 3 and 4 levels of residential units will be market driven and determined based on a market study which we anticipate will reflect a diverse range of units types and sizes that feature open space plans, balconies and spectacular views in this emerging area adjacent to an expanding downtown area along First and Clay Streets. This proposed building will include a state-of-the-art leasing center, fitness center, secured bike parking and a dynamic rooftop lounge area.

Program Approach

In order to solidify our Vision with the City of Muskegon and select the best Program approach for this Project, we will complete several critical preliminary determining tasks that include but are not limited to the following:

- Site-Specific Market Study to target the mixed-use development Vision we seek
- Physical Site Factors Evaluation and Due Diligence Studies, such as structural evaluation of the existing structure
- Design Meetings
- Community Engagement Meetings
- Legal and Political Factors Evaluation
- Special Studies, such as preliminary engineering considerations and parking evaluations
- Preliminary Project Proforma including projected incentives mix needed to support the Project from Local, State and/or Federal sources of financial support

Once we (Developer and City) are comfortable with the outcomes of the above preliminary determining tasks, the appropriate option toward development will be pursued and Concept Plans and Architectural Renderings of the selected option will be developed.

Option 1 – Adaptive Reuse: Renovate the existing structural steel skeleton remaining of the old building into a newly constructed 5-story mixed-use building with rooftop lounge area to accomplish the Vision described above. The Project would involve the transformation of the abandoned building into a mixed-use development Project. The upper 4 levels of residential units will be market driven and determined as a result of the aforementioned market study. The shell of the aging building would be restored. The Project would renew a formerly imposing commercial building into a mixed-use building that blends into the surrounding neighborhood.

Adaptive Reuse into a 5-story Mixed-use Building with Rooftop Lounge

Activate Corner and Streetscape

Option 2 – New Construction: Demolish the existing structural steel skeleton remaining of the old building including foundations and ready the site for a newly constructed podium style 4-story or 5-story mixed-use building with rooftop lounge area to accomplish the Vision described above. The upper 3 to 4 levels of residential units will be market driven and determined as a result of the aforementioned market study. The Project would create a mixed-use building that blends into the surrounding neighborhood.

New Construction of a 4 to 5-story Mixed-use Building with Rooftop Lounge

Activate Corner and Streetscape

Section III

Conceptual Financial Structure / Financial Stability

There are many aspects of the proposed Project's approach and selected option (Option 1- Adaptive Reuse or Option 2 – New Construction) that will impact the ultimate financial structure for financing this Project. However, based upon our experience with similar projects and our Project teams' discussions, we have prepared our Conceptual Project Structure and provided supporting evidence to be able to finance this Project as requested by the City. We anticipate working closely with the City in our public/private partnership to develop a Project that is not only financially feasible but is an added asset to this section of downtown by bringing additional residents and lively storefronts. As a testament of our vast experience and capabilities to deliver what we have envisioned for this Project, we have received two Letters of Intent (LOI), see Attachment A, from potential tenants that will bring a terrific vibe to downtown. One of the potential options in terms of restaurant programming is the Creole Restaurant, an existing restaurant located in Old Town in Lansing Michigan that may be replicated in Muskegon. Lansing's Old Town is a redeveloped, art-centric commercial and housing district that has been revived through individuals like a Sam Short, proprietor of Creole, Zoobies, Cosmos Pizza and Punk Taco. All examples of exciting fare complete with unique atmospheres that attract a diverse clientele. Sam's management company is Potent Potables Project. The second of two LOIs is from Terry Terry for a professional meeting/gathering space, artistic and musical venue, known as Urban Beat. This is also located in the Old Town area. The concept is based upon utilizing the professional desire for gathering space for professional and private event space to work, socialize, present and participate in a forum that is hip, cool and open to the exchange of ideas.

Conceptual Financial Structure

The current Conceptual Financial Structure for this Project is that the Developer will finance with equity most of the necessary critical preliminary determining tasks as outlined in the Program Approach. Once the feasibility of the Project is determined and a specific development option is selected (Option 1- Adaptive Reuse or Option 2 – New Construction), the Developer will continue with the remaining tasks toward construction and will finance with equity design & engineering and work with the City on the entitlement process. Once all approvals are in place to allow for construction, The Developer plans on obtain conventional bank financing for a construction loan equal to approximately 75% loan to cost. The Developer will fulfill the obligation for the remaining 25% balance of funds needed through a combination of cash, land equity, and other funding sources (i.e. public (local and state) grants, loans, etc.). The construction lender will require a personal guarantee from the loan sponsor and will likely require that the Developer's fund their 25% of the capital stack prior to drawing on the construction loan. The Developer's track record and existing relationships with several banks is strong and these potential lenders can provide construction financing for this Project along the terms we are seeking.

As referenced, the Developer will also seek other funding sources from local, state and/or federal agencies to fill financial gaps. To be eligible for specific public financing incentives in

Michigan a developer must show a financial gap to fill. Local and state government programs are available that may provide gap financing to this Project meeting public policy goals. This Project will be structured so that private debt is maximized, and our Developer equity yields a fair return. Typical governmental policy in Michigan for financial participation in development projects is generally aimed at being "the last dollars in," which this Development team understands.

A financial gap will be determined by the difference between all financing sources for the Project and the Project costs, with a focus on the Developer's return, which is based on our equity and the maximization (attraction) of Project debt. This should allow for consideration of public financing that fills a gap yet does not provide for undue enrichment to us as the Developer. Market standards apply here, among other things and our gap analysis requires a firm project development budget and operating proforma. The gap is not simply the difference between how much a desirable project costs and the financial resources to which we as the Developers have access to.

After all other financing is structured to a point where governmental agencies are comfortable, we will work conduct a thorough analysis of all the Project costs including design, land acquisition, construction loan and permanent financing and projected revenues and expenses in the operation of the building over a period of time. Through this analysis, we can confirm a stabilized net operating income, the fair market value of the project and most importantly, whether projected returns to us as the Developer are reasonable. Upon this analysis, if the Project has merit and meets all other goals and objectives, the following two outstanding objectives will be accomplished:

1. A "real property purchase price" from the City will be determined and agreed to between the City and Developer, and
2. Specific incentive programs to fill the Developer's determined gap will be sought from the appropriate local, state and/or federal governmental agencies.

Generally, the incentives we seek to fill a possible financial gap for this type of mixed-use development Project proposed may include:

- Tax Increment Financing (TIF)
- Cash Grants
- Low Interest and Forgivable Loans
- Tax Abatements
- Tax-Exempt Private Activity Bonds
- Tax Credits
- Providing In-Kind Services or Resources
- Reducing or Waiving Fees

Financial Stability

As stated earlier, 880 First Street, LLC (Developer) is a single purpose project specific company formed specifically by two qualified members for the 880 First Street Redevelopment Project. Mr. Joel Ferguson is the sole member of 880 First Street, LLC providing the financial strength to undertake the proposed Project. Joel not only has the sole financial strength but also has the financial relationships to bring this Project to fruition. Ms. Brianna Scott's contributions in this partnership are not measured by her financial contribution to this Project. As evidence to Mr. Ferguson's financial capabilities, Attachment B includes his 5-years (2014-2018) of Personal Financial Statements.

Attachments

Attachment A -
Letters of Intent for Commercial/Retail space at 880 First Street Project

Via Email (cstralkowski@outlook.com)
August 2, 2019

Ferguson Development

Re: **880 First Street - Letter of Intent**

This letter is intended to serve as an expression of present intentions concerning the lease of the 880 First St. Muskegon, MI. If the letter is signed by both parties, it shall serve as a non-binding Letter of Intent ("**LOI**").

Landlord & Address:	**Ferguson Development** Lansing, MI 48906
Tenant & Address:	**The Potent Potables Project, LLC** 1210 N. E. G. Lansing, MI 48906
Premises Location & Size:	Approximately the following spaces: ☐ 2,250 rentable square feet on the first (main) floor or total square footage after independent measurement of the premises.
Term & Renewal Options:	64 month initial term with the first four months free rent plus two 5-year renewal options with 180 days prior written notice of exercise.
Rent & Tenant Improvements	$15 per square foot rent on 2,250 square feet of first floor space. Base Rent shall be increased annually starting at the commencement of Year 2 by the Consumer Price Index (Urban All Cities) not to exceed 3%, with a minimum of 1% increase per year.
Possession Date:	TBD
Rent Commencement Date:	Four months after possession or open of business, whichever is earlier, subject to delays caused force majeure events as defined in the Lease.
Permitted Use:	Bar restaurant which will also allow for music and other entertainment inside the Premises. This use will be permitted notwithstanding that there will be other commercial and residential use above and adjacent to

	the Premises. Landlord represents and warrants that Tenant's use, including the noise that arises from cooking, serving food, guests, music, entertainment, and all other normal restaurant and bar noise is permitted within the property. However, should a noise related issue arise in the future, Landlord and Tenant will work together to create a solution and notwithstanding any complaints of noise it shall not be a solution to cease business operations for the permitted use. However, it shall be Tenant's responsibility to comply with Muskegon's noise ordinances as well as the special use permit for the building.
Signage:	Two signs as large as permitted by applicable ordinance.
Liquor License:	Landlord will cooperate with Tenant in obtaining a liquor license Tenant needs for the Premises. Tenant shall use its commercially reasonable efforts to obtain a liquor license by the Rent Commencement Date. If Tenant is unable to obtain a liquor license from the Michigan Liquor Control Commission by the Rent Commencement Date, Tenant shall have the right to terminate the Lease. Similarly, Landlord has no obligation to commence construction of tenant improvements prior to tenant obtaining a liquor license for this location.
Refuse:	Landlord will furnish areas for trash collection to accommodate recycling and trash removal in line with the Tenants current business needs. Tenant shall be solely responsible for all trash/refuse removal on site.
Documents to be Provided:	Title work, survey, environmental reports, building permits, and special use permit for Tenant's review and approval. In addition, Landlord will furnish a Phase I Environmental Assessment certified to Tenant's for its review and approval. Tenant's obligations are contingent upon Tenant's satisfaction with the foregoing.
Form of Lease:	Landlord's standard form, as modified by the terms of this LOI, and approved by Tenant.
Security Deposit	Tenant to provide a security deposit equal to one months' base rent. Deposit shall be returned to tenant after the 24th month of the lease provided the tenant has not defaulted. Should a liquor license not be obtained by the Rent Commencement date by the tenant, the security deposit will be forfeit.

Personal Guaranty	None
Confidentiality:	Landlord and Tenant agree that the existence and terms and conditions of this LOI shall be kept strictly confidential and not disclosed to any person except the parties' partners, lenders and consultants (including their accountants, designers, contractors and legal counsel).
Broker:	None
Non-Binding	This Letter creates no rights or obligations in favor of any party. A binding commitment with respect to any terms of the proposed Lease will be only as set forth in a subsequently executed written Lease Agreement which has been signed by both parties. Until the Lease Agreement is finalized, properly executed and delivered, neither party shall have any legally binding obligation to the other (whether under this Letter or otherwise), including, but not limited to a legal duty to continue negotiations to reach such a Lease Agreement. Either party may discontinue negotiations at any time for any reason whatsoever.

If the terms and conditions set forth in this LOI are acceptable, please have it executed and returned to us.

Very truly yours,

The Potent Potables Project, LLC

By: ______________________

Samuel Short, CEO

The terms of this LOI are agreed and accepted by Landlord:

By: ______________________

Its: ______________________

Date: ______________

Ferguson Development

Re: 880 First Street - Letter of Intent

This letter is intended to serve as an expression of present intentions concerning the lease of first floor space at **880 First St. Muskegon, MI**. If the letter is signed by both parties, it shall serve as a non-binding Letter of Intent ("**LOI**").

Landlord & Address: **Ferguson Development**
1223 Turner St Suite 300
Lansing, MI 48906

Tenant & Address: **UrbanBeat Event Center, Inc.**
1213 Turner St.
Lansing, MI 48906

Premises Location & Size:

880 First St. Muskegon, MI

Approximately 3,500 rentable square feet on the first (main) floor or total square footage after independent measurement of the premises.

Term & Renewal Options:

64-month initial term with the first four months free rent plus two 5-year renewal option.

Rent & Tenant Improvements

$14 per square foot rent on 3,500 square feet of first floor space. Base Rent shall be increased annually starting at the commencement of Year 2 by the Consumer Price Index (Urban All Cities) not to exceed 3%, with a minimum of 1% increase per year.

Possession Date: TBD

Rent Commencement Date:

Four months after possession or open of business, whichever is earlier, subject to delays caused force majeure events as defined in the Lease.

Permitted Use:

Professional meeting/gathering space, artistic and musical venue with bar which will also allow for bar and food service inside the Premises. This use will be permitted notwithstanding that there will be other commercial and residential use above and adjacent to the Premises. Landlord represents and warrants that Tenant's use, including the noise that arises from cooking, serving food, guests, music, entertainment, and all other related noise is permitted within the property. However, should a noise related issue arise in the future, Landlord and Tenant will work together to create a solution and notwithstanding any complaints of noise it shall not be a solution to cease business operations for the permitted use. However, it shall be Tenant's responsibility to comply with Muskegon's noise ordinances as well as the special use permit for the building.

Signage:

Two signs as large as permitted by applicable ordinance.

Liquor License:

Landlord will cooperate with Tenant in obtaining a liquor license Tenant needs for the Premises. Tenant shall use its commercially reasonable efforts to obtain a liquor license by the Rent Commencement Date. If Tenant is unable to obtain a liquor license from the Michigan Liquor Control Commission by the Rent Commencement Date, Tenant shall have the right to terminate the Lease. Similarly, Landlord has no obligation to commence construction of tenant improvements prior to tenant obtaining a liquor license for this location.

Refuse:

Landlord will furnish areas for trash collection to accommodate recycling and trash removal in line with the Tenants current business needs. Tenant shall be solely responsible for all trash/refuse removal on site.

Documents to be Provided:

Title work, survey, environmental reports, building permits, and special use permit for Tenant's review and approval. In addition, Landlord will furnish a Phase I Environmental Assessment certified to Tenant's for its review and approval. Tenant's obligations are contingent upon Tenant's satisfaction with the foregoing.

Form of Lease:

Landlord's standard form, as modified by the terms of this LOI, and approved by Tenant.

Security Deposit

Tenant to provide a security deposit equal to one months' base rent. Deposit shall be returned to tenant after the 24th month of the lease provided the tenant has not defaulted. Should a liquor license not be obtained by the Rent Commencement date by the tenant, the security deposit will be forfeit

Personal Guaranty None

Confidentiality:

Landlord and Tenant agree that the existence and terms and conditions of this LOI shall be kept strictly confidential and not disclosed to any person except the parties' partners, lenders and consultants (including their accountants, designers, contractors and legal counsel).

Broker: None

Non-Binding

This Letter creates no rights or obligations in favor of any party. A binding commitment with respect to any terms of the proposed Lease will be only as set forth in a subsequently executed written Lease Agreement which has been signed by both parties. Until the Lease Agreement is finalized, properly executed and delivered, neither party shall have any legally binding obligation to the other (whether under this Letter or otherwise), including, but not limited to a legal duty to continue negotiations to reach such a Lease Agreement. Either party may discontinue negotiations at any time for any reason whatsoever.

If the terms and conditions set forth in this LOI are acceptable, please have it executed and returned to us.

Very truly yours,

{Terry Terry, electronically signed and verified}

UrbanBeat Event Center, Inc.
By: Terry Terry, President

The terms of this LOI are agreed and accepted by Landlord:

By:

Its: Date:

Samaritas™

August 8, 2019

Mr. Frank Peterson
City Manager, City of Muskegon
933 Terrace Street
Muskegon MI 49440

Dear Mr. Peterson,

In response to the City's Request for Proposal dated June 11, 2019, Samaritas is very interested in redeveloping the former Ameribank Building located at 880 First Street in downtown Muskegon. To accomplish this task, we have assembled a team of professionals to work together with the City of Muskegon on this exciting opportunity.

Our mutual goal is the successful redevelopment of this long-vacant property so it can become an attractive affordable housing and income generating facility in Muskegon's urban core.

The mission of Samaritas is "to serve people as an expression of the love of Christ." Samaritas is one of Michigan's largest faith-based social service organizations, serving people of all ages including senior adults, children and families, refugees and persons with disabilities. Samaritas develops and operates affordable senior and family housing and provides a range of social services throughout the state of Michigan.

We hope that the attached information will meet your requirements and we are confident that the proposed development will provide benefits to the City of Muskegon, to your citizens, and to your community. Please contact James Gilbert at (313) 303-8833 with any questions or comments.

Sam Beals
Chief Executive Officer
Samaritas
2000 32nd Street, SE
Grand Rapids, Michigan, 49508
(616) 204-4330

About Samaritas:

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

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

For additional information, visit www.samaritas.org.

Section I – Qualifications and Experience

Development Team members for this project will include:

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

Schneider + Smith Architects - Architect

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

KMG Prestige – Compliance Manager

Capital for Compassion – West Michigan based Housing Consultant

A summary of the team's experience and capabilities is provided below. The 2018 Financial Statement for Samaritas is attached to provide evidence of the developer's financial capability to undertake the project. If this proposal meets enough of the City's requirements to be shortlisted for further consideration, Samaritas will answer any requests for additional information or for clarification of this submittal.

Samaritas is the Sponsor/Developer of the project. Samaritas (formerly known as Lutheran Social Services) is an experienced nonprofit developer with locations throughout Michigan including ownership in three (3) LIHTC properties, five (5) multifamily developments with HUD financing and management of operations at (6) additional independent living HUD properties. Samaritas also owns and operates (5) senior living campuses throughout the state that have an assortment of independent living, assisted living, skilled nursing and memory care. Samaritas has been providing social services in the City of Muskegon and Muskegon County for over forty (40) years. Samaritas will be involved in all aspects of the project's development and operations. Samaritas has a successful and proven track records with both MSHDA and HUD and will provide a very strong and experienced ownership team to provide quality housing. In fact, Samaritas has an office in downtown Muskegon at the Frauenthal Center. The Samaritas Director of Affordable Housing leases a corporate office in this building.

Pinnacle Construction Group is the General Contractor for the project and has over 22 years of construction experience, including over 1,500 projects for healthcare, industrial, retail, hospitality, office, non-profit and other customers. One example includes the Woman's Health Center in Grand Rapids, MI. Pinnacle led the construction and development of this mixed-use medical building. Pinnacle also serves as the property manager. The 110,000 square foot building sold for $43 million in 2017.

The project architect, James Schneider, has been President of Schneider + Smith Architects since starting the firm in 1994. The firm designs a diversity of project types, ranging from small scale residential to mixed use commercial and multi-family buildings. To date, the firm has completed the construction, renovation, and inspection of over 70 multi-family projects. In 2017, the firm designed over $12 million in construction. Three of their recent projects include: 1) Cranbrook Towers Senior Apartments in Ann Arbor, MI, renovation of 202 units in seven stories completed for $4 million in December 2017; 2) Chester Street Residence in Royal Oak, MI, the addition of 18 units and congregate care on the second floor; 3) Village Pines Apartments in Monroe, MI, renovation of 190 multi-family garden style apartments completed for $7.5 million.

Compliance services will be provided by KMG Prestige with direct involvement from the Samaritas property management team. KMG Prestige has 35 years of experience with LIHTC and other forms of affordable housing. Samaritas has owned and managed HUD 202, LITHC and Section 8 properties in various Michigan communities since the 1980's.

Capital for Compassion is based in West Michigan and consults nationally with non-profit affordable housing providers to develop additional capacity and obtain funds. In the last 15 years, Capital for Compassion has consulted on over 260 projects and obtained over $200 million for organizations that provide affordable housing. Capital for Compassion focuses on projects that deliver empowerment and supportive services, some occupied by residents with special needs. Examples of the consultant's projects include: 1) City Gospel Mission, 74 units in Cincinnati, Ohio newly constructed in 2015 for $4.8 million; 2) Bridge to Life, 110 units in Aurora, Illinois newly constructed in 2015 for $9.3 million; and 3) KARM, 107 units in Knoxville, Tennessee rehabilitated in 2014 for $1.6 million.

880 First Street Redevelopment Project

<u>Section II – Proposed Development Vision and Program</u>

The site is located on the northeast corner of Clay and First Street in downtown Muskegon, Michigan. The building was formerly owned and operated as the regional headquarters of AmeriBank. It is now publicly owned and has been vacant for several years. In 2018, the City of Muskegon removed all interior finishes and fixtures as well as exterior coverings which were severely deteriorated in order to expedite redevelopment opportunities and avoid unseen costs. The five floors make up 37,500 square feet, and the basement level is an additional 3,500+/-. The site offers multiple features and attractions in the nearby downtown area, such as the Muskegon Farmers Market, LC Walker Arena, and the key shopping and dining district on Western Avenue.

Project objectives include:

- Create affordable Workforce housing opportunities for persons at a competitive price to encourage downtown living and further revitalize Muskegon's downtown core.

- Contribute to the development of an urban destination that encourages commercial investments and emphasizes the pedestrian environment.

- Create positive economic value for the City by eliminating blight and increasing consumer attraction to this particular neighborhood and the downtown in general.

- Provide a source of permanent jobs through leasable commercial space.

- Interact with existing downtown businesses, institutions and events.

- Attract a diverse clientele representative of the Muskegon community.

Overview of the redevelopment proposal:

Samaritas, a leading human service and affordable housing provider is proposing 53 new units of housing for seniors (55 years of age and older) on a key urban site in the city of Muskegon. The project will add desirable units for aging residents seeking a convenient location to remain active in the community.

The project helps to address the city's concern for a lack of affordable housing in Muskegon. As an infill rental project, it will fit into the existing area in terms of scale, building mass, and design.

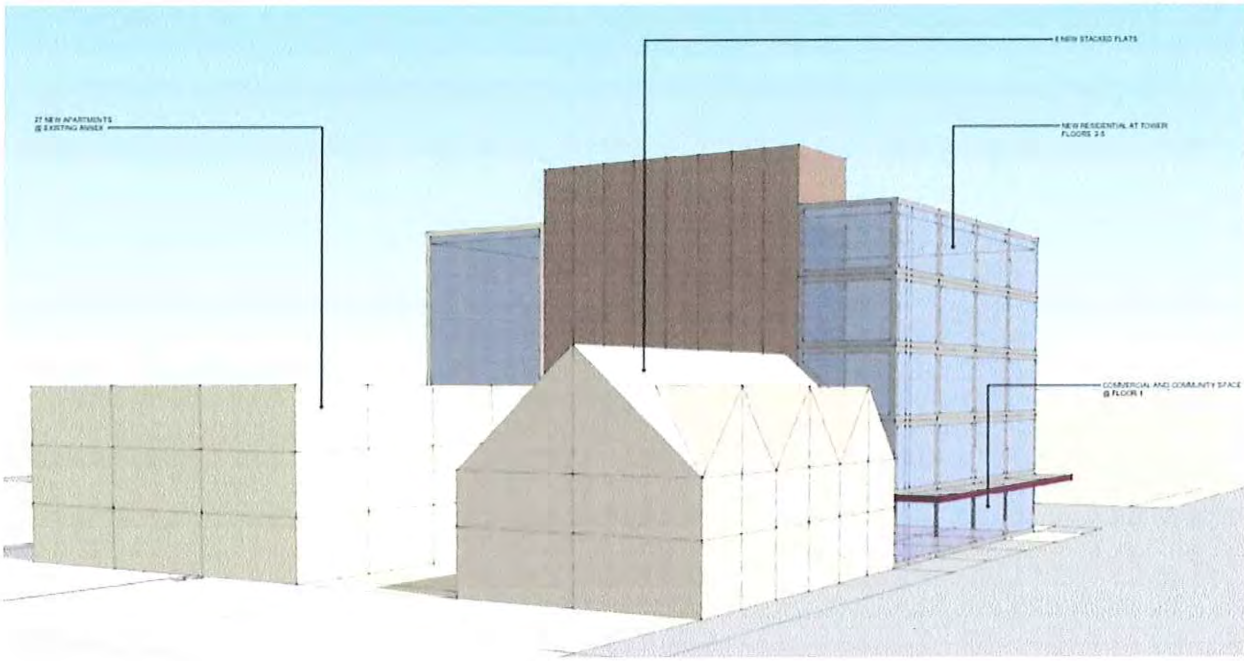
The plan will utilize the existing adjacent parking area to provide forty spaces. Residents and visitors can take advantage of other available public parking, public transportation, para-transit opportunities as well as pedestrian and bicycle options. There is a bus stop nearby and the main terminal is only a few blocks away.

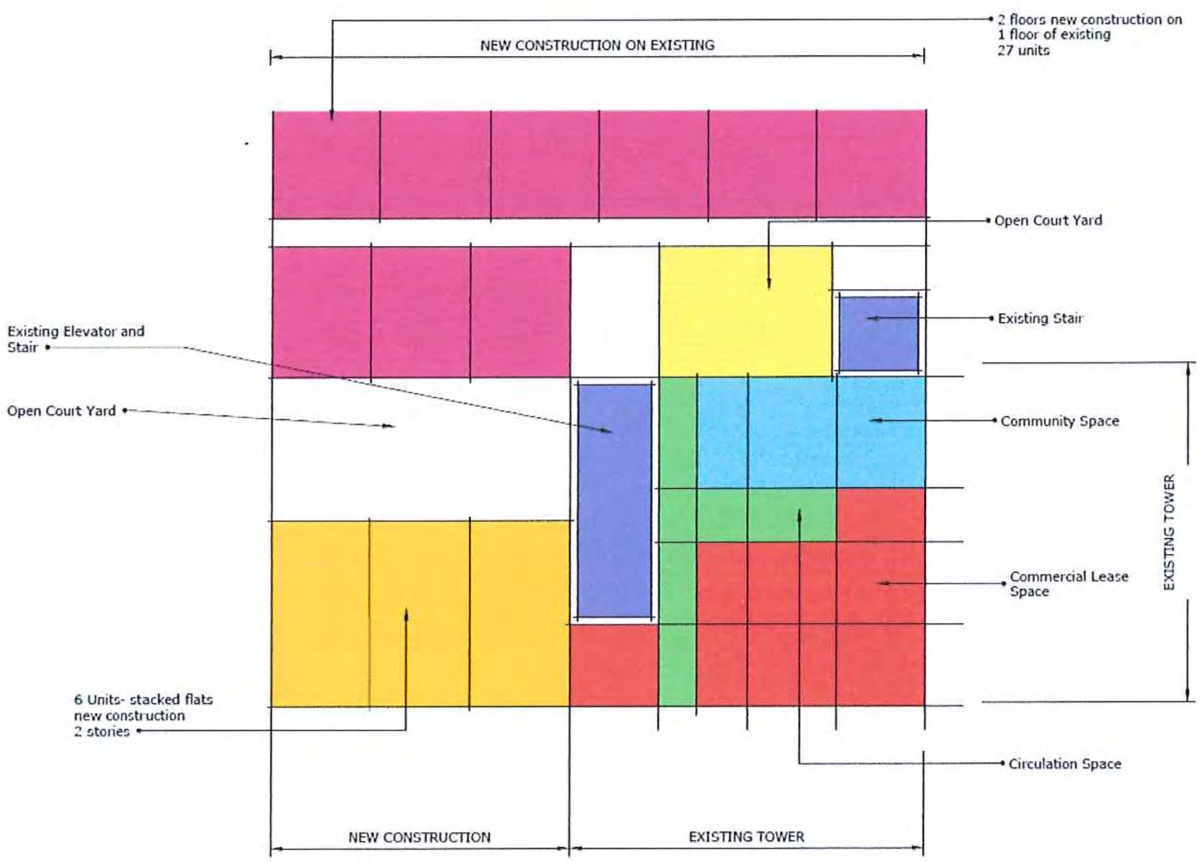
The project will be funded with equity from sale of Low Income Housing Tax Credits (LIHTC), a permanent mortgage, a sponsor loan, and a portion of the developer fee will be deferred with repayment over fifteen years. The development will serve an economically diverse number of households ranging from 30% Area Median Income (AMI) to 80% AMI, with an average above 55% AMI.

The housing project is expected to create at least two ongoing jobs and at least 43 temporary jobs during the construction period, based on projects of similar size and scope. The commercial office space will generate several additional permanent jobs.

Samaritas has designed the project specifically for seniors, ages 55 and over. Some of them may be working in local retail, service, restaurant, or commercial businesses and may want easy access to their place of employment, along with evening and weekend entertainment in the vicinity. Some individuals may want to downsize and simplify their lives. Some may not have enough household income to maintain a traditional single-family home. They may have

Concept diagram:





TYPICAL FLOOR PLAN Floor 1

Section III – Conceptual Financial Structure

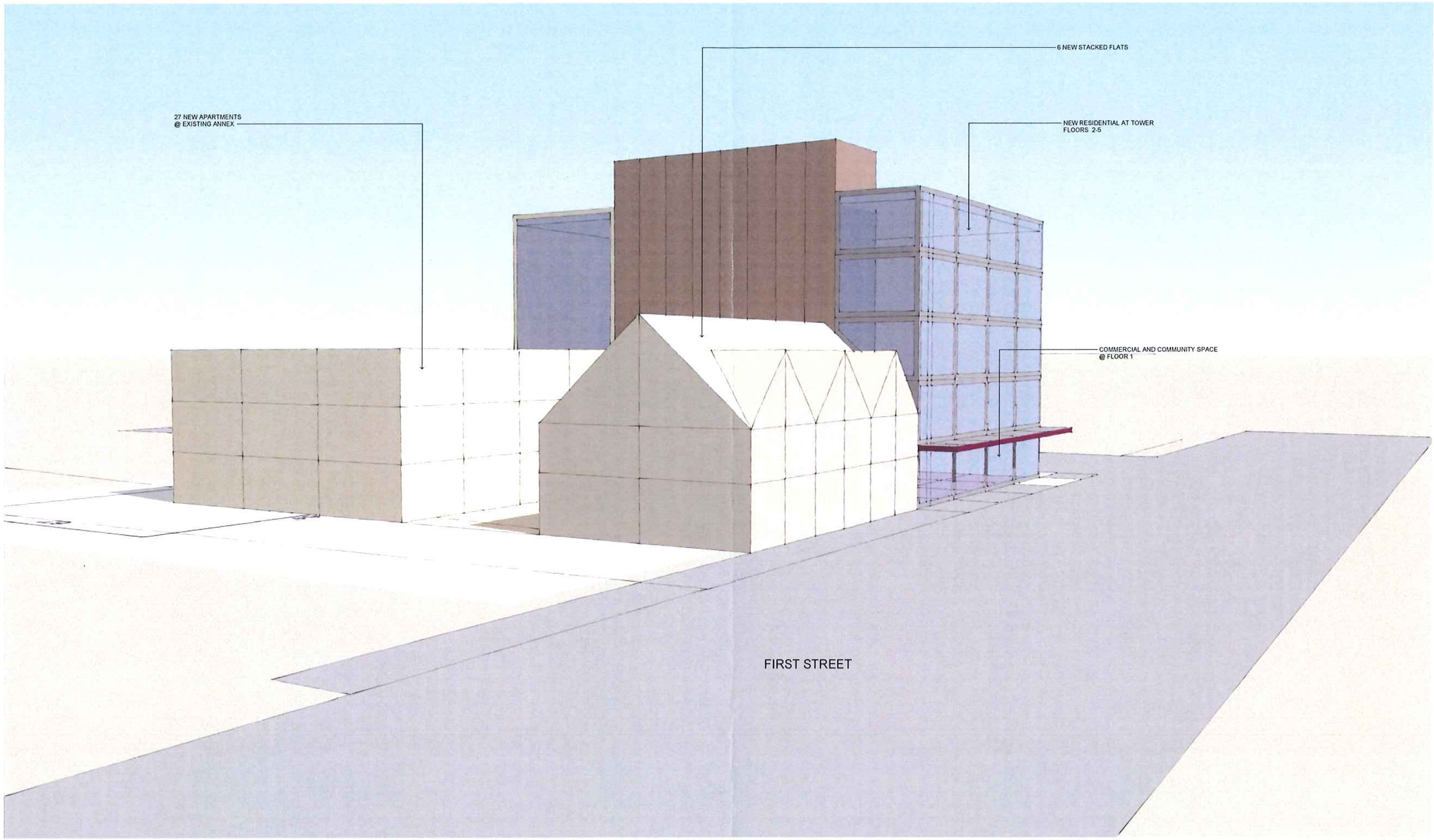
Summary of Proposed Terms:

- Purchase of the property commonly referred to as 880 First Street.
- Purchase to include 40 deeded parking spaces in the City's lot located east of and adjacent to the property.
- Purchase price to be $250,000.00, contingent on MSHDA LIHTC funding approval.
- Samaritas will have until July of 2020 to submit and receive approval for the project from the State of Michigan for a 9% LIHTC reservation. If a second submission is required to receive approval from MSHDA, Samaritas will pay $5,000 (non-refundable) to the City of Muskegon for an extension to February 15 of 2021. This amount will be applied to the purchase price at closing.

A preliminary Development Budget is attached. This information will be refined during the due diligence phase of the project.

Development Budget

			Total
Sources			
Deferred Developer Fee		$ 250,000	
Samaritas Loan		$ 225,573	
9% Tax Credit Equity		$ 9,100,000	
Permanent Debt		$ 1,300,000	
	Sources Total	$ 10,875,573	
Uses	Uses Total	$ 10,875,537	
Land Acquisition			
Land		$ 250,000	
Closing		$ 12,500	
Site Work			
On Site Work		$ 314,500	
	Subtotal		$ 314,500
Construction Costs			
New Structures		$ 6,182,612	
Local Permit Fees		$ 49,000	
Bond Premium		$ 78,000	
General Requirements		$ 356,784	
Contractor Overhead		$ 118,928	
Contractor Profit		$ 356,784	
Construction Contingency		$ 364,998	
	Subtotal		$ 7,507,106
Professional Fees			
Architect Design (prior to const.)		$ 160,000	
Architect Supervision (during const.)		$ 40,000	
Attorney, Real Estate		$ 75,000	
Engineering / Survey		$ 75,071	
Other: FFE & Energy Consultant		$ 100,000	
	Subtotal		$ 450,071
Construction Interim Costs			
Hazard Insurance		$ 22,500	
Liability Insurance		$ 22,500	
Construction Loan Interest		$ 247,749	
Construction Loan Fee		$ 50,000	
Title, Recording		$ 2,500	
Legal Fees		$ 30,000	
Real Estate Taxes		$ 10,000	
Inspection Fees		$ 12,000	
	Subtotal		$ 397,249
Permanent Financing			
Permanent Loan Origination Fee		$ 38,000	
Legal Fees		$ 12,500	
	Subtotal		$ 50,500
Other			
Market Study		$ 10,000	
Environmental Study		$ 12,000	
Tax Credit Reservation Fees		$ 60,000	
Tax Credit Application Fees		$ 2,385	
Compliance Fees		$ 25,175	
Marketing/Rent-up		$ 20,000	
Cost Certification		$ 30,000	
	Subtotal		$ 159,560
Syndication Costs			
Organizational		$ 45,000	
	Subtotal		$ 45,000
Developer Fees			
Developer Overhead		$ 1,490,000	
	Subtotal		$ 1,490,000
Project Reserves			
Rent Up Reserve		$ 42,858	
Operating Reserves		$ 156,193	
	Subtotal		$ 199,051
	Total		$ 10,875,537



RENOVATION CONCEPT 880 FIRST STREET- VIEW LOOKING SOUTH EAST

Schneider + Smith
ARCHITECTS

833 South Center Street
Royal Oak MI 48067
ph 248 398 0605
schneidersmith.com

CLIENT
SAMARITAS MUSKEGON

PROJECT
ADAPTIVE RE-USE
880 FIRST STREET
MUSKEGON, MI

DATE AND ISSUE

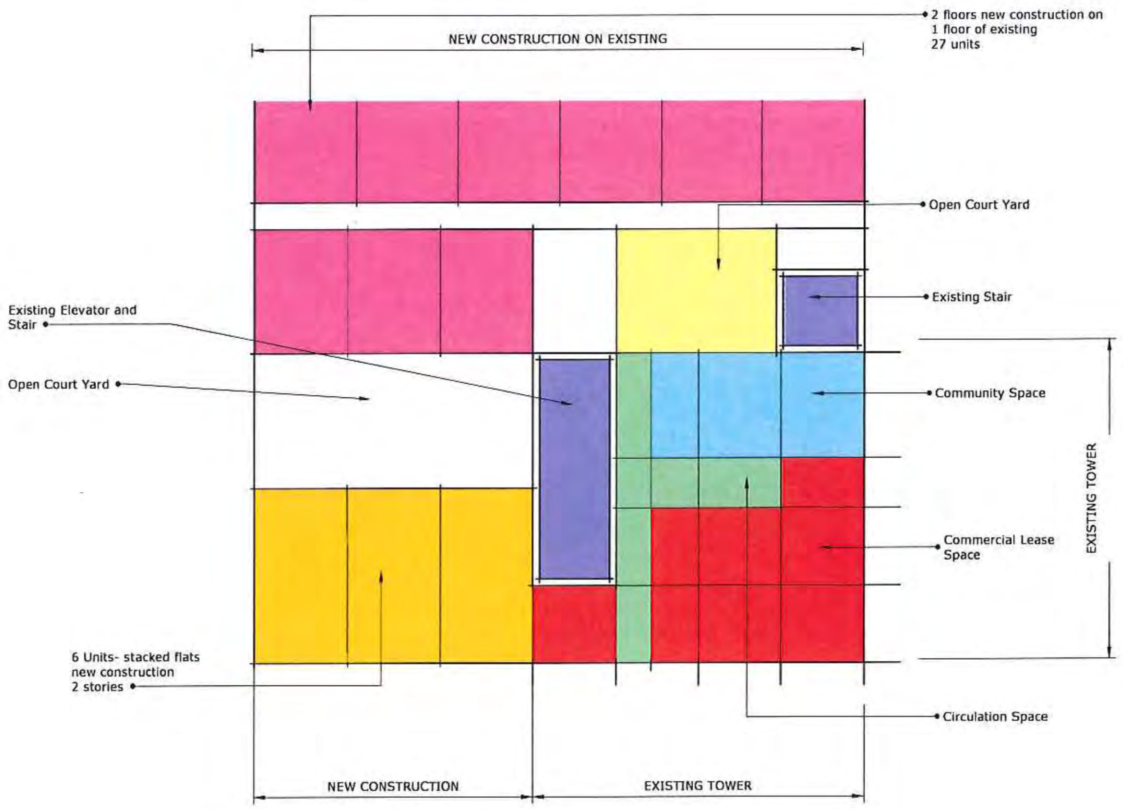
8-08-19	RFP RESPONCE

REVISION

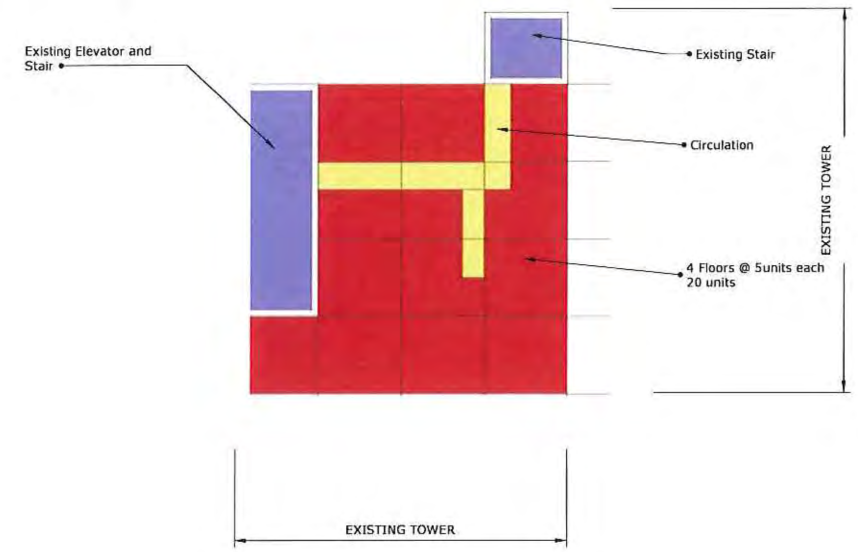
DESCRIPTION
CONCEPT PLANS

JOB NO:
DRAWN BY:
CHECKED BY:
APPROVED BY:
DATE:

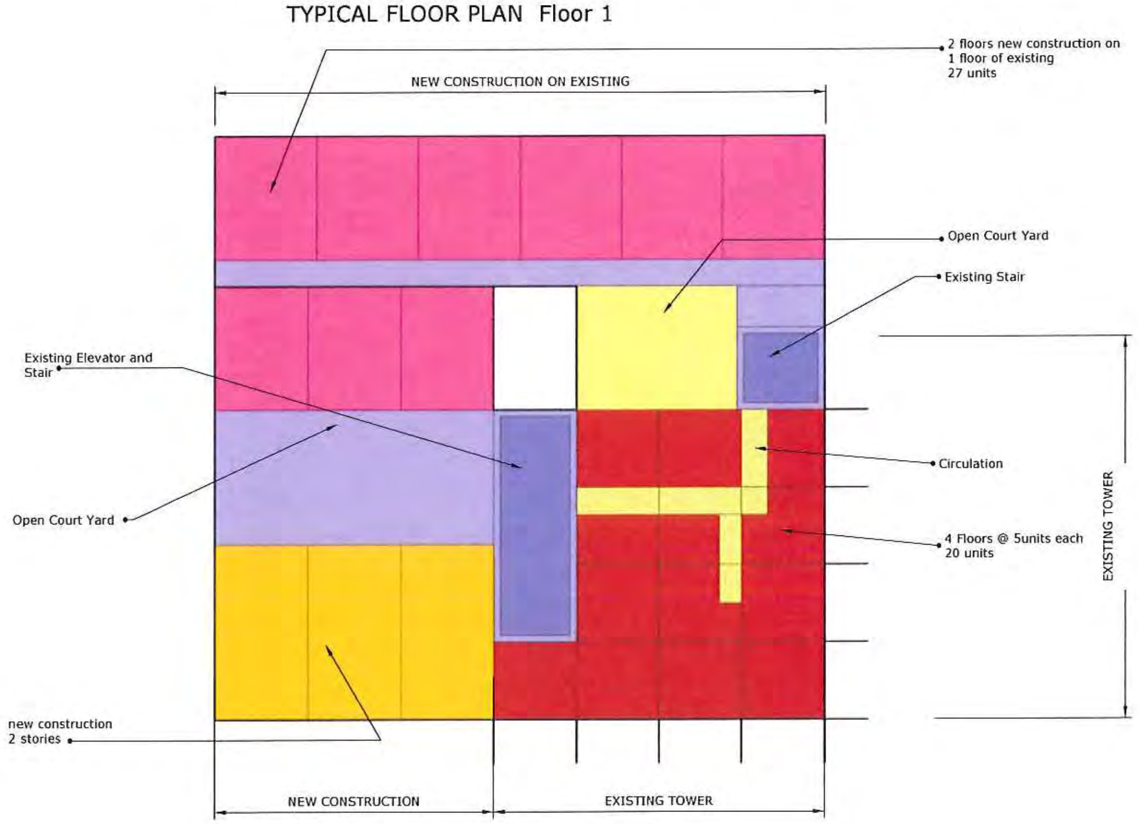
SHEET NO
A-1



TYPICAL FLOOR PLAN Floor 1



TYPICAL FLOOR PLAN 4-5



TYPICAL FLOOR PLAN 2-3

EXISTING SITE

Schneider + Smith
ARCHITECTS

833 South Center Street
Royal Oak MI 48067
ph 248 398 0605
schneidersmith.com

CLIENT
SAMARITAS MUSKEGON

PROJECT
ADAPTIVE RE-USE
880 FIRST STREET
MUSKEGON, MI

DATE AND ISSUE
8-08-19 RFP RESPONCE

REVISION

DESCRIPTION
CONCEPT PLANS

JOB NO:
DRAWN BY:
CHECKED BY:
APPROVED BY:
DATE:

SHEET NO
A-1

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: September 10, 2019	Title: PILOT, Samaritas
Submitted By: Mike Franzak	Department: Planning

Brief Summary: Samaritas is proposing an affordable housing development at 4 W Webster Ave and is requesting a Payment in Lieu of Taxes (PILOT) for the project. The development will include 53 residential for seniors and a 900 square foot commercial space on the first floor. A service charge of 4% will be imposed, as well as a municipal services fee of 2%.

Detailed Summary: There will be 53 one-bedroom units. Income targeting is based on 10 units at 30% AMI (Area Median Income); 9 units at 40% AMI; 1 unit at 50% AMI, 17 units at 60% AMI; and 16 units at 80% AMI. The project will have eight project-based vouchers for residents age 55 and over.

Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):

Recommended Motion: To approve the Contract for Housing Exemption and the Municipal Services Agreement with Samaritas and to authorize the Mayor and Clerk to sign both.

For City Clerk Use Only:

Commission Action:

August 24, 2019

Muskegon City Commission
933 Terrace St
Muskegon, Michigan 49440
Attn: Mike Franzak, Planning Director and Frank Peterson, City Manager

Re: Request to the City of Muskegon for a 20 Year, 4% PILOT (Service Charge in Lieu of Ad Valorem Property Tax) to facilitate the award of Tax Credits

To the Muskegon City Commission:

Samaritas, a leading human service and housing provider, is working to create the Samaritas Affordable Living (SAL) Muskegon project. This project will be owned and operated by Samaritas Affordable Living Muskegon Limited Dividend Housing Association, Limited Partnership. SAL Muskegon will provide 53 desirable new units of housing for seniors on part of a key infill site at 4 West Webster Avenue in the city of Muskegon. The four-story building, a few blocks from downtown Muskegon, will support and compliment the city's revitalization efforts that began several years ago. The project adds 53 needed units for aging residents seeking a convenient location to remain active in the community.

The SAL Muskegon site offers numerous amenities. It is located within a commercial district which provides retail, services, and restaurants. There is a public transportation stop on the northeast corner of the parcel. The site enjoys proximity to a full-service pharmacy, museums, multiple parks, and several churches. The location allows residents to enjoy various features and attractions in the downtown area, such as the Muskegon Farmers Market, LC Walker Arena, and the shopping and dining district on Western Avenue.

The project helps to address the lack of housing in the transition area between the downtown and the outlying areas of the Muskegon. As an infill rental project, SAL Muskegon will fit into the existing area in terms of scale, building mass, and design. The surface parking area will provide twenty-eight spaces on the site and at least twelve spaces along the streets adjacent to the building. Residents can take advantage of available public transportation or para-transit opportunities as well as pedestrian and bicycle options. There is a bus stop on one corner of the site and the main bus terminal is only four blocks away.

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

The SAL Muskegon project is located within an Opportunity Zone census tract and is expected to create at least two ongoing jobs and at least 43 temporary jobs during the construction period based on projects of similar size and scope. The commercial area will create space for three ongoing office jobs.

Samaritas has designed the project specifically for seniors, ages 55 and over. Some of them may be working in local retail, service, restaurant, or commercial businesses and want easy access to their place of employment, along with entertainment in the vicinity. Some individuals may want to downsize and simplify their lives. Some may not have enough income to maintain a single-family home. They may have experienced a life changing event such as divorce, death of a spouse, physical disability or chronic illness. They may spend a large amount of their income on health insurance, care, rehabilitation and medication. The SAL Muskegon project will provide housing for these residents and will also include shared community space to meet the need for socializing. By providing a high-quality, attractive independent living option for seniors in an affordable price range, the SAL Muskegon project will have a positive impact on the housing market in the City of Muskegon.

Samaritas is already significantly involved in serving the Muskegon area by managing one senior living project, Christian Manor at 1480 McLaughlin, operating five facilities for persons with disabilities, providing Foster Care and Family Reunification Services, and having a corporate office located at the Frauenthal Center in downtown Muskegon.

To discuss the possibilities of this request, please contact James Gilbert, Executive Director of Business Development at 313-308-8833 or by e-mail at jgilb@samaritas.org. We are familiar with a potential requirement for an MSA in conjunction with the PILOT and we can discuss our capabilities for that based on our projected operating pro-forma.

The Samaritas development team thanks you for your consideration of our PILOT request which is a key component to being awarded by MSHDA in the competition for Low Income Housing Tax Credits and being able to completely finance the proposed project. We hope to continue to serve the Muskegon community and to create a new housing project that we can all be proud of.

Sincerely,

Sam Beals
Chief Executive Officer

Samaritas
2000 32nd Street, SE
Grand Rapids, Michigan, 49508
(616) 204-4330

About Samaritas:

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

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

For additional information, visit www.samaritas.org.

Qualifications and Experience

Development Team members for this project will include:

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

Schneider + Smith Architects - Architect

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

KMG Prestige – Compliance Manager

Capital for Compassion – West Michigan based Housing Consultant

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

Project Site and Unit Description

The SAL Muskegon site includes a vacant area on the northeast side of the parcel at 4 West Webster Avenue, along with fourteen parking spaces in a recently constructed adjacent parking lot. Three of the edges of the site are bound by West Clay Avenue, Spring Street, and West Webster Avenue. The site is used efficiently to provide a four-story elevator building with surface parking. The first floor includes the entrance vestibule, community room, reception area, management office, public restrooms and mail/package area. To meet the desire for active ground floor space, the building is designed with a large common area on the first floor with views to the street and 804 SF of commercial office space which will be leased to Samaritas.

The first floor includes eleven units. Floors two through four each include fourteen units and a laundry room. The 53 one-bedroom apartments each measure 700 square feet.

The project will have eight project-based vouchers for residents age 55 and over. Rents will be based on income, with six units at 30% of Area Median Income (AMI), nine units at 40% of AMI, fourteen units at 60% of AMI, and sixteen units at 80% of AMI. Muskegon County has one-person income limits ranging from $12,840 at 30% of AMI to $34,240 at 80% of AMI. The current rent limit for a one-bedroom unit at 80% of AMI is $917 per month.

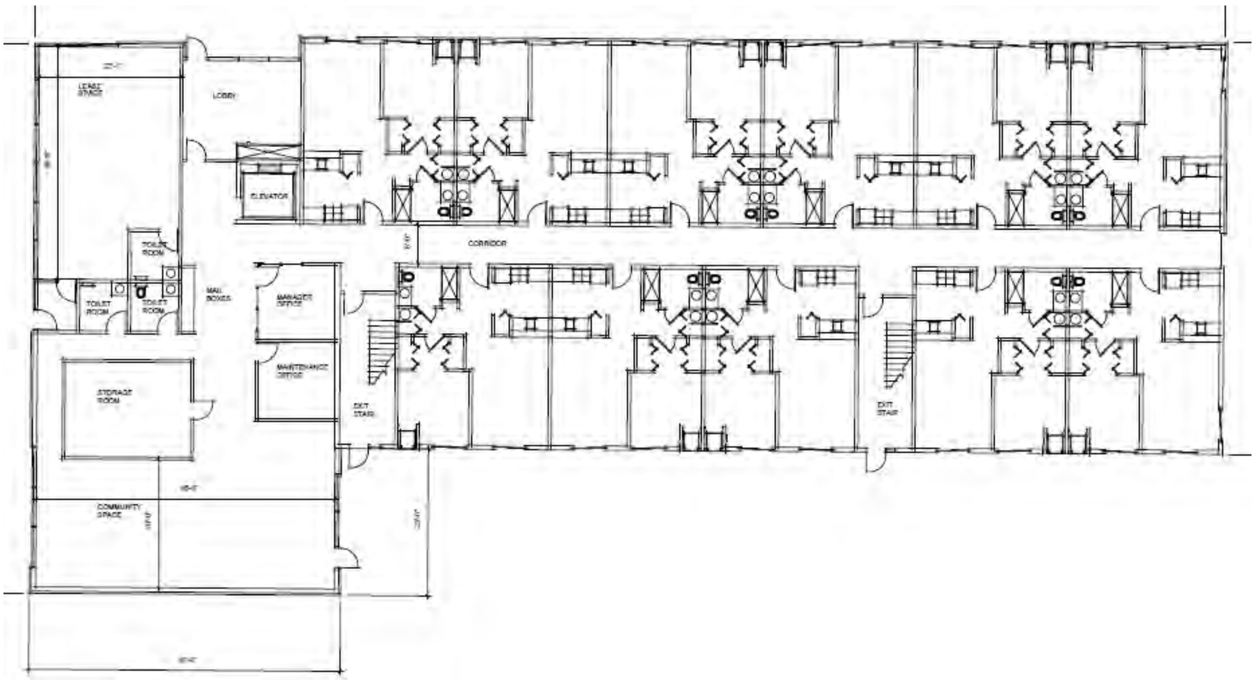
Project amenities include energy efficient construction and Energy Star rated appliances including dishwasher, garbage disposal, electric stove with self-cleaning oven and frost-free refrigerator; wall to wall carpeting in both the living room and bedroom; walk-in closet; in-unit heating/cooling system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

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

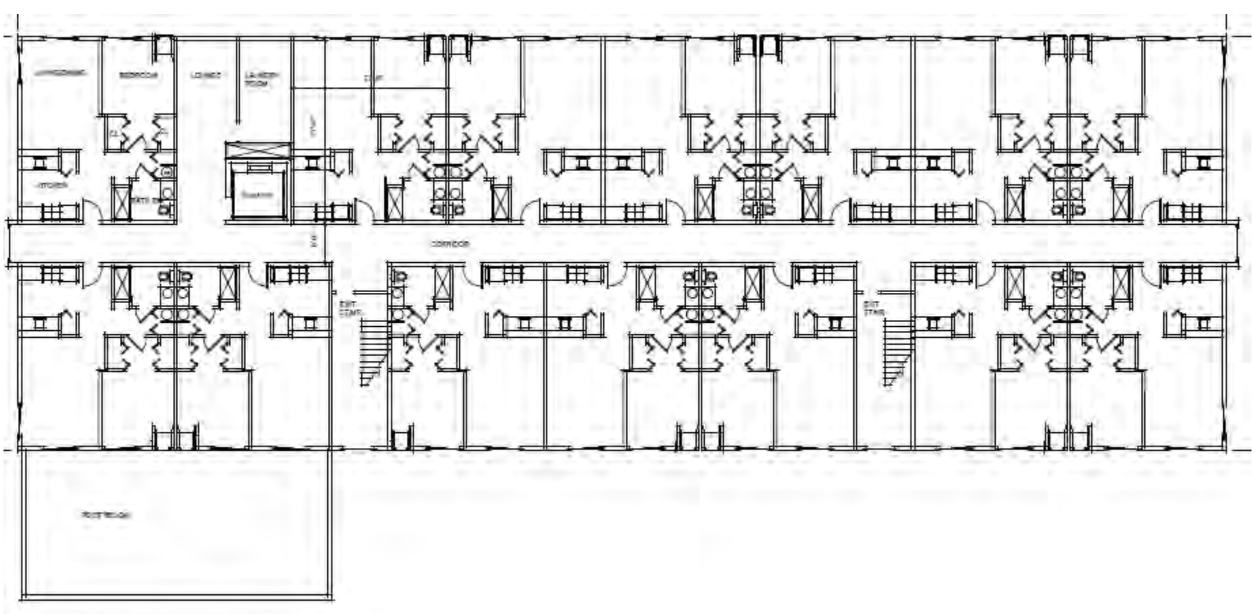
Location Maps

Site Plan

2' SETBACK
LANDSCAPE SCREENING
LANDSCAPE SCREENING
LAWN AREA
DUMPSTER ENCLOSURE
14 SPACES
7 SPACES
ASPHALT PARKING LOT
7 SPACES



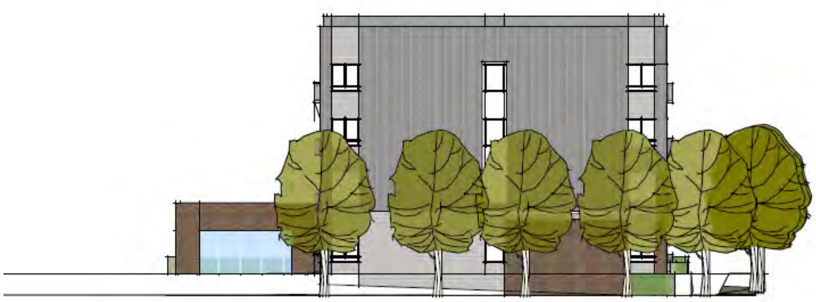
FIRST FLOOR PLAN
SCALE: 1/8" = 1'-0"



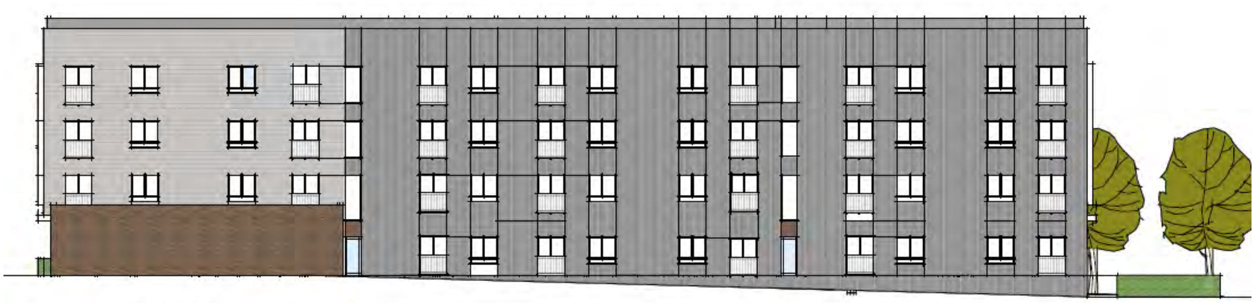
FLOOR PLAN- TYPICAL 2-4
SCALE: 1/8" = 1'-0"

EAST ELEVATION

NORTH ELEVATION



SOUTH ELEVATION



WEST ELEVATION

SPRING STREET ELEVATION

CLAY AVE. ELEVATION

WEBSTER ELEVATION

SIDEWALK & PLANTER ALONG SPRING STREET

ENTRY

CITY OF MUSKEGON

CONTRACT FOR HOUSING EXEMPTION

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

RECITALS

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

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

The City acknowledges that the Sponsor (as defined below) has offered, subject to receipt of an allocation of Low Income Housing Tax Credits and/or receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to construct/acquire and rehabilitate, own and operate a housing project identified as Samaritas Affordable Living Muskegon on certain property located at 4 W. Webster Avenue, Muskegon, Michigan in the City (the "Project") to serve low income seniors, and that the Sponsor has offered to pay the City on account of this housing project an annual service charge for public services in lieu of all ad valorem property taxes.

C. Developer has assumed an agreement to purchase a site in the City of Muskegon (4 W. Webster Avenue) for the construction of a proposed low-income housing project as defined in City Section 82-46 of the Ordinance.

D. Developer and an affiliate of Developer, to be formed, have or will enter into an agreement to form a limited dividend housing association limited liability company to function as owner of the proposed low-income housing Project. The owning entity to be formed will be identified as SAMARITAS AFFORDABLE LIVING MUSKEGON LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP.

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

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

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

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. <u>Definitions.</u>

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

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

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

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

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

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

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

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

1.9 "Low Income Seniors" means persons and families whose head of household is at least 55 years of age and income eligible according to MSHDA income standards set by the AMI Limits for Muskegon County PMSA.

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

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

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

4.1 The Developer shall pay the service charge and payment in lieu of all ad valorem taxes on or before July 1, of each year during the time the exemption is in effect. The service charge shall equal four percent (4 %) percent of the net shelter rents charged for all of the LIHTC certified units in the exempt housing project for the preceding calendar year, exclusive of the utility charges paid by the project.

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF MUSKEGON

By: ______________________________

Stephen J. Gawron

Its: Mayor

Dated: ______________________________

By: ______________________________

Ann Meisch

Its: City Clerk

Dated: ______________________________

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

By: Samaritas Affordable Living Muskegon GP, LLC, a Michigan limited liability company

Its: General Partner

By: Samaritas, a Michigan non-profit corporation

Its: Sole Member

By: Sam Beals

Print: Sam Beals

Its: CEO

Dated:9/5/19

By: J. Cederstrom

Print: Jenny Cederstrom

Its: CFO

Dated:9/5/19

EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF THE FOLLOWING DESCRIBED PARCEL TO BE DETERMINED BY A SURVEY:
Lots 1 and 2 and the East 1/2 of Lot 3 and Lots 10, 11 and 12, Block 177, Revised Plat of 1903 of the City of Muskegon, according to the Plat thereof, as recorded in Liber 3 of Plats, Page 71.
61-24-205-177-0001-00 (Covers Additional Land)

MUNICIPAL SERVICES AGREEMENT

THIS MUNICIPAL SERVICES AGREEMENT ("Agreement") is entered into on this 10th day of September, 2019 between **SAMARITAS AFFORDABLE LIVING MUSKEGON LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP, a Michigan limited partnership** its successors and/or assigns (the "Developer") and the **CITY OF MUSKEGON**, 933 Terrace Street, Muskegon, MI 49440 (the "City") is made pursuant to the following terms:

RECITALS

A. Developer has assumed an agreement to purchase a site in the City of Muskegon known as 4 W. Webster for the construction of a proposed low-income housing project (the "Project").

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

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

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

1. Emergency services, including police and fire services specifically administered through the City, and, on public streets and sidewalks, maintenance, repair, snow removal, and street lighting; also to include other matters as the City deems necessary;

2. Other miscellaneous services as may, from time to time, be mutually agreed to for the benefit of the Project;

3. Said municipal services shall be provided in the customary way and in accordance with all laws, rules and regulations of the United States of America, State of Michigan, County of Muskegon and City of Muskegon or other applicable jurisdictions or bodies.

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

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

AGREEMENT

The parties agree as follows:

1. **Provision of Services**. The City will provide the Municipal Services.

2. **Payment**. The Developer shall pay a service charge on or before July 1, of each year during the time the CONTRACT FOR HOUSING EXEMPTION is in effect. ("Municipal Services Fee"). The Municipal Service Fee shall be two (2%) percent of the net rent received annually, excluding project paid utilities, starting during the calendar year that a unit in the Project is placed in service. The first year shall be pro-rated based on that portion of the City's fiscal year (July 1 – June 30) that any unit is ready to be placed in service.

3. **Term**. Payment for Municipal Services shall commence during the calendar year the CONTRACT FOR HOUSING EXEMPTION Ordinance becomes effective and continue for as long as the CONTRACT FOR HOUSING EXEMPTION is in effect.

4. **Audit**. Developer shall submit, upon request, a copy of the annual audit of the Project prepared by independent CPA's along with the payment of the service charge.

5. **Exclusive Benefit**. The obligations of the Developer hereunder are imposed solely and exclusively for the benefit of the City and no other person or entity shall have the standing to enforce such obligations or be deemed to be beneficiaries of such obligations.

6. **Remedies**. The Developer agrees that if it does not perform its obligations under this Agreement the City is entitled to pursue any and all remedies legal or equitable that it is entitled to under Michigan law. The Developer agrees to be liable for all costs of collection including reasonable attorney's fees and costs incurred by the City in the enforcement of the terms of this Agreement, if Developer is found to be in default of this Agreement by a court of competent jurisdiction.

7. **Assignment**. Upon the written consent of the City, the Developer may transfer or assign its rights and obligations under this Agreement to a buyer ("Transferee") of the Project. The Transferee must agree to assume the Developer's obligations under this Agreement and the Development Agreement which has been executed by the Developer with the City. Upon assignment and assumption of this Agreement by the Transferee (or an affiliate, as provided below), the Developer shall be relieved of any further liabilities or obligations accruing under this Agreement or the Development Agreement. Notwithstanding the foregoing, the Developer may assign this Agreement, without the written consent of the City, to an affiliate of Developer (provided that such affiliate agrees to assume the Developer's obligations hereunder and provided that the Developer and assignee give prior notice of the assignment to the City with evidence that the assignee has agreed to assume the obligations of the Developer).

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

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

If to Developer:

SAMARITAS AFFORDABLE LIVING MUSKEGON LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP
Attn: Sam Beals, CEO
Samaritas
8131 E. Jefferson
Detroit, MI 48185

with a copy to:

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

If to the City:

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

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

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

b. Certified or registered mail, postage prepaid, return receipt requested, in which case delivery shall be deemed to occur the day it is officially recorded by the U.S. Postal Service that is has delivered it to the intended recipient; or

c. Next day delivery by a recognized private delivery service such as Federal Express, providing proof of mailing and delivery comparable to certified or registered mail, return receipt requested, in which case delivery shall be deemed to occur upon delivery as recorded by the delivery service.

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

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

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

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

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

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

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

{Signatures on next page}

Municipal Services Agreement
Signature Page

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

City of Muskegon

Dated: September ___, 2019 By:________________________
Stephen J. Gawron, Mayor

Dated: September ___, 2019 By: _______________________
Ann Meisch, City Clerk

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

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

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

Sam Beals
____
Name: Sam Beals
Its: CEO
Date: 9/5/2019