

CITY OF MUSKEGON
CITY COMMISSION WORKSESSION

Monday, September 10, 2018
5:30 p.m.
City Commission Chambers

AGENDA

1. Rental Ordinance Change
2. 1000 West Western Purchase Agreement Extension
3. Sale of the Property at 1078 Second Street
4. Mid-Town Square 2
5. ADA Department of Justice Overview
6. Any Other Business
7. Adjournment

COMMISSION MEETING DATE; September 11, 2018

Date: August 28, 2018

To: Honorable Mayor and City Commissioners

From: Jeffrey Lewis, Director of Public Safety

RE: Rental Ordinance Changes

SUMMARY OF REQUEST:

The Director of Public Safety requests that the Commission authorize the approval of the Rental Ordinance changes. This will allow Building Safety Inspections (Rental) to get more detailed information and create timelines to remedy violations. The Rental Ordinance sections include;

10-329 – Time to correct violation

10-351(d) – Change in register information

10-351(e) – Application; contents

10-351(h) – Exemption from registration requirement

10-352(b) – Issuances

10-352(d) - Validity

10-352(f) – Length of time certificate of compliance is valid

- See attached for update language change

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the Rental Ordinances changes.

Requested updates/changes to the current rental ordinance in Chapter 10

10-329. Time to correct violation. All notices to repair or to correct violations of this article shall provide a **specified time** for achieving compliance in relation to the seriousness of the violation. In determining the compliance time, the following shall be taken into consideration:

10-329. Time to correct violation. All notices to repair or correct violations of this article shall provide a specified time for achieving compliance in relation to the seriousness of the violation. **If more than 30 days is needed to remedy all violations, then a timeline will need to be submitted to the inspections department for approval.** In determining the compliance time, the following shall be taken into consideration:

- (1) The complexity of the corrections required.
- (2) Whether or not there is an immediate threat to life, health or safety.
- (3) Repair of orders issued between October 31 and April 1 for exterior painting, or for any other exterior work adversely affected by cold or snow, shall provide additional time for the completion of such work, but in no case longer than June 30.
- (4) The administrator may approve an increase of the time by a written notice when there are extenuating circumstances where the owner, occupant or responsible local agent has made a substantial documented and timely effort to correct violations.
- (5) No other extensions or further extensions shall be permitted, except by orders of the housing board of appeals for good cause shown.

WHY WAS THE CHANGE REQUESTED:

- This time line sets up expectations for the landlord so that it can't be extended over and over for small repairs. If major repairs are needed we can monitor the end date.

10-351(d) *Change in register information.* The owner of rental dwellings already registered with the city or his responsible local agent shall register within 60 days after any change occurs in register information. A new owner of a registered dwelling shall register the dwelling within 60 days of assuming ownership.

10-351 (d) *Change is register information.* The owner of rental dwellings already registered with the city or his responsible local agent shall register within 60 days after any change occurs in regulation information. If a change in ownership occurs the new owner will be required to apply for a new certificate of compliance pursuant to section 10-352.

WHY WAS THE CHANGE REQUESTED:

- Each new owner is starting with a clean slate and is required then to inspect the units after purchase. This would again maintain a higher quality of housing in Muskegon.

10-351(e) Application; contents. Application for registration shall be made in such form and in accordance with such instructions as may be provided by the administrator and shall include:

- (1) The address of the rental dwelling.
- (2) The number of dwelling units, the number of rooming units and the number of hotel units in the dwelling.

10-351 (e) Application; *contents*. Application for registration shall be made in such form and in accordance with such instructions as may be provided by the administrator and shall include:

- (1) The address of the rental dwelling.
- (2) The number of dwelling units, the number of rooming units and the number of hotel units in the dwelling and the number of bedrooms in each individual unit.
- (3) The name, residence address, business address, business phone number and personal phone number of the owner.
- (4) The name, residence address, business address, business phone number and personal phone number of the manager and responsible local agent designated by the owner.
- (5) The address where the owner or responsible local agent will accept notices or orders from the city.
- (6) The driver's license or state identification number of the owner or responsible local agent and the state in which the license or ID was issued.

WHY WAS THE CHANGE REQUESTED:

- Knowing the number of legal bedrooms in a rental unit will make all parties aware of what can and cannot be used as a bedroom. (i.e. basements without proper egress, attic space, and porches)

10-351(h) *Exemption from registration requirement.*

Dwellings that are not owner-occupied, but are occupied by a grandparent, parent, child or current spouse of the owner are exempt from the rental registration requirements outlined in this section. This exemption is limited to **single family residential dwellings**. It is the responsibility of the owner asking to be exempted from the rental dwelling registration requirement to provide satisfactory proof to the city of the existence of the familial relationship between owner and resident of the dwelling.

10-351(h) *Exemption from registration requirement.* Dwellings that are not owner-occupied, but are occupied by a grandparent, parent, child or current spouse of the owner are exempt from the rental registration requirements outlined in this section. This exemption is limited to single family residential dwellings, **as well as duplexes if both occupants are occupied by a grandparent, parent, child or current spouse of the owner.** It is the responsibility of the owner asking to be exempted from the rental dwelling registration requirement to provide satisfactory proof to the city of the existence of the familial relationship between owner and resident of the dwelling, as well as allow the inspections department to make an **exterior inspection** and correct any violations identified during the exterior inspection pursuant to subsection 10-329.

WHY WAS THE CHANGE REQUESTED:

- Since the family certificate has been in effect we have come across many situations where one family member is caring for another. Many are parent/child where one is caring for the other while still maintaining separate

10-352(b) *Issuance*. The city shall issue a certificate of compliance for a rental dwelling when the city finds that the rental dwelling, its units and accessory structures and yards comply with the standards set forth in this article. However, no certificate of compliance shall be issued or retained unless/until all of the following fees and debts to the city have been paid in full:

- (1) All previously billed property taxes;
- (2) All current or past due special assessment installments;
- (3) Water or sewer bills outstanding;
- (4) All charges against the property for mowing, cleanup, weed or debris removal and similar charges by the city;
- (5) Any fees, fines, penalties or debts of any sort arising from the provisions or enforcement of this chapter.

10-352 (b) *Issuance*. The city shall issue a certificate of compliance for a rental dwelling when the city finds that the rental dwelling, its units and accessory structures and yards comply with the standards set forth in this article. **It is the owners responsibility to ensure that a full and complete copy of the certificate of compliance remain at the rental dwelling at all times. A certificate of compliance issued under this subsection shall be nontransferable.** No certificate of compliance shall be issued or retained unless/until all of the following fees and debts to the city have been paid in full:

- (1) All previously billed property taxes;
- (2) All current or past due special assessment installments;
- (3) Water or sewer bills outstanding;
- (4) All charges against the property for mowing, cleanup, weed or debris removal and similar charges by the city; and
- (5) Any fees, fines, penalties or debts of any sort arising from the provisions or enforcement of this chapter.

WHY WAS THE CHANGE REQUESTED:

- This allows the tenants to know that the property is certified and how many bedrooms are allowed. It also gives the tenant the correct contact information if they have a problem.
- Keeping a copy on-site will allow first responders to know if it's certified and how if occupancy is over capacity.

10-352(d) *Validity*. A certificate of compliance shall be valid for **four** years for all rental units, unless suspended as set forth in subsection (g) of this section. The administrator may authorize up to eight additional months on the certificate of a dwelling for the sole purpose of balancing inspection workloads for the city.

10-352(d) *Validity*. A certificate of compliance shall be valid for **six years**, provided no violation of any provision of the city ordinances is found. If a violation of a provision of the city ordinance is found, then the certificate of compliance shall be valid for **three years**. The certificate of compliance shall be valid for all rental units, unless suspended as set forth in subsection (g) of this section. The administrator may authorize up to eight additional months on the certificate of a dwelling for the sole purpose of balancing inspection workloads for the city.

WHY WAS THE CHANGE REQUESTED:

- Allows access to unit sooner, which will keep the quality of rental stock in better condition.
- Encourages landlords to have the units pass with the first inspection so they can earn the 6-year certificate.

10-352(f) *Length of time certificate of compliance is valid.* Any new certificate of compliance issued to an owner for a dwelling shall have an expiration date **four** years from the date of issuance, except that if a temporary certificate has been previously issued, the certificate shall expire four years from the date the temporary certificate was issued.

10-352(f) *Length of time certificate of compliance is valid.* Any new certificate of compliance issued to an owner for a dwelling shall have **an expiration date six or three years**, pursuant to subsection (d) of this section, from the date of issuance, except that if a temporary certificate has been previously issued, the certificate shall expire six or three years from the date the temporary certificate was issued.

WHY WAS THE CHANGE REQUESTED:

- Same as above 10-352(d) – page 6, also landlords requested a change to 2, 4, or 6 year certificates but we feel that 3 and 6 is the best compromise. Trying to set-up and maintain the 2, 4, 6 standards would be very time consuming for staff.

NOT CHANGED

ARTICLE VI. PROPERTY MAINTENANCE CODE

DIVISION 1. GENERALLY

10-281 Definitions.

Certificate of compliance means a certificate issued by the director of inspections stating that a structure or portion thereof complies with the requirements of the housing code and all other codes regulating the condition or use of property.

1. City ordinance will update as the International Property Maintenance Code updates

**CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN
ORDINANCE NO. _____**

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

1. Section 10-329 is amended to read as follows:

10-329. Time to correct violation. All notices to repair or correct violations of this article shall provide a specified time for achieving compliance in relation to the seriousness of the violation. If more than 30 days is needed to remedy all violations, then a timeline will need to be submitted to the inspections department for approval. In determining the compliance time, the following shall be taken into consideration:

- (1) The complexity of the corrections required.
- (2) Whether or not there is an immediate threat to life, health or safety.
- (3) Repair of orders issued between October 31 and April 1 for exterior painting, or for any other exterior work adversely affected by cold or snow, shall provide additional time for the completion of such work, but in no case longer than June 30.
- (4) The administrator may approve an increase of the time by a written notice when there are extenuating circumstances where the owner, occupant or responsible local agent has made a substantial documented and timely effort to correct violations.
- (5) No other extensions or further extensions shall be permitted, except by orders of the housing board of appeals for good cause shown.

2. Subsections 10-351(d), (e), and (h) are amended to read as follows:

(d) *Change is register information.* The owner of rental dwellings already registered with the city or his responsible local agent shall register within 60 days after any change occurs in regulation information. If a change in ownership occurs the new owner will be required to apply for a new certificate of compliance pursuant to section 10-352.

(e) *Application; contents.* Application for registration shall be made in such form and in accordance with such instructions as may be provided by the administrator and shall include:

- (1) The address of the rental dwelling.
- (2) The number of dwelling units, the number of rooming units and the number of hotel units in the dwelling and the number of bedrooms in each individual unit.
- (3) The name, residence address, business address, business phone number and personal phone number of the owner.

- (4) The name, residence address, business address, business phone number and personal phone number of the manager and responsible local agent designated by the owner.
- (5) The address where the owner or responsible local agent will accept notices or orders from the city.
- (6) The driver's license or state identification number of the owner or responsible local agent and the state in which the license or ID was issued.

(h) *Exemption from registration requirement.* Dwellings that are not owner-occupied, but are occupied by a grandparent, parent, child or current spouse of the owner are exempt from the rental registration requirements outlined in this section. This exemption is limited to single family residential dwellings, as well as duplexes if both occupants are occupied by a grandparent, parent, child or current spouse of the owner. It is the responsibility of the owner asking to be exempted from the rental dwelling registration requirement to provide satisfactory proof to the city of the existence of the familial relationship between owner and resident of the dwelling, as well as allow the inspections department to make an exterior inspection and correct any violations identified during the exterior inspection pursuant to subsection 10-329.

3. Subsections 10-352(b), (d), and (f) are amended to read as follows:

(b) *Issuance.* The city shall issue a certificate of compliance for a rental dwelling when the city finds that the rental dwelling, its units and accessory structures and yards comply with the standards set forth in this article. It is the owners responsibility to ensure that a full and complete copy of the certificate of compliance remain at the rental dwelling at all times. A certificate of compliance issued under this subsection shall be nontransferable. No certificate of compliance shall be issued or retained unless/until all of the following fees and debts to the city have been paid in full:

- (1) All previously billed property taxes;
- (2) All current or past due special assessment installments;
- (3) Water or sewer bills outstanding;
- (4) All charges against the property for mowing, cleanup, weed or debris removal and similar charges by the city; and
- (5) Any fees, fines, penalties or debts of any sort arising from the provisions or enforcement of this chapter.

(d) *Validity.* A certificate of compliance shall be valid for six years, provided no violation of any provision of the city ordinances is found. If a violation of a provision of the city ordinance is found, then the certificate of compliance shall be valid for three years. The certificate of compliance shall be valid for all rental units, unless suspended as set forth in subsection (g) of this section. The administrator may authorize up to eight additional months on the certificate of a dwelling for the sole purpose of balancing inspection workloads for the city.

(f) *Length of time certificate of compliance is valid.* Any new certificate of compliance issued to an owner for a dwelling shall have an expiration date six or three years, pursuant to subsection (d) of this section, from the date of issuance, except that if a temporary certificate has

been previously issued, the certificate shall expire six or three years from the date the temporary certificate was issued.

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 adopted:

Ayes: _____
Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By _____
Ann Marie Meisch, MMC
City Clerk

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 _____, 2018, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted, and public notice was given, pursuant to an in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2018

Ann Marie Meisch, MMC
Clerk, City of Muskegon

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

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on _____, 2018, the City Commission of the City of Muskegon amended Chapter 10, Article VI by amending Sections 10-352, 10-329, 10-351, and 10-281.

Section 10-329 sets the city the authority to set a specified time for the homeowner to comply with a violation of a requirement set forth in Chapter 10, Article VI.

Subsection 10-351(d) requires the owner of rental dwellings already registered with the city provide the city of any change in regulation information within 60 days of said change.

Subsection 10-351(e) requires the owner of a rental dwelling submit an application for registration and to provide certain information.

Subsection 10-351(h) establishes the circumstances and standards which must be met for the owner of a dwelling to receive an exemption from the registration requirement.

Subsection 10-352(b) requires the city to issue a nontransferable certificate of compliance, a copy of which must be kept at the rental dwelling at all times, for a rental dwelling so long as certain standards and requirements are met.

Subsection 10-352(d) provides the time periods of which a certificate of compliance shall be valid.

Subsection 10-352(f) provides the time periods of which a certificate of compliance may expire.

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.

CITY OF MUSKEGON

Published: _____, 2018

By: _____
Ann Marie Meisch, MMC, Its Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

Commission Meeting Date: September 11, 2018

Date: September 6, 2018
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Sale of the Property at 1078 Second St

SUMMARY OF REQUEST:

Staff initiated request to approve the purchase agreement for the sale of the home at 1078 2nd St to Rachel Stewart. This home was recently purchased by the city, rehabbed and converted back into a single-family home from a three-unit home.

FINANCIAL IMPACT:

The City will receive the amount of money as described in the purchase agreement.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the purchase agreement.

COMMITTEE RECOMMENDATION:

None

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement ("Agreement") is made August 30, 2018, by and between the **City of Muskegon**, a municipal corporation, with offices at 933 Terrace Street, Muskegon, Michigan 49440 ("Seller"), and **Rachel Stewart**, of 81 Hamilton Ave. Apt. #38, Muskegon, MI 49441 ("Buyer") (collectively the "Parties").

1. **General Agreement and Description of Property.** Seller agrees to sell, and Buyer agrees to buy the real estate and all improvements thereon, with all beneficial easements, and with all of Seller's right, title, and interest in all adjoining public ways, commonly known as 1078 2nd Street, Muskegon, Michigan 49440, situated in the City of Muskegon, Muskegon County, Michigan ("Property"), and legally described in **Exhibit A**, subject to the reservations, restrictions, and easements of record, provided said reservations, restrictions, and easements of record are reasonably acceptable to Buyer upon disclosure and review of the same.

2. **Purchase Price and Manner of Payment.** The purchase price for the Property shall be One Hundred Forty Thousand Dollars and 00/100 (\$140,000.00). If the appraised value of the Property is determined to be at least Five Thousand Dollars (\$5,000.00) less than the purchase price, the Parties agree to reduce the purchase price to an amount no more than Five Thousand Dollars (\$5,000.00) above the appraised value of the Property; provided, however, if the appraised value is below \$100,000.00, the Parties agree to negotiate a new purchase price. The purchase price shall be payable as follows:

a. Upon execution of this Agreement, Buyer will deliver to Seller a cashier's check payable to Seller in the amount of \$1,000 (the "Earnest Money"), to be held by the Title Company. If the transaction contemplated by this Agreement closes, the Earnest Money will be applied against the purchase price. If the transaction fails to close as a result of a breach by Buyer or Buyer otherwise failing to comply with the terms of this Agreement, Seller shall have the right to retain the Earnest Money.

b. At Closing, Buyer will pay the remaining balance of the purchase price in full to Seller, by wire transfer, certified or cashier's check.

3. **Title Insurance.** Seller, at Seller's expense, will obtain a commitment for title insurance issued by Transnation Title Agency ("Title Company"), for an amount not less than the purchase price, guaranteeing title on the conditions required in this Agreement. In the event the reservations, restrictions, or easements of record disclosed by said title commitment are, in the reasonable discretion of Buyer, deemed unreasonable, Seller shall have 20 days from the date Seller is notified in writing of such unreasonableness of restriction and such unmarketability of title, to remedy such objections. If Seller resolves such restrictions and remedies the title (by obtaining satisfactory title insurance or otherwise) within the time specified, Buyer agrees to complete this sale as provided in this Agreement, within 10 days of written notification from Seller. If Seller fails to resolve such restrictions or remedy the title within the time above specified or fails to obtain satisfactory title insurance, this Agreement shall terminate. The premium for the owner's title policy, if any, shall be paid by Buyer.

4. **Property Taxes and Assessments.** Real estate taxes and assessments due and payable prior to Closing shall be the responsibility of Seller. Real estate taxes that become due and payable after the date of Closing will be the responsibility of Buyer.

5. **Personal Property and Fixtures.** All fixtures and appliances are included in this sale at no additional cost to Buyer, except as specifically listed below. These items include, without limitation,

the following: plumbing, heating and lighting fixtures; all drapery and curtain hardware; all window shades and blinds; all kitchen appliances; wall-to-wall carpeting, if attached; all attached mirrors and bathroom mirrors; stationary laundry tubs; washer and electric dryer, water softener, water heater; heating and air conditioning equipment (window units excluded); ceiling fans; built-in gas grills; water pump and pressure tank; TV antenna; screens and storm windows and doors; awnings; mailbox; all plantings; garage door openers and controls; fireplace screens and grates; locks and keys; and all personal property located on the Property as of Closing. All such fixtures and other personal property included in the sale are being sold "AS-IS". The following items of personal property shall be excluded from the sale:

6. **Survey.** Seller will provide Buyer with any existing surveys of the Property. Buyer, at Buyer's own expense, may obtain a survey of the Property, and Buyer or Buyer's surveyor or other agents may enter the Property for that purpose prior to Closing; provided, however, Buyer must order such survey within 7 days following the full execution of this Agreement. If no survey is obtained, Buyer agrees that Buyer is relying solely upon Buyer's own judgment as to the location, boundaries and area of the Property and improvements thereon without regard to any representations that may have been made by Seller or any other person. In the event that a survey by a registered land surveyor made prior to Closing discloses a material encroachment or substantial variation from the presumed land boundaries or area, Buyer will notify Seller of such encroachment or variation within 5 days following receipt of the survey, and Seller shall have the option of effecting a remedy within 10 days after disclosure and paying the cost of such survey, or this Agreement shall terminate at the election of either party. Buyer may elect to purchase the Property subject to said encroachment or variation.

7. **Inspections by Buyer and Condition of Property.** Upon completion of Seller's renovations to the Property, including construction of a garage, Seller shall provide Buyer with a Certificate of Final Completion. For a period of fourteen (14) calendar days following Buyer's receipt of Seller's Certificate of Final Completion ("Inspection Period"), Buyer has the right to inspect all or any portion of the Property at Buyer's sole cost and expense. These inspections may include, without limitation, the soil and groundwater; all structures; pest inspections; municipal inspections as described below; well and septic, if necessary; and the plumbing, heating, ventilating, air conditioning, and electrical systems. All such inspections shall be on prior notice to Seller and be done at reasonable times. Buyer shall indemnify, defend and hold Seller harmless from and against any damage to or injury to persons or property caused by Buyer or Buyer's agents in conducting such inspections. Buyer shall have the right to terminate this Agreement prior to the end of the Inspection Period if the inspections are not acceptable to Buyer, in Buyer's reasonable discretion, by giving Seller written notice prior to the end of the Inspection Period, in which case Buyer would be entitled to return of the Earnest Money. If Buyer does not exercise Buyer's right to terminate prior to the end of the Inspection Period, the right to terminate shall be deemed to have been waived and Buyer will be deemed to have accepted the Property, improvements thereon, and all fixtures in their present, AS-IS condition.

8. **Condition of Property.** No implied warranties of habitability, quality, condition, fitness for a particular purpose, or any other implied warranties shall operate between Seller and Buyer, and Buyer expressly waives any and all such implied warranties. Buyer understands and agrees that the Property and the personal property are taken "**AS IS**". Buyer further represents and warrants that Buyer is not purchasing the Property based on any representations made by or on behalf of Seller.

9. **Lead-Based Paint.** Buyer acknowledges receiving a Lead Paint Disclosure from Seller, a copy of which is attached as **Exhibit B**.

10. **Seller's Disclosure Statement.** Upon issuing a Certificate of Final Inspection to Buyer, Seller shall simultaneously provide Buyer with a completed Seller's Disclosure Statement.

11. **Real Estate Commission.** Buyer and Seller both acknowledge and agree that no agent, broker, salesperson, or other party is entitled to a real estate commission upon the Closing of this sale. Buyer and Seller both agree to indemnify and hold the other harmless from any liability, including reasonable attorney fees, occasioned by reason of any person or entity asserting a claim for a real estate commission arising from actions taken by the other party.

12. **Closing.** The closing date of this sale shall be as mutually agreed by the parties, but in no event later than _____, 2018 ("Closing"). The Closing shall be conducted at the Title Company or at such other location as the parties mutually agree.

13. **Costs.** The costs associated with this Agreement and the Closing shall be paid as follows: (i) Seller shall pay the state and county transfer taxes in the amount required by law; (ii) Buyer shall be responsible to pay for the recording of any instrument that must be recorded to clear title to the extent required by this Agreement; (iii) Buyer shall pay for the cost of recording the quit-claim deed; and (iv) Seller shall pay any Closing fees charged by the Title Company.

14. **Deliveries.** At Closing, Seller shall execute and deliver a quit-claim deed for the Property to Buyer. The parties shall execute and deliver such other documents reasonably required to close the transaction.

15. **Possession.** Possession of the Property will be delivered to Buyer at Closing; provided, however, after full execution of this Agreement, Seller will reasonably permit Buyer to enter certain areas of the Property to store certain items in the Property while construction on the Property is being completed. If Buyer chooses to keep personal items at the Property prior to Closing, Seller shall not be responsible for the loss, damage, or theft of Buyer's items kept on the Property. Seller agrees that the Property shall be vacant prior to Closing.

16. **Default.**

a. **By Seller.** If Seller for any reason does not perform the material terms and conditions of this Agreement, Buyer may, at Buyer's option, elect to enforce the performance of this Agreement or be entitled to terminate this Agreement.

b. **By Buyer.** If Buyer for any reason does not perform the terms and conditions of this Agreement, Seller, at Seller's option and in addition to any and all legal and equitable remedies available under Michigan law, may elect to enforce the performance of this Agreement, or be entitled to terminate this Agreement and retain the Earnest Money as liquidated damages.

17. **Risk of Loss.** Until the time of Closing, risk of loss because of the damage to or destruction of any improvements located on the Property shall be solely that of Seller; provided, however, that if such loss or damage to any improvements on the Property was caused by Buyer prior to the time of Closing, Buyer shall be solely responsible for such risk of loss. In the event the improvements located on the Property are damaged at the fault of Seller prior to the date of Closing, and are not repaired by Seller prior to Closing, Buyer may elect to terminate this Agreement; or Buyer may elect to continue this Agreement in which event Seller shall assign to Buyer any insurance proceeds to be received by Seller because of said damage or other destruction to the Property.

18. **Notice.** All notices and other deliveries required under this Agreement shall be made and given to the appropriate party, or the office of the party, at the address set forth above or at such other address as may hereafter be specified by such parties by written notice from time to time. Notices shall be effective on the date of receipt, if given by hand, express delivery or recognized courier service. Notices given by certified mail shall be deemed effective five business days after the date of deposit in an authorized postal facility, as shown by its receipt for certified mail.

19. **Miscellaneous.**

a. **Governing Law.** This Agreement will be governed by and interpreted in accordance with the laws of the state of Michigan.

b. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties and supersedes any other agreements, written or oral, that may have been made by and between the parties with respect to the subject matter of this Agreement. All contemporaneous or prior negotiations and representations have been merged into this Agreement.

c. **Amendment.** This Agreement shall not be modified or amended except in a subsequent writing signed by all parties.

d. **Binding Effect.** This Agreement shall be binding upon and enforceable by the parties and their respective legal representatives, permitted successors, and assigns.

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

f. **Full Execution.** This Agreement requires the signature of all parties. Until fully executed, on a single copy or in counterparts, this Agreement is of no binding force or effect and if not fully executed, this Agreement is void.

g. **Non-Waiver.** No waiver by any party of any provision of this Agreement shall constitute a waiver by such party of any other provision of this Agreement.

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

i. **No Reliance.** Each party acknowledges that it has had full opportunity to consult with legal and financial advisors as it has been deemed necessary or advisable in connection with its decision to knowingly enter into this Agreement. Neither party has executed this Agreement in reliance on any representations, warranties, or statements made by the other party other than those expressly set forth in this Agreement.

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

k. **Venue.** 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 that Muskegon County is the exclusive venue.

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

Seller – City of Muskegon

By: _____
Name: Stephen Gawron
Title: Mayor
Date: _____, 2018

Buyer –



Rachel Stewart

By: _____
Name: Ann Marie Meisch
Title: Clerk
Date: _____, 2018

Exhibit A

The following described Property situated in the City of Muskegon, County of Muskegon, State of Michigan:

The South $\frac{1}{2}$ of Lot 4, Block 352, Revised Plat (of 1903) of the City of Muskegon, as recorded in Liber 3 of Plats, Page 71, Muskegon County Records

Parcel No.: 61-24-205-352-0004-10

Commonly known as: 1078 2nd Street, Muskegon, Michigan 49440

Exhibit B
Lead Disclosure Form
DISCLOSURE OF INFORMATION ON LEAD-BASED PAINT
AND/OR LEAD-BASED PAINT HAZARDS

Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Seller's Disclosure

- (a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):
- (i) ____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).
- _____
- (ii) ____ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.
- (b) Records and reports available to the seller (check (i) or (ii) below):
- (i) ____ Seller has provided the Buyer with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).
- _____
- (ii) ____ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Buyer's Acknowledgment (initial)

- (c) ____ Buyer has received copies of all information listed above.
- (d) ____ Buyer has received the pamphlet *Protect Your Family from Lead in Your Home*.
- (e) ____ Buyer has (check (i) or (ii) below):
- (i) ____ received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or
- (ii) ____ waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (initial)

- (f) ____ Agent has informed the seller of the seller's obligations under 42 USC 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Seller – City of Muskegon

Buyer –

Stephen Gawron, Mayor

Date

Rachel Stewart

Date