CITY OF MUSKEGON

CITY COMMISSION MEETING

AUGUST 13, 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. **Presentation of 2019 Beautification Awards**
- □ **INTRODUCTIONS/PRESENTATION:**
- □ **CITY MANAGERS REPORT:**
- □ **CONSENT AGENDA:**
  - A. **Approval of Minutes** City Clerk
  - B. **Designation of Voting Delegates for the Michigan Municipal League Annual Business Meeting** City Clerk
  - C. **Adopt a Resolution Approving the Reclassification of a Tavern License to a Class C License for Port City Cruise Lines, LLC** City Clerk
  - D. **Adopt a Resolution Approving the Off-Premises Tasting Room License for Wonderland Distilling Co.** City Clerk
  - E. **Memorandum of Understanding – Justice Assistance Grant** Public Safety
  - F. **2019 Verizon/Central Dispatch License Agreement** Public Safety
  - G. **LC Walker Arena – Ironmen Lease** City Manager
  - H. **Water Main Easement** Department of Public Works
  - I. **DPW Roofing** Department of Public Works
  - J. **Industrial Park Lift Station Pump** Department of Public Works

K. **Public Meeting Training** Development Services

L. **Opportunity Zone Incentive Program** Economic Development

M. **Lakeside Business Improvement District (BID) Initial Resolution** Planning & Economic Development

N. **Sale of Lots 3 & 4 of Seaway Industrial Park** Planning & Economic Development

O. **Acceptance of Property from Muskegon County** Planning & Economic Development

P. **Lease of Yuba Street Property to the Community Foundation from Muskegon County** Planning & Economic Development

Q. **Sale of the Buildable Lot at 1245 5th Street** Planning & Economic Development

R. **Community Relations Committee Establishment of Farmers Market Advisory Board** City Clerk

S. **Community Relations Committee Appointment Recommendations** City Clerk

- □ **PUBLIC HEARINGS:**
- □ **COMMUNICATIONS:**
- □ **UNFINISHED BUSINESS:**
- □ **NEW BUSINESS:**

A. **Convention Center – Site and Utilities Bid Pack** City Manager

- □ **ANY OTHER BUSINESS:**
- □ **PUBLIC PARTICIPATION:**

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

- □ **CLOSED SESSION:**
- □ **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: August 8, 2019

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

Work Session:

1. Disability Network of West Michigan will be in attendance to talk about the services they provide our community. We have also asked them to provide us with a proposal to more formally cooperate/assist the city with accessibility issues.
2. We will be discussing a proposed land lease with the Community Foundation to allow for the construction and operation of the FARM incubator at the former farmers market site. Important to note is that the CFFMC and John Essex have agreed to this course of action.
3. Staff is planning to undertake a number of public meetings/facilitations as we work to update the master plan, parks plan, etc. Planning staff has spent considerable time meeting with resident groups to take comments on a variety of issues. Over that time, it has become apparent that our staff (and our various boards) could probably use some training in properly dealing with the public. There are many different sides to each conversation, and some residents handle that differently than others. A properly trained staff should be able to help keep discussions moving forward in a respectful and engaging manner. We plan to offer this training to staff, Commissioners, neighborhood boards, and other city-appointed committees.
4. Dave Alexander will be in attendance to discuss the potential of creating a Business Improvement District in the Lakeside Business District.
5. Jake Eckholm will be in attendance to talk about a proposed incentive program to help guide additional opportunity zone investments into the City of Muskegon's opportunity zones. At this time, the state has done very little to set Michigan apart from other States; this leave the individual communities responsible for making their zones attractive to out-of-state investors. We believe package proposed will provide those investors with an incentive that stands out as equal to or better than other communities and other states.
6. Mike Franzak will be in attendance to discuss recreation marihuana and staff's recommendation as to how to zone and license for the uses. There were a number of questions raised by the Commission at the last work session, and I believe Mike is in a

position to answer most of them. We also learned recently that Muskegon will be treated as a community that disproportionately suffered from illegal marihuana laws. This will bring certain benefits to our community if we opt to allow recreational marihuana. LARA is planning an event in Muskegon on August 28 to help us learn more.

7. Suburban Nation – Chapter 3.

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. Designation of the voting delegates for the upcoming MML conference in Detroit.
    c. Approval of a resolution reclassifying the Aqua Star's liquor license to a Class C license. This is the same license used by most bars and restaurants in the city.
    d. Approval of a resolution approving the tasting room for Wonderland Distilling in the Lakeside Business District.
    e. Approval of the memorandum of understanding between the County, Muskegon, and Muskegon Heights for the distribution of the annual JAG Grant.
    f. Approval of an agreement with Verizon related to the space Central Dispatch rents from the City at Central Station.
    g. Approval of a 5-year lease with the Ironmen at the LC Walker Arena.
    h. Approval of an easement for a water main to service the fire hydrants that the New Hemisphere Design distribution center.
    i. Approval of the bids to replace a portion of the roof at the Public Services building.
    j. Approval of the purchase of a lift station pump.
    k. Approval of an agreement to provide public meeting training to staff, commissioners, and other city-related groups.
    l. Approval of the opportunity zone incentive package.
    m. Approval of the initial resolution establishing the Lakeside Business Improvement District.
    n. Approval of the sale of two lots in the Seaway Industrial Park.
    o. Acceptance of a parcel of property from Muskegon County (former Carpenter Brothers site) to service as a greenspace and water retention area.
    p. Approval of the Yuba street property lease with the Community Foundation.
    q. Approval of the sale of a buildable lot at 1245 5th Street to Community EnCompass. We are actually selling them a lot for $1 in exchange for them selling us a nearby lot for $1.

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

Frank

Date: August 7, 2019

To: Honorable Mayor and City Commissioners

From: Ann Marie Meisch, City Clerk

RE: Approval of Minutes

SUMMARY OF REQUEST: To approve the minutes of the July 23, 2019 Regular Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

JULY 23, 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, July 23, 2019, Pastor Tim Cross, Living Word 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, Debra Warren, and Willie German, Jr., Acting City Manager LeighAnn Mikesell, City Attorney John Schrier, and City Clerk Ann Meisch.

Absent: Commissioners Ken Johnson and Dan Rinsema-Sybenga

2019-58 CONSENT AGENDA:

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

SUMMARY OF REQUEST: To approve the minutes of the July 8, 2019 Worksession and July 9, 2019 Regular Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. <u>Approval of the Fair Housing Agreement in Partnership with Muskegon Heights and Norton Shores</u> Community & Neighborhood Services

SUMMARY OF REQUEST: The Cities of Muskegon, Muskegon Heights, and Norton Shores are entering into an agreement with the Fair Housing Center of West Michigan, to provide fair housing service activities in the County of Muskegon. This agreement will provide concentrated tests, surveys, education and support of investigations within each CDBG grantee city for a period of 3 years, beginning July 2019 – June 2022, with bi-annual reports.

FINANCIAL IMPACT: Base on population, the City of Muskegon will pay the annual cost determined in partnership with Muskegon Heights and Norton Shores.

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

C. <u>Approval of a Neighborhood Enterprise Zone Certificate</u> Planning & Economic Development

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone (NEZ) Certificate has been received from John Spruit for the new construction of a home at 301 Terrace Point. The applicant has met local and state requirements for the issuance of the NEZ certificate.

FINANCIAL IMPACT: Taxation will be 50% of the State average for the next 12 years.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the NEZ certificate.

D. <u>Transfer of 235, 239, 240, and 250 Monroe; 395 Houston; 219 and 271 Merrill; and 1261 5th Street from the City of Muskegon to the Brownfield Redevelopment Authority</u> Planning & Economic Development

SUMMARY OF REQUEST: Staff is requesting that 235 Monroe, 239 Monroe, 240 Monroe, 250 Monroe, 395 Houston, 219 Merrill, 271 Merrill and 1261 5th Street be transferred from the City of Muskegon to the Brownfield Redevelopment Authority, a Municipal Authority of the City of Muskegon.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the transfer and for the Mayor and Clerk to sign the deed.

E. <u>Prein & Newhof – SRF & DWRF Engineering Services Agreement Amendment #1</u> Department of Public Works

SUMMARY OF REQUEST: Authorize the DPW Director to sign an amendment to the engineering services agreement with Prein & Newhof. The amendment covers an increase in engineering services primarily related to adding water main work into several of the State Revolving Fund (SRF) sewer projects.

Costs for this work will be covered under the sale of bonds through the Drinking Water Revolving Fund and State Revolving Fund program, and included within the principal forgiveness offered by the MDEQ on these projects.

FINANCIAL IMPACT: $199,400.00

BUDGET ACTION REQUIRED: None. This project was included in the 19-20 budget.

STAFF RECOMMENDATION: Authorize the DPW Director to sign an amendment to the engineering services agreement with Prien & Newhof.

F. <u>Musketawa Trail Connector – Contract Amendment</u> Department of Public Works

SUMMARY OF REQUEST: Authorize the DPW Director to sign an amendment to the engineering services agreement with Hubbell, Roth & Clark, Inc. (HRC) to allow them to complete design engineering services on the project to MDOT standards in preparation for construction in 2021.

HRC began work on this project in 2015, however work was suspended due to a lack of funding to complete construction. MDOT has recently provided conditional commitment for $400,000 to support the project and MDNR is also anticipated to contribute funding for the project. HRC is the best situated team to complete the design of the project based on their prior work.

FINANCIAL IMPACT: $42,360.00

BUDGET ACTION REQUIRED: None. This project was included in the 19-20 budget. It is expected that the financial impact will be spread over 19-20 and 20-21 fiscal years.

STAFF RECOMMENDATION: Authorize the DPW Director to sign an amendment to the engineering services agreement with Hubbell, Roth, & Clark, Inc.

H. <u>Gaming License Request from Women's Division Chamber of Commerce</u> City Clerk

SUMMARY OF REQUEST: The Women's Division Chamber of Commerce is requesting a resolution recognizing them as a non-profit organization operating in the City for the purpose of obtaining a Gaming License.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval

Motion by Commissioner Warren, second by Commissioner German, to approve the consent agenda as presented, except item G.

ROLL VOTE: Ayes: Turnquist, Gawron, Hood, Warren, and German

Nays: None

MOTION PASSES

2019-59 REMOVED FROM CONSENT AGENDA:

A. <u>Beach Street</u> Department of Public Works

SUMMARY OF REQUEST: Authorize the Mayor and Clerk to sign the Cost Sharing

Agreement with Muskegon County for the water main and road reconstruction project on Beach Street.

Authorize the DPW Director to sign the Professional Services Agreement with Johnson and Anderson for the Engineering work on the Beach Street Project.

FINANCIAL IMPACT: $800,000 ($685,000 Construction + $115,000 Engineering) Split approximately 50/50 between the Major Street and Water Funds.

BUDGET ACTION REQUIRED: Non. This project was included in the 19-20 budget. The dollar amounts will be adjusted in a future reforecast to reflect the construct cost estimates.

STAFF RECOMMENDATION: Authorize the Mayor and Clerk to sign the cost sharing agreement with Muskegon County and authorize the DPW Director to sign the Professional Services Agreement with Johnson and Anderson.

Motion by Commissioner Turnquist, second by Vice Mayor Hood, to authorize the Mayor and Clerk to sign the cost sharing agreement with Muskegon County and authorize the DPW Director to sign the Professional Services Agreement with Johnson and Anderson.

ROLL VOTE: Ayes: Gawron, Hood, Warren, German, and Turnquist

Nays: None

MOTION PASSES

2019-60 NEW BUSINESS:

A. **Sale of the Property at 159 Amity, 158 Allen, 923 Jay, 201 Jay, and 974 Spring** Planning & Economic Development

SUMMARY OF REQUEST: Staff is seeking approval to sell the five vacant parcels at 159 Amity, 158 Allen, 923 Jay, 201 Jay, and 974 Spring to Grace Community, LLC, a Michigan Limited Liability Company. Grace Community, LLC, will be combining these with the adjacent properties that they are purchasing for the development of retail and office space.

FINANCIAL IMPACT: Staff recommends a sale price of $11,288.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the sale and for the Mayor and Clerk to sign the purchase agreement, resolution, and deed.

Motion by Commissioner German, second by Vice Mayor Hood, to approve the sale and for the Mayor and Clerk to sign the purchase agreement, resolution, and deed.

ROLL VOTE: Ayes: Gawron, Hood, Warren, German, and Turnquist

Nays: None

MOTION PASSES

B. <u>Resolution Authorizing Ballot Language for Charter Amendment Regarding Civil Service</u> City Clerk

SUMMARY OF REQUEST: To adopt the resolution to place a question on the November 5, 2019 ballot to amend the Civil Service procedure for filling positions of employment to eliminate the “Rule of 3” for adoption by the voters of the City of Muskegon.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the resolution.

Motion by Commissioner Warren, second by Vice Mayor Hood, to approve the resolution authorizing ballot language for a charter amendment regarding civil service.

ROLL VOTE: Ayes: Hood, Warren, German, Turnquist, and Gawron

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Public comments were received.

ADJOURNMENT: The City Commission meeting adjourned at 6:12 p.m.

Respectfully Submitted,

Ann Marie Meisch – MMC, City Clerk

Date: August 7, 2019

To: Honorable Mayor and City Commissioners

From: Ann Marie Meisch, City Clerk

RE: Designation of Voting Delegates for the Michigan Municipal League Annual Business Meeting

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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.

michigan municipal league

1675 Green Road
Ann Arbor, MI 48105-2530

T 734.662.3246
800.653.2483
F 734.662.8083
mml.org

July 10, 2019

Michigan Municipal League Annual Meeting Notice

(Please present at the next Council, Commission or Board Meeting)

Dear Official:

The Michigan Municipal League Annual Convention will be held in Detroit, September 25-27, 2019. The League's **"Annual Meeting"** is scheduled for 4:15 pm on Wednesday, September 25 in Room 320 at the Cobo Center. The meeting will be held for the following purposes:

1. Election of Trustees. To elect six members of the Board of Trustees for terms of three years each (see #1 on page 2).

2. Policy. A) **To vote on the Core Legislative Principles document.**

   In regard to the proposed League Core Legislative Principles, the document is available on the League website at http://www.mml.org/delegate. If you would like to receive a copy of the proposed principles by fax, please call Monica Drukis at the League at 800-653-2483.

   B) **If the League Board of Trustees has presented any resolutions to the membership, they also will be voted on.** (See #2 on page 2.)
   In regard to resolutions, member municipalities planning on submitting resolutions for consideration by the League Trustees are reminded that under the Bylaws, they must be submitted to the Trustees for their review by **August 21, 2019.**

3. Other Business. To transact such other business as may properly come before the meeting.

Designation of Voting Delegates

Pursuant to the provisions of the League Bylaws, you are requested to designate by action of your governing body one of your officials who will be in attendance at the Convention as your official representative to cast the vote of the municipality at the Annual Meeting, and, if possible, to designate one other official to serve as alternate. Please submit this information through the League website by visiting http://www.mml.org/delegate **no later than August 21, 2019.**

Regarding the designation of an official representative of the member to the annual meeting, please note the following section of the League Bylaws:

> "Section 4.4 - Votes of Members. Each member shall be equally privileged with all other members in its voice and vote in the election of officers and upon any proposition presented for discussion or decision at any meeting of the members. Honorary members shall be entitled to participate in the discussion of any question, but such members shall not be entitled to vote. The vote of each member shall be cast by its official representative attending the meeting at which an election of officers or a decision on any proposition shall take place. Each member shall, by action of its governing body prior to the annual meeting or any special meeting, appoint one official of such member as its principal official representative to cast the vote of the member at such meeting, and may appoint one official as its alternate official representative to serve in the absence or inability to act of the principal representative."

1. Election of Trustees

Regarding election of Trustees, under Section 5.3 of the League Bylaws, six members of the Board of Trustees will be elected at the annual meeting for a term of three years. The regulations of the Board of Trustees require the Nominations Committee to complete its recommendations and post the names of the nominees for the Board of Trustees on a board at the registration desk at least four hours before the hour of the business meeting.

2. Statements of Policy and Resolutions

Regarding consideration of resolutions and statements of policy, under Section 4.5 of the League Bylaws, the Board of Trustees acts as the Resolutions Committee, and "no resolution or motion, except procedural and incidental matters having to do with business properly before the annual meeting or pertaining to the conduct of the meeting, shall be considered at the annual meeting unless it is either (1) submitted to the meeting by the Board of Trustees, or (2) submitted in writing to the Board of Trustees by resolution of the governing body of a member at least thirty (30) days preceding the date of the annual meeting." Thus the deadline this year for the League to receive resolutions is **August 21, 2019**. Please submit resolutions to the attention of Daniel P. Gilmartin, Executive Director/CEO at 1675 Green Rd., Ann Arbor, MI 48105. **Any resolution submitted by a member municipality will go to the League Board of Trustees, serving as the resolutions committee under the Bylaws, which may present it to the membership at the Annual Meeting or refer it to the appropriate policy committee for additional action.**

Further, "Every proposed resolution submitted by a member shall be stated in clear and concise language and shall be accompanied by a statement setting forth the reasons for recommending the proposed resolution. The Board shall consider the proposal at a Board meeting prior to the next annual meeting and, after consideration, shall make a recommendation as to the advisability of adopting each such resolution or modification thereof."

3. Posting of Proposed Resolutions and Core Legislative Principles

The proposed Michigan Municipal League Core Legislative Principles and any new proposed Resolutions recommended by the Board of Trustees for adoption by the membership will be available on the League website, or at the League registration desk to permit governing bodies of member communities to have an opportunity to review such proposals and delegate to their voting representative the responsibility for expressing the official point of view of the member at the Annual Meeting.

The Board of Trustees will meet on Tuesday, September 24 at Cobo Center for the purpose of considering such other matters as may be requested by the membership, in addition to other agenda items.

Sincerely,

Brenda F. Moore
President
Mayor Pro Tem, City of Saginaw

Daniel P. Gilmartin
Executive Director & CEO

Date: August 7, 2019

To: Honorable Mayor and City Commissioners

From: Ann Marie Meisch, City Clerk

RE: Adopt a Resolution Approving the Reclassification of a Tavern License to a Class C License

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SUMMARY OF REQUEST: To adopt a resolution approving the reclassification of a Tavern License to a Class C License for Port City Cruise Lines, LLC at 560 Mart Street.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Adopt the resolution approving the license reclassification.

Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Toll Free: 866-813-0011 • www.michigan.gov/lcc

Business ID: ____________

Request ID: ____________
(For MLCC use only)

Local Government Approval
(Authorized by MCL 436.1501)

Instructions for Applicants:

- You must obtain a recommendation from the local legislative body for a new on-premises license application, certain types of license classification transfers, and/or a new banquet facility permit.

Instructions for Local Legislative Body:

- Complete this resolution or provide a resolution, along with certification from the clerk or adopted minutes from the meeting at which this request was considered.

At a Regular (regular or special) meeting of the City of Muskegon (township, city, village) council/board called to order by ____________ on ____________ (date) at ____________ (time) the following resolution was offered:

Moved by ____________ and supported by ____________

that the application from Port City Cruise Lines, LLC
(name of applicant - if a corporation or limited liability company, please state the company name)

for the following license(s): Reclassify Tavern license to Class C license
(list specific licenses requested)

to be located at: 560 Mart St., Muskegon, MI 49440

and the following permit, if applied for:

☐ Banquet Facility Permit Address of Banquet Facility: ____________

It is the consensus of this body that it Recommends (recommends/does not recommend) this application be considered for approval by the Michigan Liquor Control Commission.

If disapproved, the reasons for disapproval are ____________

Vote

Yeas: ______

Nays: ______

Absent: ______

I hereby certify that the foregoing is true and is a complete copy of the resolution offered and adopted by the ____________ (township, city, village) council/board at a ____________ (regular or special) meeting held on ____________ (date)

____________ Print Name of Clerk

____________ Signature of Clerk

____________ Date

Under Article IV, Section 40, of the Constitution of Michigan (1963), the Commission shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Further, the Commission shall have the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the licensure of businesses and individuals.

Please return this completed form along with any corresponding documents to:
Michigan Liquor Control Commission
Mailing address: P.O. Box 30005, Lansing, MI 48909
Hand deliveries or overnight packages: Constitution Hall - 525 W. Allegan, Lansing, MI 48933
Fax to: 517-763-0059

Date: August 7, 2019

To: Honorable Mayor and City Commissioners

From: Ann Marie Meisch, City Clerk

RE: Adopt a Resolution Approving the Off-Premises Tasting Room License

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SUMMARY OF REQUEST: To adopt a resolution approving an Off-Premises Tasting Room License & Permit Application for Wonderland Distilling Co., 1989 Lakeshore Drive.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Adopt the resolution approving the license.

Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Toll Free: 866-813-0011 • www.michigan.gov/lcc

Business ID: ______________

Request ID: ______________
(For MLCC use only)

Local Government Approval For Off-Premises Tasting Room License

(Authorized by MCL 436.1536)

Instructions for Applicants:

- You must obtain a recommendation from the local legislative body for a new Off-Premises Tasting Room License application.

Instructions for Local Legislative Body:

- Complete this resolution or provide a resolution, along with certification from the clerk or adopted minutes from the meeting at which this request was considered.

At a ______________ (regular or special) meeting of the ______________ (township, city, village) council/board

called to order by ______________ on ______________ (date) at ______________ (time)

the following resolution was offered:

Moved by ______________ and supported by ______________

that the application from Wonderland Distilling Co.
(name of applicant - if a corporation or limited liability company, please state the company name)

for a **NEW OFF-PREMISES TASTING ROOM LICENSE**

to be located at: 1989 Lakeshore Drive., Muskegon Mi. 49441
Suite 13

It is the consensus of this body that it ______________ (recommends/does not recommend) this application be considered for approval by the Michigan Liquor Control Commission.

If disapproved, the reasons for disapproval are ______________

Vote

Yeas: ______

Nays: ______

Absent: ______

I hereby certify that the foregoing is true and is a complete copy of the resolution offered and adopted by the ______________ (township, city, village)
council/board at a ______________ (regular or special) meeting held on ______________ (date)

Print Name of Clerk	Signature of Clerk	Date

Under Article IV, Section 40, of the Constitution of Michigan (1963), the Commission shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Further, the Commission shall have the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the licensure of businesses and individuals.

Please return this completed form along with any corresponding documents to:
Michigan Liquor Control Commission
Mailing address: P.O. Box 30005, Lansing, MI 48909
Hand deliveries or overnight packages: Constitution Hall - 525 W. Allegan, Lansing, MI 48933
Fax to: 517-763-0059

Commission Meeting Date: August 13, 2019

Date: July 29, 2019

To: Honorable Mayor and City Commissioners

From: Jeffrey A. Lewis
Director of Public Safety

RE: Memorandum of Understanding – Justice Assistance Grant

SUMMARY OF REQUEST:

The Director of Public Safety requests that the Commission authorize the Director and the City Manager to enter into an agreement with the City of Muskegon Heights and Muskegon County in regards to the disbursement of the FY 2019 Justice Assistance Grant. It if further requested that the Mayor be authorized to sign the Memorandum of Understanding. Note that time is of the essence as this grant requires a governing body review period and the grant submission and the grant deadline is August 23rd .

Although the Bureau of Justice Assistance has designated us as being in a disparate funding situation due to the County providing more than 50% of the jail facilities, our proposal is to keep the allocations exactly as they initially came down from the BJA which is as follows: County of Muskegon $0; City of Muskegon $20,463 and City of Muskegon Heights $14,732 Note that BJA uses crime data versus population in making these allocation decisions.

The City of Muskegon portion is planned to be used in continuation of the manner in which the previous year's JAG funding was used which is for the prosecution of city ordinance cases dealing primarily with neighborhood issues.

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Staff recommends approval of this request.

MEMORANDUM OF UNDERSTANDING
THE CITY OF MUSKEGON
THE COUNTY OF MUSKEGON
THE CITY OF MUSKEGON HEIGHTS

FY 2019 JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD
Regular Funding/Local Solicitation

This Agreement is made and entered into on the _____ day of August, 2019, by and between the County of Muskegon, acting by and through its governing body, the Board of County Commissioners, located at 990 Terrace Street, Muskegon, Michigan 49442 and the City of Muskegon, acting by and through its governing body, the City Commission, located at 933 Terrace Street, Muskegon, Michigan 49443-0536, and the City of Muskegon Heights, acting by and through its governing body, the City Council, located at 2724 Peck Street, Muskegon Hts., MI 49444, all of Muskegon County, State of Michigan, witnesseth:

WHEREAS, the CITY OF MUSKEGON has agreed to serve as the applicant/fiscal agent for the joint funds under the: Justice Assistance Grant(Local Solicitation) as the Bureau of Justice Assistance has designated the allocation to the law enforcement communities in Muskegon County as a disparate allocation; and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions, hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body find that the performance of this Agreement is in the best interest of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

WHEREAS, the breakdown of allocated funding agreed upon by those entities involved in the disparate funding is $ 20,463 to the CITY OF MUSKEGON and $ 14,732 to the CITY OF MUSKEGON HEIGHTS; and

WHEREAS, the CITY OF MUSKEGON, CITY OF MUSKEGON HEIGHTS and COUNTY OF MUSKEGON believe it to be in their best interests to allocate the JAG funds as specified in this Agreement.

NOW THEREFORE, THE COUNTY OF MUSKEGON, CITY OF MUSKEGON AND CITY OF MUSKEGON HEIGHTS agree as follows:

AGREEMENT

1. THE CITY OF MUSKEGON will act as the fiscal agent/applicant agency.
2. The total eligible joint allocation for the disparate jurisdictions of $ 35,195 will be allocated as follows: COUNTY OF MUSKEGON - $ 0; CITY OF MUSKEGON - $20,463 CITY OF MUSKEGON HEIGHTS - $ 14,732.
3. Each municipality will be responsible for its actions in the use of any equipment purchased under this Agreement and the fiscal agent shall not be liable for any civil liability that may arise from the purchase of the use of the equipment.
4. The CITY OF MUSKEGON HEIGHTS will be responsible for submitting quarterly reports to the CITY OF MUSKEGON by the third day of the month following the quarter in the reporting fashion required by the CITY OF MUSKEGON and for any month in which an expenditure under the grant has occurred the CITY OF MUSKEGON HEIGHTS will submit a reimbursement request to the CITY OF MUSKEGON by the third day of the following month along with backup documentation such as invoices.
5. The CITY OF MUSKEGON HEIGHTS will be responsible for the accuracy of all data submitted to the CITY OF MUSKEGON for submission to the Bureau of Justice

Programs and will be liable for penalties as a result of submitting the data late and for any inaccurate data.

6. Nothing in the performance of this Agreement shall impose any liability for claims against the CITY OF MUSKEGON passing from this program or from the CITY OF MUSKEGON HEIGHT's expenditure of the JAG funds.

7. By entering into this Agreement, the parties do not intent to create any obligations, express or implied, other than those set out herein. Further, this Agreement shall not create any rights in any party not a signatory hereto.

COUNTY OF MUSKEGON

Dated:_______________, 2019

By:_____________________________
Susie Hughes, Chairman
County Board of Commissioners

CITY OF MUSKEGON

Dated:_______________, 2019

By:_____________________________
Stephen Gawron, Mayor

CITY OF MUSKEGON HEIGHTS

Dated:_______________, 2019

By:______________________________
Kimberley Sims, Mayor

COMMISSION MEETING: August 13, 2019

Date: July 31, 2019

To: Honorable Mayor and City Commissioners

From: Director of Public Safety Jeffrey Lewis

RE: 2019 Verizon/Central Dispatch License Agreement

SUMMARY OF REQUEST:

The Public Safety Department is requesting approval for Comcast to construct, replace, maintain, repair, operate, inspect, augment and remove communication system from the Central Fire Station Building.

Central Dispatch and Comcast require this agreement to begin the upgrade to the Central Dispatch 9-1-1 phone communication system. The agreement includes all facilities necessary or useful for distributing upgraded communication services.

Peninsula Fiber Network has subcontracted Comcast to complete the fiber optic utility work. The License Agreement has an initial term of ten (10) years, beginning on the effective date and will automatically renew for two (2) successive periods of five (5) years each.

FINANCIAL IMPACT:

$0.00 Cost covered by Peninsula Fiber Network.

BUDGET ACTION REQUIRED:

N/A

STAFF RECOMMENDATION:

Approval of the attached license agreement

Market: Central Division Site State: Michigan Site Address: 770 Terrace Street Muskegon

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") is made as of this **31ST** day of **July, 2019** (the "Effective Date"), between **The City of Muskegon** {Insert full legal name of Owner} ("Owner"), a **Michigan** {Insert state in which Owner is established legally} **Municipal Government** {Insert type of legal entity of Owner}, and **Comcast Cable Communications Management, LLC**, a **Delaware limited liability company**, on behalf of its affiliates (together, "Comcast").

WHEREAS, Owner is the owner of that certain land (the "Land") and the building(s) thereon (the "Building") (together, the "Property"), having a street address of 770 Terrace Street Muskegon, Michigan 48917; and

WHEREAS, Comcast desires to provide various communications services (the "Services") to users located on the Property (the "Users"); and

WHEREAS, Owner is willing to permit Comcast to construct, replace, maintain, repair, operate, inspect, augment and remove its communications system through, over, and under the Property, under the terms and conditions described below;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Comcast and Owner hereby agree as follows:

1. **Grant.**

(a) Owner hereby grants to Comcast a non-exclusive license, at Comcast's sole option and expense, to construct, replace, maintain, repair, operate, inspect, augment, and remove, on, within, under, across, and along the Property, Comcast's wires, cables, underground conduit, aerial supports, aerial cabling, building entrance facilities, above-ground enclosures, markers and concrete pads and other appurtenant fixtures and equipment (together, the "Facilities") necessary or useful for distributing the Services to Users. Access to User specific space may be granted by the respective Users.

(b) Without limiting the foregoing, Owner shall give Comcast reasonable access to vertical and horizontal shafts, conduits, and the common areas on, within, under, across, and along the Property to enable Comcast, where necessary and at Comcast's expense, to install Facilities associated with providing Services.

(c) Nothing contained herein shall be construed as granting to Comcast any ownership rights in the Property or to create a partnership or joint venture between Owner and Comcast.

2. **Use.** Comcast may use the Facilities installed on the Property solely to provide the Services to Users on the Property.

3. **Installation.** Owner hereby approves Comcast's drawings, plans, and/or specifications attached hereto as Exhibit A (the "Plans"), which reasonably detail the location and

size of the Facilities, and any space required on the Property necessary to house the Facilities (other than within the vertical and horizontal shaft(s) in the Building). Comcast may begin to install its Facilities in accordance with the Plans, at Comcast's sole cost and expense, provided that Comcast shall:

(a) perform such construction in a safe manner consistent with generally accepted construction standards;

(b) perform such construction and work in such a way as to reasonably minimize interference with the operation of the Property; and

(c) obtain, prior to the commencement of any construction and work, necessary federal, state and municipal permits, licenses and approvals.

4. **Comcast's Obligations.**

(a) Comcast shall:

(i) keep the Facilities in good order, repair and condition, and promptly and adequately repair all damage to the Property caused by Comcast, other than ordinary wear and tear; and

(ii) comply with federal, state, and municipal laws, orders, rules and regulations applicable to the Facilities.

(b) Nothing in this Agreement shall be construed to require Comcast to construct, install, or operate the Facilities in the Property, to deliver the Services to the Property, and/or to deliver the Services to a particular User or Users.

5. **Facilities.** The Facilities shall belong to Comcast and shall be there at the sole risk of Comcast, and Owner shall not be liable for damage thereto or theft, misappropriation or loss thereof, except in the event of the gross negligence or willful misconduct of Owner, its employees, or contractors. At the expiration of this Agreement, Comcast shall, upon notice by the Owner given prior to such expiration, at Comcast's sole cost and expense, remove the Facilities (other than any Facilities which are underground conduit or vaults) and Comcast's other personal property from the Building, and repair all damage caused by such removal. Any Facilities not removed from the Property within sixty (60) days after the expiration of this Agreement shall be deemed the property of Owner without further liability to Comcast.

6. **Access.** Owner shall allow Comcast, employees, agents, and sub-contractors escorted access to the Property during normal business hours as follows: with prior notice and approval by Muskegon Central Dispatch authorized personnel to include IT and Administrative staff; in specified IT locations and storage areas; and at all times during emergencies, for the purposes under the terms and conditions of this Agreement.

7. **Term.**

(a) This Agreement shall have an initial term of ten (10) years, commencing on the Effective Date. This Agreement shall automatically renew for two (2) successive periods of five (5) years each, provided that there is a User of Services at the Property at the beginning of each renewal term. This License Agreement terminates if the Central Dispatch lease with Muskegon Fire Department Central Station is terminated.

(b) The license granted hereby may not be revoked during the Term, except as provided in Section 11.

8. **Liens.** Comcast shall be responsible for the satisfaction or payment of any liens for any provider of work, labor, material or services claiming by, through or under Comcast. Comcast shall also indemnify, hold harmless and defend Owner against any such liens, including the reasonable fees of Owner's attorneys. Such liens shall be discharged by Comcast within ten (10) business days after notice by Owner of filing thereof by bonding, payment or otherwise, provided that Comcast may contest, in good faith and by appropriate proceedings any such liens.

9. **Performance of Work.** Comcast may contract or subcontract any portion of work at the Property contemplated by this Agreement to any person or entity competent to perform such work. In no event shall such subcontract relieve Comcast of any of its obligations under this Agreement.

10. **Limitation of Liability.** Neither party shall be liable to the other party for any lost profits, special, incidental, punitive, exemplary or consequential damages, including but not limited to frustration of economic or business expectations, loss of profits, loss of capital, cost of substitute product(s), facilities or services, or down time cost, even if advised of the possibility of such damages.

11. **Default.** Should either party default in the performance of material provision of this Agreement and fail to correct same within thirty (30) days after having received notice specifying the nature of such default, unless such default is of a nature that it cannot be completely cured within thirty (30) days, if a cure is not commenced within such time and thereafter diligently pursued to completion, then the non-defaulting party may terminate this Agreement and may pursue all other remedies available to it at law and/or equity.

12. **Indemnification.** Comcast shall indemnify, hold harmless and defend Owner, its employees, agents, contractors, invitees, officers, directors, affiliates and subsidiaries from and against any and all claims, actions, damages, liabilities and expenses, including reasonable attorneys' fees and other professional fees, in connection with any property damage or personal injury, arising from or out of the installation, operation, maintenance or removal by Comcast of the Facilities and the Services provided by Comcast, except to the extent that any such claims, actions, damages, liabilities, expenses are caused by Owner, its employees, agents, contractors, invitees, officers, directors, affiliates or subsidiaries.

13. **Insurance.** Comcast shall maintain insurance coverage insuring against claims, demands or actions for personal injuries or death resulting from the use or operation of the Facilities with limits of not less than Five Million Dollars ($5,000,000) any one occurrence, in an aggregate amount of Ten Million Dollars ($10,000,000), and for damage to property in an amount of not less than One Million Dollars ($1,000,000). Prior to installation of the Facilities, and thereafter upon Owner's request at the renewal of required policies, Comcast shall provide a certificate of insurance to Owner, naming Owner as an additional insured.

14. **Assignment.** Comcast shall not assign or transfer this Agreement without the written consent of the Owner, which consent will not be unreasonably withheld or conditioned or unduly

delayed; except that Comcast may, without obtaining Owner's prior consent, make such assignment to:

(a) any parent, affiliate, or subsidiary of the Comcast legal entity which holds the cable television franchise agreement for the municipality in which the Property is located (the "Comcast System Entity"), or the Comcast System Entity itself; or

(b) any entity which succeeds to all or substantially all of the Comcast System Entity's assets or ownership interests, or the cable system operated by the Comcast System Entity which serves the municipality in which the Property is located, whether by merger, sale or otherwise, provided that such successor also succeeds to the cable television franchise agreement held by the Comcast System Entity for the municipality in which the Property is located.

15. Force Majeure. Comcast shall not be liable for failure to perform its obligations hereunder due to acts of God, the failure of equipment or facilities not belonging to Comcast (including, but not limited to, utility facilities or service), denial of access to facilities or rights-of-way essential to serving the Property or Building, government order or regulation or any other circumstances beyond the reasonable control of Comcast.

16. Notice. All notices, demands, requests or other communications given under this Agreement shall be in writing and be given by certified mail, return receipt requested, or nationally recognized overnight courier service to the address set forth below or as may subsequently in writing be requested.

If to Owner:	Muskegon Department of Public Safety 933 Terrace St. Muskegon, MI 49440 Attn.: Director of Public Safety
If to Comcast:	Comcast Cable Communications Management, LLC 41112 Concept Drive Plymouth, MI 48170 Attn.: Business Services
With a copy to:	Comcast Cable Communications, LLC One Comcast Center 1701 JFK Blvd. Philadelphia, PA 19103 Attn.: Real Estate Counsel

17. Governing Law. This Agreement shall be governed by and construed under the laws of the state in which the Property is located.

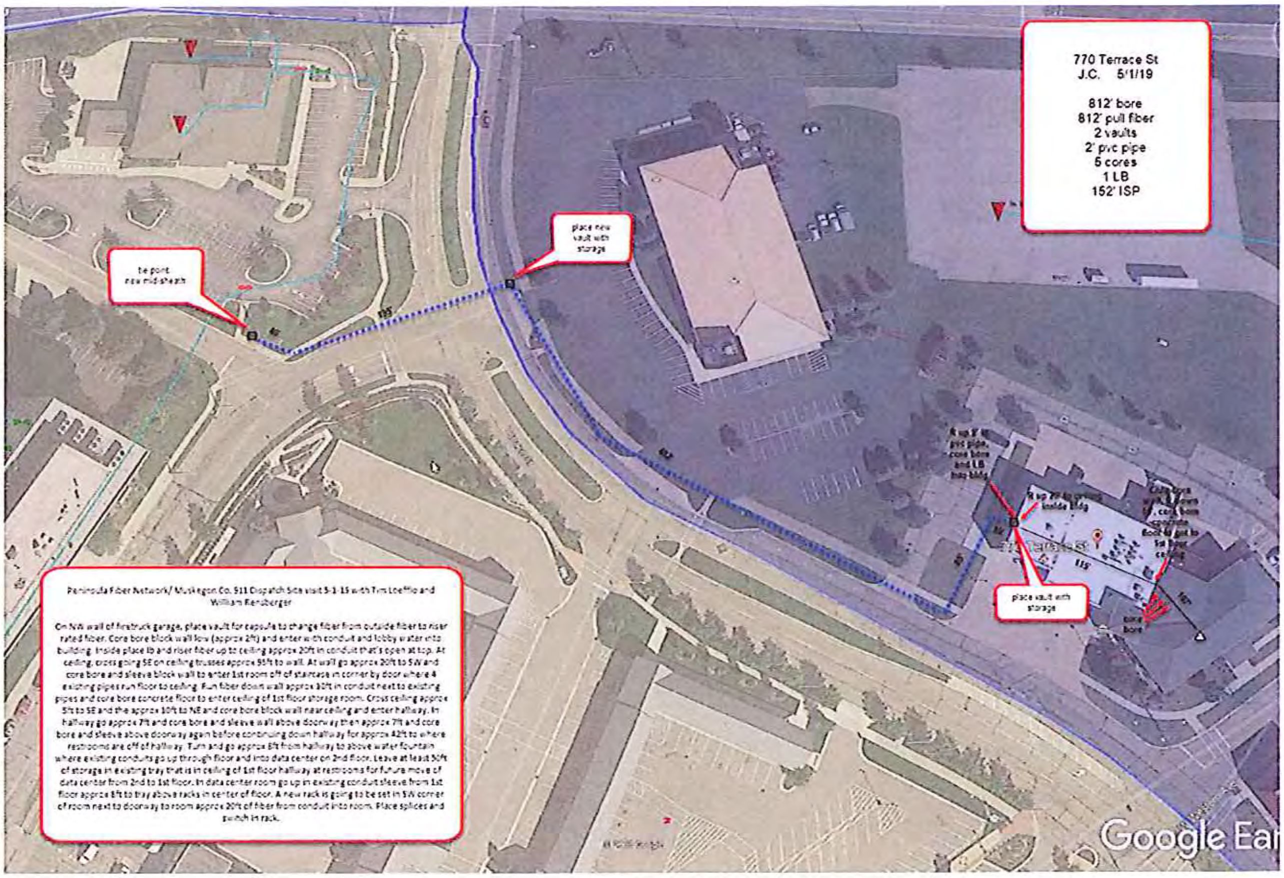
18. Miscellaneous. This Agreement shall bind and benefit the parties and their respective successors and assigns. This Agreement is the entire understanding between the parties and supersedes any prior agreements or understandings whether oral or written. This Agreement may not be amended except by a written instrument executed by both parties. If any provision of this Agreement is found to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement will not be affected or impaired. Each party represents to the other that the person signing on its behalf has the legal right and authority to execute, enter into and bind such party to the commitments and obligations set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

Owner:		**Comcast:**	
City of Muskegon		Comcast Cable Communications Management, LLC	
By:	______________________	By:	______________________
Print:	______________________	Print: Jeffrey Marston	
Title:	______________________	Title: Vice President Business Services	
Date:	______________________	Date:	______________________

EXHIBIT "A"

The Plans



8/7/19
Leo Evans
DPW/E

AGENDA ITEM NO. _______________
CITY COMMISSION MEETING __________________________

TO: Honorable Mayor and City Commissioners

FROM: Frank Peterson, City Manager

DATE: August 6, 2019

RE: LC Walker Arena – Ironmen Lease

SUMMARY OF REQUEST:
City staff is requesting approval of the attached lease to allow the West Michigan Ironmen to play indoor football at the LC Walker Arena for five seasons, beginning in 2020.

FINANCIAL IMPACT:

BUDGET ACTION REQUIRED:
None at this time.

STAFF RECOMMENDATION:
To authorize the Clerk and Mayor to sign the lease with Muskegon Football.

COMMITTEE RECOMMENDATION:
None.

<u>L.C. WALKER ARENA MUSKEGON INDOOR FOOTBALL CONTRACT</u>

THIS AGREEMENT made and entered into on the ___ day of August, 2019 by and between the L.C. Walker Arena and Event Center (hereinafter referred to as “Arena”) of 470 West Western Avenue, Muskegon, MI. 49440 and MANA, LLC, (hereinafter referred to as “Ironmen Football”).

WITNESSETH:

WHEREAS, Arena is located at 470 West Western Avenue, Muskegon, County of Muskegon, Michigan; and

WHEREAS, Ironmen Football is organized for the purposes of promoting and sponsoring league play of a professional indoor football team; and

WHEREAS, the parties desire to enter into an agreement for the use of the facilities operated by Arena;

IT IS, THEREFORE, AGREED THAT:

1. USE OF PREMISE: Arena agrees that for the term of this agreement that Ironmen Football may utilize the Arena for professional indoor football and related indoor football game activities as follows:

a. Fully equipped sports arena for playing indoor football. Ironmen Football to set up/tear down artificial turf, uprights, wall pads, and/or other equipment as may be required. Ironmen Football will be allowed access to Arena at 7:00AM on scheduled game days and will be allowed three (3) hours time for tear down, immediately following the game. Ironmen Football to provide and/or compensate for staffing at any pre-game event including amateur games, camps, cheerleading camps or any other event as may be approved by the Arena;

b. Operating public address system and lighting;

c. Seating facilities for spectators in arena area;

d. Four (4) dressing rooms for teams use on game days during indoor football season from 9:00AM to one (1) hour after game conclusion.

e. Sufficient officials’ room, trainer’s working area and press box area which meet the requirements for professional indoor football games. Ironmen Football to be responsible for any required equipment.

f. Heat at comfortable temperature;

g. Facility clean-up after games.

Ironmen Football agrees to hold its entire league scheduled home games, both regular season and playoffs, at the L.C. Walker Arena.

2. TERM OF AGREEMENT: This agreement shall be effective for the period commencing on January 31^{st}, 2020 and ending on June 30^{th}, 2024.

3. COMPENSATION, FEES: Ironmen Football shall pay to the Arena compensation for its right to use the Arena upon the following schedule for all games played (including playoff and exhibition games):

a. <u>Arena Fees Per Game</u>: $275.00 rent per game inclusive of all box office, ticket printing fees and arena staffing.

i) LC Walker Arena keep 100% of the food/beverage and 100% of the parking revenues per home game played.
ii) Ironmen Football shall pay a facility fee of $1.50 per ticket printed for all 2020 and 2021 regular season and playoff games played.
iii) Ironmen Football shall pay a facility fee of $2.00 per ticket printed for all 2022 and 2023 regular season and playoff games played.
iv) Ironmen Football shall pay a facility fee of $2.50 per ticket printed for all 2024 regular season and playoff games played.

b. The Arena shall receive ten (10) sets of season tickets for admission to all home games during the term of this agreement.

4. OTHER FACILITIES AND/OR SERVICES PROVIDED:

a. <u>Staffing</u>: Arena shall in connection with the operation of the building provide to Ironmen Football: ticket takers, door guards, ushers, and security. Ironmen Football shall provide the following personnel for the operation of the indoor football game: medical services personnel, equipment repair personnel, game officials, spot light operator, music operator and/or any other personnel required. Ironmen Football shall have access to all technologies in the Arena, but will be responsible for any replacements/repairs deemed the responsibility of Ironmen Football.

Arena and Ironmen Football will work together and each will use their best efforts to create a user-friendly atmosphere, which recognizes the importance of each and every customer using the facility. The Arena and Ironmen Football shall cooperate to assure adequate training for all staff and personnel to enhance the image of the County and City of Muskegon Community, L.C. Walker Arena and West Michigan Ironmen.

b. <u>Merchandise.</u> Arena will purchase and sell Ironmen Football merchandise in the Team Store. Ironmen Football will receive 20% of the net proceeds from said merchandise sales.

c. <u>Parking.</u> Staff, players and owners will be allowed parking access to the arena lot immediately adjacent to the arena building along Shoreline Drive, per availability.

d. <u>Music Services.</u> Arena shall be responsible for ASCAP, BMI, SEASAC and any other licensor of music, in connection with the operation of Ironmen Football games.

5. ARENA ADVERTISING SALES: Ironmen Football to sell and receive 100% of the proceeds from the sale of program ads, temporary banners, padding, promotions, kiosks and any other activities related to an arena football game. All such advertising items and activities shall require Arena approval. Temporary signage and kiosks must be removed and stored prior to 5:00AM the next day.

6. SCHEDULING AVAILABILITY: At the request of Ironmen Football, Arena will submit a list of twelve (12) available play dates for the upcoming season by November 1st prior to the season. Said dates will be held until the conclusion of the league schedule. Unused dates to be released by Ironmen Football upon creation of the indoor football league schedule. Arena will utilize its best efforts to maintain good date availability for all playoff dates which cannot be scheduled in advance of the season.

7. INSURANCE AND INDEMNITY:

a. Ironmen Football shall obtain and retain throughout the term of this day to day rental, insurance coverage of and for all claims arising out of or resulting from Ironmen Football's use of the L.C. Walker Arena, which coverage shall include the following. Each policy shall contain the provision that no cancellation shall be effective unless thirty (30) days advance written notice is given by the carrier to the Arena. All insurance policies shall name the City of Muskegon as additional insureds and loss payees:

i) Broad form comprehensive general liability insurance including:
(a) Premises/operations
(b) Products/Completed operations hazard,
(c) Broad form contractual and
(d) Personal injury.

This general liability insurance shall provide the following limits of liability: $2,000,000.00 ($1,000,000.00 primary and $1,000,000.00 umbrella).

ii) Comprehensive automobile liability insurance for all owned and non-owned vehicles used on behalf of the Ironmen Football in the amounts not less than

$1,000,000.00 for bodily injury and property damage, and including loading and unloading hazards.

iii) Worker's compensation insurance providing statutory coverage for the State of Michigan.

iv) Such additional insurance which Arena and/or City may reasonably require from time to time.

v) Certificate of insurance in a form satisfactory to the City of Muskegon shall be filed with the Arena at least thirty (30) days prior to the commencement of Ironmen Football's use under this agreement.

b. Ironmen Football agrees that it will indemnify and hold and save, the City of Muskegon whole and harmless of, from and against all claims, demands, actions, damages, loss, costs, liabilities, expenses and judgments incurred by, recovered from or imposed on or against them or any of them on account of any injury or damage to person or property to the extent that any such damage may be incident to, arise out of, or be caused, either proximately or remotely, wholly or in part, by an act, omission, negligence or misconduct on the part of the Ironmen Football or any of its agents, servants, employees, contractors, patrons, guests, licensees or by or of any other person entering upon the L.C. Walker Arena with either the express or implied invitation or permission of Ironmen Football or when any such injury or damage is the result, proximate or remote, of the violation by Ironmen Football or any of its agents, servants, employees, contractors, patrons, guests, licensees or invitees of any law, ordinance or governmental order of any kind, or when any such injury or damage may in any other way arise from or out of the occupancy or use by Ironmen Football, its agents, servants, employees, contractors, patrons, guests, licensees or of any portion of the L.C. Walker Arena. Such indemnification of the above entities by the Ironmen Football shall be effective unless such damage or injury results from the sole negligence of the City of Muskegon. Ironmen Football covenants and agrees that in case the City of Muskegon shall be made a party to any litigation commenced by or against Ironmen Football or relating to this agreement or to the portion of the L.C. Walker Arena subject to this agreement, then Ironmen Football shall and will pay all costs and expenses, including reasonable attorneys' fees and court costs, incurred by or imposed upon them, their officers, officials, agents, employees, volunteers, or attorneys by virtue of any such litigation.

8. RELEASE OF HAZARDOUS MATERIALS: Ironmen Football shall not cause or allow the release of hazardous materials or pollution as defined by any local, state or federal law or regulation to occur upon the premises. In the event of such release, Ironmen Football shall be responsible for any and all costs, including clean up, penalties, fines, or damages to third parties. Ironmen Football agrees to indemnify and hold harmless the City of Muskegon from any such exposures or costs.

9. PRACTICE/TRAINING CAMP: Ironmen Football shall have daytime use of the arena on game days beginning at 9:00AM. Additional opportunities to access Arena for practices will be determined by Arena Manager and per availability.

10. LIABILITY/RESPONSIBILITY: Arena assumes no responsibility whatever for any property of Ironmen Football placed in said building and arena is expressly relieved and discharged from any and all liability for any loss, injury, or damage to persons or property that may be sustained during the effective date of this contract by reason of the occupancy and operation of said building or any part thereof under this agreement.

11. DEFAULT: Ironmen Football covenants that if any default is made in the payment of fees or any part thereof at the time specified in this contract, or if any default is made in any of the covenants or agreements herein contained, or if Ironmen Football cancels this agreement for any cause, the provisions of this contract shall cease and terminate at the Arena's option, and Ironmen Football may be put out of the premises by appropriate legal proceedings. Further, and in addition, should Ironmen Football be in default with regard to payments or fees due hereunder or other default occur, the Arena shall be allowed, without initiating legal proceedings against Ironmen Football and without verbal or written notice to take such money from box office receipts due Ironmen Football and to withdraw from and/or to be relieved of the Arena's responsibilities under this agreement. Upon default, Arena may cease providing any or all services called from this agreement. Ironmen Football shall save the Arena harmless from any and all claims or actions for damages or injunctions.

12. FEES AND EXTRA SERVICES: Any sum due the Arena from Ironmen Football or any accommodations, extra services, material or cost of repair, shall be a first lien on the box office receipts and on any property of the Ironmen Football which may be in the L.C. Walker Arena and Event Center. Settlements shall take place within 4 working days from game day. Any balance due the Arena shall be paid at this time.

13. COMPLIANCE WITH LIQUOR LAWS: Ironmen Football acknowledges that all of the L.C. Walker Arena and Event Center is a "licensed premises" under the Michigan Liquor Control Act. Ironmen Football covenants that it will not do or permit to be done anything which will violate the terms and conditions of said Liquor License or the regulations of the Michigan Liquor Control Commission.

14. ENTRANCE: All articles, exhibits, fixtures, materials, displays, etc., shall be brought into or out of the building at such entrances and exits as designated by the Arena Manager.

15. TERMINATION: Ironmen Football agrees upon the termination of this agreement, it shall vacate the Arena leaving it in the same condition as it existed on the date of this agreement except for the consequences of ordinary use and wear thereof and damage by the elements or fire or other casualty.

16. RELATIONSHIP OF PARTIES: No provision of this Agreement herein contained shall be construed by the parties or by any other person as one creating a partnership or joint venture between the parties as to the use of the Arena by Ironmen Football or as to the operation of Ironmen Football business in the Arena, it being the intent of the parties that this Agreement is

solely that of a contract for the use of a portion of the premises owned by the City and known as the L.C. Walker Arena and Event Center.

17. REMOVAL OF PROPERTY: Personal equipment in connection with Ironmen Football activities belonging to Ironmen Football shall be removed from the Arena at or before the termination of this Agreement. Said property shall not include advertising facilities, fixtures, locker room or arena equipment, non-removable signage, advertising or messages, scoreboards, tables, platforms, benches, seating or any property except the personal belongings of Ironmen Football and its personnel. All such excepted property shall be and is the property of the Arena and shall be removed from the building.

18. NUMBER OF PATRONS: Ironmen Football shall fully cooperate with Arena and shall not cause to be admitted to the premises a larger number of persons than the rated capacity of the individual areas hereby rented. Maximum capacities shall be established as mandated by the City of Muskegon Fire Departments. Capacities may be reduced due to setups or obstructions.

19. PUBLIC AREA OBSTRUCTIONS PROHIBITIED: No portion of the sidewalks, ramps, entries, corridors, passageways, vestibules, halls, lobbies, stairways, aisles, or access to public utilities of the L.C. Walker Arena and Event Center shall be obstructed by Ironmen Football or used for any purposes other than for ingress or egress from the day to day rental of d premises.

20. PUBLIC SAFETY: Ironmen Football agrees that at all times they will conduct their activities with full regard to public safety, and will observe and abide by all applicable regulations and requests by the Arena and duly authorized governmental agencies responsible for public safety.

21. FLAMMABLE MATERIALS: Materials used for decorative purposes must be treated with flame proofing and approved the Muskegon Fire Department. Nor shall Ironmen Football without written consent of the Building Manager and approval of the appropriate City official, such as the fire marshal, building inspector, or other appropriate official, place or operate any engine or motor or machine on the premises, or use oils, burning fluids, kerosene, propane, or gasoline, or any other flammable chemical for mechanical or other purposes.

22. CONDITION OF PREMISES: Ironmen Football shall have examined the premises prior to the execution of this Agreement and are presumed to be satisfied with the physical condition of the premises. Ironmen Football by entering into this Agreement and the usage of the Arena, agrees that the premises are in safe, sanitary condition, and in good repair.

23. PERMITS, LICENSES AND COPYRIGHTS: Ironmen Football agrees to obtain and pay for all necessary permits and licenses required by Federal, State or local laws. Ironmen Football warrants that all copyrighted material to be performed has been duly authorized or licensed by the copyright owners or/their representatives and agrees to indemnify and hold harmless the City of Muskegon from any and all claims, losses, expenses, including legal fees, which might arise from any such permits, licenses and copyrights.

24. RIGHT TO INSPECT: Arena reserves the right to inspect and control all events being held on premises.

25. COMPLIANCE WITH LAW: Ironmen Football shall not conduct, or permit to be conducted on the premises, any performance or activity which either by speech, song, music, or other conduct, is in violation of the laws of the United States, the State of Michigan, or the rules and regulations of the L.C. Walker Arena and Event Center.

26. ASSIGNMENT: Ironmen Football may not assign this day to day rental without the prior written consent of the Arena.

27. UNAVAILABILITY OF FACILITIES: In the event that the facilities herein rented or any portion thereof are not available for occupancy upon commencement or during the term of this Agreement due to fire, casualty, acts of God, strikes or national emergency or other cause beyond the control of the Arena, this permit and the obligations of the Arena and Ironmen Football herein shall terminate. Ironmen Football hereby waives any claim against the Arena for damages by reason of such termination.

28. BREACH OF AGREEMENT: In the case of the breach of any one or more of the terms of this Agreement by Ironmen Football, the right to the use of the premises shall terminate without notice or demand. Upon the termination of this Agreement, Ironmen Football agrees to vacate the premises immediately. The parties agree that Arena is in full control of the premises and may refuse admission to or put out any person including Ironmen Football for good cause. No action by Arena under this paragraph shall cause forfeiture of any fees or payments due the Arena.

29. CANCELLATION: Should Ironmen Football cancel an already scheduled game, without giving a minimum of seven (7) days advance notice to the Arena Manager, the Arena may charge Ironmen Football the full amount of Arena Fees Per Game as specified in Section 3(a) of this agreement.

30. BINDING EFFECT: Each and every term of this contract shall be binding upon the parties and their successors and assigns, and cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto, unless the same be in writing and mutually signed by the duly authorized agent or agents who executed this.

31. LEGAL CONSTRUCTION: The Agreement shall be governed by the laws of the State of Michigan.

32. ENTIRE AGREEMENT: The parties hereto agree that all of their agreements are fully set forth herein and that no oral statement or representations of any kind have been made upon which either party shall have the right to reply. This shall not limit the Arena from imposing any reasonable additional rules or regulations which may be necessary in the best interest of the operations of the facilities.

IN WITNESS WHEREOF, the Arena and Ironmen Football have caused this indenture to be executed the day and year first above written.

WITNESSES: L.C. Walker Arena

______________________________ By______________________________

______________________________ ______________________________

Ironmen Football

______________________________ By______________________________

______________________________ ______________________________

AGENDA ITEM NO. __________

CITY COMMISSION MEETING __

TO: Honorable Mayor and City Commission

FROM: Department of Public Works

DATE: August 13th, 2019

SUBJECT: Water Main Easement

SUMMARY OF REQUEST:

Authorize the DPW Director and City Clerk to sign the private water main easement with 2420 Remembrance Drive LC.

The easement allows for installation of a privately owned water main across a section of city owned property that fronts on Black Creek Road. The water main is being installed to provide fire protection via a hydrant on the site that is being developed by KL Industries for warehouse and storage and serves no other public purpose.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Authorize the DPW Director and City Clerk to sign the easement.

PRIVATE WATERMAIN EASEMENT AND RIGHT OF WAY GRANT

KNOW ALL MEN by these presents, that the City of Muskegon, a Michigan Municipal Corporation, whose address is 933 Terrace Street, Muskegon, Michigan (Grantor),

FOR AND IN CONSIDERATION of the sum of One and no/100 Dollars ($1.00) and other valuable considerations, paid to it by 2420 Remembrance Drive L.C., a Michigan Limited Liability Company, whose address is 4460 44th Street SE, Suite C200, Grand Rapids, Michigan 49512 (Grantee),

DOES HEREBY CONVEY to the Grantee, over a portion of property owned by Grantor described on Exhibit A (“Burdened Property”) and for the benefit of the property owned by Grantee described on Exhibit A (“Benefitted Property”) an easement and right of way in which to construct, use, repair, and replace watermain and appurtenant parts thereof and to enter upon sufficient land adjacent to said easement and right of way for the purpose of the construction, operation, maintenance, repair and/or replacement thereof,

The easement aforementioned is specifically described as follows (“Easement Property”)**:**

An easement for watermain 20.00 feet in width located in part of the Southeast one-quarter of Section 34, Town 10 North, Range 16 West, City of Muskegon, Muskegon County, Michigan, the centerline of said 20.00 foot wide watermain easement being described as: **COMMENCING** at the East one-quarter corner said Section 34; thence South 88°52'47" West 1399.72 feet along the East-West one-quarter line of said section; thence South 00°39'52" East 488.26 feet along the West right-of-way line of Black Creek Road (a 66.00 foot wide public right-of-way) to the **PLACE OF BEGINNING**; thence South 89°12'21" West 175.26 feet; thence North 00°47'43" West 173.57 feet; thence South 89°15'24" West 190.32 feet to the place of ending of said 20.00 foot wide watermain easement.

IT IS UNDERSTOOD that buildings, fences, walls, trees, or any type of structure(s) which would inhibit the intended use of this easement will not be placed upon the Easement Property without the prior written consent of the Grantee, its heirs, successors or assigns.

Condition and Maintenance. Grantee shall be solely responsible for all repairs, replacements, and maintenance of the watermain and appurtenant parts and the Easement Property and shall not allow it to become unsightly or a nuisance. If Grantee fails to meet any of its obligations under this easement, Grantor shall have the right, but not the obligation, to perform in the place of Grantee and if Grantee incurs or expends any sums, then those sums shall become immediately due and payable by Grantee.

Insurance. Grantee shall obtain liability insurance as part of its owner’s policy for the Benefited Property to cover any liabilities that arise as a result of the use by Grantee or its agents, employees, representatives, and contractors of the easement and shall name Grantor as an additional insured under such policy.

Indemnification. Grantee agrees to indemnify and hold Grantor harmless from any and all claims, debts, causes of actions, or judgments for any damage to any property or injury to any person that may arise out of Grantee’s actions within, use of, or around the easement, by itself, its agents, employees, representatives, and contractors. This provision shall survive the termination of this Agreement.

General. All rights granted under this easement shall not be further assignable by Grantee except as an appurtenance to and in conjunction with the sale of the Benefitted Property. The easement, rights and responsibilities set forth in this easement shall be perpetual and shall run with the Benefitted and Burdened Property and shall bind the successors and assigns of the Burdened and Benefitted Property.

Exempt pursuant to: MCL 207.505(a) and MCL 207.526(a).

IN WITNESS WHEREOF, the undersigned have hereunto affixed their signatures this _______ day of ________________________, 2019.

GRANTOR: City of Muskegon

By: _________________________
Name: ___________________
Title:

STATE OF MICHIGAN)
) ss
COUNTY OF MUSKEGON)

On this _______ day of ___________________, 2019, before me, a Notary Public, in and for said County, personally appeared ___________________________________ _____, who executed the within instrument and severally acknowledged the same to be his or her free act and deed.

____
, Notary Public
Muskegon County, Michigan
My commission expires:

GRANTEE:

2420 Remembrance Drive L.C., a Michigan Limited Liability Company

By: ___________________________
Name: ____________________
Title:

STATE OF MICHIGAN)
) ss
COUNTY OF KENT)

On this ________ day of ____________________, 2019, before me, a Notary Public, in and for said County, personally appeared _____________________________________ ______, who executed the within instrument and severally acknowledged the same to be his or her free act and deed.

____
, Notary Public
Kent County, Michigan
My commission expires:

This instrument drafted by:
Moore & Bruggink
2020 Monroe Avenue NW
Grand Rapids, Michigan 49505

Exhibit A

Burdened Property

Benefitted Property

AGENDA ITEM NO. __________

CITY COMMISSION MEETING __

TO: Honorable Mayor and City Commission

FROM: Department of Public Works

DATE: August 13th, 2019

SUBJECT: DPW Roofing

SUMMARY OF REQUEST:

Award the contract for roofing of Section #1 at the DPW Building to the low bidder Ostrander Roofing in the amount of $141,494.00.

This will repair the front section of roofing at DPW primarily over the office areas of the building, which has suffered from several leaks over the last year.

FINANCIAL IMPACT:

$141,494.00

BUDGET ACTION REQUIRED:

None. This project was included in the 19-20 budget.

STAFF RECOMMENDATION:

Award the contract for to Ostrander Roofing.

CITY OF MUSKEGON

BID TABULATION: DPW - SECTION #1

PROJECT: 2019 ROOF REPLACEMENT

DATE: 7/9/19

	NAME OF BIDDER		NAME OF BIDDER		NAME OF BIDDER	
VENDOR	CERTIFIED BUILDING SOLUTIONS		HOEKSTRA ROOFING		OSTRANDER ROOFING	
TELEPHONE	231-578-3254		269-720-3004		616-240-0553	
QUOTED BY	JULIE FAUCHER		PHIL WOOD		RICHARD OSTRANDER	
CREW SIZE	8		7		6	
PROJECTED START DATE	10/1/19		10/14/19		8/15/19	
BID BOND AND PERFORMANCE BOND	Yes		No		Yes	
DESCRIPTION	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
PROJECT PRICING						
LABOR BID		$ 110,500		$ 96,875		$ 88,500
US COMMUNITIES BID		$ 59,976		$ 50,494		$ 50,494
LINE ITEM PRICING:						
REPLACEMENT OF METAL DECK	SQ. FT.	$ 12	SQ. FT.	$ 9.50	SQ. FT.	$ 7.00
REPLACEMENT OF DRAIN	PER DRAIN	$ 1,000	SQ. FT.	$ 2,800.00	SQ. FT.	$ 450.00
SUB-TOTAL	**$ 170,476**		**$ 147,369**		**$ 138,994**	
ESTIMATED FREIGHT FEES	$ 2,500		$ 2,500		$ 2,500	
TOTAL	**$ 172,976**		**$ 149,869**		**$ 141,494**	

AGENDA ITEM NO. __________

CITY COMMISSION MEETING __

TO: Honorable Mayor and City Commission

FROM: Department of Public Works

DATE: August 13th, 2019

SUBJECT: Industrial Park Lift Station Pump

SUMMARY OF REQUEST:

Authorize staff to purchase a replacement pump for the Industrial Park sewer lift station at a cost of $16,333 from Kennedy Industries (sole supplier).

Due to wear and tear the pump motor died and needs to be replaced. The pump is 20 years old and was nearing the end of its life expectancy.

FINANCIAL IMPACT:

$16,333

BUDGET ACTION REQUIRED:

None. This project was included in the 19-20 budget (Lift Station Repairs)

STAFF RECOMMENDATION:

Approve the purchase of a replacement pump from Kennedy Industries.

Date: 8/13/2019

To: Honorable Mayor and City Commissioners

From: Development Services

RE: Public Meeting Training

SUMMARY OF REQUEST:

Approve funding for training on managing civil, productive public meetings. Beth Buelow and a co-facilitator will lead a four session training targeting department and division heads as well as the mayor and commissioners with the objective of preparing us to present information and manage interactions in a proactive, positive, and productive manner. Additional workshops will be offered to neighborhood associations with the objective to provide them tools to communicate and collaborate with city leaders. Training is expected to be scheduled fall of 2019.

FINANCIAL IMPACT:

$10,000

BUDGET ACTION REQUIRED:

Will be included in the next quarterly forecast

STAFF RECOMMENDATION:

Approve funding for public meeting training.

Managing Civil, Productive Public Meetings:

4-Part Seminar Series for City of Muskegon Staff and Elected Officials

Preliminary Proposal Prepared for LeighAnn Mikesell, Director of Municipal Services
From Beth L. Buelow, PCC, 231.260.1949, beth@howcanisaythis.com
Submitted June 17, 2019

Rationale: The City of Muskegon is in midst of a new wave of development, which is being met with feelings of excitement about growth and revitalization on the one hand, and fears about gentrification and a widening socio-economic divide on the other. This tension can cause even well-meaning people to lose their capacity to act in a civil manner. The good news is that the city has proven resilient and willing to do the hard work of addressing its challenges and seizing its opportunities. We have passionate, invested residents, and deeply committed, highly skilled public servants. It's in the city's best interest to model how to navigate change so that it's done *with* its citizens, not *to* its citizens. And with a growing number of major downtown and neighborhood projects underway, now is the ideal time to provide city officials, staff, and residents the communication tools they need to move through this critical point in Muskegon's evolution as partners and co-creators of our collective future.

Overall Objectives: (1) For city staff and officials to feel confident about presenting information and managing public-facing interactions in a proactive, positive, and productive manner. (2) For citizens to have the tools they need to make their voices heard and be in a collaborative relationship with their leaders.

Key Assumptions: When stakes and emotions are high, reactivity increases. This reactivity —and its resulting tension—can be de-escalated by creating an environment where all stakeholders can be seen, heard, and feel safe. By approaching situations with a "mediation mindset" that includes intention, curiosity, strategy, empathy, and humility, productive conversations— even ones involving conflict—are possible.

NAM Component: The responsibility for civil conversations isn't only held by city officials; residents also can benefit from being mindful and purposeful about how they communicate in public settings. In conjunction with the staff seminars, each of the 15 neighborhood associations will receive a condensed workshop (45-60 minutes) focused on how to prepare for public meetings, be more influential, and engage in productive dialogue with city leaders. Discussions might use current issues as examples, but the intention is to keep the information at a high, general level, without getting into debate or problem solving. The specific agenda for the workshop can be co-created with NAM.

Facilitators: All sessions (NAM and City) will be led by Beth Buelow, City of Muskegon resident (Nelson Neighborhood Assoc). Beth is a Professional Certified Coach specializing in communication and leadership. She's a trained mediator, experienced speaker/facilitator, and former non-profit professional. She's led dozens of workshops on conflict and communication for groups as diverse as health care leaders to accountants to entrepreneurs. For this project, Beth is actively seeking a co-facilitator (preferably a Person of Color or someone who is representative of the diversity of Muskegon's neighborhoods) to partner on some or all of this proposal's components.

Seminar Overview: This four-part seminar series focuses on providing information and opportunities for practice for all appropriate city staff and elected officials. Each session will be a combination of content delivery and small/large group discussions, along with in-session practice, observation, and feedback. Ideally, each session would be 3-4 hours long and would take place once per week over four consecutive weeks.

Outcomes: At the conclusion of the trainings, staff will have:

1. Tools to help them prepare for public meetings and interactions with the public.
2. An understanding of why they need to consider the perspectives of others and how that would be beneficial to them.
3. Improved confidence in public speaking and diffusing conflict.

Financial Investment: To be discussed once scope is determined. Every effort will be made to design a program that both satisfies the desired objectives and works within the available budget.

CITY STAFF/OFFICIALS SEMINAR SESSION SUMMARIES

SESSION ONE:
Laying the Inner Groundwork for a Successful Interaction

Content and practice will be focused on deconstructing the “us vs them” dynamic by examining what leads to divisiveness, how to navigate power differentials, and the importance of identifying common ground and shared values. In addition, we’ll explore strategies for how to self-manage through personal triggers, biases, assumptions, and attitudes, using frameworks such as the Ladder of Inference (as popularized by Peter Senge, *The Fifth Discipline*).

SESSION TWO:
Building Your Case

Learn strategies for preparing for the interaction and building empathy. Among the questions explored: What are the anticipated responses you’ll get to your presentation? In what ways are your constituents right? What about their fears/concerns is justified? If you shared their beliefs, how would you want to be responded to? Participants will learn how to present their case in a clear, compelling manner that focuses on what their audience wants and needs to hear, rather than being solely focused on what the presenter wants to tell them.

SESSION THREE:
Setting Everyone Up for Success

Here we move to the meeting itself and learn how to create a generative, healthy space for productive dialogue. Information covered includes how to create a clear framework and agenda for the meeting; setting intentions, expectations, and group agreements that facilitate fairness, respect, structure, and security (emotional and physical); and increasing awareness of nonverbal cues and dynamics of the space that contribute to both tension and safety.

SESSION FOUR:
Facilitating Healthy, Productive Conflict

Despite our best intentions, conflict is likely to arise during any public gathering where people care deeply about the outcome. This calls on professionals to be skilled in active listening and ways of eliciting additional information that help people feel seen and heard without escalating to debate. Participants will learn how to identify, acknowledge, and address fears that are underneath the concerns, anger, and confusion of their constituents. This includes learning the basics of negotiation and, in particular, how to differentiate between values, interests, and positions. Finally, we will practice techniques for responding to people who argue, vent, or dominate.

TO BE DETERMINED:
Who amongst staff will participate? Offer elected officials similar/same content? If yes to elected officials, do they all attend together? What about any version of this training for citizen boards/commissions/committees (ideally, yes!)? Is there any type of follow-up or supplement to these trainings for staff? For instance, facilitators supporting leaders in prepping for specific meetings, attending with the intention of offering feedback, and having a post-meeting debrief focused on communication and presentation skills?

AGENDA ITEM NO. ________________

CITY COMMISSION MEETING ____________________________

TO: Honorable Mayor and City Commissioners

FROM: Jake Eckholm, Director of Economic Development

DATE: August 13th, 2019

RE: Opportunity Zone Incentive Program

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:

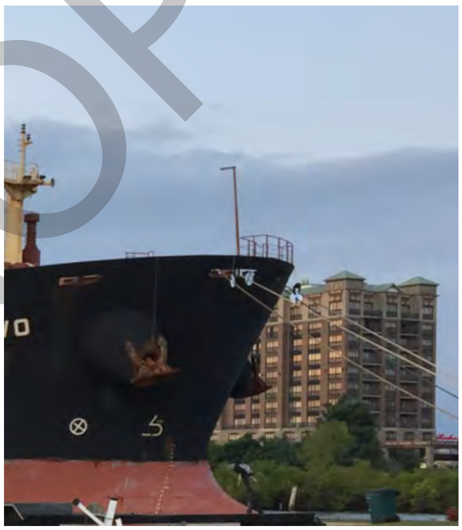
None at this time.

STAFF RECOMMENDATION:

To authorize the incentive package as presented.

CITY OF MUSKEGON OPPORTUNITY ZONE

Claiming the distinction of "West Michigan's Shoreline City", Muskegon is the largest city on the eastern shore of Lake Michigan with a population just under 40,000. In addition to having the largest beach on Michigan's west coast, Muskegon also contains miles of lakefront along the south shore of Muskegon Lake. The city is located 180 miles northeast of Chicago, 190 miles west of Detroit, and 80 miles due east of Milwaukee.



Today, Muskegon is a progressive city and has an appreciation for its significant history while continuing forward growth and movement in creating a new identity for itself. The casual and friendly atmosphere allows the local resident, vacationer, or fisherman to truly kick back, relax and enjoy.

The city's core neighborhoods contain a series of sites primed for redevelopment. A former school, once embedded in its neighborhood, offers the opportunity to again serve as a community anchor. Redevelopment of old school buildings is not unfamiliar to the area, as a variety of repurposed facilities have brought new life to their respective communities.

As Muskegon's industrial past makes way for a mixed-use future, large waterfront sites have become available for redevelopment. Moving from east to west: the centrally located Harbor 31 site, the expansive acreage of the Western Waterfront district, and the vacant, former Tank Farm property are all well-positioned to benefit from the area's unmatched natural amenities as well as its reviving downtown.

Downtown Muskegon is in the midst of major reinvestment. The removal of a renewal-era, urban shopping mall has made available much vacant land in the heart of the city. The Morris Street property offers significant acreage in the downtown core, two blocks from the available AmeriBank Building; both are sited just minutes from the lakeshore and other recreational opportunities. With a clear vision for the future, Downtown Muskegon is on course to become the hub of the city, county, and beyond.

For more information please visit our website: www.shorelinecity.com

OPPORTUNITIES IN THE CITY OF MUSKEGON

- WESTERN WATERFRONT
- FOUNDRY SQUARE
- VACANT SCHOOL BUILDING
- HARBOR 31
- AMERIBANK BUILDING
- TANK FARM PROPERTY

Grants, loans, and tax abatements are also available. The owner or developer should coordinate with the City of Muskegon to determine which incentives are most appropriate for their development project. Please contact:

LeighAnn Mikesell
Director of Municipal Services
933 Terrace Street
Muskegon, MI 49443
(231) 724-6702
leighann.mikesell@shorelinecity.com

MUSKEGON OPPORTUNITY ZONE INCENTIVES

SETTING MUSKEGON APART

1. An environment of investor confidence. Proposed projects will not be delayed or derailed by zoning, regulation, or politics:
   - A one-stop shop for all opportunity zone issues – connection person/team for opportunity zone questions, ideas, incentives, etc.
   - Form Based Code – limited applicability of planning commission and city commission
   - Redevelopment Ready Community Certified
   - One-stop meetings and pre-development meetings
2. Updated zoning/codes to expedite projects:
   - Form Based Code
   - Imagine Muskegon Lake Plan
3. Clear local investment strategy:
   - Updated City Waterfront Plan
   - Updated Zoning Codes
   - 2014 Muskegon Farmers Market
   - 2020 Muskegon Convention Center

CITY-FOCUSED SPENDING IN OPPORTUNITY ZONES

1. Brownfield Incentives
2. Utility Investment
3. Downtown Development Authority

Mixed-Use Development Investment Match: The first $75 Million in qualified opportunity fund investment deployed on a new mixed-use development within a City of Muskegon Opportunity Zone shall be eligible to receive a match equal to 2% of the initial eligible investment.

Opportunity Fund Investment	Incentive Amount
$1,000,000	$20,000
$5,000,000	$100,000
$15,000,000	$300,000
Note: Matching dollars are paid upon successful completion of the investment and satisfaction of the initial 10-year holding period	

Missing Middle Housing Development Investment Match: The first $25 Million in qualified opportunity fund investment deployed in new "missing-middle" housing within a City of Muskegon Opportunity Zone shall be eligible to receive a match equal to 3.5% of the initial eligible investment.

Opportunity Fund Investment	Incentive Amount
$1,000,000	$35,000
$5,000,000	$175,000
$10,000,000	$350,000
Note: Matching dollars are paid upon successful completion of the investment and satisfaction of the initial 10-year holding period	

Neighborhood Housing Development Investment Match: The first $10 Million in qualified opportunity fund investment deployed in new single-family housing (attached and detached) within a City of Muskegon Opportunity Zone shall be eligible to receive a match equal to 3% of the initial eligible investment.

Opportunity Fund Investment	Incentive Amount
$1,000,000	$30,000
$5,000,000	$150,000
$10,000,000	$300,000
Note: Matching dollars are paid upon successful completion of the investment and satisfaction of the initial 10-year holding period	

Port-Related Industrial Redevelopment Incentives: The first $25 Million in qualified opportunity fund investment deployed in new port facilities (buildings) located on current city-owned property within a City of Muskegon Opportunity Zone shall be eligible to receive a match equal to 5% of the initial eligible investment.

Opportunity Fund Investment	Incentive Amount
$1,000,000	$50,000
$5,000,000	$250,000
$25,000,000	$1,250,000
Note: Matching dollars are paid upon successful completion of the investment and satisfaction of the initial 15-year holding period	

Commission Meeting Date: Aug. 13, 2019

Date: Aug. 13, 2019

To: Honorable Mayor & City Commission

From: Planning & Economic Development Department

RE: Lakeside Business Improvement District (BID) initial resolution

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SUMMARY OF REQUEST: We are requesting the attached resolution be adopted establishing a Business Improvement District for the Lakeside commercial district along Lakeshore Drive from 1595 Lakeshore (Wasserman's Flowers) to 2801 Lakeshore (Muskegon County Club). The boundaries are outlined in the attached map as the district are those commercial properties with frontage on Lakeshore Drive. It is also requested that the commission establish an initial Lakeside BID board with the following recommended individuals as offered by the Lakeside District Association:

Troy Wasserman – Wasserman's Flowers, 1595 Lakeshore
Richard Ghezzi – Ghezzi's Market, 2017 Lakeshore
Mark Flermoen – VF Ventures, 1845 Lakeshore
Michael Kordecki – Marine Tap Room, 1983 Lakeshore
Ann Funk – Auto Body Clinic, 2054 Lakeshore
Blake Evans – Water's Edge Fitness, 2465 Lakeshore
City Manager (by statute) – City of Muskegon

FINANCIAL IMPACT: The city can anticipate receiving approximately 15 percent of the proceeds that would be an administrative fee for staff support if the BID is established and the BID board concurs.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To adopt the resolution as presented.

CITY OF MUSKEGON

Resolution No. ______

Resolution initiating the
MUSKEGON LAKESIDE BUSINESS IMPROVEMENT DISTRICT (BID)

A resolution establishing the Lakeside Business Improvement District, designating the boundaries of the BID, and establishing the Lakeside Business Improvement District Board.

Resolved by the Commission of the City of Muskegon:

By way of this resolution, and subject to the requirements of Act 49 of the Public Acts of 1999, the City Commission establishes the Lakeside Business Improvement District, with the boundaries of this Business Improvement District being outlined on the attached map.

This district includes the follow classes of property:

90 Total Assembled Properties fronting Lakeshore Drive in the district

2 Exempt Properties are non-profit and 8 Exempt Properties are government

38 Residential Properties are not assessed

Further, by way of this resolution, the City Commission establishes the Lakeside Business Improvement District Board, consisting of seven members, the persons nominated for this board by the Lakeside District Association shall be the following:

Troy Wasserman – Wasserman's Flowers, 1595 Lakeshore
Richard Ghezzi – Ghezzi's Market, 2017 Lakeshore
Mark Flermoen – VF Ventures, 1845 Lakeshore
Michael Kordecki – Marine Tap Room, 1983 Lakeshore
Ann Funk – Auto Body Clinic, 2054 Lakeshore
Blake Evans – Water's Edge Fitness, 2465 Lakeshore
City Manager (by statute) – City of Muskegon

Adopted this 13th day of August 2019.

Ayes: ____

____

Nays:

CITY OF MUSKEGON

By:

Stephen J. Gawron
Mayor

Ann Marie Meisch
City Clerk

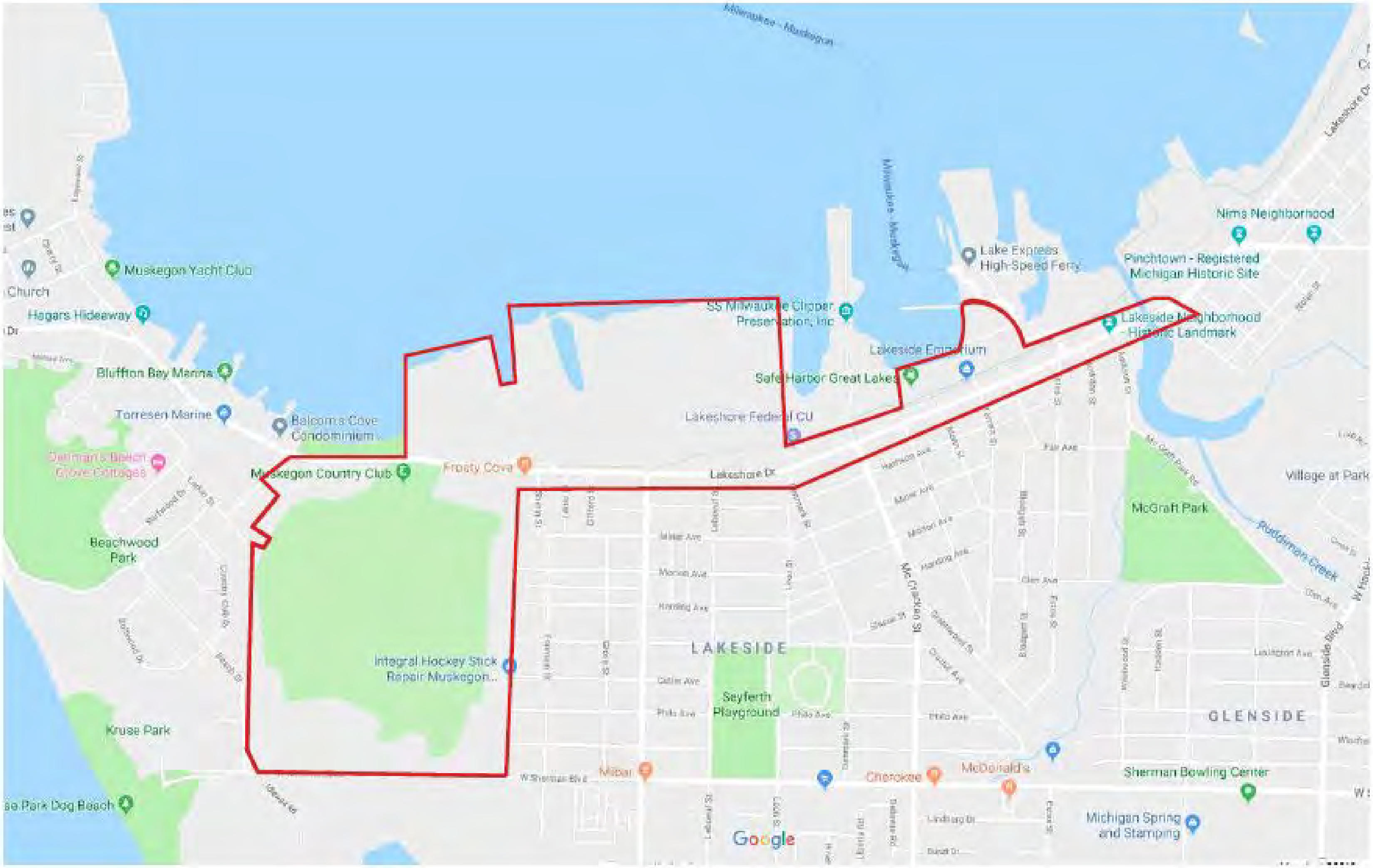
CERTIFICATION

This resolution was adopted at a meeting of the City Commission, held on August 13, 2019. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public acts of 1976.

CITY OF MUSKEGON

By:

Ann Marie Meisch, Clerk



= 2019 Lakeside BID District

Commission Meeting Date: August 13, 2019

Date: August 6, 2019

To: Honorable Mayor & City Commission

From: Planning & Economic Development Department

RE: Sale of Lots 3 & 4 of Seaway Industrial Park

SUMMARY OF REQUEST:

To approve the sale of lots 3 & 4 of Seaway Industrial Park to Adam McCausland for $292,000. The lots total 3.4 acres and are zoned I-1, Light Industrial and are also located in the Medical Marihuana Overlay District.

FINANCIAL IMPACT:

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

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

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

Lot 3
Parcel #24-895-002-0001-00
Size: 1.6 Acres
Location: On Young St south of St Mary's Cemetery (no address available).
Notes: Heavily wooded lot.

Lot 4
Parcel #24-895-0001-0001-00
Size: 1.8 Acres
Location: Corner of Young St / Park St, south of St Mary's Cemetery (no address available)
Notes: Heavily wooded lot.

Resolution No. _______

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING THE SALE OF LOTS 3 & 4 OF SEAWAY INDUSTRIAL PARK FOR $292,000.

WHEREAS, Adam McCausland, be allowed to purchase parcel numbers: 24-895-002-0001-00 and 24-895-001-0001-00 for a total of $292,000; and

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

NOW THEREFORE BE IT RESOLVED, that parcel numbers 24-895-002-0001-00 and 24-895-001-0001-00 be sold to Adam McCausland, for $292,000.

CITY OF MUSKEGON SEC 31 T10N R16W PT BLK 1 AND PT VAC ALLEY IN SD BLK 1 YOUNG & WILLIAMS ADDN COM AT SE COR OF THE NW FRL 1/4 SD SEC TH N 00D 00M 00S E 1295.50 FT ALG E LN SD NW FRL 1/4 TH S 89D 46M 54S W 33.00 FT ALG S ROW LN YOUNG AVE & ITS EXTENSION IN SD YOUNG & WILLIAMS ADDN FOR POB TH S 00D 00M 00S W 249.79 FT ALG THE W R/W LN PARK AVE TH S 89D 43M 30S W 274.43 FT TH N 00D 00M 00S E 250.08 FT ALG E ROW LN WAALKES ST TH N 89D 46M 54S E 274.43 FT ALG SD S ROW LN YOUNG AVE TO POB ALSO INCL E 1/2 OF VAC WAALKES ST ADJ THERETO PURSUANT TO CITY OF MUSKEGON VACATE RESOLUTION #2012-39(E)

CITY OF MUSKEGON PT OF BLK 2 AND PT OF THE VAC ALLEY IN SD BLK 2 YOUNG & WILLIAMS ADDN COM AT THE SE COR OF THE NW FRL 1/4 SEC 31 T10N R16W TH N 00D 00M 00S E 1295.50 FT ALG THE E LN OF S NW FRL 1/4 TH S 89D 46M 54S W 373.43 FT ALG THE S R/W LN OF YOUNG AVE AND ITS EXTENSION IN SD YOUNG & WILLIAMS ADDN FOR POB TH S 00D 00M 00S W 250.13 FT ALG THE W R/W LN OF WAALKES ST TH S 89D 43M 30S W 266.00 FT TH N 00D 00M 00S E 250.39 FT ALG THE E R/W LN OF TEMPLE ST TH N 89D 46M 54S E 266.00 FT ALG SD S R/W LN OF YOUNG AVE TO POB PROPOSED ESMT OVER RUDDIMAN CREEK DRAIN: THAT PT OF THE FOLLOWING DESCRIBED ESMT LYING OVER AND ACROSS THE ABOVE PARCEL A 50 FT WDE STRIP OF LAND C/L DESCRIBED AS COM AT THE W 1/4 COR OF SEC 31 T10N R16W TH S 89D 49M 59S E 1031.12 FT ALG THE S LN OF THE NW FRL 1/4 OF SD SEC FOR POB OF SD C/L TH N 45D 25M 16M E 354.00 FT TH N 02D 08M 16S E 495.50 FT TH N 43D 12M 46S E 749.75 FT FOR POE OF SD C/L ON THE S R/W LN OF YOUNG AVE IN YOUNG & WILLIAMS ADDN THE SIDELINES OF SD 50 FT WIDE STRIP OF LAND EXTEND OR SHORTEN TO ALLOW NO GAPS OR OVERLAPS ALSO INC W 1/2 OF VAC WAALKES ST ADJ THERETO PURSUANT TO CITY OF MUSKEGON VACATE RESOLUTI

Adopted this 13th day of August 2019

Ayes:

Nays:

Absent:

By: __________________________
Stephen Gawron
Mayor

Attest: __________________________
Ann Marie Meisch, MMC
City Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on August 13, 2019.

By: ________________________

Ann Marie Meisch, MMC
City Clerk

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement ("Agreement") has been made as of ____________, 2019 ("Effective Date"), by the **City of Muskegon**, a Michigan municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49440 ("Seller"), and **Adam McCausland**, or his assignee, of 30 N Bear Lake Road, Muskegon, Michigan 49445 ("Purchaser"), with reference to the following facts:

Background

A. Seller owns the real property located in the City of Muskegon commonly known as Lots 3 and 4 in the Seaway Industrial Park, and legally described on **Exhibit A**, together with all improvements, fixtures, easements, hereditaments, and appurtenances associated with the real estate (collectively, the "Premises").

B. Purchaser desires to purchase the Premises for the purpose of constructing a building for a medical marijuana grow facility and processing center (collectively, the "Project").

C. Accordingly, Purchaser intends to purchase, and Seller intends to sell, the Premises upon the terms and conditions of this Agreement.

Therefore, for good and valuable consideration, the parties agree as follows:

1. **Sale and Purchase of Premises.** Subject to the terms and conditions of this Agreement, Seller agrees to sell and Purchaser agrees to purchase the Premises, together with all improvements, easements, division rights, tenements, hereditaments, and appurtenances thereto.

2. **Purchase Price; Payment.** The purchase price for the Premises shall be $292,000.00 (the "Purchase Price"), which shall be payable in cash or other immediately available funds at Closing (as defined below).

3. **Deposit.** Purchaser shall make an earnest money deposit of $10,000.00 ("Deposit"), which shall be held by Parmenter Law, and which shall be applied toward the Purchase Price at Closing if the sale is consummated or disbursed as set forth in this Agreement.

4. **Monthly Payment.** Within 45 days of the Effective Date of this Agreement, Purchaser will submit an application to the Michigan Marijuana Regulatory Agency ("MRA") to obtain the necessary licenses to operate a medical marijuana grow facility at the Premises. Commencing 120 days after the Effective Date of this Agreement, in the event Purchaser has not received the necessary licensing approval from the MRA, Purchaser shall pay Seller a non-refundable monthly fee of $3,000.00 on the first of each month ("Monthly Payment") until Purchaser receives such license approval or until this Agreement is otherwise terminated. If the Purchaser receives approval for the necessary licenses, all Monthly Payments shall be credited toward the Purchase Price. In the event Purchaser does not receive the necessary licensing approval and wishes to terminate this Agreement at no fault of Seller, all Monthly Payments made after the Inspection Period (defined below) shall be retained by Seller.

5. **Title Policy and Survey.**

a. Within 7 days after the Effective Date, Purchaser shall order a title commitment for an extended coverage ALTA owner's policy of title insurance issued by Transnation Title Agency (the "Title Company") for the Premises in the amount of the Purchase Price and bearing a date later than the Effective Date, along with copies of all of the underlying documents referenced therein (the "Title Commitment"). Purchaser shall cause the Title Company to issue a marked-up commitment or *pro forma* owner's policy with respect to the Premises at the Closing naming Purchaser as the insured and in form and substance satisfactory to Purchaser, but subject to the Permitted Exceptions (defined below). As soon as possible after the Closing, Purchaser shall cause the Title Company to furnish to Purchaser an extended coverage ALTA owner's policy of title insurance with respect to the Premises (the "Title Policy"). Purchaser shall be responsible for the cost of the Title Policy and any endorsements to the Title Policy that Purchaser desires.

b. Purchaser may order, at its sole expense, an ALTA/ACSM Land Title Survey of the Premises in accordance with the most current ALTA Standards (the "Survey"), certified to Purchaser and to the Title Company.

6. **Title Objections.** Purchaser shall have until the end of the Inspection Period (as defined below) within which to raise objections to the status of the Seller's title to the Premises or matters shown on the Survey. If objection to the title and/or Survey is made, Seller shall have 7 days from the date it is notified in writing of the particular defects claimed to either (a) remedy the objections, or (b) notify Purchaser that it will not remedy the objections. If Purchaser does not notify Seller in writing as to any title or survey objections, then Purchaser will be deemed to have accepted the condition of title and survey as set forth in the Title Commitment and Survey. If Seller is unwilling or unable to remedy the title and/or survey defect or obtain title insurance over such defects within the time period specified, then notwithstanding anything contained herein to the contrary, Purchaser may, at its option, upon written notice to Seller, either (i) terminate this Agreement and obtain a refund of the Deposit and neither Seller nor Purchaser shall have any further obligation to the other pursuant to this Agreement, except as otherwise provided herein, or (ii) waive such objection, in which case such objection shall become a Permitted Exception, and thereafter proceed to the Closing according to the terms of this Agreement. Any matter disclosed on the Title Commitment or the Survey that is waived or not objected to by Purchaser shall be deemed a "Permitted Exception." The foregoing notwithstanding, no mortgage, monetary encumbrance, lien (except the lien of real estate taxes not yet due and payable) or tenancy right shown on the Title Commitment shall be considered a Permitted Exception, and Seller shall discharge of record all monetary encumbrances, liens, and tenancy rights affecting the Premises at or prior to Closing.

7. **Property Taxes and Assessments.** Seller shall be responsible for the payment of all real estate taxes and assessments that become due and payable prior to Closing, without proration. Purchaser shall be responsible for the payment of all real estate taxes and assessments that become due and payable after Closing, without proration.

8. **Purchaser's Right of Inspection.**

a. ***Ability to Inspect.*** The period commencing on the Effective Date and expiring 120 days thereafter shall be referred to as the "Inspection Period." During the Inspection Period, Purchaser may complete all inspections and investigations of the Premises as Purchaser deems reasonable and necessary to determine whether the Premises will be suitable for Purchaser's acquisition, all at Purchaser's sole cost and expense (the "Inspections"). During the Inspection Period, Seller will afford Purchaser and Purchaser's representatives reasonable access to the Premises to conduct the Inspections. Purchaser shall use reasonable efforts to minimize any damage to the Premises resulting from the Inspections. If any portion of the Premises is disturbed due to the Inspections, Purchaser shall promptly, at its cost, restore the Premises to substantially the same condition that existed prior to the disturbance.

b. ***Environmental Inspections.*** During the Inspection Period, Purchaser may, at its sole cost and expense, conduct such environmental site evaluations of the Premises as it deems appropriate including, without limitation, a Phase I and Phase II environmental site assessment and/or a Baseline Environmental Assessment. Such evaluations may include soil sampling, soil borings, ground water sampling, drilling, installing, maintaining, operating, and removing ground water monitoring wells; provided, however, that Purchaser is not authorized to perform any Phase II work, or any other intrusive sampling or testing of the Premises, without first obtaining the prior written approval from Seller. Purchaser's request for approval shall include a copy of the Phase I environmental site assessment report and a work plan for Phase II work, including a drawing or figure depicting any proposed sampling and testing locations. Purchaser will deliver a copy of the environmental reports and any other sampling results or data obtained by Purchaser when received by Purchaser. Purchaser will give reasonable notice to Seller prior to entering upon the Premises to install or remove soil borings, geoprobes, groundwater monitoring wells, recovery wells, soil vapor pins, and other assessment and remediation equipment/facilities. Purchaser agrees to keep strictly confidential and not to disclose to any person or entity, other than employees, attorneys, consultants, and contractors who performed the inspections of the Premises, without the express written consent of Seller, which consent shall not be unreasonably withheld, delayed, or conditioned by Seller, any and all data or information obtained and not previously known to Purchaser, provided however, that this provision shall not apply to any Baseline Environmental Assessment, information and data which are in the public domain, have been provided to Seller, or are otherwise required to be disclosed pursuant to applicable laws, regulations, or court orders. Purchaser agrees to provide this confidentiality provision to any consultant, contractor, or employee to whom confidential information may be disclosed and shall require such person to be bound by this confidentiality provision. This provision shall survive any termination of this Agreement. In the event Purchaser's environmental investigations reveal or disclose conditions that are not acceptable to Purchaser, then Purchaser will have the right to terminate this Agreement by written notice to Seller prior to the expiration of the Inspection Period and be refunded the Deposit.

c. ***Indemnity for Inspections.*** Purchaser will defend, indemnify, and hold Seller, Seller's agents, and assigns, harmless from all actions, claims, demands, liabilities, and damages for personal injury or property damages that are imposed on or incurred by Seller as a result of the actions, omissions, or negligence of Purchaser, Purchaser's agents, or other representative at the Premises pursuant to its inspection of the Premises, except (i) resulting from the actions or omissions of Seller or its agents, and (ii) in no event shall Purchaser be responsible for the mere discovery of existing conditions at the Premises, environmental or otherwise. The obligations in this paragraph will survive the termination of this Agreement and the Closing.

d. ***Conveyance of Existing Reports.*** Within 7 days of the signing of this Agreement, Seller shall provide to Purchaser copies of all reports in Seller's possession that provide information on the condition of the Premises, including all environmental reports or studies.

e. ***Option to Terminate Transaction.*** If Purchaser determines in its sole discretion that the Inspections reveal a condition unacceptable to the Purchaser, the Purchaser may terminate this Agreement prior to the end of the Inspection Period by delivering written notice of termination to Seller prior to the end of the Inspection Period and neither party shall have any further obligation to the other by virtue of the terms of this Agreement. If Purchaser fails to notify Seller on or prior to the expiration of the Inspection Period of such deficiencies, Purchaser shall be deemed to have waived Purchaser's right to object to any conditions related to the Premises or terminate this Agreement.

9. **Condition of Premises.** Seller and Purchaser acknowledge and agree that the Premises is vacant and is being sold and delivered **"AS IS", "WHERE IS"** in its present condition. Except as specifically set forth in this Agreement or any written disclosure statements, Seller has not made, does not make, and specifically disclaims any and all representations, warranties, or covenants of any kind or character whatsoever, whether implied or express, oral or written, as to or with respect to (i) the value, nature, quality, or condition of the Premises, including without limitation, soil conditions, and any environmental conditions; (ii) the suitability of the Premises for any or all of Purchaser's activities and uses; (iii) the compliance of or by the Premises with any laws, codes, or ordinances; (iv) the habitability, marketability, profitability, or fitness for a particular purpose of the Premises; (v) existence in, on, under, or over the Premises of any hazardous substances; or (vi) any other matter with respect to the Premises. Purchaser acknowledges and agrees that Purchaser has or will have the opportunity to perform inspections of the Premises pursuant to this Agreement and that Purchaser is relying solely on Purchaser's own investigation of the Premises and not on any information provided to or to be provided by Seller (except as specifically provided in this Agreement). If the transaction contemplated herein closes, Purchaser agrees to accept the Premises and waive all objections or claims against Seller arising from or related to the Premises and any improvements thereon except for a breach of any representations or warranties or covenants specifically set forth in this Agreement. In the event this transaction closes, then subject to Seller's express representations, warranties, and covenants in this Agreement, Purchaser acknowledges and agrees that it has determined that the Premises and all improvements thereon are in a condition satisfactory to Purchaser based on Purchaser's own inspections and due diligence, and Purchaser has accepted the Premises in its present condition and subject to ordinary wear and tear up to the date of Closing. The terms of this Section shall survive the Closing and/or the delivery of the deed.

10. **Government Approval Contingency.** This Agreement is contingent on Purchaser obtaining all necessary governmental approvals and licenses for the construction of the Project. Purchaser shall promptly submit all necessary applications and fees and use its best efforts in good faith to obtain all necessary approvals. The terms of this Section shall not affect the Seller's right to keep the non-refundable monthly payments as outlined in Section 4.

11. **Seller's Representations and Warranties.**

a. ***Authority.*** Seller is a Michigan municipal corporation duly organized, validly existing, and in good standing under the laws of the State of Michigan. The execution and delivery of this Agreement by Seller, and the performance of this Agreement by Seller, have been duly authorized by Seller, and this Agreement is binding on Seller and enforceable against Seller in accordance with its terms.

b. ***Litigation.*** There is no litigation or proceeding either pending or, to the best of Seller's knowledge without independent inquiry, threatened against or relating to the Premises in any judicial, quasi-judicial, or administrative forum.

c. ***Condemnation.*** Seller has no actual knowledge of a pending condemnation or other governmental taking proceeding affecting all or any part of the Premises.

d. ***Violations.*** To the best of Seller's knowledge, without independent inquiry, except as disclosed in writing to and accepted by Purchaser, there are, and shall be, no uncured violations, including, without limitation, environmental violations, of any laws, ordinances, orders, regulations, rules or requirements of any governmental authority, affecting the Premises or any part thereof.

e. ***Environmental.*** To the best of Seller's knowledge, without independent inquiry, no toxic or hazardous substance or waste, as defined in any federal, state, or local environmental law, ordinance, rule, or regulation, have been used, stored, generated, recycled, treated, released, spilled, discharged, or otherwise disposed of on, in, under, or otherwise affecting the Premises. To the best of Seller's knowledge, without independent inquiry, Seller has not received any notice from any applicable governmental entity of the potential or actual existence of any hazardous substance on, in, under, adjacent to, or otherwise affecting the Premises.

f. ***Vacant Property.*** Purchaser acknowledges that the Premises is vacant property on which no residence or other habitable structures are located, and therefore no seller's disclosure statement is required in this transaction.

g. ***Lease.*** There are no leases or other occupancy agreements in effect with respect to the Premises.

h. ***No Violation of Law.*** The performance of this Agreement by Seller will not be in violation of any laws, statutes, local ordinances, state or federal regulations, court or administrative order, or ruling, nor is the performance of this Agreement in violation of any loan document conditions or restrictions in effect for financing, whether secured or unsecured.

12. **Purchaser's Representations and Warranties.**

a. ***Authority.*** Purchaser has the power and authority to enter into and perform Purchaser's obligations under this Agreement.

b. ***Litigation.*** No judgment is outstanding against Purchaser, and no litigation, action, suit, judgment, proceeding, or investigation is pending or outstanding before any forum, court, or governmental body, department or agency or, to the knowledge of Purchaser, threatened, that has the stated purpose or the probable effect of enjoining or preventing the Closing.

c. ***Bankruptcy.*** No insolvency proceeding, including, without limitation, bankruptcy, receivership, reorganization, composition, or arrangement with creditors, voluntary or involuntary, affecting Purchaser or any of Purchaser's assets or properties, is now, or on the Closing Date will be, pending or, to the knowledge of Purchaser, threatened.

d. ***Sufficient Funds.*** Purchaser will have sufficient funds to pay the Purchase Price at Closing.

13. **Conditions Precedent.** This Agreement and all of the obligations of Purchaser under this Agreement are, at Purchaser's option, subject to the fulfillment, before or at the time of the Closing, of each of the following conditions:

a. ***Representations and Warranties True at the Closing.*** The representations, covenants, and warranties of Seller contained in this Agreement shall be true in all material respects at the time of the Closing.

b. ***Performance.*** The obligations, agreements, documents, and conditions required to be signed and performed by Seller shall have been performed and complied with before or at the date of the Closing.

c. ***City Commission Approval.*** This Agreement is approved by the Muskegon City Commission.

d. ***Government Approval.*** Purchaser receives necessary licensing approvals to construct the Project and operate such facilities for Purchaser's intended purpose.

14. **Default.**

a. ***By Purchaser.*** If Purchaser 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 Deposit as liquidated damages.

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

15. **Closing.**

a. ***Date of Closing.*** Unless the parties otherwise mutually agree, the Closing shall be held no later than 10 days after Purchaser provides written notification to Seller that all of the requirements set forth in Section 13 have been fulfilled to the full satisfaction of Purchaser, but no later than December 31, 2019, unless this Agreement is terminated in accordance with its provisions ("Closing").

b. ***Costs.*** The costs associated with this Agreement and the Closing shall be paid as follows: (i) Seller shall pay any state and county transfer taxes in the amount required by law; (ii) Seller shall pay the premium for the owner's policy of title insurance, provided that Purchaser shall pay for endorsements to the Title Policy which Purchaser desires; (iii) Seller 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; (iv) Purchaser shall pay for the cost of recording the deed; and (v) Seller and Purchaser shall pay equally any Closing fees charged by the Title Company.

c. ***Deliveries.*** At Closing, Seller shall deliver the deed for the Premises and Purchaser shall pay the balance of the Purchase Price. The parties shall execute and deliver such other documents reasonably required to effectuate the transaction contemplated by this Agreement.

16. **Real Estate Commission.** Purchaser and Seller shall each be responsible for any fees for any real estate agents, brokers, or salespersons regarding this sale that it has hired, but shall have no obligation as to any fees for any real estate agents, brokers, or salespersons regarding this sale that the other party has hired.

17. **Notices.** All notices, approvals, consents and other communications required under this Agreement shall be in writing and shall be deemed given: (i) when delivered in person; (ii) when sent by fax or email; (iii) when sent by a nationally-recognized receipted overnight delivery service with delivery fees prepaid; or (iv) when sent by United States first-class, registered, or certified mail, postage prepaid. The notice shall be effective immediately upon personal delivery or upon transmission of the fax or email; one day after depositing with a nationally recognized overnight delivery service; and five days after sending by first-class, registered, or certified mail.

Notices shall be sent to the parties as follows:

To Seller: City of Muskegon
Attn.: Mike Franzak
933 Terrace Street
Muskegon, Michigan 49440
Email:mike.franzak@shorelinecity.com

To Purchaser: Adam McCausland
30 N. Bear Lake Road
Muskegon, Michigan 49445
Email: adam.mccausland@gmail.com

18. **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.*** Purchaser shall have the right to assign his interest in this Agreement to an entity in which he owns a controlling interest. 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 and Jurisdiction.*** 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.

[Signature page to follow]

SELLER:

CITY OF MUSKEGON

____
Name: Stephen Gawron
Title: Mayor
Dated: __________________, 2019

____
Name: Ann Marie Meisch
Title: Clerk
Dated: __________________, 2019

PURCHASER:

Adam McCausland
Name: Adam McCausland
Dated: July 16th, 2019

Exhibit A

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

[Legal Description to be provided by the Title Company]

Parcel No.: 61-24-895-002-0001-00
Commonly known as: V/L Waalkes Street, Muskegon, MI 49442

[Legal Description to be provided by the Title Company]

Parcel No.: 61-24-895-001-0001-00
Commonly known as: V/L Waalkes Street, Muskegon, MI 49442

Date: 8/13/2019

To: Honorable Mayor and City Commissioners

From: Department of Planning and Economic Development

RE: Acceptance of Property from Muskegon County

SUMMARY OF REQUEST:

Accept the quit claim deed from Muskegon County for property at 1390 Henry Street commonly referred to as the Carpenter Brothers site.

DPW and Planning staff have been working with the West Michigan Shoreline Regional Development Commission and the county to design a green infrastructure project on the parcel. The project will treat a portion of the city's stormwater prior to the outlet at Rotary Park, and city staff will be responsible for maintenance since it serves our stormwater system.

The parcel also includes the downtown Bark Park, and the DDA has taken responsibility for maintenance of that facility.

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Accept the quit claim deed.

Received & Sealed for Record
MARK F. FAIRCHILD REGISTER OF DEEDS
Muskegon County Michigan
07/22/2019 11:14 AM Liber: 4194 Page: 943

MARK F. FAIRCHILD Liber: 4194 Page: 943
REGISTER OF DEEDS PAGE: 1 of 2
Muskegon County Michigan 07/22/2019 11:14 AM
D02 5660671

QUIT CLAIM DEED

The Grantor: County of Muskegon

Whose address is: 990 Terrace Street, Muskegon, Michigan 49442

Quit Claims to: City of Muskegon

Whose address is: PO Box 536, 933 Terrace Street, Muskegon, Michigan 49443

the following described premises situated in the City of Muskegon

County of Muskegon and State of Michigan:

61-24-205-342-0009-00 / 1390 Henry Street
Legal Description: See Exhibit A

For the sum of: $1

Dated this 16th day of July, **2019**

Susie Hughes
Susie Hughes, Board of Commissioners Chair
** Susie Hughes Board Chair

Nancy A. Waters
Nancy A. Waters, County Clerk
** Nancy A. Waters County Clerk

State of Michigan, County of Muskegon

The foregoing instrument acknowledged before me this 16th day of July 2019,
by Kathryn A Tharp by Susie Hughes, Board Chair and Nancy Waters, County Clerk

Kathryn A. Tharp

Return To (Name & Address):

Matthew Farrar, Public Works Director
131 E. Apple Avenue, 4th Floor
Muskegon, MI 49442

Notary Public, Muskegon County, Michigan
Acting in, County, Michigan
My commission expires: 1-15-26

Drafted By (Name & Address):

Matthew Farrar, Public Works Director
131 E. Apple Avenue, 4th Floor
Muskegon, MI 49442

MCL 207.505 Sec 5(a)
MCL 207.526 Sec 6(a)

Exhibit A

CITY OF MUSKEGON REVISED PLAT OF 1903 ALL THAT PT LOT 9 BLK 342 THAT LIES SLY OF SLY ROW LN OF PENNSYLVANIA RR CO & ELY OF ELY ROW LN OF PERE MARQUETTE RR CO DESC AS FOL COM @ INT OF E/W 1/4 LN SEC 30 T10N R16W & CL HENRY ST SO-CALLED WHICH IS ALSO WLY LN SD SEC 30 TH NLY ALNG CL SD HENRY ST DIST 10 FT TO A POINT TH E ALNG A LN PAR TO & DIST 10 FT NLY MEASURED AT RT ANG FROM E/W 1/4 LN OF SD SEC 30 SD 1/4 LN HAVING BEARING N 89D 31M E 52.80 FT TO POB SD POINT HEREINAFTER REFERRED TO AS POINT "G" TH CONTN ELY ON LAST DESC COARSE DIST 196.10 FT TO A POINT 35 FT SWLY MEASURED AT RT ANG FROM CL OF PENNSYLVANIA RR CO TRACK SD POINT HERINAFTER REFERRED TO AS POINT "H" TH NWLY ON A CURVED LN CONVEX TO SW PAR TO & DISTANT 35 FT MEASURED AT RT ANG FROM CL SD PENNSYLVANIA RR CO TRACK TO A POINT HEREINAFTER REFERRED TO AS POINT "F" TH STRAIGHT LN FROM POINT "H" TO POINT "F" BEARS N 69D 11M W & STRAIGHT LN DIST BETWEEN SD POINT "H" & "F" IS 198.90 FT TH S 08D 01M W 72.10 FT TO POB

MARK F. FAIRCHILD Liber: 4194 Page: 943
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Muskegon County Michigan 07/22/2019 11:14 AM
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Received & Sealed for Record
MARK F. FAIRCHILD REGISTER OF DEEDS
Muskegon County Michigan
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Muskegon County Michigan 07/22/2019 11:14 AM
D02 5660672

QUIT CLAIM DEED

The Grantor: County of Muskegon

Whose address is: 990 Terrace Street, Muskegon, Michigan 49442

Quit Claims to: City of Muskegon

Whose address is: PO Box 536, 933 Terrace Street, Muskegon, Michigan 49443

the following described premises situated in the City of Muskegon

County of Muskegon and State of Michigan:

61-24-205-319-0001-00 / 793 W Western
Legal Description: See Exhibit A

For the sum of: $1

Dated this 16th day of July, **2019**

Susie Hughes
Susie Hughes, Board of Commissioners Chair
Susie Hughes
** Board Chair

Nancy A. Waters
Nancy A. Waters, County Clerk
Nancy A. Waters
** County Clerk

State of Michigan, County of Muskegon

The foregoing instrument acknowledged before me this 16th day of July, 2019

by Kathryn A Tharp by Susie Hughes, Board Chair and Nancy A. Waters, County Clerk

Kathryn A Tharp

Return To (Name & Address):
Matthew Farrar, Public Works Director
131 E. Apple Avenue, 4th Floor
Muskegon, MI 49442

Notary Public, Muskegon County, Michigan
Acting in, County, Michigan
My commission expires: 1-15-26

Drafted By (Name & Address):
Matthew Farrar, Public Works Director
131 E. Apple Avenue, 4th Floor
Muskegon, MI 49442

MCL 207.505 Sec 5(a)
MCL 207.526 Sec 6(a)

Exhibit A

CITY OF MUSKEGON

REVISED PLAT OF 1903

PARCEL 1: PART OF LOT ONE (1) OF BLOCK 319 OF THE REVISED PLAT (OF 1903) OF THE CITY OF MUSKEGON, DESCRIBED AS: COMMENCING AT THE POINT OF INTERSECTION OF THE LINE BETWEEN LOTS ONE (1) AND TWO (2) OF SAID BLOCK WITH THE SOUTHEASTERLY LINE OF WESTERN AVENUE (OLD STREET LINE),

THENCE SOUTH 40 DEGREES 34 MINUTES EAST, A DISTANCE OF 271.50 FEET TO THE WESTERLY LINE OF THE PERE MARQUETTE RAILWAY COMPANY'S RIGHT-OF-WAY,

THENCE NORTH 23 DEGREES 44 MINUTES EAST ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID PERE MARQUETTE RAILWAY COMPANY, A DISTANCE OF 210.15 FEET TO A POINT DISTANT 15.00 FEET WESTERLY AT RIGHT ANGLES FROM THE CENTERLINE OF LAKEFRONT SPUR (SO-CALLED), SAID POINT BEING HEREINAFTER REFERRED TO AS POINT "A,"

THENCE NORTHERLY ALONG A LINE PARALLEL WITH AND DISTANT 15.00 FEET WESTERLY AT RIGHT ANGLES FROM THE CENTERLINE OF SAID LAKEFRONT SPUR TRACK TO ITS INTERSECTION WITH THE SOUTHEASTERLY LINE OF WESTERN AVENUE (OLD STREET LINE), SAID POINT HEREINAFTER REFERRED TO AS POINT "B," THE STRAIGHT LINE BETWEEN SAID POINTS "A" AND "B" BEARS NORTH 01 DEGREE 37 MINUTES WEST AND THE STRAIGHT LINE DISTANCE BETWEEN SAID POINTS IS 232.50 FEET,

THENCE SOUTH 49 DEGREES 17 MINUTES WEST ALONG THE OLD STREET LINE OF WESTERN AVENUE, A DISTANCE OF 336.55 FEET TO THE PLACE OF BEGINNING;

EXCEPTING THEREFROM A STRIP OF LAND TEN (10.00) FEET IN WIDTH OFF THE NORTHWESTERLY SIDE OF SAID PARCEL WHICH IS PARALLEL WITH AND ADJOINS THE SOUTHEASTERLY LINE OF WESTERN AVENUE, SAID TEN (10.00) FOOT STRIP BEING A PART OF WESTERN AVENUE AND USED AS A STREET;

EXCEPT THE FOLLOWING DESCRIBED PARCEL:

PART OF LOT ONE (1) OF BLOCK 319 OF THE REVISED PLAT (OF 1903) OF THE CITY OF MUSKEGON, DESCRIBED AS: COMMENCING AT THE POINT OF INTERSECTION OF THE LINE BETWEEN LOTS ONE (I) AND TWO (2) OF SAID BLOCK WITH THE SOUTHEASTERLY LINE OF WESTERN AVENUE (OLD STREET LINE),

THENCE NORTH 49 DEGREES 17 MINUTES EAST ALONG THE OLD STREET LINE OF WESTERN AVENUE, A DISTANCE OF 230.00 FEET FOR PLACE OF BEGINNING,

THENCE SOUTH 40 DEGREES 43 MINUTES EAST 90.00 FEET,

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Muskegon County Michigan 07/22/2019 11:14 AM
D02 5660672

THENCE SOUTH 11 DEGREES 05 MINUTES 30 SECONDS WEST 293.55 FEET TO INTERSECTION OF THE WESTERLY LINE OF THE PERE MARQUETTE RAILWAY COMPANY'S (NOW CSX TRANSPORTATION, INC.) RIGHT-OF-WAY AND THE WESTERLY LINE OF SAID LOT ONE (1),

THENCE NORTH 23 DEGREES 44 MINUTES EAST ALONG THE WESTERLY RIGHT-OF-WAY OF SAID PERE MARQUETTE RAILWAY COMPANY (NOW CSX TRANSPORTATION, INC.), A DISTANCE OF 210.15 FEET TO A POINT DISTANT 15.00 FEET WESTERLY AT RIGHT ANGLES FROM THE CENTERLINE OF LAKEFRONT SPUR (SO-CALLED), SAID POINT BEING HEREINAFTER REFERRED TO AS POINT "A,"

THENCE NORTHERLY ALONG A LINE PARALLEL WITH AND DISTANT 15.00 FEET WESTERLY AT RIGHT ANGLES FROM THE CENTERLINE OF SAID LAKEFRONT SPUR TRACK TO ITS INTERSECTION WITH THE SOUTHEASTERLY LINE OF WESTERN AVENUE (OLD STREET LINE), SAID POINT HEREINAFTER REFERRED TO AS POINT "B," THE STRAIGHT LINE BETWEEN SAID POINTS "A" AND "B" BEARS NORTH OJ DEGREE 37 MINUTES WEST AND THE STRAIGHT LINE DISTANCE BETWEEN SAID POINTS IS 232.50 FEET,

THENCE SOUTH 49 DEGREES 17 MINUTES WEST ALONG THE OLD STREET 106.55 FEET TO PLACE OF BEGINNING; EXCEPTING THEREFROM A STRIP OF LAND TEN (I 0.00) FEET IN WIDTH OFF THE NORTHWESTERLY SIDE OF SAID PARCEL WHICH IS PARALLEL WITH AND ADJOINS THE SOUTHEASTERLY LINE OF WESTERN AVENUE, SAID TEN (10.00) FOOT STRIP BEING A PART OF WESTERN AVENUE AND USED AS A STREET;

MARK F. FAIRCHILD Liber: 4194 Page: 944
REGISTER OF DEEDS PAGE: 3 of 3
Muskegon County Michigan 07/22/2019 11:14 AM
D02 5660672

Date: 8/13/2019

To: Honorable Mayor and City Commissioners

From: Department of Planning and Economic Development

RE: Lease of Yuba Street Property to the Community Foundation for Muskegon County

SUMMARY OF REQUEST:

Lease a portion of the old farmer's market property to the Community Foundation for Muskegon County for up to 5 years with an option to purchase. The lease includes approximately 7 of the total 15.3 acre site and the majority of the buildable land. The property will be used to develop a food processing incubator and business development center targeted at stage one or two entrepreneurial companies or existing mature companies looking for an offsite location for test manufacturing of new products.

FINANCIAL IMPACT:

Revenue from the lease.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Approve the lease and direct the mayor and clerk to sign.

GROUND LEASE

THIS GROUND LEASE is made and entered into on this _____ day of ________________, 2019 (the "Effective Date"), by and between CITY OF MUSKEGON, a Michigan municipal corporation ("Lessor"), and COMMUNITY FOUNDATION FOR MUSKEGON COUNTY, a Michigan nonprofit corporation of 425 W. Western Avenue, Suite 200, Muskegon, Michigan 49440 ("Lessee") based upon the following facts:

A. Lessor is the owner of certain real estate containing approximately 15.25 acres, located at 731 Yuba Street, Muskegon, Michigan 49442~~,~~. Lessor is leasing to Lessee the westerly 7 +/- acres (bounded by Yuba, Eastern, Rathborne, Walton, and Murphy), as more particularly described on **Exhibit A** attached hereto ("**Property**").

B. Lessor and Lessee desire to allow Lessee to construct a food processing accelerator on the Property.

C. Lessor and Lessee have agreed that the Property shall be leased to Lessee pursuant to the terms and conditions of this Lease.

In consideration of the mutual covenants herein contained, Lessor and Lessee agree as follows:

ARTICLE I

DEMISE AND DESCRIPTION

1.01 <u>Property</u>. Lessor leases to Lessee, and Lessee leases from Lessor, the Property. Except as otherwise provided under this Lease, Lessee has inspected the Property, and agrees to accept the same in its present "as is" condition, with no warranty whatsoever concerning its condition or permitted use, and subject to and benefited by all easements, restrictions, mortgages, liens and encumbrances, all zoning laws and ordinances affecting the same, and any matter that would be discoverable upon an inspection of the Property.

1.02 <u>Environmental Condition</u>. Lessee represents and warrants that it has had the opportunity to investigate all matters of interest pertinent to the Property including its environmental condition, as it has determined to be necessary. Notwithstanding any other provision of this Lease, Lessee waives any objection to the environmental condition of the Property. Lessee hereby releases Lessor from all responsibility, claims, obligations, and liability arising from or associated with (i) the presence or release of any Hazardous Substance at or relating to the Property; and (ii) any environmental condition associated with or arising from the use of the Property prior to, on or after the Effective Date. "Hazardous Substance" means any material, substance, toxic chemical, contaminant, pollutant, or waste as defined by any Environmental Law and includes but is not limited to petroleum, petroleum products, hazardous chemicals, hazardous waste, toxic substances, toxic chemicals, pesticides, radioactive materials, polychlorinated biphenyls, asbestos, radon gas, metals, and any other element, compound, mixture, solution, substance, material, waste or the like that may pose a present or potential danger to human health, safety, and the environment. "Environmental Law" means any federal, state, or local law, including the common law, relating to the protection of the environment (including air, surface water, groundwater, drinking water supply, surface or subsurface land), human health, or occupational health and safety.

ARTICLE II

OWNERSHIP

2.01 Ownership. Lessee shall at all times during the term of this Lease have title to all buildings, improvements, fixtures and other types of fixed personalty appurtenant to the Property, constructed on or adjacent to the Property by Lessee (the "**Facility**"). Except as provided under Section 19.20, upon expiration or early termination of this Lease, title to the Facility shall automatically, without action on the part of either of the parties hereto, vest in Lessor, its successors and assigns. Notwithstanding the foregoing, upon Lessor's request, Lessee covenants and agrees that upon expiration of this Lease, or upon such termination, it will execute and deliver to Lessor a bill of sale to the Facility on the Property, as Lessor may reasonably request. Lessee shall not permit any willful or deliberate damage to the Facility. If, for any reason, Lessor takes title to the Facility by reasons of the termination or expiration of the Lease, such act shall constitute an automatic assignment by Lessee to Lessor of Lessee's right to receive any rents or payments from any Lessees, subtenants, sublessees or other occupants of the Facility, and Lessee shall cooperate with Lessor in notifying such Lessees, subtenants, sublessees and occupants of Lessor's right to receive the same.

ARTICLE III

TERM

3.01 Term. The term of this Lease shall commence on the Effective Date and shall continue for a period of five (5) years from the Effective Date (the "**Term**"). Expiration of the Term (unless extended or sooner terminated as hereinafter provided) shall be at midnight five (5) years after the Effective Date.

3.02 Effect of Lessee's Holding Over. Any holding over after the expiration of the Term of this Lease, with or without the consent of Lessor, shall be construed to be a tenancy from month to month, at monthly rental equal to ten times the annual Rent, divided by twelve, and shall otherwise be on the terms and conditions herein specified, so far as applicable.

ARTICLE IV

RENT

4.01 Rent. During the Term, the annual rent for the Property for each year of the Lease payable by Lessee to Lessor shall be One Hundred ($100) Dollars ("**Base Rent**"). Base Rent shall be payable, in advance, without demand, notice, setoff or counterclaim at Lessor's address set forth above or at such other place as Lessor may direct by written notice, from time to time, from Lessor to Lessee.

4.02 Additional Rent. All sums in addition to Base Rent due to be paid to Lessee under the terms of this Lease shall constitute "**Additional Rent**." All Additional Rent shall be due and payable immediately upon demand to Lessee at such place as the Lessee shall from time to time designate. Base Rent and Additional Rent shall be collectively referred to as "**Rent**."

4.03 Interest. Rent, or any portion thereof, and other charges due to Lessor hereunder not paid when due, shall bear interest at an annual rate equal to three percent (3%) or the highest rate permitted by applicable statute, whichever is lower ("**Default Rate**").

4.04 Triple Net Lease. The Rent provided for in this Lease shall be an absolutely net return to Lessor for the Term, free from any losses, expenses or charges with respect to the Property, including, without limitation, maintenance, repairs, cost of replacement of buildings, or improvements, insurance, taxes, assessments or other charges imposed upon or related to the Property, or with respect to any easements or rights appurtenant thereto (except as otherwise expressly provided herein). All such amounts shall be paid by Lessee.

ARTICLE V

CONSTRUCTION, ALTERATIONS AND ADDITIONS

5.01 Development of Property, Construction, Alterations and Additions

(a) Lessee shall have sole authority and discretion for the specifications, design, and planning for the development of the Property (the "**Project**"), including schedule for commencement and completion of each phase of the Project, projected costs, revenues, and sources of funds.

(b) Lessee shall use its best efforts to use contractors whose primary offices are located in Muskegon County, Michigan, and the construction contracts shall be assignable to Lessor following an event of default on the Lease.

(c) All construction, alterations and additions or other work necessary or desirable to place the Property in a condition suitable to construct the Facility and associated improvements for the Intended Use shall be performed in a good and workmanlike manner by or for Lessee, and at Lessee's sole cost and expense.

(d) Lessee shall, at Lessee's sole cost and expense, procure all permits and licenses and make all contracts necessary for the performance of construction, alterations, additions and other work on the Property. Such work shall fully conform to all applicable statutes, ordinances, regulations, and codes, including all Environmental Laws, as well as any restrictions recorded in the deed records for the Property. Lessee acknowledges that Lessor has advised Lessee pursuant to

MCL 324.20116(1) that Lessor has knowledge or information or is on notice through a recorded instrument that the Property is a "facility" within the meaning of MCL 324.20101(o). Lessee acknowledges that the environmental condition of the Property may impact development and construction on the Property, particularly as it relates to any prior releases that may have impacted the surface or the subsurface of the Property, and agrees to take all appropriate precautions so as to not exacerbate any such environmental condition. Lessee acknowledges receipt of:

i. a written description of the general nature and extent of the release(s) that qualifies the Property as a "facility" attached to this Agreement as **Exhibit B**; and

ii. environmental restrictions, if any, that have been previously recorded in the deed records for the Property attached as **Exhibit C**.

(e) Lessee's contractors shall perform their work on the Property only. Lessee shall be responsible for periodic removal from the Property of all trash, rubbish and surplus materials resulting from any work being performed on the Property.

5.02 Development Schedule. Lessee shall have commenced construction of the Project within nine (9) months following the Effective Date. Lessee shall complete development of and construction of the Facility by December 31, 2020. If Lessee shall fail to comply with any obligation under Section 5.01 or this Section 5.02, Lessor may terminate the Lease, effective ninety (90) days following written notice thereof to Lessee, if such failure is not cured within such ninety day period.

ARTICLE VI

USE OF PROPERTY

6.01 Intended Use. The Property shall be used solely for the erection, maintenance and operation of facilities used as a food processing accelerator as may be constructed and operated on the Property by Lessee or the present and future affiliates or successors of Lessee, or other subtenants and occupants ("**Intended Use**"). The Property shall be used for a food accelerator or for other agri-business, and no other purpose without Lessor's prior written consent, which shall not be unreasonably withheld, delayed or conditioned.

6.02 Protection of Lessor's Title in Property. Lessee shall not suffer or permit the Property, or any portion thereof, to be used by the public, as such, without restriction or in such manner as might impair Lessor's title to the Property or any portion thereof, or in such manner as may reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Property or any portion thereof.

6.03 Uses Prohibited. Lessee shall comply with all applicable laws, rules, codes, regulations and restrictions on the Property ("**Legal Requirements**"), and Lessee shall not use, nor permit the Property or any part thereof to be used, for any purpose or purposes other than the purpose or purposes for which the Property are hereby leased; and no use shall be made or permitted to be made of the Property, or acts done, which will cause a cancellation of any insurance policy covering the Facility or Property, or any part thereof, nor shall Lessee sell or permit to be kept, used, or sold in or about the Property, any article which may be prohibited by the standard form of fire insurance policy carried by Lessee. Lessee shall, at its sole cost, comply with all requirements pertaining to the Property and with all requirements of any insurance organization or company necessary for the maintenance of insurance, as herein provided, covering any building, improvements or appurtenances at any time located on the Property. Also prohibited is any use that would violate any Legal Requirement or cause any restriction to be placed on the use of the Property.

6.04 Waste and Nuisance Prohibited. During the Term of this Lease, Lessee shall comply with all Legal Requirements affecting the Property, the breach of which might result in any penalty to Lessor, or forfeiture of Lessor's title to the Property, or restriction against Lessor's title to the Property. Lessee shall not commit, or suffer to be committed, any waste on the Property, or any nuisance or illegal act.

6.05 Environmental Matters.

(a) Lessee has advised Lessor that Lessee does not presently engage in a business which requires the use of any Hazardous Substance other than incidental use of nonmaterial amounts thereof. Except as consistent with the foregoing, Lessee shall not cause or permit any Hazardous Substance to be brought upon, kept, or used in or about the Property by Lessee, its agents, employees, contractors, or invitees. Lessor shall be entitled to inspect the Property from time to time to determine if any Hazardous Substance is present.

(b) Lessee shall, at all times, comply with any and all Environmental Laws, including, but not limited to, the obligations set forth in MCL 324.20107a.

(c) Lessee shall not discharge, leak, spill, or emit, or permit to be discharged, leaked, or emitted, any Hazardous Substance into the atmosphere, ground, or any body of water, if that material (as is reasonably determined by Lessor, or any governmental authority) does or may pollute or contaminate the same, or may adversely affect (i) the health, welfare, or safety of persons, whether located on the Property or elsewhere, or (ii) the condition, use, or enjoyment of the Property or any other real or personal property.

(d) Lessee hereby agrees that it shall be fully liable for all costs and expenses related to the use, storage, and disposal of any Hazardous Substance kept on the Property by Lessee, or any subtenants, and the Lessee shall give immediate notice to the Lessor of any violation or potential violation of the provisions of subsection (c) above. Lessee shall defend, indemnify, and hold harmless Lessor and its agents from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses (including, without limitation, attorneys and consultants' fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to (i) the presence, disposal, release, or threatened release of any such Hazardous Substance that is on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to that Hazardous Substance; (iii) any lawsuit brought or threatened, settlement reached, or government order relating to that Hazardous Substance; or (iv) any violation of any laws applicable thereto. The provisions of this subsection (d) shall be in addition to any other obligations and liabilities Lessee may have to Lessor at law or equity and shall survive the transactions contemplated herein and shall survive the termination of this Lease.

6.06 Redelivery of Property. Lessee shall pay the Rent and all other sums required to be paid by Lessee hereunder in the amounts, at the times, and in the manner herein provided, and shall keep and perform all the terms and conditions hereof on its part to be kept and performed and, at the expiration or sooner termination of this Lease (subject to Section 19.20), peaceably and quietly quit and surrender to Lessor the Property free and clear of all liens and encumbrances and in good order and condition, subject to reasonable wear and tear, casualty (to the extent insurance proceeds are delivered to Lessor), ordinary depreciation, and obsolescence and subject to the other provisions of this Lease. In the event of the nonperformance by Lessee of any of the covenants of Lessee undertaken herein, this Lease may be terminated as herein provided. Upon termination of this Lease, Lessee shall promptly execute and deliver to Lessor such deeds or other instruments as may be required to convey any interest which it might have in the Property.

6.07 Abandonment of Property. Lessee shall not vacate or abandon the Property, or any part thereof, at any time during the Term but Lessee shall not be deemed to have vacated or abandoned the Property during times when alterations, casualty or other activity under this Lease dispossesses Lessee of day to day use of the Property. If Lessee does abandon, vacate or surrender the Property, or any part thereof, or is dispossessed by process of law, or otherwise, any personal property belonging to the Lessee or its subtenants and left on the Property shall be deemed abandoned at the option of Lessor.

6.08 Signs. Lessee may erect, maintain, and remove such signs as it deems necessary, appropriate, or desirable to its business operations in, on, or about the Property, provided that the signs are in compliance with all Legal Requirements.

ARTICLE VII

TAXES AND ASSESSMENTS

7.01 Taxes as Additional Rent. As Additional Rent hereunder, Lessee shall pay and discharge as they become due, promptly and before delinquency, without proration, all taxes, assessments, rates, charges, license fees, municipal liens, levies, excises or imposts, whether general or special or ordinary or extraordinary, of every name, nature and kind whatsoever, including, without limitation, all governmental charges of whatsoever name, nature or kind, which may be levied, assessed, charged or imposed, or which may become a lien or charge on or against the Property, or any part thereof, the leasehold of Lessee herein, the Facility, or any building or buildings or other improvements now or hereafter on the Property, or on or against Lessee's estate hereby created which may be a subject of taxation, or on or against Lessor's interest in the Property during the Term hereof. If the right is given to pay either in one sum or in installments, Lessee may elect either mode of payment, and its election shall be binding upon Lessor. If, by making any such election to pay in installments, any of such installments shall be payable without penalty after the termination of this Lease, or any extended term hereof, such unpaid installments shall also be paid by Lessee. Failure to pay taxes, assessments, levies and the like herein shall carry with it the same consequence as failure to pay any installment of Rent.

7.02 Receipts. Lessee shall obtain and deliver to Lessor receipts or duplicate receipts for all taxes, assessments and other items required hereunder to be paid by Lessee, promptly upon the request of Lessor.

ARTICLE VIII

INSURANCE

8.01 Insurance Coverage of Facility and Improvements. Lessee shall, at all times during the Term, and at Lessee's sole expense, keep all improvements which are now or which may hereafter become a part of the Property or the Facility, or both, insured with broad form fire and extended coverage insurance with an all-risk endorsement against loss or damage by fire, earthquake, flood, war and other extended coverage hazards for not less than the full replacement value of such improvements (excluding foundations and excavation), with loss payable to Lessor and Lessee as their interests may appear. Any loss adjustment shall require the written consent of Lessor and Lessee.

8.02 Liability Insurance. Lessee shall maintain in effect, at its sole expense, throughout the Term, commercial general liability insurance coverage with respect to the Property with a single limit coverage amount of not less than Two Million Dollars ($2,000,000) each occurrence for personal injury, death, or property damage. Such insurance shall specifically insure against all liability assumed hereunder, as well as liability imposed by Legal Requirements, and shall insure both Lessor and Lessee. Said insurance shall be so endorsed as to create the same liability on the part of the insurer as though separate policies had been written for Lessor and Lessee.

8.03 Lessor's Right to Pay Premiums on Behalf of Lessee. All of the policies of insurance referred to in this Article shall be written in form and by insurance companies reasonably satisfactory to Lessor. Lessee shall pay all of the premiums therefor, and shall deliver such policies or certificates thereof to Lessor and all others designated by Lessor, and in the event of the failure of Lessee to obtain such insurance in the names herein called for, to pay the premiums therefor, or to deliver such policies or certificates thereof to Lessor, Lessor shall be entitled, but shall have no obligation, to obtain such insurance and pay the premiums therefor, which premiums shall be repayable to Lessor upon written demand therefor, and failure to repay the same shall carry with it the same consequence as failure to pay any installment of Rent. Each insurer mentioned in this Article shall agree, by endorsement on the policy or policies issued by it, or by independent instrument furnished to Lessor, that it will give to Lessor and any mortgagee of the Property thirty (30) days' written notice before the policy or policies in question shall expire, or be altered or cancelled. Lessor shall not unreasonably withhold its approval as to the form or the insurance companies selected by Lessee.

8.04 Definition of Full Replacement Value. The term **"full replacement value"** of improvements, as used herein, shall mean the actual replacement cost thereof from time to time, less exclusions provided in the normal fire insurance policy. If either party believes that the full replacement value, that is to say, the then replacement cost less exclusions, has increased or decreased, it shall have the right, but, except as provided below, only at intervals of not less than five (5) years, to have such full replacement value redetermined by the fire insurance company which is then carrying the largest amount of fire insurance on the Facility and other improvements on the Property, hereinafter referred to as the "impartial appraiser." The party desiring to have the full replacement value so redetermined by such impartial appraiser shall forthwith on submission of its request for redetermination to such impartial appraiser give written notice to the other party hereto. The determination of such impartial appraiser shall be final and binding on the parties hereto, and Lessee shall forthwith increase, or may decrease, the amount of the insurance carried pursuant to this Article, as the case may be, to the amount so determined by the impartial appraiser. Such determination shall be binding for a period of five (5) years, and until superseded by agreement between the parties hereto or by a subsequent redetermination by an impartial appraiser. Each party shall pay one-half of the fee, if any, of the impartial appraiser. If during any such five (5) year period Lessee shall have made improvements to the Property or the Facility, Lessor may have such full replacement value redetermined at any time after such improvements are made, regardless of when the full replacement value was last determined.

8.05 Blanket Insurance Policies. Notwithstanding anything to the contrary contained in this Article, Lessee's obligations to carry the insurance provided for herein may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee; as long as the coverage afforded Lessor shall not be reduced or diminished or otherwise be different from that which would exist under a separate policy meeting all other requirements of this Lease by reason of the use of such blanket policy of insurance, and all other requirements of this Article shall be satisfied.

8.06 Cost of Insurance Deemed Additional Rent. The cost of insurance required to be carried by Lessee in this Article shall be deemed to be Additional Rent hereunder.

8.07 Waiver of Subrogation. Lessee, for itself and its respective successors and assigns (including, without limitation, any person, legal entity, firm or corporation which may become subrogated to any of its rights) waives any and all rights and claims for recovery against Lessor, and its officers, directors, shareholders, employees, agents and assigns, or any of them, on account of any loss or damage to any of its property located on the Property insured under any valid and collectible insurance policies, to the extent of any recovery collectible under such insurance policies. Each insurance policy carried by Lessee and insuring all or any part of such property shall provide that the insurance company waive all right of recovery by way of subrogation against Lessor.

ARTICLE IX

ENCUMBRANCE OF FACILITY AND LEASEHOLD INTEREST

9.01 Loans to Lessee. Lessee shall have the right to finance the construction of the Facility and pledge this Lease and the leasehold interest herein as security for the financing, provided that the amortization period of the new loan shall not exceed the remaining term of this Lease.

9.02 Protection of Lessee's Mortgage. During the existence of any mortgage of this Lease or an interest herein by Lessee of which the Lessor has been given notice by the Lessee or the mortgagee, the Lessor will not terminate this Lease because of any default by the Lessee hereunder if, within a period of thirty (30) days after the Lessor has mailed written notice of its intention to terminate this Lease for such cause to the mortgagee at its last known address, the mortgagee shall commence cure of such default and is actively pursuing in good faith cure of the default.

ARTICLE X

REPAIRS AND DESTRUCTION OF IMPROVEMENTS

10.01 Maintenance of Improvements. Lessee shall, throughout the Term, at its own cost and without any expense to the Lessor, keep and maintain the Property and the Facility, including, without limitation, all structural, nonstructural, interior and exterior portions thereof, in good, sanitary and neat order, condition and repair, subject to ordinary wear and tear, casualty, ordinary depreciation, and obsolescence. Lessee shall, except as specifically provided herein, restore, repair, replace or rehabilitate any improvements of any kind which may be destroyed or damaged by fire, casualty or any other cause whatsoever except to the extent such insurance proceeds are delivered to Lessor in lieu thereof. Lessor shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the Property or the Facility or any buildings or improvements thereon. Lessee shall also comply with and abide by all Legal Requirements affecting the Property, the improvements thereon, or any activity or condition on or in such Property.

10.02 Damage to and Destruction of Improvements. The damage, destruction, or partial destruction of the Facility or any other building or improvements which are on the Property shall not release or diminish Lessee's obligations hereunder. In case of damage to or destruction of the Facility or any other improvement on the Property, Lessee shall, in accordance with Section 5.01 hereof and at its own expense, promptly repair and restore the same to a condition as good as or better than that which existed prior to such damage or destruction. Without limiting such obligations of Lessee, it is agreed that, so long as Lessee is not then in default hereunder, and subject to the rights of any mortgagee of the Property, the proceeds of any insurance covering such damage or destruction shall be made available to Lessee for such repair or replacement. Insurance proceeds shall be held in trust by Lessor for construction disbursement to Lessee.

ARTICLE XI

LIENS

11.01 Lessee's Duty to Keep Property Free of Liens. Lessee shall keep all of the Property, and every part thereof, the Facility, and all other buildings and improvements at any time located thereon, and the leasehold estate of Lessee, free and clear of any and all construction liens for or arising out of or in connection with work or construction by, for or permitted by Lessee on or about the Property or the Property, and any obligations of any kind incurred by Lessee, and at all times shall promptly and fully pay and discharge any and all claims on which any such lien may or could be based, and shall indemnify Lessor and all of the Property, the Property, the Facility and the leasehold estate against all such liens and claims of liens and suits or other proceedings pertaining thereto.

11.02 Lessee's Leasehold Interest. Except as permitted under Section 9.01, Lessee agrees that it will not mortgage or encumber its leasehold interest in the Property without Lessor's prior written consent, which shall not be unreasonably withheld, delayed or conditioned.

ARTICLE XII

EASEMENTS AND OTHER NONEXCLUSIVE RIGHTS

12.01 Utility Easement. This Lease is subject to all utility easements pertaining to the Property, whether or not of record. Lessor may, without consent of the Lessee, grant any other easements for public or private utilities or other uses as required by Lessor, provided that such easements do not unreasonably restrict the use of the Property for the purposes contemplated by this Lease.

ARTICLE XIII

PROHIBITION OF INVOLUNTARY ASSIGNMENT; EFFECT OF BANKRUPTCY OR INSOLVENCY

13.01 Prohibition of Involuntary Assignment. Neither this Lease nor the leasehold estate of Lessee, nor any interest of Lessee hereunder in the Property, the Facility, the Property, or any improvements thereon, shall be subject to involuntary assignment, transfer or sale by operation of law in any manner whatsoever, and any such attempt at involuntary assignment, transfer or sale shall be void and of no effect.

13.02 Effect of Bankruptcy, Insolvency, Etc. Without limiting the generality of the provisions of the preceding section, Lessee agrees that:

(a) in the event any proceedings under federal bankruptcy law shall be commenced by or against Lessee, and if commenced against Lessee, shall not be dismissed within thirty (30) days; or

(b) in the event Lessee becomes insolvent or makes an assignment for the benefit of its creditors; or

(c) if a receiver is appointed in any proceeding or action to which Lessee is a party, with authority to take possession or control of all or any part of the Property or the business conducted thereon by Lessee, and such receiver is not discharged within a period of thirty (30) days after his appointment; or

(d) any involuntary assignment prohibited by the provisions of the preceding section shall occur;

then such event or occurrence shall be deemed to constitute a breach of this Lease by Lessee and shall, at the election of Lessor, but not otherwise, without notice of entry or other action of Lessor, terminate this Lease and also all rights of Lessee under this Lease and in and to the Property and also all rights of any and all persons claiming under Lessee.

13.03 Bankruptcy without Termination. If following the filing of a petition by or against Lessee in a bankruptcy court Lessor shall not be permitted to terminate this Lease as hereinabove provided because of the provisions of Title 11 of the United States Code relating to Bankruptcy, as amended (the "**Bankruptcy Code**"), the Lessee (including Lessee as Debtor-in-Possession) or any trustee for Lessee agrees to promptly, but no later than fifteen (15) days after petition by Lessor to the bankruptcy court, assume or reject this Lease, and Lessee agrees not to seek or request any extension or adjournment of any petition to assume or reject this Lease by Lessor with such court. Lessee's, or the trustee's, failure to assume this Lease within said fifteen (15) day period shall be deemed a rejection. Lessor shall thereupon immediately be entitled to possession of the Property without further obligation to Lessee or the trustee, and this Lease shall be terminated, except that Lessor's right to damages for Lessee's default shall survive such termination. Lessee or any trustee for Lessee may only assume this Lease if (a) it cures or provides adequate assurance that the trustee will promptly cure any default hereunder, (b) it compensates or provides adequate assurance that the Lessee will promptly compensate Lessor for any actual pecuniary loss to Lessor resulting from Lessee's default and (c) it provides adequate assurance of future performance under this Lease by Lessee. In no event after the assumption of this Lease by Lessee or any trustee for Lessee shall any then existing default remain uncured for a period in excess of ten (10) days. Adequate assurance of future performance of this Lease shall include, without limitation, adequate assurance (d) of the source of rent required to be paid by Lessee hereunder, and (e) that assumption or permitted assignment of this Lease will not breach any provision hereunder.

ARTICLE XIV

SUBLETTING; ASSIGNMENT; TRANSFER TO MORTGAGEE

14.01 Assignment and Subletting. Lessee shall not assign or transfer this Lease or any part of the Property (the foregoing herein collectively called "**Transfers**") without Lessor's prior written consent, which shall not be unreasonably withheld, delayed or conditioned. The foregoing notwithstanding and notwithstanding any other provision of this Lease, Lessor's consent shall not be required for any Transfer: (a) which is a subtenancy, concession or license given in the ordinary course of operating the Property for the Intended Use, any subsequent use by Lessee, or any use by a transferee to whom Lessor has previously consented; or (b) to a lender as collateral for a loan or line of credit made or given to Lessee for the financing of the Facility as provided in Section 9.01, or given to Lessee or a transferee to whom Lessor has consented, or the parent, subsidiary, or entity related or affiliated with Lessee or such transferee to the extent such is permitted hereunder.

14.02 Occupants/Subtenants. Lessee, in its sole discretion, may sublease the Property to lessees for the Intended Use, and Lessee may further license, lease or sublease any space in the Facility (which includes the parking) under any lease, sublease or other agreement, contract, or other instrument or arrangement, subject to Legal Requirements. All sublessees, concessionaire, and licensees shall take such part or the entire Property or Facility subject and be subordinate to the terms and conditions of this Lease.

14.03 Transfer to Mortgagee. Notwithstanding anything to the contrary in this Lease, Lessee shall have the unrestricted right to assign or transfer its interest in this Lease to a mortgagee or to another party designated by the mortgagee in lieu of default of the mortgage on the leasehold interest of the Property. The transfer of Lessee's interest in the Property shall not affect the terms of this Lease, and such new lessee shall comply with all terms and conditions of this Lease.

14.04 Limitation. Any assignment, transfer, lease, sublease, or license permitted above shall be subject to this Ground Lease.

ARTICLE XV

INDEMNIFICATION OF LESSOR

15.01 Indemnification of Lessor. Lessor shall not be liable for any loss, injury, death or damage to persons or property, including, but not limited to, claims made for medical malpractice, which at any time may be suffered or sustained by Lessee, or by any persons who may at any time be using or occupying or visiting the Property or the Facility, or may be in, on or about the same, whether such loss, injury, death or damage shall be caused by or in any way result from or arise out of any act, omission, or negligence of Lessee or of an occupant, subtenant, visitor or user of any portion of the Property or the Facility, or shall result from or be caused by any other matter or thing, whether of the same kind as or of a different kind than the matters or things above set forth, and Lessee shall indemnify and defend Lessor from and against all claims, liabilities, losses or damages whatsoever, including, without limitation, attorneys' fees, on account of any such loss, injury, death or damage. Lessee hereby waives all claims against Lessor for damages to the Facility and improvements that are now on or are hereafter placed or built on the Property and to the property of Lessee in, on, or about the Property to the Facility, from any cause arising at any time. The foregoing provisions of this Section shall not apply to loss, injury, death or damage arising by reasons of the negligence or misconduct of Lessor, or its invitees, licensees, agents or employees.

ARTICLE XVI

WARRANTIES OF TITLE AND QUIET POSSESSION

16.01 Warranties. Lessor covenants that Lessor is seized of the Property, in fee simple, and has full right to make this Lease, and that so long as Lessee is not in default hereunder, Lessee shall have quiet and peaceable possession of the Property during the Term, in accordance with the terms and conditions hereof. Said warranties are limited to Lessee and all persons claiming under Lessee.

ARTICLE XVII

DEFAULT

17.01 Event of Default. If:

(a) Lessee fails to make any payment of Rent on the due date thereof and fails to cure such delinquency within ten (10) days after written notice thereof has been given by Lessor to Lessee; or

(b) Lessee breaches any covenant of this Lease other than the covenant for the payment of Rent and fails to cure such breach within thirty (30) days after written notice thereof has been given by Lessor to Lessee; or

(c) Lessee becomes involved in a legal proceeding which results in the levy of execution on or the acquisition of his leasehold interest by a trustee in bankruptcy, receiver, assignee or other legal officer appointed in any insolvency or creditors' proceedings, and such default is not corrected or cured within thirty (30) days after receipt of written notice to do so; or

then, and in any of the foregoing events, Lessee shall be deemed to have committed an Event of Default under this Lease.

If Lessee commits an Event of Default, it shall be lawful for Lessor, at its option after giving any written notice as required in subsections (a) through (c), inclusive, without formal demand or further notice of any kind, and in addition to all other rights and remedies provided at law or in equity, to:

(a) Terminate this Lease, repossess the Property and be entitled to recover immediately, as liquidated agreed final damages, in lieu of any further deficiencies, the total amount due to be paid by Lessee during the balance of the Term, less the fair rental value of the Property for said period, together with any other sum of money owed by Lessee to Lessor. Lessor's right to terminate this Lease shall be subject to the terms and conditions set forth in Section 9.02 of this Lease. Upon termination under any provision of this Lease, including without limitation Section 5.02 or this Section 17.01, Lessee shall immediately deliver to Lessor all designs, and engineering and architectural plans and specifications related to the Project.

(b) Terminate Lessee's right of possession and repossess the Property without demand or notice of any kind to Lessee and without terminating this Lease, in which case Lessor may, but need not, relet all or any part of the Property for such rent and upon such terms as shall be satisfactory to Lessor. For the purposes of such reletting, Lessor may make such repairs, alterations, additions, or physical changes in or to the Property as may be necessary or convenient. If Lessor shall fail or refuse to relet the Property, then Lessee shall pay to Lessor as damages the total amount due to be paid by Lessee during the balance of the Term. If the Property is relet and a sufficient sum shall not be realized from the reletting, after payment of all costs and expenses of such repairs, alterations, additions, or physical changes and the expense of such reletting and the collection of rent occurring therefrom, to satisfy the rent herein provided to be paid during the remainder of the Term, Lessee shall satisfy and pay any such deficiency upon demand. Lessee agrees that Lessor may file suit to recover any sums falling due under the terms of this section from time to time, and that any suit, or recovery of any portion due Lessor hereunder shall be no defense to any subsequent action brought for any amount not theretofore reduced to judgment in favor of Lessor.

(c) Have specific performance of Lessee's obligations.

17.02 <u>Lessor's Right to Perform</u>. In the event that Lessee, by failing or neglecting to do or perform any act or thing herein provided by it to be done or performed, shall be in default hereunder and such failure shall continue after written notice from Lessor specifying the nature of the act or thing to be done or performed, then Lessor may, but shall not be required to, do or perform or cause to be done or performed such act or thing, entering upon the Property for such purposes, if Lessor shall elect, and Lessor shall not be or be held liable or in any way responsible for any loss, inconvenience, annoyance or damage resulting to Lessor on account thereof, and Lessee shall repay to Lessor, on demand, the entire expense thereof, including compensation to the agents and employees of Lessor. Any act or thing done by Lessor pursuant to the provisions of this Section shall not be or be construed as a waiver of any such default by Lessee, or as a waiver of any covenant, term or condition herein contained, or of the requirement of performance thereof, or of any other right or remedy of Lessor, hereunder or otherwise. All amounts payable by Lessee to Lessor under any of the provisions of this Lease, if not paid when the same become due as in this Lease provided, shall bear interest from the date they become due until paid, at the Default Rate.

17.03 Waiver. The waiver by Lessor of, or the failure of Lessor to take action with respect to, any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or of subsequent breach of the same, or of any other term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease, other than the failure of Lessee to pay the particular Rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such Rent.

ARTICLE XVIII

EFFECT OF EMINENT DOMAIN

18.01 Effect of Total Condemnation. In the event the entire Property shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, or shall be conveyed by Lessor to any public or quasi-public authority under a threat of such appropriation or taking, this Lease shall terminate and expire as of the date of such taking or conveyance, Rent shall be prorated to such date, and Lessee and Lessor shall thereupon be released from any liability thereafter accruing hereunder. All proceeds shall first be used to pay off indebtedness, and any excess funds shall belong to Lessor and the Lessee as their interests may appear.

18.02 Effect of Partial Condemnation. If the taking consists of less than fifty percent (50%) of the Property, there will be no termination of the Lease. If there is a taking of more than fifty percent (50%) of the Property, then either Lessor or Lessee may terminate the Lease, and if the Lease is terminated, the proceeds will be applied in the same way as under the preceding section. If the Lease is not terminated, then Lessee shall rebuild to the extent possible and consistent with the previous structures, and subject to the rights of any mortgagee of the Property, the proceeds shall be used first to pay for such rebuilding, and any excess will go to Lessor and Lessee as their interests may appear.

ARTICLE XIX

MISCELLANEOUS

19.01 Utilities. Lessee shall fully and promptly pay for all water, sewer, gas, heat, light, power, janitorial services, garbage disposal, communication service, telephone service and other public utilities of every kind furnished to the Property or to the Facility throughout the Term, and all other costs and expenses of every kind whatsoever, of or in connection with the use, operation and maintenance of the Property or the Facility, and all activities conducted thereon or therein, and Lessor shall not have responsibility of any kind for any payment thereof. Utility payments shall be deemed Additional Rent under this Lease.

19.02 Lessor's Right of Entry. Lessee shall permit Lessor, and agents and employees of Lessor, to enter into and upon the Property at all reasonable times for the purpose of inspecting the same or for the purpose of posting notices.

19.03 Surrender of Lease. The voluntary or other surrender of this Lease by Lessee, or by a mutual cancellation thereof, shall not work a merger, and may, at the option of Lessor, terminate all existing subleases or subtenancies, or may, at the option of Lessor, operate as an assignment to it of any or all such subleases or subtenancies.

19.04 Remedies Cumulative. All remedies hereinbefore and hereinafter conferred on Lessor shall be deemed cumulative, and no one remedy shall be exclusive of another or of any other remedy conferred by law.

19.05 Notices.

(a) All notices, demands or other writings in this Lease provided to be given or made or sent shall be deemed to have been fully given or made or sent when made in writing and delivered to the principal office of, and acknowledged by, the party to whom notice is given, or deposited in the United States mail, registered and postage prepaid, and addressed as follows:

TO LESSOR: City of Muskegon
P.O. Box 356
Muskegon, MI 49443-0356
Attention: City Manager

Parmenter Law
P.O. Box 786
Muskegon, MI 49443-0786
Attention: John Schrier

TO LESSEE: Community Foundation for Muskegon County
425 W. Western Avenue, Suite 200
Muskegon, Michigan 49440
Attention: President

(b) The address to which any notice, demand or other writing shall be given or made or sent to any party, as provided in the preceding subsection, may be changed by written notice given by such party in accordance with this Section.

19.06 Captions. The captions appearing under the Article and Section number designations of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

19.07 Construction. This Lease shall be construed and interpreted according to the laws of the State of Michigan that are applied to leases made and to be performed in that state.

19.08 Memorandum of Lease. Lessor and Lessee agree that neither shall be permitted to record this lease or a memorandum of this lease with the applicable register of deeds without the prior written consent of the other, which may be withheld in such party's sole discretion.

19.09 Subordination; Attornment; Estoppel Certificate. This Lease shall be subject and subordinate to the interests of the holders of any notes secured by mortgages on the Property, now or in the future, and to all ground or underlying leases and to all renewals, modifications, consolidations, replacements, and extensions thereof, and while the provisions of this Section are self-executing, Lessee shall execute such customary documents as may be reasonably necessary to affirm or give notice of such subordination. Such subordination shall be contingent upon Lessor or any mortgagee providing Lessee with a customary non-disturbance agreement.

Upon request of the holder of any note secured by a mortgage on the Property, Lessee shall agree in writing that no action taken by such holder to enforce said mortgage shall terminate this Lease or invalidate or constitute a breach of any of its provisions, and Lessee shall attorn to such mortgagee, or to any purchaser of the Property at any foreclosure sale, or sale in lieu of foreclosure, for the balance of the Term on all the terms and conditions herein contained. While the provisions of this Section are self-executing, all persons affected thereby shall execute such documents necessary to affirm or give notice of such attornment.

At the request of Lessor, Lessee shall within ten (10) days deliver to Lessor, or anyone designated by Lessor, a certificate stating and certifying as of its date (a) the date to which Rent and other charges under this Lease have been paid, (b) whether or not there are then existing any setoffs or defenses against the enforcement of any of the agreements, terms, covenants, or conditions hereof on the part of Lessee to be performed or complied with (and, if so, specifying the same), and (c) if such be true, that this Lease is unmodified and in full force and effect and Lessor is not in default under any provision of this Lease. Upon the same terms and conditions as provided in this Section, Lessor shall provide an estoppel certificate to Lessee within ten (10) days of Lessee's request.

19.10 Parties Bound. The covenants and conditions herein contained shall, subject to the provisions of this Lease as to assignment, transfer and subletting, apply to and bind the heirs, successors, executors, administrators and assigns of all the parties hereto, and all of the parties hereto shall be jointly and severally liable hereunder.

19.11 Expenses of Enforcement. Lessee shall pay all reasonable attorneys' fees and expenses incurred by Lessor in enforcing any provision of this Lease, as Additional Rent, together with interest thereon from the date paid at the Default Rate.

19.12 Litigation. Lessor and Lessee do hereby waive trial by jury in any action, proceeding or counterclaim brought by either against the other upon any matters whatsoever arising out of or in any way connected with this Lease, Lessee's use or occupancy of the Property, or any claim of injury or damage or both. It is further mutually agreed that if Lessor commences any summary proceeding for nonpayment of any rent, Lessee will not interpose any counterclaim whatsoever in any such proceeding; provided, however, that the foregoing shall not constitute a waiver of Lessee's right to bring a separate action for any claim Lessee may have.

19.13 Covenants and Conditions. All covenants and conditions contained in this Lease are independent of one another. All of the covenants of Lessee contained herein shall, at the option of Lessor, be construed as both covenants and conditions.

19.14 Limitation on Liability. If Lessor is in default of this Lease, and as a consequence Lessee recovers a money judgment against Lessor, the judgment shall be satisfied only out of the proceeds of sale received on execution of the judgment and levy against the right, title and interest of Lessor in the Property, out of rent or other income from the Property receivable by Lessor, or out of the consideration received by Lessor from the sale or other disposition of all or any part of Lessor's right, title and interest in the Property.

19.15 Accord and Satisfaction. No payment by Lessee or receipt by Lessor of a lesser amount than the Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Lessor shall accept such check or payment without prejudice to Lessor's right to recover the balance of such rent or to pursue any other remedy in this Lease as provided.

19.16 Counterparts. This Lease may be executed in counterparts each of which shall be deemed an original and all of which together shall constitute one agreement. Faxed signatures, or scanned and electronically transmitted signatures on this Lease, shall be deemed to have the same legal effect as original signatures on this Lease.

19.17 Brokers. Each party under this Lease represents and warrants that it has dealt with no broker in connection with this Lease.

19.18 Survival. All obligations arising prior to the termination of this Lease and all provisions of this Lease allocating responsibility or liability between the parties, including without limitation the indemnity provisions contained herein, shall survive the termination of this Lease. No obligation which survives the term of this Lease shall give Lessee any possessory interest in the Property nor have the effect of extending the Term of this Lease.

19.19 Entire Agreement; Amendment. This Lease represents the entire agreement between the parties. Except as expressly referenced herein, no oral or written, prior or contemporaneous agreements shall have any force or effect, and the Lease may not be amended, altered or modified unless done so by means of a written instrument signed by both parties.

19.20 Option to Purchase. So long as Lessee is not in default, during the Term of this Lease~~,~~ Lessee shall have the right to purchase the Property upon the terms and conditions contained in this Paragraph (the "Option"). The Option shall survive any sale of the Property. Lessee may not assign the Option without the consent of Lessor, which shall not be unreasonably withheld, delayed or conditioned.

(a) Election. If Lessee elects to exercise the Option, it shall give Lessor written notice of such election on or before the expiration of the Term. Such notice shall be deemed given when received by Lessor. The purchase price for the Property shall be Fifty Thousand Dollars ($50,000) (the "Purchase Price"). The Purchase Price shall be payable in full at closing with funds immediately available. The closing ("Closing") shall take place at the offices of Lessee or such other location mutually agreed to by the parties, and at a time and date to be selected by Lessee, but in no case later than forty-five (45) days after Lessee exercises its option to purchase (the "Closing Date").

(b) As Is. Lessee has already undertaken a due diligence investigation of the Property, and therefore will the Property in its "AS IS" condition. Lessee shall be responsible, at its sole cost and expense, for obtaining such title commitments/policies and conducting such other investigations as it determines necessary. Lessee acknowledges that Lessor has advised Lessee pursuant to MCL 324.20116(1) that Lessor has knowledge or information or is on notice through a recorded instrument that the Property is a "facility" within the meaning of MCL 324.20101(r). Lessee acknowledges receipt of written description of the general nature and extent of the release(s) that qualifies the Property as a "facility" attached to this Lease as **Exhibit B**.

(c) Conveyance. At the time of Closing, Lessor shall execute and deliver to Lessee a quit claim deed conveying good marketable title to the Property subject to such restrictions, easements, interests, and reservations of record; taxes and assessments; and any matters that would be disclosed by an accurate ALTA/ACSM Land Title Survey and other exceptions caused by or through Lessee or its subtenants, concessionaires and licensees.

(d) Costs. All costs to close the transaction including without limitation, fees of the title company, transfer taxes, and like (except the fees and expenses of Lessor's attorneys and accountants), shall be paid for by Lessee.

Lessor and Lessee have executed this Lease as of the date first indicated above.

LESSOR:	LESSEE:
CITY OF MUSKEGON	COMMUNITY FOUNDATION FOR MUSKEGON COUNTY
By ______________________	By ______________________
Its ______________________	Its ______________________

EXHIBIT A

Legal Description of the Property

The property address and tax parcel number listed below are provided solely for informational purposes, without warranty as to accuracy or completeness. If the information listed below is inconsistent in any way with the legal description listed above, the legal description listed above shall control.

Tax Parcel Numbers:

61-11-20-312-001

61-11-20-312-002

61-11-20-333-001

EXHIBIT B

DESCRIPTION OF RELEASES

EXHIBIT C

USE RESTRICTIONS

Core Development Corporation

Mr. Frank Peterson
City Manager
City of Muskegon
933 Terrace Street
Muskegon, MI 49440

Reference: 15.3 acres located at 731 Yuba Street

Dear Frank;

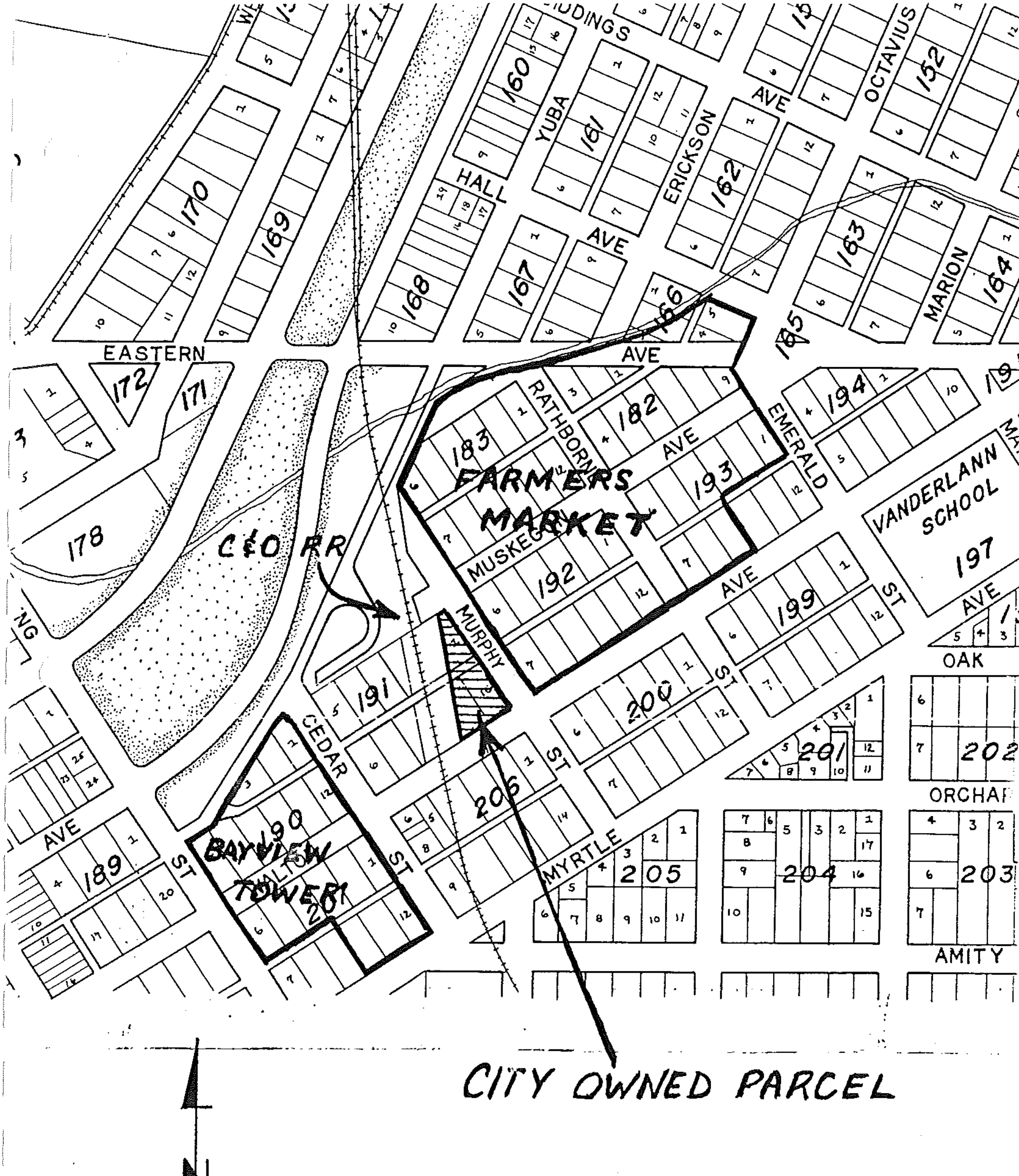
Please use this letter as our acknowledgement that Core Development releases any and all rights that may exist as a result of past or current purchase options on the above mentioned property. This release pertains to the property being utilized for the FARM Food Incubator Project. If this project is not located at this site, Core would be interested in renewing our interest in the property for development.

Please let me know if you have any questions or need any assistance from us.

Best regards,

B. John Essex

111 W. Western Avenue, Muskegon, Michigan, 49442. Phone (231) 777-8777



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HALL AVE
YUBA
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OCTAVIUS
MARION
RATHBORNE
EMERALD
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FARMERS MARKET
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CITY OWNED PARCEL
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Commission Meeting Date: August 13, 2019

Date: August 13, 2019

To: Honorable Mayor and City Commissioners

From: Planning & Economic Development

RE: Sale of the Buildable Lot at 1245 5th St

SUMMARY OF REQUEST:

Staff is seeking approval to sell the vacant, buildable lot at 1245 5th St to Bethany Housing Ministries, Inc. d/b/a Community EnCompass for $1 with the understanding that they will sell us their vacant buildable lot at 174 Mason Ave for $1. The deal would be contingent upon the City receiving verification of a clean title commitment and any backup documents.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of the sale and for the Mayor and Clerk to sign the resolution and deed.

COMMITTEE RECOMMENDATION:

None

1245 5th St (Now Vacant)
0.12 acres
True Cash Value - $4,000

174 Mason Ave
0.19 acres
True Cash Value - $4,800

Resolution No. _______

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING THE SALE OF A BUILDABLE LOT AT 1245 5th St FOR $1.

WHEREAS, Bethany Housing Ministries, Inc. d/b/a Community EnCompass will be allowed to purchase the parcel designated as number 24-205-377-0001-00, located at 1245 5th St. for $1; and

WHEREAS, Bethany Housing Ministries, Inc. d/b/a Community EnCompass will sell their parcel designated as number 24-205-386-0007-00, located at 174 Mason Ave to the City of Muskegon for $1; and

WHEREAS, Bethany Housing Ministries, Inc. d/b/a Community EnCompass shall provide evidence of a clean title commitment and any backup documents to the City in order to finalize the deal; and

NOW THEREFORE BE IT RESOLVED, that parcel number 24-205-377-0001-00, located at 1245 5th St to be sold to Bethany Housing Ministries, Inc. d/b/a Community EnCompass for $1 with the conditions listed above.

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 1 EX SELY 79.5 FT TH'OF & E 1/2 OF LOT 2 EX SELY 79.5 FT TH'OF BLK 377

Adopted this 13th day of August 2019.

Ayes:

Nays:

Absent

By: ________________________
Stephen J. Gawron
Mayor

Attest: ________________________
Ann Meisch, MMC
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on August 13, 2019.

By: ________________________
Ann Meisch, MMC
City Clerk

QUIT CLAIM DEED

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

QUIT CLAIMS TO: **BETHANY HOUSING MINISTRIES, INC., DBA COMMUNITY ENCOMPASS,** a Michigan Non-Profit Corporation, of 1105 Terrace Street, Muskegon, MI 49442,

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

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 1 EXCEPT SOUTHEASTERLY 79.5 FEET THEREOF & EAST 1/2 OF LOT 2 EXCEPT SOUTHEASTERLY 79.5 FEET THEREOF BLOCK 377, otherwise known as 1245 5th St. (#24-205-377-0001-00).

for the sum of less than One Dollar ($1)

Subject to any easements or use restrictions of record.

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

Dated this 13th day of August 2019

Signed in the presence of:	CITY OF MUSKEGON
______________________________	By______________________________ Stephen Gawron, Its Mayor
______________________________	and______________________________ Ann Marie Meisch, MMC, Its Clerk

STATE OF MICHIGAN
COUNTY OF MUSKEGON

The foregoing instrument was acknowledged before me this 13th day of August 2019, by STEPHEN GAWRON and ANN MARIE MEISCH, MMC, the Mayor and Clerk, respectively, of the CITY OF MUSKEGON, a municipal corporation, on behalf of the City.

PREPARED BY: Hope Mitchell City of Muskegon 933 Terrace St Room 202 Muskegon, MI 49440 Telephone: (231) 724-6702	______________________________ ______________________, Notary Public Acting in the County of Muskegon, MI Muskegon County, MI My Comm. Expires: ________________

WHEN RECORDED RETURN TO:
GRANTEE

SEND SUBSEQUENT TAX BILLS TO:
GRANTEE

Date: August 13, 2019

To: Honorable Mayor and City Commissioners

From: Ann Marie Meisch, City Clerk

RE: Community Relations Committee Establishment of Farmers Market Advisory Board

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SUMMARY OF REQUEST: To establish the Farmers Market Advisory Board.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To concur with the recommendation of the Community Relations Committee and establish the Farmers Market Advisory Board.

Date: August 13, 2019

To: Honorable Mayor and City Commissioners

From: Ann Marie Meisch, City Clerk

RE: Community Relations Committee Appointment Recommendations

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SUMMARY OF REQUEST: To accept appointments as follows:

Accept the appointments of:

Ron Hayward to the Neighborhood Association Representative position on the Citizen Police Review Board.

Karen Evans to the Mayor/City Commission Appointment position on the District Library Board.

Kimberly Williams to the Citizen Representative from Ward 4 position on the Equal Opportunity Committee.

Larry Boersma, Dianne Snow, Jon Visser, and John Zandstra to the Seasonal Farmers positions on the Farmers Market Advisory Board.

Kristin Johnson and Kathi Upman to the Seasonal Crafters/Artisans positions on the Farmers Market Advisory Board.

Woody Van Blargan to the Seasonal Food Vendor position on the Farmers Market Advisory Board.

Melanie Lyonnais and Cindy Larsen to the Citizens At Large positions on the Farmers Market Advisory Board.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To concur with the recommendations of the Community Relations Committee and approve the appointments.

AGENDA ITEM NO. _______________
CITY COMMISSION MEETING __________________________

TO: Honorable Mayor and City Commissioners

FROM: Frank Peterson, City Manager

DATE: August 6, 2019

RE: Convention Center – Site and Utilities Bid Pack

SUMMARY OF REQUEST:
City staff is requesting acceptance of the letter of recommendation from Clark Construction awarding Concrete, Electrical Hotel Power, and Earthwork to Cascade Cement Contracting, Newkirk Electric, and Accurate Excavators, respectively at a total cost of $2,386,258. Approving these three bids will allow Clark to move toward the anticipated August 22 commencement of work, while finalizing the remaining bid packages in anticipation of awarding the remainder of the contract at the August 27 City Commission meeting.

FINANCIAL IMPACT:
$2,386,285 to be funded with bond proceeds

BUDGET ACTION REQUIRED:
None at this time.

STAFF RECOMMENDATION:
To authorize the City Manager to accept the recommendation and award the contracts as described.

COMMITTEE RECOMMENDATION:
None.

CLARK
Construction Company
Professional Construction Services

Headquarters
3535 Moores River Drive
Lansing, MI 48911
517.372.0940 phone | 517.372.0668 fax

www.clarkcc.com

8-8-19

Mr. Frank Peterson,

Re: Muskegon Convention Center (Clark Job #2811)
Letter of Recommendations -
Bid Package No. 2 – 32-Earthwork & Site Utilities
Bid Package No. 2 – 26A-Hotel Power
Bid Package No. 3 – 03 Concrete Foundations/Flatwork/Sitework

Mr. Peterson,

Bids were opened on Bid Release #2 - July 18th, 2019 and Bid Release #3 July 25th, 2019 for the portion of work defined by the Contract Documents in each of these respective Bid Releases.

Clark Construction Company has held trade contractor pre-award meetings with the bidders and the designated Owner's Representative (Construction Simplified) and has completed its analysis of the bids received. We have determined that the following bids are complete, responsive, and without unacceptable qualifications. We have also done a pre-qualification with an extensive financial and safety background checks and found everyone to be acceptable.

As such, Clark Construction Company recommends the following bidders to be awarded the subcontract amounts totaling $2,386,258 as detailed below. The Total Budget funds related to the Bid Release #2 and #3 is $3,051,624. Thus, we are seeking authorization for a total amount to be released for this package of $2,386,258.

Recommended Bidders are as follows:

03- Concrete	Cascade Cement Contracting, Inc.	$1,263,397
26A- Electrical Hotel Power	Newkirk Electrical	$273,845
32- Earthwork & Sitework	Accurate Excavators, LLC	$849,016

For your information, the bids received for Bid Release #2 and #3 are documented in the attached Bid Tab sheet and the Clark Construction Company Budget.

Upon your review and approval, Clark Construction Company will proceed with issuing a Trade Contract in the above amounts to Newkirk Electrical, Accurate Excavators, LLC, and Cascade Cement Contracting, Inc.

If you have any questions or would like to discuss the following, please feel free to contact me.

Thank you,

Tim Webber

Tim Webber, Project Manager

3535 Moores River Dr, Lansing, MI 48911

Cell- 616-638-0749

Area	Description	Takeoff Quantity	Total Cost/Unit	Total Amount
05 CONCRETE BID PACKAGE #3				
	FOUNDATIONS			
	Standard Foundations			
	Strip Footing Forms, SFCA	3,650.00 sqft	9.00 /sqft	32,850
	Pier Forming SFCA	1,394.00 sqft	9.00 /sqft	12,546
	Column Pad Forming SFCA	2,052.00 sqft	9.00 /sqft	18,468
	Pier Rebar (tons)	3.20 tons	1,570.00 /tons	5,024
	Column Pad Rebar (tons)	9.50 tons	1,570.00 /tons	14,915
	Strip Footing Rebar (tons)	19.40 tons	1,570.00 /tons	30,458
	Column Pads 10' x 10' x 1'-6" Provide & Place	20.00 cuyd	200.00 /cuyd	4,000
	Column Pads 8' x 11' x 1'-6" Provide & Place	42.00 cuyd	200.00 /cuyd	8,400
	Column Pads 8' x 8' x 1'-0" Provide & Place	13.50 cuyd	200.00 /cuyd	2,700
	Column Pads 5' x 8' x 1'-0" Provide & Place	7.50 cuyd	200.00 /cuyd	1,500
	Column Pads 4' x 4' x 1'-0" Provide & Place	8.00 cuyd	200.00 /cuyd	1,600
	Column Pads 5' x 5' x 1'-0" Provide & Place	2.00 cuyd	200.00 /cuyd	400
	Column Pads 6' x 10' x 1'-0" Provide & Place	8.00 cuyd	200.00 /cuyd	1,600
	Column Pads 12' x 12' x 1'-6" Provide & Place	19.00 cuyd	200.00 /cuyd	3,800
	Concrete Strip Footings, Provide & Place	776.00 cuyd	200.00 /cuyd	155,200
	Concrete Mat Foundation with Concrete Saddles, Provide & Place	1,380.00 sqft	8.00 /sqft	11,040
	Pier Conc 4000 psi	35.00 cuyd	600.00 /cuyd	21,000
	Standard Foundations	*54,689.00 SF*	*5.95 /SF*	*325,501*
	Slab on Grade			
	Concrete Housekeeping Pabs @ MEP Rooms - 8" Pump & Equipment Pads	16.00 cuyd	291.00 /cuyd	4,656
	Concrete Slab On Grade - SG-1	14,488.00 sqft	5.24 /sqft	75,917
	Concrete Slab On Grade - SG-2 (Main Floor)	17,627.00 sqft	5.65 /sqft	99,593
	Concrete Slab On Grade - SG-3	1,138.00 sqft	5.24 /sqft	5,963
	Concrete Slab On Grade - SG-4	1,595.00 sqft	6.00 /sqft	9,570
	Saw Cut Existing Concrete	800.00 lnft	6.00 /lnft	4,800
	Concrete Slab On Grade/Post Tensioned Remove Existing	1,692.00 sqft	2.50 /sqft	4,230
	Concrete Slab On Grade - Replace Existing	1,692.00 sqft	6.00 /sqft	10,152
	Vapor Barrier	35,901.00 sqft	1.10 /sqft	39,491
	Slab on Grade	*54,689.00 SF*	*4.65 /SF*	*254,372*
	FOUNDATIONS	**54,689.00 SF**	**10.60 /SF**	**579,873**
	SPECIAL FOUNDATIONS			
	Basement Walls			
	Below Grade Wall & Pilaster Forms	30,674.00 sqft	8.00 /sqft	245,392
	Reinforcing Steel for Below Grade Wall	34.59 tons	2,100.00 /tons	72,639
	Wall Conc 4000 psi,Walls - Provide & Place	752.00 cuyd	400.00 /cuyd	300,800

Area	Description	Takeoff Quantity	Total Cost/Unit	Total Amount
	Basement Walls			
	Membrane Waterproofing with 2" Rigid Insulation with 1/2" Protection Board on Below Grade Walls	15,338.00 sqft	4.40 /sqft	67,487
	Basement Walls	*54,689.00 SF*	*12.55 /SF*	*686,318*
	SPECIAL FOUNDATIONS	**54,689.00 SF**	**12.55 /SF**	**686,318**
	SUPERSTRUCTURE			
	Floor Construction			
	4.5" Concrete on Metal Deck, Place and Finish	13,965.00 sqft	6.00 /sqft	83,790
	Floor Construction	*54,689.00 SF*	*1.53 /SF*	*83,790*
	SUPERSTRUCTURE	**54,689.00 SF**	**1.53 /SF**	**83,790**
	SITE IMPROVEMENTS			
	Exterior Steps, Ramps & Pedestrian Paving			
	8" Concrete Paving	7,308.00 sqft	7.00 /sqft	51,156
	4" Concrete Paving (Includes Thickened Edge)	18,170.00 sqft	4.25 /sqft	77,223
	18" Concrete Seat Wall	74.00 lnft	64.56 /lnft	4,777
	Concrete Steps	6.00 cuyd	295.90 /cuyd	1,775
	Concrete Curb & Gutter (Includes Valley Gutter)	836.00 lnft	16.00 /lnft	13,376
	Concrete for Brick Pavers	414.00 sqft	8.62 /sqft	3,569
	Exterior Steps, Ramps & Pedestrian Paving	*54,689.00 SF*	*2.78 /SF*	*151,876*
	SITE IMPROVEMENTS	**54,689.00 SF**	**2.78 /SF**	**151,876**
	GENERAL REQUIREMENTS			
	General Conditions			
	General Contractor Allowance	1.00 sum	25,000.00 /sum	25,000
	General Conditions	*54,689.00 SF*	*0.46 /SF*	*25,000*
	GENERAL REQUIREMENTS	**54,689.00 SF**	**0.46 /SF**	**25,000**
	05 CONCRETE BID PACKAGE #3	**54,689.00 SF**	**27.92 /SF**	**1,526,857**

Partial Totals

Description	Amount	Totals	Cost per Unit
Partial Total		***1,526,857***	***25.605***

Area	Description	Takeoff Quantity	Total Cost/Unit	Total Amount
BP 02	**Site & Utilities Bid Pack #2**			
	SPECIAL FOUNDATIONS			
	Foundation Excavation			
	Over Excavation & Fill Due to Poor Soil Conditions As Identified In The Geotechnical Report	3,769.00 cuyd	25.00 /cuyd	94,225
	Imported Building Engineered Fill - MDOT Class II Sand	19,800.00 cuyd	6.31 /cuyd	124,938
	Foundation Excavation	*1.00 SUB*	*219,163.00 /SUB*	*219,163*
	SPECIAL FOUNDATIONS	**1.00 SUB**	**219,163.00 /SUB**	**219,163**
	SITE PREPARATION			
	Site Clearing			
	Remove Existing Trees & Roots 12" - 18"	16.00 each	589.00 /each	9,424
	Cut and Stockpile Topsoil	5,922.00 sqyd	1.86 /sqyd	11,015
	Site Clearing	*1.00 SUB*	*20,438.92 /SUB*	*20,439*
	Site Preparation			
	Demoliton - Existing Concrete Paving	1,940.00 sqyd	8.00 /sqyd	15,520
	Demoliton - Existing Asphalt Paving	3,268.00 sqyd	7.00 /sqyd	22,876
	Demoliton - Existing Curb and Gutter	2,064.00 lnft	9.30 /lnft	19,195
	Remove Existing Storm Sewer	1,005.00 lnft	14.00 /lnft	14,070
	Remove Existing Watermain	162.00 lnft	18.00 /lnft	2,916
	Remove Existing Sanitary Sewer	164.00 lnft	7.82 /lnft	1,282
	Remove Existing Storm Drainage Structure 48"	13.00 each	528.00 /each	6,864
	SESC Inlet Protection Filters (Silt Sack) & Stormwater Management	1.00 lsum	5,000.00 /lsum	5,000
	Silt Fence, 36"	2,010.00 lnft	3.72 /lnft	7,477
	Site Preparation	*1.00 SUB*	*95,200.88 /SUB*	*95,201*
	Earthwork			
	Dewatering For Building Pilings & Foundations	5.00 mnth	13,360.00 /mnth	66,800
	Rough Grade Site	13,132.00 sqyd	1.07 /sqyd	14,051
	Fine Grade Site	83,552.00 sqft	0.28 /sqft	23,395
	Building Foundation Excavation & Backfill	1,430.00 cuyd	20.00 /cuyd	28,600
	Earthwork	*1.00 SUB*	*132,845.80 /SUB*	*132,846*
	SITE PREPARATION	**1.00 SUB**	**248,485.60 /SUB**	**248,486**
	SITE IMPROVEMENTS			
	Parking Lots & Roads			
	3" Asphalt Paving	212.00 sqyd	24.00 /sqyd	5,088
	8" 21AA Agg. Base	212.00 sqyd	10.00 /sqyd	2,120

Area	Description	Takeoff Quantity	Total Cost/Unit	Total Amount
	Parking Lots & Roads	*1.00 SUB*	*7,208.00 /SUB*	*7,208*
	Exterior Steps, Ramps & Pedestrian Paving			
	Base & Prep For Sidewalks & Paving - 6" Class II Sand	35,242.00 sqft	1.60 /sqft	56,387
	Rework Existing Pavers	436.00 sqft	8.62 /sqft	3,758
	Exterior Steps, Ramps & Pedestrian Paving	*1.00 SUB*	*60,145.52 /SUB*	*60,146*
	Site Development			
	Site Signs (Stop, HC, Directional, Informational)	10.00 each	250.00 /each	2,500
	Site Benches	4.00 each	250.00 /each	1,000
	Site Development	*1.00 SUB*	*3,500.00 /SUB*	*3,500*
	Landscaping			
	Irrigation - Design Build	8,055.00 sqft	1.25 /sqft	10,069
	Plantings	1.00 lot	19,610.00 /lot	19,610
	Hardwood Bark & Mulch	50.00 cuyd	90.00 /cuyd	4,500
	Seeding & Hydromulch	2,220.00 sqyd	2.23 /sqyd	4,951
	Landscaping	*1.00 SUB*	*39,129.35 /SUB*	*39,129*
	SITE IMPROVEMENTS	**1.00 SUB**	**109,982.87 /SUB**	**109,983**
	SITE UTILITIES			
	Water Supply			
	Tapping Sleeve with Valve & Box	5.00 each	4,000.00 /each	20,000
	Water Main Disinfection & Testing	1.00 each	7,500.00 /each	7,500
	DIP-Water Main - 12" Class 54	168.00 lnft	108.00 /lnft	18,144
	DIP-Water Main For Fire Protection - 8" Class 54	66.00 lnft	82.00 /lnft	5,412
	DIP-Water Main - 12" TEE	2.00 each	635.00 /each	1,270
	DIP-Water Main - 12" 45 Degree Bend	1.00 each	415.00 /each	415
	DIP-Water Main Domestic - 4" Class 54	66.00 lnft	70.00 /lnft	4,620
	Fire Hydrant Assembly with Valve & Box	2.00 each	7,255.00 /each	14,510
	Water Supply	*1.00 SUB*	*71,871.00 /SUB*	*71,871*
	Sanitary Sewer			
	8" Sanitary Sewer PVC Truss Pipe	122.00 lnft	48.00 /lnft	5,856
	8" Sanitary Sewer PVC 45 Degree Bends	2.00 each	182.00 /each	364
	8" Sanitary Sewer Clean Out	1.00 each	650.00 /each	650
	Sanitary Tie-in to Existing	1.00 each	2,750.00 /each	2,750
	Sanitary Sewer	*1.00 SUB*	*9,620.00 /SUB*	*9,620*
	Storm Sewer			

Area	Description	Takeoff Quantity	Total Cost/Unit	Total Amount
	Storm Sewer			
	Storm Line Tie-In	5.00 each	550.00 /each	2,750
	Storm Sewer 12" Concrete Pipe	328.00 lnft	60.00 /lnft	19,680
	Storm Sewer 15" Concrete Pipe	391.00 lnft	65.00 /lnft	25,415
	Storm Sewer 15" Ductile Iron Drain Pipe	120.00 lnft	70.00 /lnft	8,400
	Under Drains	280.00 lnft	25.00 /lnft	7,000
	Drainage Structure Cover MDOT Type	14.00 each	775.00 /each	10,850
	Storm Gate Valve	1.00 each	5,000.00 /each	5,000
	4' Dia. Drainage Structure with Underdrain	13.00 each	3,300.00 /each	42,900
	2' Dia. Drainage Structure with Underdrain	1.00 each	2,800.00 /each	2,800
	Storm Sewer	*1.00 SUB*	*124,795.00 /SUB*	*124,795*
	Gas Distribution			
	Natural Gas Service Line	50.00 lnft	35.00 /lnft	1,750
	Gas Distribution	*1.00 SUB*	*1,750.00 /SUB*	*1,750*
	SITE UTILITIES	**1.00 SUB**	**208,036.00 /SUB**	**208,036**
	GENERAL REQUIREMENTS			
	General Conditions			
	Temp. Construction Fence	1,500.00 lnft	25.00 /lnft	37,500
	Temporary Site Access Gate	4.00 each	2,400.00 /each	9,600
	Contaminated Soil & Water Removal Allowance	1.00 allw	75,000.00 /allw	75,000
	Placement And Removal of Temp Roads Allowance	1.00 allw	10,000.00 /allw	10,000
	Assist Owner with Utility Relocation Allowance	1.00 allw	25,000.00 /allw	25,000
	Curb from LC Walker Lot to Shoreline Business Loop	1.00 allw	20,000.00 /allw	20,000
	Road Work on Business Loop	***0.00 allw***	***0.00 /allw***	***0***
	Foundation Soil Prep (Overexcavate 1' Add 21AA)	1.00 allw	152,000.00 /allw	152,000
	Parking Lot for The Bar Access	***0.00 allw***	***0.00 /allw***	***0***
	Added Stone On The Exterior of The Building Foundation Wall forDrainage	1.00 allw	65,000.00 /allw	65,000
	Water Barricades in Public Areas	500.00 lnft	70.00 /lnft	35,000
	General Conditions	*1.00 SUB*	*429,100.00 /SUB*	*429,100*
	GENERAL REQUIREMENTS	**1.00 SUB**	**429,100.00 /SUB**	**429,100**
	BP 02 Site & Utilities Bid Pack #2	**1.00 SUB**	**1,214,767.47 /SUB**	**1,214,767**

Estimate of Probable Cost
CITY OF MUSKEGON
NEW CONVENTION CENTER
BID PACK BUDGET ESTIMATES

Area	Description	Takeoff Quantity	Total Cost/Unit	Total Amount
BP 02A	**Hotel Electric Power Bid Pack #2**			
	SITE ELECTRICAL			
	Electrical Distribution			
	Site Electrical Demolition	1.00 sub	15,000.00 /sub	15,000
	Primary Service Duct Bank	130.00 lnft	276.92 /lnft	36,000
	VFI Transformer	1.00 each	125,000.00 /each	125,000
	Pad Mount Transformer For Hotel	1.00 each	45,000.00 /each	45,000
	Re-Feed Hotel Power To New Transformer	260.00 lnft	207.69 /lnft	54,000
	Excavation & Trenching	1.00 sub	10,000.00 /sub	10,000
	Consumers Power Charges (Allowance)	1.00 allw	25,000.00 /allw	25,000
	Electrical Distribution	*1.00 SUB*	*310,000.00 /SUB*	*310,000*
	SITE ELECTRICAL	**1.00 SUB**	**310,000.00 /SUB**	**310,000**
	BP 02A Hotel Electric Power Bid Pack #2	**1.00 SUB**	**310,000.00 /SUB**	**310,000**

Partial Totals

Description	Amount	Totals	Cost per Unit
Partial Total		***1,524,766***	***33.633***

CLARK
Construction Company
Professional Construction Services

Site and Utilities Bid Pack

Bid Date 7/18/2019

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CLARK Construction Company

939 Third St. Muskegon, MI 49440
517.372.0940 / 517.372.0668 Fax

Project: 2811 Muskegon Convention Center - Bid Pack #2

Trade	Company	City
Electrical / Fire Alarm		
DECLINED 7/18	Shoreline Power Services, Inc.	Williamsburg, MI 49690
DECLINED 7/18	Hoekstra Electrical Services	Hamilton, MI 49419
DECLINED 7/18	Allied Electrical	Grand Rapids, MI 49544
DECLINED 7/18	Circuit Electric Inc	Byron Center, MI 49315
BIDDING 6/25	Newkirk Electric Associates	Muskegon, MI 49442
BIDDING 6/25	Buist Electric	Byron Center, MI 49315
DECLINED 7/18	Windemuller Electric, Inc.	Wayland, MI 49348
BIDDING 7/18	Parkway Electric & Communications, LLC	Holland, MI 49424
DECLINED 7/18	DVT Electric, Inc.	Wyoming, MI 49548
DECLINED 7/18	Feyen Zylstra	Grand Rapids, MI 49544
BIDDING 6/25	F & S Electric, Inc.	Wayland, MI 49348
DECLINED 7/18	~~VanHaren Electrical~~	~~Byron Center~~
Called 6/14	Excel Electrical	Grandville
BIDDING 6/27	J&J Electrical Serices	Muskegon, MI 49444
DECLINED 7/18	Master Electric Inc	Muskegon, MI 49442
ERROR	Dodge Data & Analytics	New York
BIDDING 6/27	CS Erickson Electric	Grand Haven
Sitework		
DELCINED 7/11	~~Thompson Brothers, Inc.~~	~~Muskegon, MI 49445~~
DECLINED 7/14	~~Hallack Contracting, Inc.~~	~~Hart, MI 49420~~
DECLINED 7/16	~~Jackson-Merkey Contractors, Inc.~~	~~Muskegon, MI 49442~~
DECLINED 6/27	~~McCormick Sand, Inc.~~	~~Twin Lake, MI 49457~~
BIDDING 6/25	Terra Contractors	Muskegon, MI 49441
DECLINED 6/3	~~Jack Dykstra~~	~~Grand Rapids~~
Did not attend Pre Bid	~~Deans Landscaping and Excavating~~	~~Sand Lake~~
DECLINED 1/17	~~D.J. McQuestion & Sons, Inc.~~	~~Leroy~~
BIDDING 6/25	Accurate Excavators	Muskegon
DECLINED 7/15	~~Ron Meyer & Associates~~	~~Zeeland~~
BIDDING 6/25	Wood Trucking	Muskegon
DECLINED 6/3	~~Nashville Construction~~	~~Nashville~~
DECLINED 6/3	~~TCI INC of Michigan~~	~~Eaton Rapids~~
BIDDING 6/25	~~Tricity Groundbreakers~~	~~Midland~~
DECLINED	~~Millbocker & Sons~~	~~Allegan~~
DECLINED	~~Eagle Excavating~~	~~Flint~~
DECLINED 1/17	~~Hoffman Bros~~	~~Battle Creek~~
DECLINED 1/17	~~Peters Construction~~	~~Boyne City~~
DECLINED	~~C&D Hughs Inc~~	Charlotte
DECLINED	~~Ryan Central~~	~~Chigaco, IL~~
DECLINED	~~Dykema Excavating~~	

Clark Construction Company
Professional Construction Services

Muskegon Convention Center – Bid Pack 2 Earthwork / Site Utilities & Hotel Electric Pre-Bid Meeting

Date: 07/02/19

Name	Company name	Email
Jack Thompson	Thompson Bros.	Jack @Thompson Brothers inc. Com
Andy Bultsma	Shoreline Power	andyb@shorelinepowerservices
Jim Belanger	Ron Meyer Asso. Exc	
Ken Wallace	Windemuller	KWallace@Windemuller.US
Tim VanderPloeg	Windemuller	Tvanderploeg@Windemuller.us
Rob Lyttle	West Michigan Dirtworks	rob@westmichigandirtworks.com
Dan Hallack	Hallack Contracting	dhallack@hallackcontracting.com
JOSH LESTER	CS ERICKSON	josh.lester@cserickson.com
Steve Jackson	Jackson-Merkey Contractors	estimating@jackson-merkey.com
Seth Nelson	Buist	snelson@buistelectric.com
Jeremy Hugo	SME	hugo@sme-usa.com

CLARK Construction Company
Professional Construction Services

Scott Dreer	Terra Contractors	Scott@team-terra.com 231-206-5654
Roger Jourdan	Accurate Exc.	rjourdan@accurateexcavators.com 231 766-0557
Ben Hylland	Wood Trucking	231-206-2480
GREG FOWLER	PARKWAY ELECTRIC	greg.fowler@parkwayelectric.com 616-836-1543
Paul Hoekstra	Hoekstra electrical Serv.	paul@hoekstraelectric.net 616-796-9000
David VanderMolen	McCormick Sand Inc.	david@mccormicksand.com 231-766-0466
Mark Shepherd	Quantum Plumbing F&S Electric	msl@quantumco-inc.com 616-690-1631

CLARK
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Professional Construction Services

CHERYL SCALES	PROGRESSIVE AE	616-361-2664 SCALESC@PROGRESSIVEAE.COM
MATT BERTKE	WINDEMULLER	616-299-3702 mbertke@windemuller.us
Scott Janiga	J&J Electrical Services	231-737-3566 ScottJ@JJelectrics.Com
Drew Hansma	Allied Electric	616-791-1164 drew.hansma@alliedelectricinc.com

CLARK Construction Company

Project: 2811 - Muskegon Convention Center BP #2
Sitework and Hotel Electric

Bids Due: July 18 @12:00PM

Name	City, State, Zip	Muskegon Resident (Y/N)	Addendum 1, 2, 3 & 4	Base Bid	Post Bid Addendum 1 Revised cost
Earthwork and Site Utilites					
Accurate Excavating	Muskegon Mi, 49444	Y	Y	$ 949,695.00	$ 849,016.70
Terra Contracting	Muskegon Mi, 49444	Y	Y	$ 1,236,000.00	$ 1,132,510.00
Wood Trucking	Muskegon Mi, 49444	Y	Y	$ 1,450,000.00	$ 1,394,510.00
Hotel Power					
Newkirk Electric	Muskegon Mi, 49444	Y	Y	$ 323,281.00	$ 273,845.00
F&S Electrical Contractors	Wayland Mi, 49348	N	Y	$ 327,600.00	
J&J Electrical Services, Inc	Muskegon Mi, 49444	Y	Y	$ 350,000.00	
Buist Electric	Byron Center MI, 49315	N	Y	$ 441,180.00	
CS Erickson	Grand Haven 49417	N	Y	$ 489,889.00	
Parkway Electric and Communications LLC	Holland Mi, 49424	N	Y	$ 564,586.00	
			Total Proposed:	$1,358,256.00	$ 1,122,861.70

* All contractors are to submit bids that are complete, responsive and without unacceptable qualification. Awarded contractor has undergone an extensive financial & safety background check that Clark Construction and Construction Simplified have deemed acceptable.

CLARK
Construction Company
Professional Construction Services

Concrete Bid Pack

Bid Date 7/25/2019

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CLARK Construction Company

939 Third St. Muskegon, MI 49440
517.372.0940 / 517.372.0668 Fax

Project: Muskegon Convention Center Bid Pack #3

Trade	Company	City
INTEREST	CONCRETE	
BIDDING 7/17	Proline Concrete	Dore, MI 49323
DECLINED 7/25	Burgess Concrete Construction, Inc.	Moline, MI 49335
BIDDING 7/15	VanLaan Concrete Construction, Inc.	Dutton, MI 49316
INTERESTED 5/30, Called 7/17, DECLINED 7/19 - FINANCIALS	~~Van Rosmalen Concrete, Inc.~~	~~Spring Lake, MI 49446~~
BIDDING 7/15	Cascade Cement	Caledonia, MI 49316
DECLINED 7/17 - "WILL NOT SHARE FINANCIALS"	~~R.A. Holmes Construction, Inc.~~	~~Nunica, MI 49448~~
DECLINED 7/25	Schepers Concrete Constrution, LLC	Grand Rapids, MI 49534
DECLINED 7/25	~~Choice Concrete Construction~~	~~Wyoming, MI 49548~~
DECLINED 7/17 - "NOT ENOUGH TIME TO ESTIMATE"	~~Hoonhorst Concrete~~	~~Wyoming, MI 49548~~
BIDDING 7/17	Grand River Construction	Hudsonville
DECLINED 5/30 - "TOO BUSY"	~~Tridonn Construction Co.~~	~~Muskegon~~
DELCINED 7/25	~~Barton Malow~~	~~South Field~~
INTERESTED 1/17, Called 7/17, DECLINED 7/22 - "WILL NOT TRAVEL THAT FAR"	~~Pearson Construction~~	~~Benton Harbor~~
BIDDING 7/17	Kent Companies	Grand Rapids
EMAILED 7/19, Called & EMIALED 7/22	Ron Miedema Concrete	Goegetown
EMAILED 7/19, Called 7/22	Great Lakes Superrior Walls	Hamilton
EMAILED 7/19, Called 7/22	LaVerne Schut Poured Walls	Goergetown
EMAILED 7/19, Called 7/22	B&B Contractors	Belmont
DECLINED 7/22 -"NOT ENOUGH TIME TO BID"	~~Gebbens~~	~~Zeeland~~
EMAILED 7/19, Called & EMAILED 7/22	JDE Concrete	Grandville
EMAILED 7/19, Called 7/22 ONLY DOES FALTWORK	~~Distinctive Concrete~~	~~Goegetown~~
EMAILED 7/19, DELCINED 7/22 - "NOT LARGE ENOUGH"	~~Lucas Concrete Construction~~	~~Grand Rapids~~

CLARK
Construction Company
Professional Construction Services

Muskegon Convention Center – Bid Pack 3 Concrete

Date: 07/16/19

Name	Company name	Email
Michael Cadieux	Grand River Construction	mcadieux@grandriverconstruction.com
Jeremy Hugo	SME	hugo@sme-usa.com
Scott Du Hamel II	Cascade Cement	scott@cascadecement.com

CLARK Construction Company

Project: Muskegon Convention Center
Bids Due: 7/25/19

Name	City, State, Zip	Muskegon Resident (Y/N)	Addendum 1	Base Bid	Total Revise Contract Amount
BP #3 - Concrete					
Cascade Concrete	Cascade Mi, 49316	N	Y	$ 1,258,836.00	$ 1,263,397.60
Kent Companies	Grand Rapids Mi, 49548	N	Y	$ 1,437,620.00	$ 1,437,620.00
Proline Concrete	Dorr Mi, 49323	N	Y	$ 1,551,893.00	N/a
VanLaan Concrete	Dutton Mi, 49316	N	Y	$ 1,598,500.00	N/a
Grand River Construction	Hudsonville Mi, 49426	N	Y	$ 2,154,000.00	N/a
			Total Bid:	$1,258,836.00	$ 1,263,397.60

* All contractors are to submit bids that are complete, responsive and without unacceptable qualification. Awarded contractor has undergone an extensive financial & safety background check that Clark Construction and Construction Simplified have deemed acceptable.