

CITY OF MUSKEGON

CITY COMMISSION MEETING

AUGUST 11, 2020 @ 5:30 P.M.

**MUSKEGON CITY COMMISSION CHAMBERS
933 TERRACE STREET, MUSKEGON, MI 49440**

AGENDA

- ☐ **CALL TO ORDER:**
- ☐ **ROLL CALL:**
- ☐ **HONORS, AWARDS, AND PRESENTATIONS:**
 - A. Tribute to Muskegon Police Department**
 - B. 8 Can't Wait**
- ☐ **PUBLIC COMMENT ON AGENDA ITEMS:**
- ☐ **CONSENT AGENDA:**
 - A. Approval of Minutes City Clerk**
 - B. Amendment to the Temporary Uses Ordinance – 2nd Reading Planning**
 - C. Mobile Food Vending Ordinance Updates-2nd Reading City Clerk**
 - D. Additional Costs-HVAC System at Mercy Health Arena Finance**
 - E. Second Floor Furniture Development Services**
 - F. Brownfield Development and Reimbursement Agreement, Harbor West, LLC Economic Development**
 - G. Concession Agreement – Grand Traverse Pie Company Public Works**
 - H. Holiday Display Items Public Works**
 - I. AWIA (America's Water Infrastructure Act) 2018 Public Works**
 - J. Amity Avenue Water & Sewer Upgrade Public Works**
 - K. Peck Street Water & Sewer Upgrades Public Works**
 - L. Water Supply System Bonds Finance**
 - M. Sanitary Sewer Supply System Bonds Finance**

☐ **PUBLIC HEARINGS:**

- A. Public Hearing on Michigan Natural Resources Trust Fund Application for Campbell Field Public Works

☐ **UNFINISHED BUSINESS:**

- A. Muskegon Central Dispatch Tower Site Lease Agreement Public
Safety – No action requested at this time.

☐ **NEW BUSINESS:**

- A. Designation of Voting Delegates for the Michigan Municipal League Annual Meeting City Clerk
- B. Small Retailer Assistance Program Development Services
- C. Purchase Agreement 1188 4th Street City Manager
- D. Groundwater Ordinance Amendment Planning
- E. City of the Dead Event Planning
- F. Swan Alpha Development Agreement City Manager
- G. 4th Amendment to Lease – Lumberjacks City Manager
- H. Beach Noise and Signage Commissioner Emory

☐ **ANY OTHER BUSINESS:**

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

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

☐ **CLOSED SESSION:**

☐ **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.



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Approval of Minutes
Submitted By: Ann Marie Meisch, MMC	Department: City Clerk
Brief Summary: To approve the minutes of the and July 28, 2020 Regular City Commission meetings.	
Detailed Summary: N/A	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: To approve the minutes.	
For City Clerk Use Only: Commission Action:	

CITY OF MUSKEGON

CITY COMMISSION MEETING

JULY 28, 2020 @ 5:30 P.M.

**MUSKEGON CITY COMMISSION CHAMBERS
933 TERRACE STREET, MUSKEGON, MI 49440
REMOTE MEETING**

MINUTES

The Regular Commission Meeting of the City of Muskegon was held electronically with the Mayor, Vice Mayor and Commissioners participating via Zoom – a remote conferencing service, Clerk staff present at 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, July 28, 2020.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

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

Absent: Commissioner Michael Ramsey

2020-43 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the July 13, 2020 Worksession and July 14, 2020 Regular City Commission meetings.

STAFF RECOMMENDATION: To approve the minutes.

B. FY2020-21 Sewer Rate Resolution Update Finance

SUMMARY OF REQUEST: The FY 2020-21 sewer rate increase as agreed to at the July 13, 2020 Commission Worksession is 5%, this resolution establishes the new rate.

At the June 23, 2020 meeting the Commission approved a 3% sewer rate increase, after further discussion at the July 13, 2020 Worksession, a 5% sewer rate was agreed upon. This resolution establishes the new sewer rate.

STAFF RECOMMENDATION: To adopt the FY2020-21 Sewer Rate Resolution.

C. 9th Street Sewer & Getty Force Main Project – Change Order #001
Public Works

SUMMARY OF REQUEST: Change Order #001 for projects 91852 & 91853 exceeds the staff authorization levels and requires Commission Approval.

Change Order #001 for the 9th Street Sewer & Getty Force Main Project (91852 & 91853 exceeds the staff approval level of \$30,000. The change order includes additional payment for removal of timber obstructions on the bore and jack placement under Shoreline Drive and other minor revisions. The total Change Order value represents an increase of \$35,202.25 which has been reviewed by staff and is recommended.

The original contract value is \$1,899,971.50 The recommended change order represents an increase of 1.8% to the project cost.

The total project budget includes up to a 6% contingency which is not exceeded by this change order. Staff will pursue reductions in project cost on future items to offset the increase.

AMOUNT REQUESTED: \$0 – (Covered by budgeted contingency)

AMOUNT BUDGETED: \$2,217,530.00

FUND OR ACCOUNT: 290-91852/91853

STAFF RECOMMENDATION: Authorize staff to approve Change Order #001 for Project 91852 & 91853.

D. Tetrattech Professional Services Agreement Public Works

SUMMARY OF REQUEST: Filtration plant is requesting approval to enter into professional services agreement with Tetrattech for MCC upgrades at Harvey Booster Station.

The 1960's Motor Control Center (MCC) #1 at Harvey Station requires upgrading because of reliability issues. Upgrading soft starters for constant speed Pumps #1 and #2 to variable frequency drives (VFDs) will add reliability, efficiency and level of service. The scope of work also includes bidding, construction assistance, and programming. Tetra Tech is being recommended since they were the engineer for the control system upgrades project and their familiarity with our system. The funding will come from budgeted item for Harvey Pump Station for \$405,000. Shown as Water Filtration – WRMWA Ineligible in the 20/21 Budget.

AMOUNT REQUESTED: \$31,000 AMOUNT BUDGETED: \$405,000

FUND OR ACCOUNT: 591-60558-5400

STAFF RECOMMENDATION: Authorize staff to enter into professional services agreement with Tetrattech for MCC up grades at Harvey Booster Station for \$31,000.

E. Concession Agreement – Pizza Cone Trolley Public Works

SUMMARY OF REQUEST: Staff is asking permission to enter into a contractual agreement with Greg Bush of “The Pizza Cone Trolley” at Pere Marquette Park.

Staff is asking permission to enter into a Concession Agreement for 2020 with Greg Bush of “The Pizza Cone Trolley” at Pere Marquette Park. Commission from said Concession would be \$300.00 (Prorated for partial season in 2020) plus 5% of Gross Receipts.

STAFF RECOMMENDATION: Authorize staff to enter into a Concession Agreement with Greg Bush of “The Pizza Cone Trolley” at Pere Marquette Park.

F. Concession Agreement – Carlson Almonds Public Works

SUMMARY OF REQUEST: Staff is asking permission to enter into a contractual agreement with Ron Carlson of “Carlson Almonds” at Pere Marquette Park.

Staff is asking permission to enter into a Concession Agreement for 2020 with Ron Carlson of “Carlson Almonds” at Pere Marquette Park. Commission from said Concession would be \$300.00 (prorated for partial season in 2020) plus 5% Gross Receipts.

STAFF RECOMMENDATION: Authorize staff to enter into a Concession Agreement with Ron Carlson of “Carlson Almonds” at Pere Marquette Park.

G. Vehicle Replacement DPW/Equipment

SUMMARY OF REQUEST: The Equipment Division is requesting permission to purchase two (2) Chevy Impalas from Betten Chevrolet for police administration vehicle replacement. The cost for the two vehicles will be \$51,053.36

One vehicle was scheduled to be replaced in the current budget year and the second, to be reforecast, after insurance payout for the first quarter. This vehicle was involved in a “not at fault” accident and was totaled out by the insurance company, it is being replaced immediately because of GM stopping production of the Impala line, making them very hard to find. We were very fortunate to find two at our local dealer as they are no longer available through MiDeal.

With the rent already collected on the wrecked vehicle and the insurance payout we will have money in the Equipment budget for this purchase.

AMOUNT REQUESTED: \$51,053.36

AMOUNT BUDGETED: \$25,000 + TBD Insurance

FUND OR ACCOUNT: 661-60932

STAFF RECOMMENDATION: Authorize staff to move forward with purchase.

H. 2020 Byrne JAG Grant Public Safety

SUMMARY OF REQUEST: Approval to enter into a MOU with the County of Muskegon and the City of Muskegon Heights for the 2020 JAG Grant like

previous years. The City of Muskegon will continue to act as fiduciary and receive \$17,866, the City of Muskegon Heights would be our sub-awardee and receive \$15,130 and the County of Muskegon would not receive funding. There is no match requirement for this grant. The City of Muskegon's portion of this grant will be used in continuation of the manner in previous years where it is used for prosecution of city ordinance cases dealing primarily with neighborhood issues.

STAFF RECOMMENDATION: Approve the MOU for the 2020 Byrne JAG Grant.

I. Cooperative Mutual Aid Fire Control Agreement Public Safety

SUMMARY OF REQUEST: This is to request the City of Muskegon enter into agreement with the Michigan Department of Natural Resources (DNR), the Cooperative Mutual Aid Fire Control Agreement as described under Public Act 7 of 1967 and Part 515 of Act 451 of 1994, as amended.

This agreement will give the City access to the Department of Defense (DoD) "Firefighter Program Property" for local fire department's use. In short, the agreement gives the City access to wildland firefighting equipment at no cost. The City currently protects 1,784 acres of public land and 1,824 acres of vacant land with few resources to fight wildland fires. The fire department would like the ability to apply for wildland firefighting equipment to enhance the protection of vacant and wildland properties.

STAFF RECOMMENDATION: Enter into agreement with the DNR's Cooperative Mutual Aid Fire Control Agreement.

K. Purchase Agreement 1188 4th Street City Manager

SUMMARY OF REQUEST: City staff is seeking authorization to enter into the purchase agreement with LeighAnn Mikesell, a City of Muskegon employee.

1188 4th Street was a regular area of concern among neighbors. In an attempt to help mitigate the concerns, the City purchased the property and completed a renovation. The property was listed on the MLS for \$229,900; an offer was accepted for \$225,000. Staff is seeking permission to approve the purchase agreement and complete the sale. Note that this property is part of the scattered site brownfield project. Any difference in sales price and renovation cost will be recovered via tax capture.

In order to comply with state and local conflict of interest concerns, Ms. Mikesell has submitted a letter to the mayor disclosing her interest in the property and outlining the benefits of this sale to her and to the City. The letter has been noticed to the public along with the agenda for the commission meeting.

The sale can only be approved by a unanimous vote of all commissioners.

If approved, the minutes of the commission meeting must disclose the name of each party involved in the contract, the terms of the contract, the nature of the

financial interest of the public servant with the conflict, and that the sale is in the best interests of the City.

STAFF RECOMMENDATION: Declare that the sale is in the best interest of the City to sell the property to Ms. Mikesell and authorize the City Manager to sign the purchase agreement and complete the sale.

Motion by Commissioner Rinsema-Sybenga second by Commissioner Johnson, to approve the consent agenda as presented, except item J.

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

Nays: None

MOTION PASSES

2020-44 REMOVED FROM CONSENT AGENDA:

J. Lakeview Lofts Phase II Bridge Loan Economic Development

SUMMARY OF REQUEST: The developers at Lakeview Lofts have run into COVID-19 related delays and impacts from MEDC related to their contribution to the capital stack for the second building on Western Avenue. The project has a reservation for some crucial components and are requesting a bridge loan from the Economic Development Fund to keep the project on schedule.

Lakeview Lofts Phase II has a capital stack that includes financing from both PNC Bank and the Michigan Economic Development Corporation. The MEDC has previously issued a letter of intent (LOI) that expired during the pandemic due to PNC Bank holding up their end of the financing. Since then, MEDC has been very slow to reissue the LOI and has held up the process to a point that the developers are at risk of losing their reservation for commercial concrete and foundation construction. If this occurs, the project will be pushed to next year, and the PNC portion of the financing will be lost as a portion is Opportunity Fund investments which must be committed by the end of the calendar year. This would endanger the project in total, which consists of 35 apartments and a new restaurant space. Staff recommends granting the loan as applied for, with a maximum interest free term of 6 months. If 6 months is exceeded, retroactive interest payments of prime plus 2% should be added to the principal, and default may be pursued by the City of Muskegon.

AMOUNT REQUESTED: \$450,000

AMOUNT BUDGETED: N/A, Capital Funding

FUND OR ACCOUNT: Economic Development Revolving Fund

STAFF RECOMMENDATION: Motion to approve Economic Development Loan to 351 II LLC in the amount of \$450,000 for a term not to exceed 180 days, and with immediate lump sum repayment upon execution of other project financing.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to approve Economic Development Loan to 351 II LLC in the amount of \$450,000 for a term not to exceed 180 days, and with immediate lump sum repayment upon execution of other project financing.

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

Nays: None

MOTION PASSES

2020-45 PUBLIC HEARINGS:

A. Infill Housing Project Brownfield Public Hearing Economic Development

SUMMARY OF REQUEST: To hold a public hearing and approve the resolution which seeks to adopt an amendment to the Brownfield Plan (city's Infill Housing Project, 1st Amendment) On July 14, 2020 the BRA approved the Plan amendment and further recommends that the Muskegon City Commission approve the Plan Amendment.

City staff has prepared a brownfield plan to include 108 eligible parcels, primarily located within the Nelson and Jackson Hill Neighborhoods, that will facilitate the development of new affordable housing opportunities at eligible properties. Activities include the redevelopment and rehabilitation of subject parcels; construction of new residential units; possible demolition of the former Froebel school in order to redevelop that property with residential units; and public infrastructure at the former farmers market to add additional residential units. Brownfield TIF to reimburse developer for "eligible expenses" in the redevelopment and rehabilitation on 108 eligible parcels; after lot splits, total of 249 parcels for redevelopment. Plan Amendment eligible activities: \$3,880,000 for cost of sale; \$1,200,000 for demolition and abatement; \$777,000 for public infrastructure; \$20,000 for Brownfield Plan Preparation and Development; \$881,550 in contingency fees (15%); \$6,758,550 – total eligible activities to be paid under this Plan. End of 2023 for estimated completion date of the homes associated with Project. After all eligible costs incurred by the various parties are reimbursed, BRA is authorized to continue to capture local taxes for five more years for deposit into a Local Site Remediation Revolving Fund.

STAFF RECOMMENDATION: To close the public hearing and approve the resolution of the Brownfield Plan Amendment for the city's Infill Housing Project (1st Amendment).

PUBLIC HEARING COMMENCED: No public comments received.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to close the public hearing and approve the resolution of the Brownfield Plan Amendment for the City's Infill Housing Project (1st Amendment).

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

Nays: None

MOTION PASSES

2020-46 NEW BUSINESS:

A. West Urban Properties Agreement City Manager

SUMMARY OF REQUEST: In June, the City Commission accepted a Letter of Intent from West Urban Properties and authorized the city manager and city attorney to finalize a development agreement. The proposed development agreement is attached and recommended for approval.

We are proposing the framework of a Pilot program that we would use to initially partner with West Urban Properties to construct 100 units on vacant city lots. As part of the program, either the City of West Urban Properties may choose to stop home construction prior to the completion of the 100 homes. The program is expected to be applicable to many different builders/developers and many different housing types and densities. As the City tries to reverse 40+ years of neighborhood disinvestment, it is important that we acknowledge the areas that make us less-attractive for development than urban areas. Some of those items are more in our control than others. This program focuses strictly on developer return on investment – with the goal of the city acting as a partner to help ensure that a major investment in rental housing neither fails to cashflow nor causes unreasonable increases in local rents. Many times, affordability and profitability contradict one another – this Pilot Program is designed to help attain both.

STAFF RECOMMENDATION: To authorize the City Manager to sign the Development Agreement.

Motion by Commissioner Rinsema-Sybenga, second by Johnson, to authorize the City Manager to sign the Development Agreement.

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

Nays: None

MOTION PASSES

B. Amendment to the Temporary Uses Ordinance Planning

SUMMARY OF REQUEST: Staff initiated request to amend section 2324 of the zoning ordinance to allow mobile food vending as a temporary use.

The Planning Commission unanimously voted in favor of the ordinance amendment.

STAF RECOMMENDATION: To approve the amendments to the temporary uses zoning ordinance.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to approve amendments to the zoning ordinance.

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

Nays: None

MOTION PASSES

SECOND READING REQUIRED

C. Mobile Food Vending Ordinance Updates City Clerk

SUMMARY OF REQUEST: Interest in operating food trucks in the City has increased since the initial passage of the Mobile Food Vending Ordinance in 2014. Based on community and Commission feedback, staff has identified some language updates to more effectively regulate mobile food vendors and areas they operate.

The City Commission held work sessions to update the mobile food vending ordinance on February 10 and March 9. Based on the feedback received from the community and Commission, the following changes are before you for recommended approval:

Regulatory Ordinance

Changes to Chapter 50 include requiring proof of permission to be on private property, compliance with fire safety and all other legal requirements (including health department inspections and licenses), and display of city license. The updates also include a change to allow temporary approval by the City Clerk to allow overnight parking on public property or streets and a clarification that a mobile food vendor cannot operate on public or private property within 1,000 of an event or the Farmers Market during market hours. As requested, a map showing this distance is attached. The required distance from brick and mortars is increased to 100 ft as measured from the service window to the lot line. A formal complaint, revocation, and appeals process was also added. A red lined copy of all these changes is attached.

Public Areas and Streets

Allowing mobile food vending on private property in B-2, B-4, LR, WM, I-1, I-2, MC and all Form Based Code context areas except Urban Residential and Lakeside Residential was added and addressed through the amendment to the temporary uses in the Zoning Ordinance.

A resolution allowing mobile food vendors on public property and streets in the same areas is attached along with rescinding the previously identified areas.

STAFF RECOMMENDATION: Motion to amend and adopt Chapter 50, Article VIII Section 50-303 through 50-305 and approve the resolution for mobile food vending in public areas.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to approve and adopt Chapter 50, Article VIII Section 50-303 through 50-305 and approve the resolution for mobile food vending in public areas.

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

Nays: None

MOTION PASSES

SECOND READING REQUIRED

ANY OTHER BUSINESS: A brief discussion took place regarding the purchase of gift cards. The city attorney will be reviewing documents and investigating this issue and will provide a report to the City Commission.

Congressman John Lewis was recognized and remembered, he passed away recently and will be remembered as a leader of the civil rights movement.

PUBLIC COMMENT: Public comments were received.

ADJOURNMENT: The City Commission meeting adjourned at 7:37 p.m.

Respectfully Submitted,

Ann Marie Meisch – MMC, City Clerk

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Amendment to the Temporary Uses Ordinance – 2 nd Reading
Submitted By: Mike Franzak	Department: Planning
Brief Summary: Staff initiated request to amend section 2324 of the zoning ordinance to allow mobile food vending as a temporary use.	
Detailed Summary: The Planning Commission unanimously voted in favor of the ordinance amendment.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the amendments to the zoning ordinance.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action	

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend Section 2324 of the Zoning Ordinance to allow mobile food vending as a temporary use permitted.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

NEW LANGUAGE (additions in bold)

SECTION 2324: TEMPORARY BUILDINGS, STRUCTURES AND USES

I. Mobile Food Vending: Mobile food vending options permitted by City Ordinance Sec. 50-301 thru 50-304 may be temporarily located in B-2, B-4, LR, WM, I-1, I-2 districts and all Form Based Code context areas except Urban Residential and Lakeside Residential; under the following conditions:

- (1) Food trucks and trailers must be placed at least ten feet away from any principal structure and at least five feet from any lot line. They may be placed on grass, pavement or in the parking lot, but may not impede proper vehicular flow on the site.
- (2) Trash receptacles must be located on site.
- (3) Permits for mobile food vending between 1 and 89 days will be reviewed administratively.
- (4) Permits for mobile food vending between 90 days and one year will require the notification of all properties within 300 feet. If no concerns are received within 15 days, the permit application will be reviewed administratively. If there are concerns, a public hearing at the Planning Commission will be required. Administrative and Planning Commission reviews must use the following review standards:
 - i. Will the use contribute to the vitality and experience of the business district?
 - ii. Will the use support or detract from existing brick and mortar establishments?
 - iii. Is there an appropriate separation distance between temporary and permanent uses so as to not impair the long-term viability of nearby businesses?
 - iv. Will the use add variety to the types of food or beverage offerings in the district or compete with area businesses in close proximity?
 - v. Will the proposed mobile food vendor contribute to the general aesthetic of the business district and include high quality materials and finishes?

This ordinance adopted:

Ayes: _____

Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____
Ann Meisch, MMC, City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 28th day of July 2020, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2006, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2020.

Ann Meisch, MMC

Clerk, City of Muskegon

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

CITY OF MUSKEGON
NOTICE OF ADOPTION

Please take notice that on August 11, 2020, the City Commission of the City of Muskegon adopted an ordinance to amend Section 2321 of the Zoning Ordinance to the Form Based Code Section of the Zoning Ordinance to allow mobile food vending as a temporary use permitted.

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

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

Published _____, 2020.

CITY OF MUSKEGON

By _____

Ann Meisch, MMC

City Clerk

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

Account No. 101-80400-5354

Planning Commission Excerpt:

Hearing, Case 2020-12: Staff initiated request to amend section 2324 of the zoning ordinance to allow mobile food vending as a temporary use.

SUMMARY

1. Please see Section 2324 of the zoning ordinance (enclosed). This section allows for temporary buildings, structures and uses.
2. Mobile food vending is allowed by Sec. 50-301 thru 50-304 of the City Ordinances (enclosed). However, it was initially developed to allow food vendors in the City right-of-way. Since its inception, it has mainly been utilized by vendors on private property. The City Commission has asked the Planning Commission to develop an ordinance that dictates where they may locate, their placement on site and how long they may be permitted.

Proposed Addition to Section 2324.

- I. Mobile Food Vending: Mobile food vending options permitted by City Ordinance Sec. 50-301 thru 50-304 may be temporarily located in B-2, B-4, LR, WM, I-1, I-2 districts and all Form Based Code context areas except Urban Residential and Lakeside Residential; under the following conditions:
 - (1) Food trucks and trailers must be placed at least ten feet away from any principal structure and at least five feet from any lot line. They may be placed on grass, pavement or in the parking lot, but may not impede proper vehicular flow on the site.
 - (2) Trash receptacles must be located on site.
 - (3) Permits for mobile food vending between 1 and 89 days will be reviewed administratively.
 - (4) Permits for mobile food vending between 90 days and one year will require the notification of all properties within 300 feet. If no concerns are received within 15 days, the permit application will be reviewed administratively. If there are concerns, a public hearing at the Planning Commission will be required. Administrative and Planning Commission reviews must use the following review standards:
 - i. Will the use contribute to the vitality and experience of the business district?
 - ii. Will the use support or detract from existing brick and mortar establishments?
 - iii. Is there an appropriate separation distance between temporary and permanent uses so as to not impair the long-term viability of nearby businesses?

- iv. Will the use add variety to the types of food or beverage offerings in the district or compete with area businesses in close proximity?
- v. Will the proposed mobile food vendor contribute to the general aesthetic of the business district and include high quality materials and finishes?

SECTION 2324: TEMPORARY BUILDINGS, STRUCTURES AND USES [amended 11/10]

Temporary uses, buildings and structures, not used for dwelling purposes, may be placed on a lot or parcel and occupied only under the following conditions as authorized by the Zoning Administrator.

1. Only the following temporary uses, buildings or structure are permitted:
 - a. Fire Damage: A temporary building or structure may be constructed during renovation of a permanent building damaged by fire. The temporary building or structure shall be removed within fifteen (15) days after the repair of fire damage is complete. Permits issued under this section shall be for a one hundred and eighty (180) day duration.
 - b. New Construction: Temporary buildings and structures incidental to construction work, except those related to construction of single-family dwellings, may be placed on the developing tract or parcel during construction. No cooking accommodations shall be maintained. Said temporary buildings shall be removed within fifteen (15) days after construction is complete. The structure shall not be allowed more than twelve (12) months, unless expressly authorized after petition to the Zoning Administrator.
 - c. Erosion Control: Temporary fencing used for erosion control, silt screening and other conventional types of temporary erosion structures may only be used for the purpose of temporarily controlling the unwanted movement of top soil or sand on a parcel of land. These temporary structures must be removed within 15 days after conditions causing the soil erosion, or unwanted movement, are eliminated or have subsided. Bonafide public works projects may use temporary fencing and other control methods as required to accomplish the task at hand. [amended 11/10]
 - d. Temporary Classrooms: Up to four temporary classrooms may be permitted for private schools with expansion needs. Said classrooms shall meet local codes and ordinances. Said buildings shall be removed within fifteen (15) days after construction of any permanent structure intended for expansion purposes is complete. The temporary classrooms shall not be allowed more than eighteen (18) months, unless expressly authorized after petition to the Zoning Administrator.
 - c. Temporary Real Estate Offices: Temporary Real Estate Offices are permitted within approved development projects. No cooking accommodations shall be maintained. -The office shall be removed upon completion of the development of the subdivision. The office shall not be

- c. If the applicant removes the temporary structure as dictated by the permit the performance guarantee shall be returned when all the terms and conditions of the temporary zoning permit have been met and the temporary use or structure has been removed.
3. Temporary Zoning Permit: A temporary zoning permit may be required by the Zoning Administrator for any proposed temporary use, building or structure, except those already covered by the City's Special Events procedure, Fire Code, or Transient Merchants procedure. Any temporary zoning permit may be approved, modified, conditioned or denied by the Zoning Administrator. The Zoning Administrator may refer an application for a temporary zoning permit to the Planning Commission.
- a. A written temporary zoning permit may be issued for any temporary use, except those already covered by the City's Special Events procedure, Fire Code, or Transient Merchants procedure, and shall contain the following information:
 - i The applicant's name
 - ii The location and effective dates of the temporary use
 - iii Conditions under which the permit was issued, included but not limited to:
 - (1) use and placement of signs
 - (2) provision for security and safety measures
 - (3) control of nuisance factors.
 - iv Submission of performance guarantee, if applicable
 - v Signature of the Zoning Administrator and owner and/or operator on the permit.
 - b. The zoning administrator may impose conditions with the issuance of a permit which are designed to ensure compliance with the requirements of this Ordinance. The Zoning Administrator may revoke a permit at any time for nonconformance with the requirements of this section and a permit issued thereunder.
 - c. Request for permit renewal shall be filed at least fifteen (15) days prior to the expiration date of the current permit. Applications for renewal or extension of a permit having a duration of fifteen (15) days or less shall be

5. Appeal: An appeal of a decision by the Zoning Administrator relative to denial of a temporary use, building or structure or of a temporary zoning permit or renewal thereof may be taken to the Zoning Board of Appeals pursuant to Section XXV of this Ordinance.
6. Habitation of Accessory Structures and Travel Trailers: No recreational vehicle or travel trailer, fixed or portable garage, barn, ~~or~~ accessory buildings, or cellar shall be used or occupied as a dwelling.

(b) All such required reports shall be submitted electronically using the services of an electronic reporting service company selected by the city. All such filings shall comply with all requirements regarding the specific information to be supplied and time frame for doing so, as outlined within the applicable state statute. Each transaction report shall include a digital photograph of the article attached to the electronic transfer. (Ord. No. 2311, § 50-202, 5-14-2013)

Sec. 50-203. Penalty.

If a pawn broker, secondhand or junk dealer, or a precious metal/gem dealer does not comply with this article and/or any applicable state law, their license may be revoked for a period of up to one year. In addition, violation of this article shall result in the imposition of a civil fine, pursuant to section 46-204. (Ord. No. 2311, § 50-203, 5-14-2013)

Secs. 50-204—50-300. Reserved.

→ ARTICLE VIII. MOBILE FOOD VENDING ORDINANCE

Sec. 50-301. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mobile food stand means a stand which may upon issuance of a license by the city clerk and conformance with the regulations established by this article may temporarily park and engage in the service, sale, or distribution of ready to eat food for individual portion service to the general public directly from the stand.

Mobile food trailer means a vehicle which may upon issuance of a license by the city clerk and conformance with the regulations established by this article may temporarily park and engage in the service, sale, or distribution of ready to eat food for individual portion service to the general public directly from the trailer.

Mobile food vehicle means a motorized vehicle which may upon issuance of a license by the city

clerk and conformance with the regulations established by this article may temporarily park and engage in the service, sale, or distribution of ready to eat food for individual portion service to the general public directly from the vehicle.

Mobile food vehicle vendor means the registered owner of a mobile food vehicle or the owner's agent or employee; and referred to in this article as "vendor". (Ord. No. 2321, § 50-301, 4-22-2014)

Sec. 50-302. Scope.

The provisions of this article apply to mobile food vehicles/trailers/stands engaged in the business of cooking, preparing and distributing food or beverage with or without charge upon or in public and private restricted spaces. This article does not apply to vehicles which dispense food and that move from place to place and are stationary in the same location for no more than 30 minutes at a time, such as ice cream trucks. (Ord. No. 2321, § 50-302, 4-22-2014; Ord. No. 2336, 3-24-2015)

Sec. 50-303. License required.

(a) It shall be unlawful for any person, including any religious, charitable or nonprofit organization, to operate within the city a mobile food vehicle/trailer/stand without having obtained from the city clerk a license for that purpose.

(b) A person desiring to operate a mobile food vehicle/trailer/stand shall make written application for such license to the city clerk. The application for a license shall be on forms provided by the city clerk.

(c) Proof of insurance in the amount of \$1,000,000.00 naming the city as additional insured must be provided.

(d) All vendors receiving a license under this article shall pay the monthly fee as set by the fee resolution.

(e) A license is valid for one vehicle/trailer/stand only and shall not be transferred between vehicles. (Ord. No. 2321, § 50-303, 4-22-2014)

Sec. 50-304. Regulations.

(a) No operator of a mobile food vehicle/trailer/stand shall park, stand or move a vehicle and conduct business within areas of the city where the license holder has not been authorized to operate. The city commission shall by resolution identify those streets and public areas where parking by mobile food vehicles/trailers/stands is permitted.

(b) The customer service area for mobile food vehicles/trailers/stands shall be on the side of the truck that faces a curb, lawn or sidewalk when parked on a street or right-of-way. No food service shall be provided on the driving lane side of the vehicle/trailer/stand when parked on a street or right-of-way. No food shall be prepared, sold, or displayed outside of mobile food vehicles/trailers/stands when located on a city street or right-of-way.

(c) No mobile food stand may be larger than ten feet by ten feet nor more than 75 square feet in size. A five foot clearance must be maintained on all sides of the stand within the maximum space allotted.

(d) Customers shall be provided with single service articles such as plastic utensils and paper plates and a waste container for their disposal. All mobile food vehicle vendors shall offer a waste container for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of mobile food vehicles/trailers/stands shall be collected and disposed of off-site by the operators each day. Spills of food or food by-products shall be cleaned up, and no dumping of gray water on the streets is allowed.

(e) No mobile food vehicle/trailer/stand shall make or cause to be made any unreasonable or excessive noise. The operation of all mobile food vehicles/trailers/stands shall meet the city noise ordinance, including generators. No loud music, other high-decibel sounds, horns, or amplified announcements are allowed.

(f) Signage is only allowed when placed on mobile food vehicles/trailers/stands. No separate freestanding signs are permitted on city streets, right-of-ways, or city-owned property.

(g) No flashing or blinking lights, or strobe lights are allowed on mobile food vehicles/trailers/stands or related signage when the vehicle/trailer/stand is parked and engaged in serving customers. All exterior lights with over 60 watts shall contain opaque, hood shields to direct the illumination downward.

(h) Mobile food vehicles/trailers/stands when parked on public streets shall be parked in conformance with all applicable parking restrictions, and shall not hinder the lawful parking or operation of other vehicles.

(i) A mobile food vehicle/trailer/stand shall not be parked on the street between the hours of 3:00 a.m. and 6:00 a.m. or left unattended and unsecured at any time. Any mobile food vehicle/trailer/stand found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

(j) A vendor shall not operate within 1,000 feet of any city approved special event or leased park, unless the vendor has obtained permission from the event sponsor and or lessee. This license also does not allow for the sale of goods or services at any city-owned park/facility or farmer's market without a permit from the city.

(k) The issuance of a mobile food vehicle/trailer/stand license does not grant or entitle the vendor to the exclusive use of any service route or parking space to the license holder.

(l) A vendor shall not operate on private property without first obtaining written consent to operate from the affected private property owner. A private property owner shall not permit parking by a mobile food vehicle/trailer/stand until a license has been obtained to allow for such use.

(m) No mobile food vehicle/trailer/stand shall use external signage, bollards, seating or other equipment not contained within the vehicle when parked on city streets or right-of-ways. When extended, awnings for mobile food vehicles/trailer/stand shall have a minimum clearance of seven feet between the ground level and the lowest point of the awning or support structure.

(n) Any power required for the mobile food vehicle/trailer/stand located on a public way shall be self-contained and a mobile food vehicle/trailer/stand shall not use utilities drawn from the public right-of-way. Mobile food vehicles/trailers/stands on private property may use electrical power from the property being occupied or an adjacent property, but only when the property owner provides written consent to do so. All power sources must be self-contained. No power cable or equipment shall be extended at or across any city street, alley sidewalk, or right-of-way.

(o) Mobile food vehicles/trailers/stands shall not be parked within 50 feet of an existing brick and mortar restaurant during the hours when such restaurant is open to the public for business, or closer than 50 feet from another approved mobile food vehicle/trailer/stand unless the vendor has obtained permission from the restaurant. (Ord. No. 2321, § 50-304, 4-22-2014; Ord. No. 2336, 3-24-2016)

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 08/11/2020	Title: Mobile Food Vending Ordinance Updates - 2nd Reading
Submitted By: Ann Meisch	Department: City Clerk
Brief Summary: Interest in operating food trucks in the City has increased since the initial passage of the Mobile Food Vending Ordinance in 2014. Based on community and Commission feedback, staff has identified some language updates to more effectively regulate mobile food vendors and areas they operate.	
Detailed Summary: The City Commission held work sessions to update the mobile food vending ordinance on February 10 and March 9. Based on the feedback received from the community and Commission, the following changes are before you for recommended approval: Regulatory Ordinance Changes to Chapter 50 include requiring proof of permission to be on private property, compliance with fire safety, code, and all other legal requirements (including health department inspections and licenses), and display of city license. The updates also include a change to allow temporary approval by the City Clerk to allow overnight parking on public property or streets and a clarification that a mobile food vendor cannot operate on public or private property within 1,000 of an event or the Farmers Market during market hours. As requested, a map showing this distance is attached. The required distance from brick and mortars is increased to 100 ft as measured from the service window to the lot line. A formal complaint, revocation, and appeals process was also added. A red lined copy of all these changes is attached. Public Areas and Streets Allowing mobile food vending on private property in B-2, B-4, LR, WM, I-1, I-2, MC and all Form Based Code context areas except Urban Residential and Lakeside Residential was added and addressed through the amendment to the temporary uses in the Zoning Ordinance. A resolution allowing mobile food vendors on public property and streets in the same areas is attached along with rescinding the previously identified areas.	
Amount Requested: None	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: Motion to amend and adopt Chapter 50, Article VIII Sections 50-303 through 50-305 and approve the resolution for mobile food vending in public areas.	

Check if the following Departments need to approve the item first:

Police Dept. ☐

Fire Dept. ☐

IT Dept. ☐

For City Clerk Use Only:

Commission Action:

**City of Muskegon
Muskegon, Michigan
Ordinance No. ____**

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

Mobile Food Vending Ordinance.

Chapter 50, Article VIII, Mobile Food Vending Ordinance, Sections 50-303 through 50-305, of the Code of Ordinances of the City of Muskegon is amended and adopted as follows:

Sec. 50-301. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mobile food stand means a stand which may upon issuance of a license by the city clerk and conformance with the regulations established by this article may temporarily park and engage in the service, sale, or distribution of ready to eat food for individual portion service to the general public directly from the stand.

Mobile food trailer means a vehicle which may upon issuance of a license by the city clerk and conformance with the regulations established by this article may temporarily park and engage in the service, sale, or distribution of ready to eat food for individual portion service to the general public directly from the trailer.

Mobile food vehicle means a motorized vehicle which may upon issuance of a license by the city clerk and conformance with the regulations established by this article may temporarily park and engage in the service, sale, or distribution of ready to eat food for individual portion service to the general public directly from the vehicle.

Mobile food vehicle vendor means the registered owner of a mobile food vehicle or the owner's agent or employee; and referred to in this article as "vendor".

Sec. 50-302. Scope.

The provisions of this article apply to mobile food vehicles/trailers/stands engaged in the business of cooking, preparing and distributing food or beverage with or without charge upon or in public and private restricted spaces. This article does not apply to vehicles which dispense food and that move from place to place and are stationary in the same location for no more than 30 minutes at a time, such as ice cream trucks.

Sec. 50-303. License required.

- (a) It shall be unlawful for any person, including any religious, charitable or nonprofit organization, to operate within the city a mobile food vehicle/trailer/stand without having obtained from the city clerk a license for that purpose.
- (b) A person desiring to operate a mobile food vehicle/trailer/stand shall make written application for such license to the city clerk. The application for a license shall be on forms provided by the city clerk.
- (c) Proof of insurance in the amount of \$1,000,000.00 naming the city as additional insured must be provided.
- ~~(e)~~(d) Proof of permission from the property or business owner shall be provided for any mobile food vehicle/trailer/stand operating on private property.
- (e) All vendors receiving a license under this article shall pay the ~~monthly~~ annual fee as set by the fee resolution.
- ~~(d)~~(f) All vendors shall receive written consent of fire safety compliance from the Muskegon Fire Department and code compliance from the Building Safety Department.
- (g) A license is valid for one vehicle/trailer/ stand only, shall be prominently displayed, and shall not be transferred between-vehicles.
- ~~(e)~~(h) A license obtained under this Chapter shall not relieve any vendor of the responsibility for obtaining any other permit or license or authorization required by any other ordinance, statute or administrative rule.

Sec. 50-304. Regulations.

- (a) No operator of a mobile food vehicle/trailer/ stand shall park, stand or move a vehicle and conduct business within areas of the city where the license holder has not been authorized to operate. Areas for mobile food vehicles/trailers/stands to operate on private property shall be set by the Zoning Ordinance. The city commission shall by resolution identify those streets and public areas where parking by mobile food vehicles/trailers/stands is permitted.
- (b) The customer service area for mobile food vehicles/trailers/stands shall be on the side of the truck that faces a curb, lawn or sidewalk when parked on a street or right-of-way. No food service shall be provided on the driving lane side of the vehicle/trailer/stand when parked on a street or right-of-way. No food shall be prepared, sold, or displayed outside of mobile food vehicles/trailers/ stands when located on a city street or right-of-way.
- (c) No mobile food stand may be larger than ten feet by ten feet nor more than 75 square feet in size. A five foot clearance must be maintained on all sides of the stand within the maximum space allotted.
- (d) Customers shall be provided with single service articles such as plastic utensils and paper plates and a waste container for their disposal. All mobile food vehicle vendors shall offer a waste container for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of mobile food vehicles/trailers/stands shall be collected and disposed of off-site by the operators each day. Spills of food or food by-products shall be cleaned up, and no dumping of gray water on the streets is allowed.

- (e) No mobile food vehicle/trailer/stand shall make or cause to be made any unreasonable or excessive noise. The operation of all mobile food vehicles/trailers/stands shall meet the city noise ordinance, including generators. No loud music, other high-decibel sounds, horns, or amplified announcements are allowed.
- (f) Signage is only allowed when placed on mobile food vehicles/trailers/stands. No separate freestanding signs are permitted on city streets, right-of-ways, or city-owned property.
- (g) No flashing or blinking lights, or strobe lights are allowed on mobile food vehicles/trailers/stands or related signage when the vehicle/trailer/stand is parked and engaged in serving customers. All exterior lights with over 60 watts shall contain opaque, hood shields to direct the illumination downward.
- (h) Mobile food vehicles/trailers/stands when parked on public streets shall be parked in conformance with all applicable parking restrictions, and shall not hinder the lawful parking or operation of other vehicles.
- (i) Unless granted temporary approval by the city clerk, A a mobile food vehicle/trailer/stand shall not be parked on the street or public property between the hours of 3:00 a.m. and 6:00 a.m. or left unattended and unsecured at any time. Any mobile food vehicle/trailer/stand found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.
- (j) A vendor shall not operate on public or private property within 1,000 feet of any city approved special event, farmer's market during market hours, -or leased park, unless the vendor has obtained permission from the event sponsor and or lessee. This license also does not allow for the sale of goods or services at any city-owned park/facility or farmer's market without a permit from the city.
- (k) The issuance of a mobile food vehicle/trailer/stand license does not grant or entitle the vendor to the exclusive use of any service route or parking space to the license holder.
- (l) A vendor shall not operate on private property without first obtaining written consent to operate from the affected private property owner. A private property owner shall not permit parking by a mobile food vehicle/trailer/stand until a license has been obtained to allow for such use.
- (m) -No mobile food vehicle/trailer/stand shall use external signage, bollards, seating or other equipment not contained within the vehicle when parked on city streets or right-of-ways. When extended, awnings for mobile food vehicles/trailer/stand shall have a minimum clearance of seven feet between the ground level and the lowest point of the awning or support structure.
- (n) Any power required for the mobile food vehicle/trailer/stand located on a public way shall be self-contained and a mobile food vehicle/trailer/stand shall not use utilities drawn from the public right-of-way. Mobile food vehicles/trailers/stands on private property may use electrical power from the property being occupied or an adjacent property, but only when the property

owner provides written consent to do so. All power sources must be self-contained. No power cable or equipment shall be extended at or across any city street, alley sidewalk, or right-of-way.

(o) Mobile food vehicles/trailers/stands shall not be parked within 50 100 feet of an existing brick and mortar restaurant's lot line (as measured from the service window to the lot line)- during the hours when such restaurant is open to the public for business, or closer than 50 feet from another approved mobile food vehicle/trailer/stand unless the vendor has obtained permission from the restaurant or mobile food vehicle/trailer/stand.

Sec. 50-305. Complaints, Revocation, and Appeals.

- (a) If a written complaint is filed with the city clerk alleging that a vendor has violated the provisions of this Chapter, the city clerk shall promptly send a copy of the written complaint to the vendor together with a notice that an investigation will be made as to the truthfulness of the complaint. During the investigation, the vendor shall be invited to respond to the complaint, present evidence and respond to any evidence discovered during the investigation. If the city clerk, after reviewing all relevant material, finds the complaint is supported by a preponderance of the evidence, the city clerk shall certify the complaint.
- (b) The city clerk may revoke the permit of any vendor who fails to meet any requirement of this Chapter or violates any other federal, state or local law, makes a false statement on their application, or takes part in any activity adverse to the protection of the public health, safety and welfare. Immediately upon such revocation, the city clerk shall provide written notice to the vendor by certified mail to their place of Business or residence as indicated on the application. Immediately upon such revocation the permit shall become null and void.
- (c) If a license is denied or revoked by the city clerk, the vendor may appeal to and have a hearing before the City Manager. Within 30 days, the city manager shall make a written determination, after presentation by the vendor and the city clerk as to whether or not the grounds for denial, revocation or complaint are valid. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of the city clerk or filing of the complaint shall be sustained. The applicant or licensee may then appeal the City Manager's decision to a court of competent jurisdiction.

Absent:

Adoption Date:

Effective Date:

First Reading:

Second Reading:

CITY OF MUSKEGON

By: _____
Ann Marie Meisch, MMC, Its Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the ____ day of _____, 2020, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted, and public notice was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2020

Ann Marie Meisch, MMC
Clerk, City of Muskegon

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

City of Muskegon
Resolution
Mobile Food Vending in Public Areas

2020-

WHEREAS; Chapter 50-304(a) of the Mobile Food Vending Ordinance states the City Commission shall by resolution identify streets and public areas where parking by mobile food vehicles/trailers/stands is permitted;

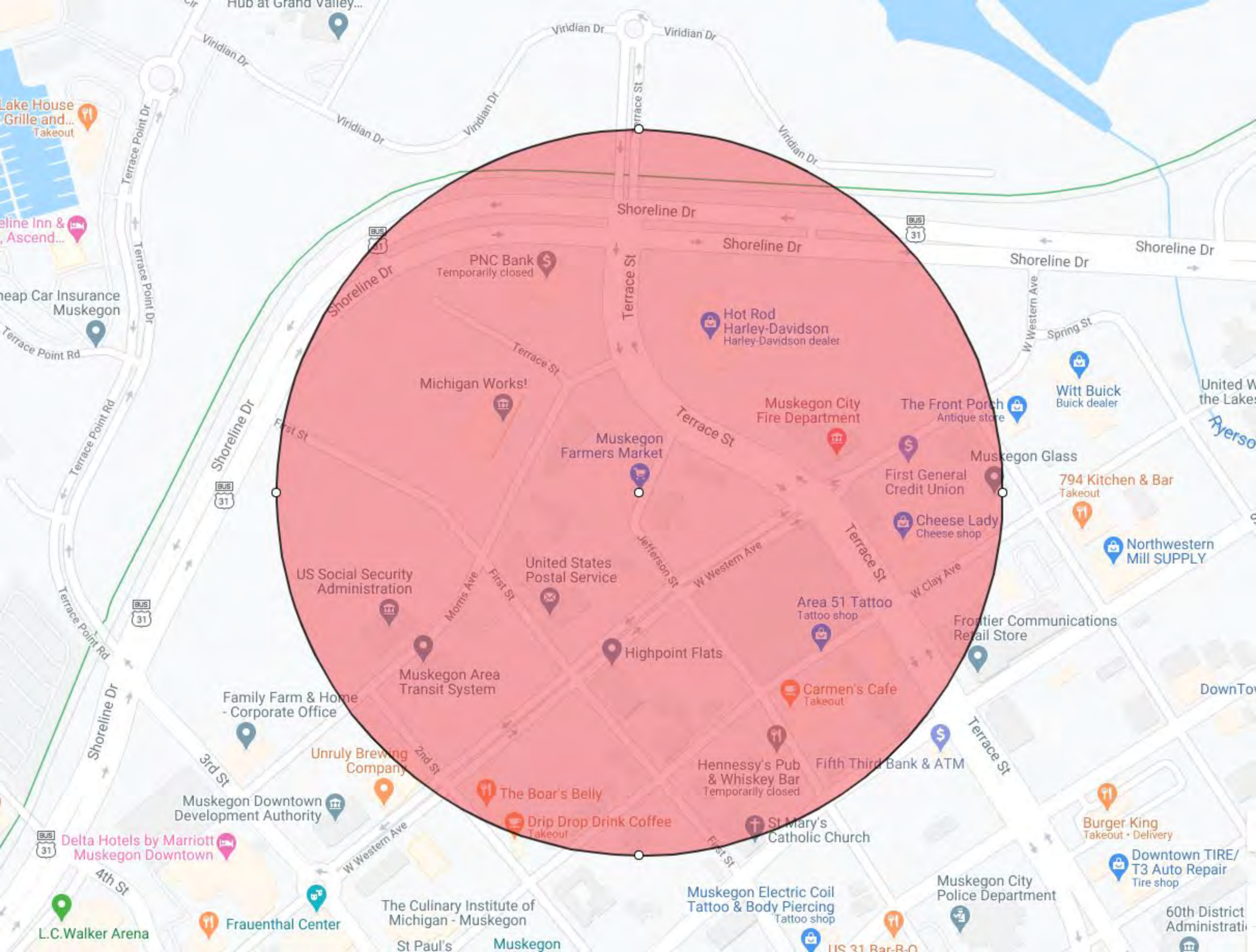
WHEREAS; the City Commission previously resolved that applications for mobile food vending will be considered in the following areas: Sherman Blvd, Henry St, Apple Avenue, Laketon Avenue, Getty Street, Lakeside Business District, commercial properties in the 1600 block of Glade as well as areas in the downtown area as defined by the DDA map, business district, and industrial parks.

NOW THEREFORE BE IT RESOLVED, the previously approved areas for mobile food vending is hereby rescinded.

BE IT FURTHER RESOLVED, mobile food vending is now permitted on the streets and public areas of the following districts: B-2, B-4, LR, WM, I-1, I-2, MC and all Form Based Code context areas except Urban Residential and Lakeside Residential.

Adopted this 11th day of August 2020.

Ann Meisch
City Clerk



Lake House
Grille and...
Takeout

Shoreline Inn &
Ascend...

cheap Car Insurance
Muskegon

Terrace Point Rd

Terrace Point Rd

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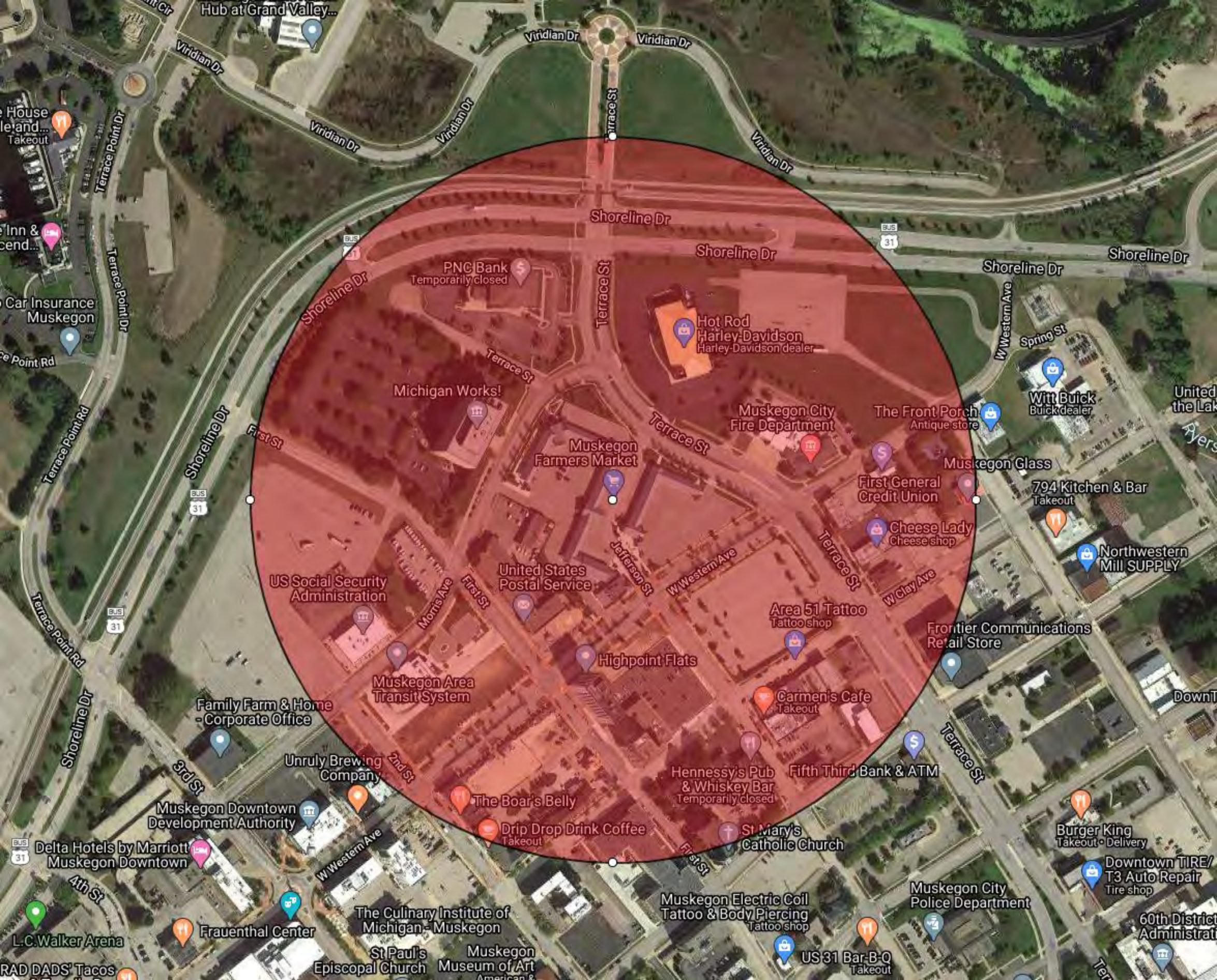
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WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Additional costs HVAC system at Mercy Health Arena
Submitted By: Beth Lewis	Department: Finance
Brief Summary: To approve the Hurst Mechanical invoice for additional work to install new heating supply and return lines serving the Lumberjacks offices and the Arena Director's office for \$20,410.43. This invoice will be forwarded to Team Financial for payment.	
Detailed Summary: During the start up process of the new HVAC system at Mercy Health Arena the system was pressure tested and discovered that underground sections of the return lines were compromised. Hurst Mechanical installed isolation valves at every heating supply & return line so the system could be separated into quadrants to attempt to isolate leaks and only repipe certain sections. However it was discovered that there were leaks everywhere. The City Manager negotiated with Hurst Mechanical to apply the DTE Energy & Consumers rebates against the additional costs. Much of the additional costs were covered this last invoice is for the last piece of the project.	
Amount Requested:\$20,410.43	Amount Budgeted: \$0
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the Hurst Mechanical invoice of \$20,410.43 for payment.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

Hurst Mechanical
5800 Safety Drive
Belmont, MI 49306
Phone: (616) 784-4040
Fax: (616) 785-7900
www.hurstmechanical.com



Invoice No.	17551
Page	1

B I L L T O	City of Muskegon 933 Terrace Street Muskegon, MI 49440
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J O B N O	20H015 City of Musk-Heat Lines Lumjck 470 West Western Avenue Muskegon, MI 49440
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Invoice Date	Invoice #	Customer #	Payment Terms	Purchase Order #
4/1/2020	17551	CIT933	Net 30	Matt Gongalski

Quantity	Description	Unit Price	Extended Price
1	Provided equipment, labor and material to install new heating supply and return lines serving the Lumberjacks office and Matt Gongalski's office, to replace the piping that was leaking underground. Includes piping insulation.	20410.43	20,410.43



USE TAX PAID BY HURST MECHANICAL AT POINT
OF PURCHASE IS INCLUDED IN MATERIAL CHARGE.
We charge a 3% credit card processing fee

Net Amount
20,410.43



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Second Floor Furniture
Submitted By: LeighAnn Mikesell	Department: Development Services
Brief Summary: Construction on the second floor city hall remodel is nearing completion. Staff is seeking approval to purchase furniture for the new space.	
Detailed Summary: Staff has obtained and reviewed quotes for the work from two local office furniture companies, Grand River Office and Lakeshore Furniture, and is seeking approval for a combination of their services to complete the work. Grand River Office – new desks, office chairs, conference room tables, and cabinets at \$36,664.55 (\$32,490.65 + \$4,173.90) Lakeshore Furniture – reupholstered side chairs for offices, lateral file cabinets, and new chairs for the conference room at \$11,323.70 Some details are still being investigated so a contingency cost of \$7,198.24 is being included for a total of \$55,186.49 The most current quotes are included. Both companies are using local manufacturers where possible.	
Amount Requested: \$55,186.49	Amount Budgeted: \$0
Fund(s) or Account(s): Public Improvement Fund	Fund(s) or Account(s): Public Improvement Fund
Recommended Motion: Approve the expenditure of \$55,186.49 for office furniture.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

Quotation

Prepared by:
Dan Brush

Prepared For:

Jamie Pesch
City of Muskegon
933 Terrace Street
Muskegon MI 49440
231-724-4405

Ship To:

Lakeshore Furniture LLC
450 W, Hackley Ave. Suite 200
Muskegon MI 49444
231-733-0604

Notes:

Page 1 of 2
8/4/2020
1:49:05PM

Line #	Qty	Cat	Part Number	Part Description	Sell Price	Extended
1	10	MAO	5X-OLF5HB42W	Lateral File (overlay fronts), 67 3/8" high x 42" wide x 18" deep, four standard drawers Full Pull / Self Handled - most popular Knoll™ KN Dark Gray 113 No Counterweights Hanging File Bars for 5-high lat file with roll-out drawer in the top positions Pull Cores for Field Installation UM Black	\$573.42	\$5,734.20
2	15	SIT	1141.FT4.US.PB.A R1	Qwiz, Nesting Chair, Plastic Back, Upholstered Seat, AR1 Arms Black Carpet Casters Fabric Grade 1 Sugar Color Selection Sugar Kiss Assembled in a Bag, Southern CA	\$209.30	\$3,139.50
3	1	LSF	LABOR	Labor to deliver and set up files and chairs	\$900.00	\$900.00
4	1	LSF	CREDIT	Credit for chairs less 20each chairs being reupholstered	-\$1,400.00	-\$1,400.00
Sub Total:						\$8,373.70
2nd Floor						
5	25	BUR	FABRIC	801 Fabric 1010489 Space Fabric yards	\$18.00	\$450.00
6	20	LE		Labor to Refabric Chairs	\$125.00	\$2,500.00
Sub Total:						\$2,950.00
Total Sell:						\$11,323.70

Prepared For:

Jamie Pesch
City of Muskegon
933 Terrace Street
Muskegon MI 49440
231-724-4405

Ship To:

Lakeshore Furniture LLC
450 W, Hackley Ave. Suite 200
Muskegon MI 49444
231-733-0604

Notes:

Page 2 of 2
8/4/2020
1:49:07PM

Line #	Qty	Cat	Part Number	Part Description	Sell Price	Extended
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***** 75% DEPOSIT REQUIRED *****

It is understood that this is a custom order, this order is final. If changes and/or deletions are requested, Dealer will do its best to honor those changes. However, most manufacturers do not authorize cancellations and/or returns. Client remains liable for all charges as outlined in this quote unless changes are approved in writing from Dealer. Sales tax is not included unless noted in quotation.

Unless specifically outlined in this quote, all services will be provided during normal working hours of 8:00 AM to 5:00 PM Monday through Friday. If services are requested during other than normal hours, additional charges may be assessed.

By Acceptance of this agreement, either via signature or electronic communication, Client agrees to grant Dealer a security interest in the product as described above in the amount of the unpaid balance of this order.

AUTHORIZED BY: _____ DATE: _____



99 W. Western Ave.
Muskegon, MI 49442
Tel: (833)477-4837 Fax: (833)477-4837
www.grandriveroffice.com

QUOTATION

Quote Number:

Date: 8/3/2020

Valid Until: 10/3/2020

Deposit Due: 50%

Prepared For:

City of Muskegon
933 Terrace Street
Muskegon MI 49440

Ship To:

City of Muskegon
933 Terrace Street
Muskegon MI 49440

REV Quote 08_03
New Product Required

Line #	Qty	Part Number	Part Description	Sell	Ext Sell
TAG CONFERENCE ROOM					
1	8	M-PPFLIP24L	Prepare Flip Top Base for 24D x 60/72W Tops	\$178.94	\$1,431.52
		\$(P1)	P1 Paint Opts		
		.MP02	Flint		
			Eligible for Contract Pricing - Separate Purchase Order Required fr		
2	8	M-PPLF2460RE	Prepare 24" X 60" Rectangle Laminate-Flat Edge	\$125.81	\$1,006.48
		.FSC	FSC Wood		
		\$(L1STD)	Grd L1 Standard Laminates		
		~	Undecided LAMINATE Option		
		~	Undecided EDGE Option		
		.C0	No Cutouts		
			Eligible for Contract Pricing - Separate Purchase Order Required fr		
				Subtotal: \$ 2,438.00	
TAG OFFICES					
3	6	F22W.39	2-Way 90 DEG. Connector Post Hard Surface, 39"H	\$30.99	\$185.94
		DT	PAINT: Dark Tone		
		DT	BASE: Dark Tone		
4	6	F22W.67	2-Way 90 DEG. Connector Post Hard Surface, 67"H	\$39.18	\$235.08
		DT	PAINT: Dark Tone		
		DT	BASE: Dark Tone		
5	4	F2CPE4.67	Ceiling Power Entry Internal Direct Connect 4-Circuit, 67"	\$177.22	\$708.88
		DT	POLE: Dark Tone		
		DT	BASE: Dark Tone		
6	29	F2DCL	Dual Column Leg	\$41.49	\$1,203.21
7	2	F2FAPA.3924E	Fabric Covered Panel Electrical, 39"H x 24"W	\$136.24	\$272.48
		DT	TRIM: Dark Tone		
		DT	BASE: Dark Tone		
		GRP1	FAB 1: Friant Collection		
		FRIANT SILKY	FAB 1: Friant Silky		
		PF401-5	FAB: Silky Graphite		

Line #	Qty	Part Number	Part Description	Sell	Ext Sell
		GRP1	FAB 2: Friant Collection		
		FRIANT SILKY	FAB 2: Friant Silky		
		PF401-5	FAB: Silky Graphite		
8	6	F2FAPA.3924N	Fabric Covered Panel Non-Electrical, 39"H x 24"W	\$96.55	\$579.30
		DT	TRIM: Dark Tone		
		DT	BASE: Dark Tone		
		GRP1	FAB 1: Friant Collection		
		FRIANT SILKY	FAB 1: Friant Silky		
		PF401-5	FAB: Silky Graphite		
		GRP1	FAB 2: Friant Collection		
		FRIANT SILKY	FAB 2: Friant Silky		
		PF401-5	FAB: Silky Graphite		
9	8	F2FAPA.3936E	Fabric Covered Panel Electrical, 39"H x 36"W	\$159.04	\$1,272.32
		DT	TRIM: Dark Tone		
		DT	BASE: Dark Tone		
		GRP1	FAB 1: Friant Collection		
		FRIANT SILKY	FAB 1: Friant Silky		
		PF401-5	FAB: Silky Graphite		
		GRP1	FAB 2: Friant Collection		
		FRIANT SILKY	FAB 2: Friant Silky		
		PF401-5	FAB: Silky Graphite		
10	2	F2FAPA.3936N	Fabric Covered Panel Non-Electrical, 39"H x 36"W	\$119.85	\$239.70
		DT	TRIM: Dark Tone		
		DT	BASE: Dark Tone		
		GRP1	FAB 1: Friant Collection		
		FRIANT SILKY	FAB 1: Friant Silky		
		PF401-5	FAB: Silky Graphite		
		GRP1	FAB 2: Friant Collection		
		FRIANT SILKY	FAB 2: Friant Silky		
		PF401-5	FAB: Silky Graphite		
11	1	F2FAPA.6724E	Fabric Covered Panel Electrical, 67"H x 24"W	\$161.09	\$161.09
		DT	TRIM: Dark Tone		
		DT	BASE: Dark Tone		
		GRP1	FAB 1: Friant Collection		
		FRIANT SILKY	FAB 1: Friant Silky		
		PF401-5	FAB: Silky Graphite		
		GRP1	FAB 2: Friant Collection		
		FRIANT SILKY	FAB 2: Friant Silky		
		PF401-5	FAB: Silky Graphite		
12	6	F2FE.39	Finished End, 39"H	\$14.34	\$86.04
		DT	PAINT: Dark Tone		
		DT	BASE: Dark Tone		
13	2	F2PPCK.12	Power Panel Conversion Kit, 12"W	\$34.32	\$68.64
14	6	F2PPCK.48	Power Panel Conversion Kit, 48"W	\$60.44	\$362.64
		DT	BASE: Dark Tone		

Line #	Qty	Part Number	Part Description	Sell	Ext Sell
15	7	F2RECP4.II	Receptacle 4-Circuit, circuit II	\$6.91	\$48.37
		DT	BASE: Dark Tone		
16	7	F2RECP4.III	Receptacle 4-Circuit, circuit III	\$6.91	\$48.37
		DT	BASE: Dark Tone		
17	9	FD-FM-X4819	Wall mounted tackboard, 48"W x 19"H	\$98.60	\$887.40
		GRP1	FAB: Friant Collection		
		FRIANT SILKY	FAB: Friant Silky		
		PF401-5	FAB: Silky Graphite		
18	9	FDR.34	Draw Rod, 34"H	\$6.15	\$55.35
19	6	FDR.62	Draw Rod, 62"H	\$6.40	\$38.40
20	4	FDRCH.62	Draw Rod, Change of Height, 62"H	\$11.27	\$45.08
21	4	FFECH	Finished End Change of Height Panel to Panel, 48"H x 1 3/4"W	\$5.38	\$21.52
		DT	PAINT: Dark Tone		
22	8	FLMOD.0860	8"H x 60"W Laminate Modesty Panels	\$81.18	\$649.44
		...	Skipped Option		
		BU	PAINT: Black Umber		
23	16	FSECWS.2436L	Square Edge Corner Worksurface, *36"W x 24"D	\$121.13	\$1,938.08
		...	Skipped Option		
		...	Skipped Option		
		DT	PAINT: Dark Tone		
24	8	FSEDSP.3072L	Square Edge D-Shaped Peninsula Worksurface, 29"H x 72"W x 30"D	\$182.34	\$1,458.72
		...	Skipped Option		
		...	Skipped Option		
		DT	PAINT: Dark Tone		
25	3	FSERTS.1472L	Square Edge Transaction Surface Rectangular, 1.25"H x 72"W x 14"D	\$113.45	\$340.35
		...	Skipped Option		
		...	Skipped Option		
26	14	FSERWS.2436L	Square Edge Rectangular Worksurface, 36"W x 24"D	\$74.27	\$1,039.78
		...	Skipped Option		
		...	Skipped Option		
		DT	PAINT: Dark Tone		
27	1	FSERWS.2460L	Square Edge Rectangular Worksurface, 60"W x 24"D	\$116.52	\$116.52
		...	Skipped Option		
		...	Skipped Option		
		DT	PAINT: Dark Tone		
28	12	FSERWS.2472L	Square Edge Rectangular Worksurface, 72"W x 24"D	\$133.94	\$1,607.28
		...	Skipped Option		
		...	Skipped Option		
		DT	PAINT: Dark Tone		

Line #	Qty	Part Number	Part Description	Sell	Ext Sell
29	4	FSERWS.2484L	Square Edge Rectangular Worksurface, 84"W x 24"D	\$158.52	\$634.08
		...	Skipped Option		
		...	Skipped Option		
		DT	PAINT: Dark Tone		
30	5	FSERWS.2484L-3W	Square Edge Rectangular Worksurface, 87.5"W x 24"D	\$185.67	\$928.35
		...	Skipped Option		
		...	Skipped Option		
		DT	PAINT: Dark Tone		
31	3	FTSSC	Transaction Surface Support, Center, 2"H x 1"W x 10"D	\$8.96	\$26.88
		...	Skipped Option		
32	6	FTSSME	Transaction Surface Support, Mid-End, 2"H x 1"W x 10"D	\$8.71	\$52.26
		...	Skipped Option		
33	8	FWASB.54	Anti-Sag Bar, 54" wide	\$30.99	\$247.92
34	6	FWSB.L	Worksurface Bracket, LEFT, 2.75"H x 2.5"D	\$3.33	\$19.98
35	6	FWSB.R	Worksurface Bracket, RIGHT, 2.75"H x 2.5"D	\$3.33	\$19.98
36	5	FWSSEP.24-MEL	Worksurface Support End Panel, 27.75"H x 1.25"W x 24"D	\$65.82	\$329.10
		DT	LAM: Dark Tone		
		DT	EDGE: Dark Tone		
37	1	Q1FWSTA.34	Wall Start, 34"H -- (Order draw rod to match height of Wall Start separately)	\$13.32	\$13.32
		DT	PAINT: Dark Tone		
38	4	Q1FWSTA.62	Wall Start, 62"H -- (Order draw rod to match height of Wall Start separately)	\$18.95	\$75.80
		DT	PAINT: Dark Tone		
39	16	CENDRKV75	Plastic Center Drawer	\$31.25	\$500.00
40	7	OHS48W	Overhead Stroage Cabinet, 48w	\$146.25	\$1,023.75
		HMA	HM Action Office		
		<HM>	Herman Miller™		
		DT	HM Darktone		
		~	Pull Cores for Field Installation		
		U	UM Black		
41	7	OHS48W	Overhead Stroage Cabinet, 48w	\$146.25	\$1,023.75
		WMT	Wall Mounted (includes horizontal mounting bracket)		
		<HM>	Herman Miller™		
		DT	HM Darktone		
		~	Pull Cores for Field Installation		
		U	UM Black		
42	13	OLF02H42W	Lateral File (overlay fronts), 27 1/2" high x 42" wide x 18" deep, two standard drawers	\$257.75	\$3,350.75
		O	Short Rod Pull - brushed nickel finish		
		<HM>	Herman Miller™		
		DT	HM Darktone		

Line #	Qty	Part Number	Part Description	Sell	Ext Sell
		X	No Counterweights		
		H2	Hanging File Bars for 2-high lat file		
		~	Pull Cores for Field Installation		
		U	UM Black		
43	17	PWS27H22D-BB F	Work Surface Supporting Pedestal, 27 1/2" high x 22" deep x 15" wide, box-box-file drawer configuration	\$143.75	\$2,443.75
		O	Short Rod Pull - brushed nickel finish		
		<HM>	Herman Miller™		
		DT	HM Darktone		
		P0	Pencil Tray - None		
		D0	Box Drawer Divider - None		
		H0	Hanging Bars for side-to-side filing - None		
		~	Pull Cores for Field Installation		
		U	UM Black		
44	3	PWS27H22D-FF	Work Surface Supporting Pedestal, 27 1/2" high x 22" deep x 15" wide, file-file drawer configuration	\$133.75	\$401.25
		O	Short Rod Pull - brushed nickel finish		
		<HM>	Herman Miller™		
		DT	HM Darktone		
		P0	Pencil Tray - None		
		D0	Box Drawer Divider - None		
		H0	Hanging Bars for side-to-side filing - None		
		~	Pull Cores for Field Installation		
		U	UM Black		
				Subtotal: \$ 24,760.90	
	TAG	x. freight			
45	1	Freight	Freight charges	\$698.00	\$698.00
				Subtotal: \$ 698.00	
	TAG	y. labor			
46	1	Labor	Receive, deliver and install workstations and training tables per plan dated 07/14	\$4,593.75	\$4,593.75
				Subtotal: \$ 4,593.75	
				Total: \$32,490.65	

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Unless specifically outlined in this quote, all services will be provided during normal working hours of 8:00 AM to 5:00 PM Monday through Friday. If services are requested during other than normal hours, additional charges may be assessed. By acceptance of this agreement, either via signature or electronic communication, Client agrees to grant Dealer a security interest in the product as described above in the amount of the unpaid balance of this order.

AUTHORIZED BY: _____ **DATE:** _____



99 W. Western Ave.
Muskegon, MI 49442
Tel: (833)477-4837 Fax: (833)477-4837
www.grandriveroffice.com

QUOTATION

Quote Number:

Date: 8/3/2020

Valid Until: 10/3/2020

Deposit Due:

Prepared For:

City of Muskegon
933 Terrace Street
Muskegon MI 49440

Ship To:

City of Muskegon
933 Terrace Street
Muskegon MI 49440

Quote Height Adj Table Bases
08/03/2020

Line #	Qty	Part Number	Part Description	Sell	Ext Sell
	TAG	Option 1			
1	8	2NM-C48	Enmo Table Base 48"-72" Ht Adj, Up and Down Control Pad	\$350.00	\$2,800.00
		...	Skipped Option		
2	8		Labor to assemble base	\$25.00	\$200.00
				Subtotal:	\$ 3,000.00
	TAG	Option 2			
3	8	2T-LX-C48-24	Triumph LX Table Base 60"- 72" W Ht Adj w/ 23" feet	\$471.50	\$3,772.00
		...	Skipped Option		
4	8		Labor to assemble base	\$25.00	\$200.00
				Subtotal:	\$ 3,972.00
	TAG	x. dual monitor arm			
5	1	EPPA2- SLV	Dual Monitor Support w/ Dynamic Ht Adj range, silver finish	\$201.90	\$201.90
		SLV	Silver		
				Subtotal:	\$ 201.90
				Total:	\$7,173.90

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Unless specifically outlined in this quote, all services will be provided during normal working hours of 8:00 AM to 5:00 PM Monday through Friday. If services are requested during other than normal hours, additional charges may be assessed. By acceptance of this agreement, either via signature or electronic communication, Client agrees to grant Dealer a security interest in the product as described above in the amount of the unpaid balance of this order.

AUTHORIZED BY: _____ **DATE:** _____

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 8-11-2020	Title: Brownfield Development and Reimbursement Agreement, Harbor West, LLC
Submitted By: Pete Wills	Department: Economic Development
Brief Summary: Approval of the Development and Reimbursement Agreement (D&RA) for the Harbor West, LLC (Hartshorn Village) brownfield plan amendment. The BRA will be meeting on August 11 to consider approval of the Development and Reimbursement Agreement to the City Commission.	
Detailed Summary: Brownfield Plan Amendment for Harbor West, LLC (Hartshorn Village) was approved by the commission June 9, 2020. Harbor West, LLC has submitted a D&RA for the Brownfield Plan for Hartshorn Village, a residential site condominium development on an initial 3.01 acres adjacent to Hartshorn Marina. The BRA will reimburse developer for eligible costs for the initial 10 residential site condos and adjacent marina improvements for the next 30 years from property tax increments. Per the terms of the Sale and Development Agreement from August 15, 2018, the city will provide buyer up to \$600,000 for eligible costs. The city would receive the first \$600,000 of tax capture, then Harbor West for its remaining eligible costs and finally with the marina upgrade being covered last. The initial \$5.597 million of eligible costs in brownfield plan is a local-only property tax capture although the plan is eligible for \$2,429 for eligible environmental costs captured by state educational millage through EGLE. There is no need for state approval. The plan includes state eligible environmental costs of \$250,000, \$19,500 for demolition, \$626,000 for site preparation and \$3.946 million for infrastructure improvements. A majority of the infrastructure costs (\$3.502 million) are to upgrade the city's adjacent Hartshorn Marina and for a joint-use pool and clubhouse for the condo owners and marina slip holders. The plan contemplates continued five-year capture of tax increments for a local Brownfield Revolving Loan Fund if there is time left in the 30-year plan after eligible costs are covered.	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: Approval of the Harbor West, LLC Brownfield Development and Reimbursement Agreement and authorize the city clerk and mayor to sign the same.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

DEVELOPMENT AND REIMBURSEMENT AGREEMENT

This DEVELOPMENT AND REIMBURSEMENT AGREEMENT (the “**Agreement**”) is made on May [REDACTED], 2020, by and among the CITY OF MUSKEGON BROWNFIELD REDEVELOPMENT AUTHORITY, a Michigan public body corporate whose address is 933 Terrace Street, Muskegon, Michigan 49443 (the “**Authority**”), the CITY OF MUSKEGON, a public body corporate whose address is 933 Terrace Street, Muskegon, Michigan 49443 (the “**City**”), and HARBOR WEST, LLC, a Michigan limited liability company whose address is 108 South University, Suite 6, Mt. Pleasant, Michigan 48858 (the “**Developer**”).

RECITALS

A. Pursuant to P.A. 381 of 1996, as amended (“**Act 381**”), the Authority approved and recommended a Brownfield Plan which was duly approved by the City (the “**Plan**”). The Plan was amended on _____, 2020 (the “**Amendment**,” and, together with the Plan, the “**Brownfield Plan**” – See Exhibit A) to identify a new residential site condominium and marina redevelopment project proposed by Developer and the City.

B. The Brownfield Plan includes specific eligible activities associated with the Developer’s plan to develop approximately 3.01 acres of land located at 1000, 1010, and 1060 West Western Avenue in Muskegon, Michigan (collectively, the “**Developer Property**”).

C. The Brownfield Plan also includes specific eligible activities associated with the City’s plan to make improvements to the adjacent Hartshorn Marina located at 920 West Western Avenue in Muskegon, Michigan (the “**Marina Property**”).

D. The Developer owns the Developer Property and the City owns the Marina Property, which are included in the Brownfield Plan as an “eligible property” because it was determined to be a “facility”, as defined by Part 201 of the Natural Resources and Environmental Protection Act (“**Part 201**”), or adjacent and contiguous to an “eligible property.”

E. The Developer intends to conduct eligible activities on the Developer Property in order to redevelop the site into an initial 10 site condominiums and adjacent marina improvements (the “**Project**”), including department specific activities, demolition, site preparation and infrastructure improvement activities, a 15% contingency and brownfield plan/work plan preparation and development, as described in the Brownfield Plan, with an estimated cost of \$1,570,425 (the “**Developer Eligible Activities**”). As part of the Project, the City also intends to conduct certain eligible infrastructure improvement activities on the Marina Property, as described in the Brownfield Plan, with an estimated cost of \$4,027,300 (the “**City Eligible Activities**”). All of the Developer Eligible Activities and the City Eligible Activities (together, the “**Eligible Activities**”) are eligible for reimbursement under Act 381. The total cost of the Eligible Activities, including contingencies, are \$5,597,725 (the “**Total Eligible Brownfield TIF Costs**”).

F. Act 381 permits the Authority to capture and use local and certain school property tax revenues generated from the incremental increase in property value of a redeveloped brownfield site constituting an “eligible property” under Act 381 (the “**Brownfield TIF Revenue**”) to pay or to reimburse the payment of Eligible Activities conducted on the “eligible property.” The Brownfield TIF Revenue will be used to reimburse the Developer for the Developer Eligible Activities and the City for the City Eligible Activities incurred and approved for the Project.

G. In accordance with Act 381, the parties desire to establish the procedure for using the available Brownfield TIF Revenue generated from the Property to reimburse the Developer and the City for completion of Eligible Activities on the Property in an amount not to exceed the Total Eligible Brownfield TIF Costs.

NOW, THEREFORE, the parties agree as follows:

1. Reimbursement Source.

(a) During the Term (as defined below) of this Agreement, and except as set forth in paragraph 2 below, the Authority shall reimburse the Developer and City for the costs of their Eligible Activities conducted on the Developer Property and Marina Property from the Brownfield TIF Revenue collected from the real and taxable personal property taxes on the Developer Property and Marina Property. The amount reimbursed to the Developer and City, respectively, for their Eligible Activities shall not exceed the Total Eligible Brownfield TIF Costs, and reimbursements shall be made on approved costs submitted and approved in connection with the Developer Eligible Activities and the City Eligible Activities, as follows:

(i) the Authority shall first pay 100% of available Brownfield TIF Revenue to the City to reimburse the cost of Developer Eligible Activities up to \$600,000 for costs submitted to the City for reimbursement by Developer per the terms of the First Amended and Restated Real Estate Sale and Development Agreement dated August 15, 2018; and

(ii) the Authority shall, following reimbursement to the City of the first \$600,000 described in 1(a)(i) above, pay 100% of available Brownfield TIF Revenue to Developer to reimburse the cost of the remaining Developer Eligible Activities submitted and approved for reimbursement by the Authority until Developer is fully reimbursed; and

(iii) the Authority may then use Brownfield TIF Revenue to reimburse the City for the City Eligible Activities.

(b) The Authority shall capture Brownfield TIF Revenue from the Property and reimburse the Developer and City for their Eligible Activities until the earlier of the City and Developer each being fully reimbursed or December 31, 2050. Unless otherwise prepaid by the Authority, payments to the City and Developer shall be made on a semi-annual basis as incremental local taxes are captured and available.

2. Developer Reimbursement Process.

(a) The Developer shall submit to the Authority, not more frequently than on a quarterly basis, a "Request for Cost Reimbursement" for Developer Eligible Activities paid for by the Developer during the prior period. All costs for the Developer Eligible Activities must be consistent with the approved Brownfield Plan. The Developer must include documentation sufficient for the Authority to determine whether the costs incurred were for Developer Eligible Activities, including detailed invoices and proof of payment. Copies of all invoices for Developer Eligible Activities must note what Developer Eligible Activities they support.

(b) Unless the Authority disputes whether such costs are for Developer Eligible Activities within thirty (30) days after receiving a Request for Cost Reimbursement from the Developer, the Authority shall pay the Developer the amounts for which submissions have been made pursuant to paragraph 2(a) of this Agreement in accordance with the priority set forth in paragraph 1, from which the submission may be wholly or partially paid from available Brownfield TIF Revenue from the Developer Property and Marina Property.

(i) The Developer shall cooperate with the Authority's review of its Request for Cost Reimbursement by providing supplemental information and documentation which may be reasonably requested by the Authority.

(ii) If the Authority determines that requested costs are ineligible for reimbursement, the Authority shall notify the Developer in writing of its reasons for such ineligibility within the Authority's thirty (30) day period of review. The Developer shall then have thirty (30) days to provide supplemental information or documents to the Authority demonstrating that the costs are for Developer Eligible Activities and are eligible for reimbursement.

(c) If a partial payment is made to the Developer by the Authority because of insufficient Brownfield TIF Revenue captured in the semi-annual period for which reimbursement is sought, the Authority shall make additional payments toward the remaining amount within thirty (30) days of its receipt of additional Brownfield TIF Revenue from the Developer Property and Marina Property until all of the amounts for which submissions have been made have been fully paid to the Developer, or by the end of the Term (as defined below), whichever occurs first. The Authority is not required to reimburse the Developer from any source other than Brownfield TIF Revenue.

(d) The Authority shall send all payments to the Developer by registered or certified mail, addressed to the Developer at the address shown above, or by electronic funds transfer directly to the Developer's bank account. The Developer may change its address by providing written notice sent by registered or certified mail to the Authority.

3. City Reimbursement Process.

(a) The City shall submit to the Authority, not more frequently than on a quarterly basis, a "Request for Cost Reimbursement" for City Eligible Activities paid for by the City during the prior period. All costs for the City Eligible Activities must be

consistent with the approved Brownfield Plan. The City must include documentation sufficient for the Authority to determine whether the costs incurred were for City Eligible Activities, including detailed invoices and proof of payment. Copies of all invoices for City Eligible Activities must note what City Eligible Activities they support.

(b) Unless the Authority disputes whether such costs are for City Eligible Activities within thirty (30) days after receiving a Request for Cost Reimbursement from the City, the Authority shall pay the City the amounts for which submissions have been made pursuant to paragraph 3(a) of this Agreement in accordance with the priority set forth in paragraph 1, from which the submission may be wholly or partially paid from available Brownfield TIF Revenue from the Developer Property and Marina Property.

(i) The City shall cooperate with the Authority's review of its Request for Cost Reimbursement by providing supplemental information and documentation which may be reasonably requested by the Authority.

(ii) If the Authority determines that requested costs are ineligible for reimbursement, the Authority shall notify the City in writing of its reasons for such ineligibility within the Authority's thirty (30) day period of review. The City shall then have thirty (30) days to provide supplemental information or documents to the Authority demonstrating that the costs are for City Eligible Activities and are eligible for reimbursement.

(c) If a partial payment is made to the City by the Authority because of insufficient Brownfield TIF Revenue captured in the semi-annual period for which reimbursement is sought, the Authority shall make additional payments toward the remaining amount within thirty (30) days of its receipt of additional Brownfield TIF Revenue from the Developer Property and Marina Property until all of the amounts for which submissions have been made have been fully paid to the City, or by the end of the Term (as defined below), whichever occurs first. The Authority is not required to reimburse the City from any source other than Brownfield TIF Revenue.

(d) The Authority shall send all payments to the City by registered or certified mail, addressed to the City at the address shown above, or by electronic funds transfer directly to the City's bank account. The City may change its address by providing written notice sent by registered or certified mail to the Authority.

4. Term of Agreement.

The Authority's obligation to reimburse the City and Developer for the Total Eligible Brownfield TIF Costs incurred by each party under this Agreement shall terminate the earlier of the date when all reimbursements to the City and Developer required under this Agreement have been made or December 31, 2050 (the "**Term**"). If the Brownfield TIF Revenue ends before all of the Total Eligible Brownfield TIF Costs have been fully reimbursed to the City and Developer, the last reimbursement payment by the Authority shall be paid from the summer and winter tax increment revenue collected during the final year of this Agreement.

5. Adjustments.

If, due to an appeal of any tax assessment or reassessment of any portion of the Developer Property and Marina Property, or for any other reason, the Authority is required to reimburse any Brownfield TIF Revenue to any tax levying unit of government, the Authority may deduct the amount of any such reimbursement, including interest and penalties, from any amounts due and owing to the Developer and City. If all amounts due to the City and Developer under this Agreement have been fully paid or the Authority is no longer obligated to make any further payments to the City or Developer, the Authority shall invoice the Developer and City for the amount of such reimbursement and the Developer and City shall pay the Authority such invoiced amount within thirty (30) days of the receipt of the invoice. Amounts withheld by or invoiced and paid to the Authority by the Developer and City pursuant to this paragraph shall be reinstated as Developer Eligible Activities and City Eligible Activities, respectively, for which the Developer and City shall have the opportunity to be reimbursed in accordance with the terms, conditions, and limitations of this Agreement. Nothing in this Agreement shall limit the right of the Developer to appeal any tax assessment.

6. Legislative Authorization.

This Agreement is governed by and subject to the restrictions set forth in Act 381. If there is legislation enacted in the future that alters or affects the amount of Brownfield TIF Revenue subject to capture, eligible property, or Eligible Activities, then the Developer's and City's rights and the Authority's obligations under this Agreement shall be modified accordingly as required by law, or by agreement of the parties.

7. Notices.

All notices shall be given by registered or certified mail addressed to the parties at their respective addresses as shown above. Any party may change the address by written notice sent by registered or certified mail to the other party.

8. Assignment.

This Agreement and the rights and obligations under this Agreement shall not be assigned or otherwise transferred by any party without the consent of the other party, which shall not be unreasonably withheld, *provided, however*, the Developer and City may assign their interest in this Agreement to an affiliate without the prior written consent of the Authority if such affiliate acknowledges its obligations to the Authority under this Agreement upon assignment in writing on or prior to the effective date of such assignment, *provided, further*, that the Developer and City may each make a collateral assignment of their share of the Brownfield TIF Revenue for project financing purposes. As used in this paragraph, "affiliate" means any corporation, company, partnership, limited liability company, trust, sole proprietorship or other entity or individual which (a) is owned or controlled by the Developer or City, (b) owns or controls the Developer or City or (c) is under common ownership or control with the Developer or City. This Agreement

shall be binding upon and inure to the benefit of any successors or permitted assigns of the parties.

9. Entire Agreement.

This Agreement supersedes all agreements previously made between the parties relating to the subject matter. There are no other understandings or agreements between the parties.

10. Non-Waiver.

No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, constitutes a waiver of that or any other right, unless otherwise expressly provided herein.

11. Governing Law.

This Agreement shall be construed in accordance with and governed by the laws of the State of Michigan.

12. Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[Signature page follows]

The parties have executed this Agreement on the date set forth above.

**CITY OF MUSKEGON BROWNFIELD
REDEVELOPMENT AUTHORITY**

By:
Its:

CITY OF MUSKEGON

By:
Its:

HARBOR WEST, LLC

By:
Its:

19886336-2

EXHIBIT A
Copy of Brownfield Plan

**RESOLUTION APPROVING THE BROWNFIELD DEVELOPMENT AND REIMBURSEMENT
AGREEMENT**

Harbor West LLC (1000-1010-1060 West Western Ave)

Harbor West, LLC Development Project

County of Muskegon, Michigan

2020-August 11

Minutes of a Regular Meeting of the City Commission of the City of Muskegon, County of Muskegon, Michigan (the "City"), held in the City Commission Chambers on the 11th day of August, 2020 at 5:30 p.m., prevailing Eastern Time.

PRESENT:

ABSENT:

The following preamble and resolution were offered by Commissioner _____ and supported by Commissioner _____.

WHEREAS, in accordance with the provisions of Act 381, Public Acts of Michigan, 1996, as amended ("Act 381"), the City of Muskegon Brownfield Redevelopment Authority (the "Authority") has prepared and approved a Development and Reimbursement Agreement; and

WHEREAS, the Authority has forwarded the Development and Reimbursement Agreement to the City Commission requesting its approval of the Development and Reimbursement Agreement; and

NOW, THEREFORE, BE IT RESOLVED THAT:

1. That the Brownfield Plan constitutes a public purpose under Act 381.
2. That the Brownfield Plan meets all the requirements of Section 13(1) of Act 381.
3. That the proposed method of financing the costs of the eligible activities, as identified in the Brownfield Plan and defined in Act 381, is feasible and the Authority has the authority to arrange the financing.
4. That the costs of the eligible activities proposed in the Brownfield Plan are reasonable and necessary to carry out the purposes of Act 381.

5. That the amount of captured taxable value estimated to result from the adoption of the Brownfield Plan is reasonable.
6. That the Development and Reimbursement Agreement is approved and is effective immediately.
7. That all resolutions or parts of resolutions in conflict herewith shall be and the same are hereby rescinded.

Be it Further Resolved that the Mayor and City Clerk are hereby authorized to execute all documents necessary or appropriate to implement the provisions of the Brownfield Plan.

AYES:

NAYS:

RESOLUTION DECLARED APPROVED.

Ann Marie Meisch, City Clerk

Stephen J Gawron, Mayor

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held on August 11, 2020 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Ann Marie Meisch, City Clerk

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Concession Agreement
Submitted By: Doug Sayles	Department: Public Works
Brief Summary: Staff is asking permission to enter into a contractual agreement with Jennifer Serrano of "Grand Traverse Pie Company" at Pere Marquette Park.	
Detailed Summary: Staff is asking permission to enter into a Concession Agreement for 2020 with Jennifer Serrano of "Grand Traverse Pie Company", at Pere Marquette Park. Commission from said Concession would be \$300.00 plus 5% of Gross Receipts	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: Authorize staff to enter into a Concession Agreement with Jennifer Serrano of "Grand Traverse Pie Company", at Pere Marquette Park.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

Grand Traverse Pie Company Food Truck Proposal, Pere Marquette Beach

Thank you for the opportunity to propose a vending plan for the Pere Marquette Beach. I have included my menu with pricing, pictures of my food truck, as well as my projected hours and days of operation. To give you a little background history, I have managed the Grand Traverse Pie Company in Norton Shores since 2013 and took over ownership in 2018. I acquired the Grand Traverse Pie Company Food Truck in 2018 as well. I have successfully vended at numerous festivals, sporting events, weddings, and private parties with overwhelming popularity. My truck has received several accolades including "Best Food Truck" at the Grand Haven Coast Guard Festival, 2nd Place Overall "Best of Fest" at Mid-Michigan Food Truck Invitational at Soaring Eagle Casino, as well as 1st Place in the Dessert competition at Chef Prize. I offer a well-rounded variety of menu items to suite any customer or event needs. I staff my truck well with professional and well trained employees to handle any number of customers. I pride myself on providing top quality product with exceptional service and speed.

Hours of Operation

Sunday – Monday (7 days a week) 10am – 6pm

I am more than willing to extend these hours if needed. If I have customers, then I would love the ability to stay longer. If a need is there, I am happy to accommodate and adjust.

Thank you again for this opportunity!

Jennifer Serrano, Owner

Grand Traverse Pie Company, Norton Shores

231-799-5502 gtpieJenn@gmail.com

Grand Traverse Pie Company Food Truck Menu

Sandwiches (Turkey Cheddar, GT Club, Ham & Swiss, BLT, Chicken Salad) - \$7-9

Quiche Slice - \$5

Quesadillas - \$5-8

Chicken Pot Pies - \$9

Beef Pasty - \$7

Salads/Wraps (Cherry Chicken, House, Chicken Fiesta) - \$9

White Cheddar Mac & Cheese - \$4

Pasta Salad - \$5

Sides (Blueberry Applesauce, Great Lakes Kettle Chips) - \$2

Fruit Smoothies (Strawberry, Strawberry Banana, Wild Berry, Peach, Mango) - \$5

Pie Shakes - \$7

Pop, Water, Tea - \$2

Iced Coffee - \$3

Cookies - \$3

Slice of Pie - \$5

Slice of Cheesecake - \$6



WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Holiday Display Items
Submitted By: Doug Sayles	Department: Public Works
Brief Summary: Staff is asking permission to purchase various items to add to the Holiday display at Hackley Park.	
Detailed Summary: Staff is asking permission to purchase a Polar Bear bench (\$1,499.00), four (4) Outdoor Sleigh Reindeer (at \$1,798.00 x 4 = \$7,192.00), a Life Size Rearing Reindeer (\$999.00) and Reindeer Antlers (\$50.00), totaling \$9,751.00. The request also includes a 15 foot Snowman for a cost of \$5,579 and \$635 in shipping for a total of \$6,214. We received \$3,300 in donations for the snowman and will take the remainder of \$2,914 out of the Public Relations Budget	
Amount Requested: \$9,751.00 & \$2,914	Amount Budgeted: \$10,000.00
Fund(s) or Account(s): 101-70751 101-10102-5352	Fund(s) or Account(s): 101-70751
Recommended Motion: Authorize staff, per recommendation of Holiday Committee, to purchase the various Holiday decorations, to be used at Hackley Park.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

Tim Duba

From: Christmas Night Inc. <customer@christmasnightinc.com>
Sent: Tuesday, July 21, 2020 10:22 AM
To: Tim Duba
Subject: Order 20044 from Christmas Night Inc.

Christmas Night Inc.

Please send checks to:
PO BOX 325
Saratoga Springs, NY 12866
+1-888-900-2071

New Budget

101-70751-5720

INVOICE

Date

02.14.2020

Web Order ID

20044

Shipping Address:

City of Muskegon
Attn: Tim Duba
DPW, 1350 Keating St
Muskegon, MI 49442
UNITED STATES
Day: 231 557 5209
Evening:
Cell:

Billing Address:

City of Muskegon
Attn: Tim Duba
DPW, 1350 Keating St
Muskegon, MI 49442
UNITED STATES
Day: 231 557 5209
Evening:
Cell:
tim.duba@shorelinecity.com

Payment Method

Offline

Help us meet your needs, serve you better and advise other customers about what is great and what could be better at Christmas Night, Inc.. Write a review and rate the products you've purchased. Your opinion is very important to us.

Catalog #	Description	Qty	Shipping Method(s)	Unit Price	Amount
37902	Polar Bear Bench - 61 inches wide review me!	1	1 via Large Item Truck Shipping (CALL for quote 888 900 2071)	\$1,499.00	\$1,499.00
37842	Outdoor Sleigh Reindeer - 66.5 inches high review me!	4	4 via Large Item Truck Shipping (CALL for quote 888 900 2071)	\$1,798.00	\$7,192.00
37843	Life Size Rearing Reindeer - 79 inches high review me!	1	1 via Large Item Truck Shipping (CALL for quote 888 900 2071)	\$999.00	\$999.00

37842A	Reindeer Antlers "VP" for Item 37842	review me!	1	1 via FedEx Ground	\$50.00	\$50.00
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Purchased Items: \$9,740.00

Shipping & Handling: 932.00

Sales Tax: 0.00

Discount: 921.00

Total: \$9,751.00

POLICIES

Following are the terms and conditions of transactions at www.christmasnightinc.com. Any other questions can be directed to [Contact Us](#).

[Shipping Cost](#)

[Ordering Information](#)

[Ordering and Credit Card Security](#)

[Customer Services](#)

[Shipping Information](#)

[Shipping Rules](#)

[International Shipping](#)

[Return & Exchanges](#)

[Damaged/Defective Merchandise](#)

[Product Life & Care](#)

ORDERING INFORMATION

How do I get shipping cost?

Click on the "ADD TO BASKET" button for each item you want to purchase. You will not have entered your personal or credit card information yet. Click on "shipping calculator" to get your FedEx shipping cost for your purchase. If your order is too large for FedEx shipping, you will be prompted to call us at 1(888)900 2071 for a truck shipping service quote.

How do I place an order?

Click on the "ADD TO BASKET" button for each item you want to purchase. Click on "shipping calculator" to get shipping cost for your purchase. When you are ready to complete your transaction, click on "checkout".

Methods of payment?

You may use the following methods of payment:

- Visa
- Mastercard
- American Express

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 08/11/20	Title: AWIA 2018
Submitted By: Dave Baker	Department: Public Works
Brief Summary: Authorize staff to enter into an agreement with Prein & Newhof to perform an EPA Mandated "America's Water Infrastructure Act of 2018" (AWIA 2018) with our wholesale customers. Our share of the cost will be \$22,000.	
Detailed Summary: AWIA 2018 was signed into law in October 2018. Section 2013 of the law requires Community Water Systems serving more than 3,300 people to perform a Risk and Resilience Assessment (RRA) and develop or revise an Emergency Response Plan (ERP). A letter certifying the completion of the RRA and ERP must be submitted to the US EPA before the statutory deadlines. Compliance with the new requirements of AWIA 2018 by completing a Risk and Resilience Assessment and updating the Emergency Response Plan for our Community Water Supply allows us to take steps to reduce risk in response to malevolent acts or natural hazards and ensure the long-term resiliency of the water system for our customers.	
Amount Requested: \$22,000	Amount Budgeted: \$22,000
Fund(s) or Account(s): 591	Fund(s) or Account(s): 591
Recommended Motion: Authorize staff to enter into an agreement with Prein & Newhof.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

May 5, 2020

Mr. Dave Baker, Superintendent of Utilities
City of Muskegon
1350 E Keating Avenue
Muskegon, MI 49442

RE: Proposal for the City of Muskegon and Customer Communities – America's Water Infrastructure Act of 2018

Dear Mr. Baker:

Prein&Newhof is pleased to submit this proposal for fulfillment of the Risk and Resilience Assessment and Emergency Response Plan certification for the City of Muskegon water supply system. The scope of this project includes assisting the City in performing a Risk and Resilience Assessment and updating an Emergency Response Plan in accordance with the requirements of America's Water Infrastructure Act of 2018 (AWIA 2018).

Project Understanding

AWIA 2018 was signed into law in October 2018. Section 2013 of the law requires Community Water Systems serving more than 3,300 people to perform a Risk and Resilience Assessment (RRA) and develop or revise an Emergency Response Plan (ERP). A letter certifying the completion of the RRA and ERP must be submitted to the US EPA before the statutory deadlines.

The US EPA has developed and maintained a Vulnerability Self-Assessment Tool (VSAT) to guide the completion of the RRA in compliance with AWIA Section 2013. The US EPA has also provided an ERP template which meets the requirements of AWIA. By utilizing these tools in addition to AWWA Standards for Risk and Resilience Management (AWWA J100-10), we can ensure the RRA and ERP are performed in a clear and defensible manner which meets the requirements of the law.

In accordance with the requirements, the Risk and Resilience Assessment performed with VSAT shall include:

- An asset inventory and characterization.
- A threat characterization for natural hazards and malevolent acts.
- A consequence analysis for asset-threat pairs.
- A vulnerability analysis for each threat.
- A threat analysis to estimate the likelihood of each threat.
- A risk and resilience analysis to quantify and prioritize the greatest risks to the system and opportunities for added resilience.

After completion of the Risk and Resilience Assessment, the Emergency Response Plan shall be updated as necessary to meet the AWIA requirements and include:

- Utility information, including personnel, key assets, and information on local services.
- Resilience strategies, including emergency response roles and internal and external communication.
- Emergency plans and procedures, or reference to emergency procedures.
- Mitigation actions, including alternative water sources and interconnections.
- Detection strategies, including security alarms and natural hazard alerts.

Compliance with the new requirements of AWIA 2018 by completing a Risk and Resilience Assessment and updating the Emergency Response Plan for your Community Water Supply allows you to take steps to reduce risk in response to malevolent acts or natural hazards and ensure the long-term resiliency of the water system for your customers.

Scope of Services

The law impacts the City of Muskegon and the following customer communities: the City of North Muskegon, the City of Roosevelt Park, Muskegon County (Eastside and Northside systems), and the West Michigan Regional Water Authority (Fruitport and Norton Shores systems). The EPA has stated that communities can work together to complete a combined Risk and Resilience Assessment, provided it is individually certified by each community with a unique water supply serial number (WSSN).

In this proposal, we have provided estimates for completing individual risk assessments for each community as well as completing a combined risk assessment for the City of Muskegon and its customer communities. Some advantages of completing a combined risk assessment include greater efficiency and collaboration among the individual water systems in evaluating risk and resilience, as well as cost savings from a shared work effort. A combined risk and resilience assessment would include both shared assets and assets that are unique to each community.

Task 1: Asset Inventory and Characterization

The Risk and Resilience Assessment first requires a thorough asset inventory and characterization to use with VSAT.

We propose to:

- a. Develop your asset inventory and characterization using information included in your most recent Water Asset Management Plan, Water System Reliability Study, and Sanitary Survey.
- b. Review the inventory with your utility staff and advise you on any additional information required for the Risk and Resilience Assessment, including cybersecurity, control systems, and financial infrastructure such as billing and accounting systems.

Task 2: Risk and Resilience Assessment

Threats to the water system, including both natural hazards and malevolent acts, are paired with system assets to analyze threat consequence, system vulnerability, and threat likelihood.

Certification of completion of the RRA for the City of Muskegon is required to be submitted to the US EPA by December 31, 2020. Certification of completion of the RRA for the City of North Muskegon, the City of Roosevelt Park, Muskegon County (Northside and Eastside), and the West Michigan Regional Water Authority (Fruitport and Norton Shores) is due by June 30, 2021.

We will perform the following steps to comply with AWIA Section 2013:

- a. Develop a threat characterization by identifying threats and hazards in accordance with VSAT and AWWA J100-10.
- b. Use VSAT to perform the Risk and Resilience Assessment with each asset and threat, using AWWA J100-10 as a guide for consequence, vulnerability, and threat likelihood assumptions.
- c. Review the Risk and Resilience Assessment with your utility staff, including all assumptions documented in completing the consequence, vulnerability, and threat analyses.
- d. Provide a VSAT digital file for use with the 5-year update to the RRA required by the AWIA.
- e. Provide an accompanying report documenting assumptions, data sources, and VSAT output as part of the Risk and Resilience Assessment.
- f. Assist you with timely submission of the letter certifying completion of the RRA to the US EPA.

Task 3: Emergency Response Plan

We plan to work with you to develop an updated Emergency Response Plan which incorporates findings from the Risk and Resilience Assessment and meets the requirements of AWIA 2018. Certification of completion of the ERP update is required to be submitted to the US EPA by June 30, 2021, or within 6 months of certifying completion of the Risk and Resilience Assessment.

Our tasks include the following:

- a. Review existing Emergency Response Plan to determine if any components are missing as required by AWIA Section 2013.
- b. Update the Emergency Response Plan as needed to comply with the AWIA, state regulatory requirements, and local plans.
- c. Assist you with timely submission of the letter certifying completion of the ERP to the US EPA.

If you would prefer, you can choose to update your own Emergency Response Plan, eliminating Task b above from our provided services.

Fees and Schedule

The following table shows the estimated fee for the City of Muskegon and each customer community, including the estimated discount for completing a combined Risk and Resilience Assessment. The fee estimates are a not-to-exceed total for the services described above on a time and materials basis plus expenses, in accordance with the master engineering agreement.

	Individual Fee Estimate	Combined Fee Estimate	RRA Due Date	ERP Due Date
City of Muskegon	\$ 25,000	\$ 22,000	12/31/2020	6/30/2021
City of North Muskegon	\$ 8,000	\$ 6,500	6/30/2021	12/30/2021
City of Roosevelt Park	\$ 8,000	\$ 6,500	6/30/2021	12/30/2021
Muskegon County (Eastside and Northside)	\$ 15,000	\$ 13,000	6/30/2021	12/30/2021
West Michigan Regional Water Authority (Fruitport and Norton Shores)	\$ 19,000	\$ 17,000	6/30/2021	12/30/2021
Total	\$ 75,000	\$ 65,000		

If you decide to update your Emergency Response Plan separately from this proposal of services, the fee estimate in the table above would be discounted by \$1,500.

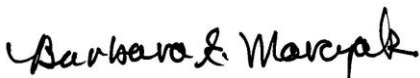
Should additional services be needed, we would contact you and obtain your authorization prior to performing such services.

We will endeavor to have the Risk and Resilience Assessment completed by October 2020 and the Emergency Response Plan completed by December, 2020 (if we can start by July 1, 2020).

Once you decide how you would like to proceed, we will prepare a Professional Services Agreement for the work. Please contact us with any additional thoughts or questions.

Sincerely,

Prein&Newhof



Barbara E. Marczak, P.E.
BM/jf



Julie Feria, P.E.

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Amity Ave. Water & Sewer Upgrades
Submitted By: Leo Evans	Department: Public Works
Brief Summary: Authorize the award of the Amity Avenue contract to the low bidder, Kamminga & Roodvoets Inc, and authorize the clerk to sign the attached resolution.	
Detailed Summary: Staff solicited bids for sewer replacement, water main replacement and road reconstruction on Amity Avenue from Getty to Fork and on sections of Fork, Myrtle and Murphy in the Angell neighborhood. Bids received are as follows: • \$4,138,499.30 – Kamminga & Roodvoets • \$4,246,607.65 – Jackson-Merkey Contractors • \$4,388,385.50 – Hallack Contracting • \$4,708,725.80 – Dunigan Brothers This project is financed through the sale of bonds in partnership with the State of Michigan Clean Water and Drinking Water Revolving Funds. The State of Michigan programs offer forgiveness for portions of the project. The project would be constructed during the 2021 construction season.	
Amount Requested: \$4,138,499.30	Amount Budgeted: \$5,700,000 (Total) 19/20 - \$200,000 20/21 - \$2,750,000 21/22 - \$2,750,000 (Inclusive of Engineering, Bonding, Financing, Contingency, etc...)
Fund(s) or Account(s): 590/591-92009	Fund(s) or Account(s): 590/591-92009
Recommended Motion: Approve the award of the Amity Avenue contract to the low bidder, Kamminga & Roodvoets, Inc. and authorize the clerk to sign the attached resolution.	

Check if the following Departments need to approve the item first:

Police Dept. ☐

Fire Dept. ☐

IT Dept. ☐

For City Clerk Use Only:

Commission Action:

City of Muskegon

Amity Avenue Improvements

Bid Tabulations



Item No.	Item Description	Unit	Quantity	K&R		Jackson-Merkey		Hallack		Dunigan Bros	
				Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount
1	Mobilization, Bonds, and Insurance, Max. 5%	LSum	1	\$200,000.00	\$200,000.00	\$194,340.00	\$194,340.00	\$215,000.00	\$215,000.00	\$0.00	\$0.00
2	Pre-Construction Video Survey	LSum	1	\$1,500.00	\$1,500.00	\$2,000.00	\$2,000.00	\$5,685.00	\$5,685.00	\$6,300.00	\$6,300.00
3	Traffic Control	LSum	1	\$212,200.00	\$212,200.00	\$41,610.00	\$41,610.00	\$75,000.00	\$75,000.00	\$38,840.00	\$38,840.00
4	Flag Control	LSum	1	\$750.00	\$750.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$1,660.00	\$1,660.00
5	Soil Erosion Control	LSum	1	\$10,000.00	\$10,000.00	\$6,800.00	\$6,800.00	\$5,500.00	\$5,500.00	\$9,750.00	\$9,750.00
6	Tree, Rem, 6" to 18"	Each	4	\$310.00	\$1,240.00	\$310.00	\$1,240.00	\$250.00	\$1,000.00	\$472.50	\$1,890.00
7	Tree, Rem, 18" to 36"	Each	3	\$1,150.00	\$3,450.00	\$1,150.00	\$3,450.00	\$1,250.00	\$3,750.00	\$1,750.00	\$5,250.00
8	Stump, Rem, 6" to 18"	Each	1	\$110.00	\$110.00	\$110.00	\$110.00	\$250.00	\$250.00	\$168.00	\$168.00
9	Remove HMA Pavement	Syd	16,820	\$3.00	\$50,460.00	\$7.30	\$122,786.00	\$2.00	\$33,640.00	\$8.10	\$136,242.00
10	Remove Concrete Pavement	Syd	2,400	\$6.50	\$15,600.00	\$11.00	\$26,400.00	\$4.00	\$9,600.00	\$7.00	\$16,800.00
11	Remove Concrete Curb & Gutter	Ft	8,880	\$3.50	\$31,080.00	\$3.50	\$31,080.00	\$2.50	\$22,200.00	\$5.20	\$46,176.00
12	Remove Concrete Sidewalk	Syd	5,800	\$3.00	\$17,400.00	\$11.00	\$63,800.00	\$4.00	\$23,200.00	\$5.20	\$30,160.00
13	Remove Drainage Structure	Each	67	\$200.00	\$13,400.00	\$890.00	\$59,630.00	\$385.00	\$25,795.00	\$436.00	\$29,212.00
14	Abandon and Fill Existing Sanitary Sewer	Ft	5,275	\$4.00	\$21,100.00	\$9.10	\$48,002.50	\$22.50	\$118,687.50	\$6.10	\$32,177.50
15	Abandon and Fill Existing Sanitary Manhole	Each	16	\$150.00	\$2,400.00	\$2,730.00	\$43,680.00	\$800.00	\$12,800.00	\$540.00	\$8,640.00
16	Sign, Type III, Rem	Each	32	\$60.00	\$1,920.00	\$70.00	\$2,240.00	\$25.00	\$800.00	\$22.20	\$710.40
17	Subgrade Undercutting, Type II	Cyd	100	\$25.00	\$2,500.00	\$17.00	\$1,700.00	\$25.00	\$2,500.00	\$25.20	\$2,520.00
18	Trench Undercut and Backfill	Cyd	50	\$45.00	\$2,250.00	\$20.00	\$1,000.00	\$25.00	\$1,250.00	\$60.00	\$3,000.00
19	Roadway Grading	Sta	48	\$4,000.00	\$192,000.00	\$6,480.00	\$311,040.00	\$9,250.00	\$444,000.00	\$3,810.00	\$182,880.00
20	Subbase	Cyd	6,730	\$0.01	\$67.30	\$0.10	\$673.00	\$5.00	\$33,650.00	\$11.10	\$74,703.00
21	8" Aggregate Base, 21AA	Syd	16,780	\$9.00	\$151,020.00	\$12.50	\$209,750.00	\$10.00	\$167,800.00	\$14.50	\$243,310.00
22	Curb and Gutter, Conc	Ft	9,520	\$15.00	\$142,800.00	\$12.50	\$119,000.00	\$17.50	\$166,600.00	\$14.10	\$134,232.00
23	HMA, LVSP	Ton	4,000	\$75.43	\$301,720.00	\$75.45	\$301,800.00	\$75.50	\$302,000.00	\$84.50	\$338,000.00
24	Driveway, Nonreinf Conc, 6"	Syd	2,550	\$40.00	\$102,000.00	\$29.00	\$73,950.00	\$42.50	\$108,375.00	\$32.10	\$81,855.00
25	Driveway, Nonreinf Conc, 8"	Syd	85	\$53.00	\$4,505.00	\$45.00	\$3,825.00	\$52.50	\$4,462.50	\$49.90	\$4,241.50
26	Aggregate Surface Cse, 8"	Syd	22	\$20.00	\$440.00	\$18.50	\$407.00	\$12.00	\$264.00	\$15.90	\$349.80
27	Sidewalk, Conc, 4"	Sft	35,600	\$3.00	\$106,800.00	\$2.65	\$94,340.00	\$4.50	\$160,200.00	\$3.00	\$106,800.00
28	Sidewalk, Conc, 6"	Sft	9,300	\$4.00	\$37,200.00	\$3.20	\$29,760.00	\$5.50	\$51,150.00	\$3.60	\$33,480.00
29	Sidewalk, Conc, 8"	Sft	260	\$5.50	\$1,430.00	\$6.00	\$1,560.00	\$6.50	\$1,690.00	\$6.70	\$1,742.00
30	Sidewalk Ramp, Conc, 6"	Sft	6,500	\$5.50	\$35,750.00	\$4.00	\$26,000.00	\$6.50	\$42,250.00	\$4.40	\$28,600.00
31	Detectable Warning Surface, DI	Ft	354	\$65.00	\$23,010.00	\$32.00	\$11,328.00	\$40.00	\$14,160.00	\$35.50	\$12,567.00
32	Gate Box, Adj	Each	4	\$450.00	\$1,800.00	\$965.00	\$3,860.00	\$325.00	\$1,300.00	\$412.50	\$1,650.00
33	Dr Structure Cover, Adj	Each	3	\$600.00	\$1,800.00	\$675.00	\$2,025.00	\$750.00	\$2,250.00	\$465.50	\$1,396.50

Item No.	Item Description	Unit	Quantity	K&R		Jackson-Merkey		Hallack		Dunigan Bros	
				Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount
34	Monument Preservation	Each	1	\$750.00	\$750.00	\$565.00	\$565.00	\$700.00	\$700.00	\$1,110.00	\$1,110.00
35	Monument Box	Each	1	\$250.00	\$250.00	\$695.00	\$695.00	\$400.00	\$400.00	\$700.00	\$700.00
36	Monument Box Adjust	Each	1	\$500.00	\$500.00	\$695.00	\$695.00	\$300.00	\$300.00	\$410.00	\$410.00
37	Pavt Mrkg, Polyurea, 24", Stop Bar	Ft	60	\$10.50	\$630.00	\$10.50	\$630.00	\$10.50	\$630.00	\$11.60	\$696.00
38	Pavt Mrkg, Polyurea, 6", Crosswalk	Ft	300	\$2.60	\$780.00	\$2.60	\$780.00	\$2.60	\$780.00	\$3.00	\$900.00
39	Pavt Mrkg, Polyurea, 12", Crosswalk	Ft	320	\$5.25	\$1,680.00	\$5.25	\$1,680.00	\$5.25	\$1,680.00	\$5.80	\$1,856.00
40	Sign, Rem, Salv, Reinstall	Each	10	\$150.00	\$1,500.00	\$205.00	\$2,050.00	\$50.00	\$500.00	\$66.50	\$665.00
41	Sign, Type IIIA	Sft	130	\$20.00	\$2,600.00	\$16.50	\$2,145.00	\$15.00	\$1,950.00	\$17.70	\$2,301.00
42	Sign, Type IIIB	Sft	40	\$20.00	\$800.00	\$38.00	\$1,520.00	\$15.00	\$600.00	\$17.70	\$708.00
43	Post, Steel, 3 lb.	Ft	400	\$6.00	\$2,400.00	\$5.40	\$2,160.00	\$5.00	\$2,000.00	\$7.20	\$2,880.00
44	Surface Restoration	Syd	26,100	\$4.00	\$104,400.00	\$4.00	\$104,400.00	\$3.50	\$91,350.00	\$7.50	\$195,750.00
45	Mulch Blanket	Syd	1,000	\$0.90	\$900.00	\$3.40	\$3,400.00	\$1.00	\$1,000.00	\$1.70	\$1,700.00
46	Dr Structure Cover, Type B	Each	16	\$850.00	\$13,600.00	\$360.00	\$5,760.00	\$985.00	\$15,760.00	\$825.00	\$13,200.00
47	Dr Structure Cover, Type G	Each	2	\$750.00	\$1,500.00	\$300.00	\$600.00	\$850.00	\$1,700.00	\$683.00	\$1,366.00
48	Dr Structure Cover, Type K	Each	30	\$950.00	\$28,500.00	\$560.00	\$16,800.00	\$1,250.00	\$37,500.00	\$865.00	\$25,950.00
49	Dr Structure Cover, Type KK	Each	2	\$1,000.00	\$2,000.00	\$845.00	\$1,690.00	\$1,250.00	\$2,500.00	\$758.00	\$1,516.00
50	Bypass Pumping	LSum	1	\$5,000.00	\$5,000.00	\$84,800.00	\$84,800.00	\$65,000.00	\$65,000.00	\$70,630.00	\$70,630.00
51	Sanitary Manhole, 48" Dia	Each	16	\$2,600.00	\$41,600.00	\$4,550.00	\$72,800.00	\$3,500.00	\$56,000.00	\$4,030.00	\$64,480.00
52	Sanitary Manhole, 96" Dia	Each	1	\$9,000.00	\$9,000.00	\$6,510.00	\$6,510.00	\$9,000.00	\$9,000.00	\$12,690.00	\$12,690.00
53	Dr Structure Cover, Type Q	Each	17	\$1,100.00	\$18,700.00	\$480.00	\$8,160.00	\$1,350.00	\$22,950.00	\$888.50	\$15,104.50
54	8" Sanitary Sewer	Ft	135	\$75.00	\$10,125.00	\$61.00	\$8,235.00	\$45.00	\$6,075.00	\$111.00	\$14,985.00
55	10" Sanitary Sewer	Ft	34	\$80.00	\$2,720.00	\$70.50	\$2,397.00	\$55.00	\$1,870.00	\$171.00	\$5,814.00
56	12" Sanitary Sewer	Ft	14	\$85.00	\$1,190.00	\$73.00	\$1,022.00	\$65.00	\$910.00	\$175.00	\$2,450.00
57	18" Sanitary Sewer	Ft	36	\$90.00	\$3,240.00	\$76.50	\$2,754.00	\$85.00	\$3,060.00	\$165.00	\$5,940.00
58	21" Sanitary Sewer	Ft	4,616	\$95.00	\$438,520.00	\$120.75	\$557,382.00	\$130.00	\$600,080.00	\$170.00	\$784,720.00
59	Connect to Existing Sanitary Sewer	Each	9	\$1,000.00	\$9,000.00	\$3,280.00	\$29,520.00	\$750.00	\$6,750.00	\$761.50	\$6,853.50
60	21" x 6" Lateral Connector	Each	122	\$2,000.00	\$244,000.00	\$1,000.00	\$122,000.00	\$500.00	\$61,000.00	\$1,710.00	\$208,620.00
61	6" Sanitary Lateral	Ft	4,004	\$46.00	\$184,184.00	\$43.00	\$172,172.00	\$20.00	\$80,080.00	\$80.90	\$323,923.60
62	Reconnect Sanitary Lateral	Each	122	\$165.00	\$20,130.00	\$555.00	\$67,710.00	\$500.00	\$61,000.00	\$102.50	\$12,505.00
63	Abandon Existing Valve	Each	18	\$150.00	\$2,700.00	\$545.00	\$9,810.00	\$50.00	\$900.00	\$119.00	\$2,142.00
64	Remove Hydrant	Each	8	\$150.00	\$1,200.00	\$1,090.00	\$8,720.00	\$500.00	\$4,000.00	\$357.00	\$2,856.00
65	16" Watermain	Ft	62	\$150.00	\$9,300.00	\$120.00	\$7,440.00	\$150.00	\$9,300.00	\$186.50	\$11,563.00
66	12" Watermain	Ft	10	\$140.00	\$1,400.00	\$125.00	\$1,250.00	\$95.00	\$950.00	\$170.00	\$1,700.00
67	8" Watermain	Ft	4,221	\$67.00	\$282,807.00	\$66.00	\$278,586.00	\$60.00	\$253,260.00	\$82.60	\$348,654.60
68	6" Watermain	Ft	117	\$65.00	\$7,605.00	\$55.50	\$6,493.50	\$45.00	\$5,265.00	\$84.80	\$9,921.60
69	16" Valve & Box	Each	2	\$7,000.00	\$14,000.00	\$8,520.00	\$17,040.00	\$9,000.00	\$18,000.00	\$7,640.00	\$15,280.00
70	12" Valve & Box	Each	2	\$2,600.00	\$5,200.00	\$3,760.00	\$7,520.00	\$2,850.00	\$5,700.00	\$2,540.00	\$5,080.00
71	8" Valve & Box	Each	20	\$1,600.00	\$32,000.00	\$2,000.00	\$40,000.00	\$1,850.00	\$37,000.00	\$1,380.00	\$27,600.00
72	6" Valve & Box	Each	9	\$1,100.00	\$9,900.00	\$1,600.00	\$14,400.00	\$1,250.00	\$11,250.00	\$965.00	\$8,685.00
73	16"x8" Cross	Each	1	\$2,500.00	\$2,500.00	\$3,070.00	\$3,070.00	\$2,250.00	\$2,250.00	\$1,700.00	\$1,700.00

Item No.	Item Description	Unit	Quantity	K&R		Jackson-Merkey		Hallack		Dunigan Bros	
				Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount	Bid Unit Price	Bid Amount
74	8"x8" Cross	Each	2	\$1,200.00	\$2,400.00	\$1,640.00	\$3,280.00	\$1,000.00	\$2,000.00	\$611.00	\$1,222.00
75	12"x12"x8" Tee	Each	1	\$1,100.00	\$1,100.00	\$1,400.00	\$1,400.00	\$1,000.00	\$1,000.00	\$710.50	\$710.50
76	8"x8"x8" Tee	Each	3	\$800.00	\$2,400.00	\$1,110.00	\$3,330.00	\$750.00	\$2,250.00	\$429.00	\$1,287.00
77	8"x8"x6" Tee	Each	9	\$775.00	\$6,975.00	\$1,060.00	\$9,540.00	\$650.00	\$5,850.00	\$376.00	\$3,384.00
78	16"x45° Bend	Each	8	\$1,900.00	\$15,200.00	\$1,890.00	\$15,120.00	\$1,000.00	\$8,000.00	\$1,180.00	\$9,440.00
79	8"x45° Bend	Each	60	\$800.00	\$48,000.00	\$500.00	\$30,000.00	\$350.00	\$21,000.00	\$253.00	\$15,180.00
80	6"x45° Bend	Each	8	\$600.00	\$4,800.00	\$1,260.00	\$10,080.00	\$285.00	\$2,280.00	\$188.00	\$1,504.00
81	8"x6" Reducer	Each	9	\$500.00	\$4,500.00	\$750.00	\$6,750.00	\$325.00	\$2,925.00	\$217.50	\$1,957.50
82	Fire Hydrant	Each	9	\$3,300.00	\$29,700.00	\$2,930.00	\$26,370.00	\$3,850.00	\$34,650.00	\$3,840.00	\$34,560.00
83	Connect to Existing Watermain	Each	12	\$3,000.00	\$36,000.00	\$3,590.00	\$43,080.00	\$1,500.00	\$18,000.00	\$4,250.00	\$51,000.00
84	Relocate 6" Watermain	Each	1	\$4,000.00	\$4,000.00	\$2,120.00	\$2,120.00	\$2,850.00	\$2,850.00	\$4,210.00	\$4,210.00
85	Relocate 8" Watermain	Each	1	\$4,400.00	\$4,400.00	\$3,100.00	\$3,100.00	\$3,500.00	\$3,500.00	\$4,470.00	\$4,470.00
86	Relocate 12" Watermain	Each	1	\$7,500.00	\$7,500.00	\$5,780.00	\$5,780.00	\$6,500.00	\$6,500.00	\$5,760.00	\$5,760.00
87	Relocate 16" Watermain	Each	1	\$11,000.00	\$11,000.00	\$5,750.00	\$5,750.00	\$7,500.00	\$7,500.00	\$8,180.00	\$8,180.00
88	1.5" Corp Stop, Curb Stop & Box	Each	1	\$1,400.00	\$1,400.00	\$1,512.00	\$1,512.00	\$1,500.00	\$1,500.00	\$1,700.00	\$1,700.00
89	1" Corp Stop, Curb Stop & Box	Each	125	\$900.00	\$112,500.00	\$1,105.00	\$138,125.00	\$1,000.00	\$125,000.00	\$1,250.00	\$156,250.00
90	1.5" Water Service	Ft	45	\$75.00	\$3,375.00	\$27.85	\$1,253.25	\$30.00	\$1,350.00	\$31.40	\$1,413.00
91	1" Water Service	Ft	3,178	\$62.00	\$197,036.00	\$20.65	\$65,625.70	\$25.00	\$79,450.00	\$23.30	\$74,047.40
92	Water Service, Reconnect	Each	10	\$300.00	\$3,000.00	\$295.00	\$2,950.00	\$150.00	\$1,500.00	\$288.00	\$2,880.00
93	1.5" Water Service, Private Property	Ft	15	\$75.00	\$1,125.00	\$45.00	\$675.00	\$148.50	\$2,227.50	\$50.70	\$760.50
94	1" Water Service, Private Property	Ft	3,113	\$30.00	\$93,390.00	\$20.65	\$64,283.45	\$88.00	\$273,944.00	\$23.30	\$72,532.90
95	Water Service, Building Connection	Each	97	\$1,400.00	\$135,800.00	\$615.00	\$59,655.00	\$350.00	\$33,950.00	\$650.00	\$63,050.00
96	Meter Pit	Each	15	\$1,400.00	\$21,000.00	\$915.75	\$13,736.25	\$550.00	\$8,250.00	\$1,030.00	\$15,450.00
97	Private Property Landscape Repair (Allowance)	Dlr	4,000	\$1.00	\$4,000.00	\$1.00	\$4,000.00	\$1.00	\$4,000.00	\$1.00	\$4,000.00
98	Irrigation Repair (Allowance)	Dlr	3,000	\$1.00	\$3,000.00	\$1.00	\$3,000.00	\$1.00	\$3,000.00	\$1.00	\$3,000.00
99	Remove Storm Sewer 30" or Less	Ft	860	\$6.00	\$5,160.00	\$9.90	\$8,514.00	\$10.00	\$8,600.00	\$17.50	\$15,050.00
100	Storm Sewer, 12 inch	Ft	1,620	\$45.00	\$72,900.00	\$35.50	\$57,510.00	\$40.00	\$64,800.00	\$102.00	\$165,240.00
101	Storm Sewer, 27 inch	Ft	20	\$125.00	\$2,500.00	\$76.50	\$1,530.00	\$85.00	\$1,700.00	\$162.50	\$3,250.00
102	Dr Structure, 24 inch Dia	Each	25	\$1,100.00	\$27,500.00	\$1,870.00	\$46,750.00	\$1,850.00	\$46,250.00	\$2,100.00	\$52,500.00
103	Dr Structure, 48 inch Dia	Each	24	\$1,900.00	\$45,600.00	\$2,470.00	\$59,280.00	\$2,500.00	\$60,000.00	\$3,070.00	\$73,680.00
104	Dr Structure, 84 inch Dia	Each	1	\$11,000.00	\$11,000.00	\$8,390.00	\$8,390.00	\$8,000.00	\$8,000.00	\$14,890.00	\$14,890.00
105	Dr Structure Tap, 12 inch	Each	2	\$550.00	\$1,100.00	\$1,920.00	\$3,840.00	\$350.00	\$700.00	\$525.00	\$1,050.00
106	Sewer Tap, 10 inch	Each	4	\$550.00	\$2,200.00	\$1,420.00	\$5,680.00	\$250.00	\$1,000.00	\$523.50	\$2,094.00
107	Sewer Tap, 12 inch	Each	7	\$575.00	\$4,025.00	\$1,410.00	\$9,870.00	\$350.00	\$2,450.00	\$523.50	\$3,664.50
108	Sewer Tap, 27 inch	Each	1	\$900.00	\$900.00	\$1,980.00	\$1,980.00	\$500.00	\$500.00	\$1,470.00	\$1,470.00
109	Sewer Tap, 54 inch	Each	2	\$1,750.00	\$3,500.00	\$2,850.00	\$5,700.00	\$800.00	\$1,600.00	\$3,490.00	\$6,980.00
				Bid Total: \$4,138,499.30		Bid Total: \$4,246,607.65		Bid Total: \$4,388,385.50		Bid Total: \$4,708,725.80	
										As-Read: \$4,956,125.80	
										Difference: \$247,400.00	



RECOMMENDATION OF AWARD

July 31, 2020

Leo Evans, P.E., Director of Public Works
City of Muskegon
933 Terrace Street
Muskegon, Michigan 49440

RE: Amity Avenue Improvements

Dear Leo:

We reviewed the bids for the Amity Avenue Improvements project and summarized the bids on the enclosed Bid Summary. A total of four bids were received with three below the engineers estimate.

The low bid was submitted by Kamminga & Roodvoets, Inc. (K&R) in the amount of \$4,138,499.30. Based on our experience with K&R, we are confident they are capable of constructing a quality project for the City of Muskegon.

Based on the above, we recommend award of the project to Kamminga & Roodvoets, Inc. in the amount of \$4,138,499.30.

Please feel free to contact me with any questions.

Sincerely,

FLEIS & VANDENBRINK

A blue ink signature of Don DeVries, written in a cursive style.

Don DeVries, P.E.
Project Manager

Enclosure(s)

**A RESOLUTION TO TENTATIVELY AWARD
A CONSTRUCTION CONTRACT
FOR WASTEWATER AND WATER SYSTEM IMPROVEMENTS**

WHEREAS, the City of Muskegon wishes to construct improvements to its existing wastewater treatment and collection system and its existing water treatment and distribution system; and

WHEREAS, the wastewater system improvements project formally adopted on June 26, 2018 will be funded through Michigan's State Revolving Loan Fund (SRF) program; and

WHEREAS, the water system improvements project formally adopted on April 23, 2019 will be funded through the state of Michigan's Drinking Water Revolving Loan Fund (DWRF) program; and

WHEREAS, the City of Muskegon has sought and received construction bids for the Amity Avenue Project and has received a low bid in the amount of \$4,138,499.30 from Kamminga & Roodvoets of Grand Rapids, MI; and

WHEREAS, the City of Muskegon's project engineer, Leo Evans, has recommended awarding the contract to the low bidder.

NOW THEREFORE BE IT RESOLVED, that the City of Muskegon tentatively awards the contract for construction of the proposed Amity Avenue wastewater system and water system improvements project to Kamminga & Roodvoets of Grand Rapids, MI, contingent upon successful financial arrangements with the SRF and DWRF Programs.

Yeas:

Nays:

Abstain:

Absent:

I certify that the above Resolution was adopted by the City Commission of the City of Muskegon on August 11, 2020.

BY: Ann Meisch, City Clerk

Signature

Date

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Peck Street Water & Sewer Upgrades
Submitted By: Leo Evans	Department: Public Works
Brief Summary: Authorize the award of the Peck Street contract to the low bidder, Kamminga & Roodvoets Inc, and authorize the clerk to sign the attached resolution.	
Detailed Summary: Staff solicited bids for sewer replacement, water main replacement and road reconstruction on Peck Street from Laketon Avenue north to Merrill Avenue in the Nelson and McLaughlin neighborhoods. Bids received are as follows: • \$3,481,438.91 – Kamminga & Roodvoets • \$3,589,454.75 – Wadel Stabilization • \$3,794,984.00 – Hallack Contracting • \$4,135,588.35 – Diversco Construction • \$4,827,140.03 – Dunigan Brothers This project is financed through the sale of bonds in partnership with the State of Michigan Clean Water and Drinking Water Revolving Funds. The State of Michigan programs offer forgiveness for portions of the project. The project would be constructed during the 2021 construction season. There will be a separate project financed through City Major Streets and MDOT/FHWA to reconstruct Peck Street from Merrill to Apple in the same year. That project is expected to take bids in January or February.	
Amount Requested: \$3,481,438.91	Amount Budgeted: \$4,700,000 (Total) 19/20 - \$200,000 20/21 - \$1,700,000 21/22 - \$2,800,000 (Inclusive of Engineering, Bonding, Financing, Contingency, etc...)
Fund(s) or Account(s): 202/590/591-92010	Fund(s) or Account(s): 202/590/591-92010

Recommended Motion:

Approve the award of the Peck Street contract to the low bidder, Kamminga & Roodvoets, Inc. and authorize the clerk to sign the attached resolution.

Check if the following Departments need to approve the item first:

Police Dept. ☐

Fire Dept. ☐

IT Dept. ☐

For City Clerk Use Only:

Commission Action:

Bid Tabulation

Owner: City of Muskegon				1st Kamminga&Roodvoets 3435 Broadmoor Ave SE Grand Rapids, MI 49512		2nd Wadel Stabilization, Inc 2500 N Oceana Dr Hart, MI 49420		3rd Hallack Contracting 4223 W Polk Rd Hart, MI 49420		4th Diversco Construction 570 Market Ave SW Grand Rapids, MI 49503			
Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill													
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730											
Item No.		Description		Quantity	Unit	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
	SRF/DWRF Eligible												
1	Mobilization, Max, 10%		1	Lsum	\$345,000.00	\$345,000.00	\$358,000.00	\$358,000.00	\$175,000.00	\$175,000.00	\$400,000.00	\$400,000.00	
2	Traffic Control		1	Lsum	\$55,500.00	\$55,500.00	\$47,230.00	\$47,230.00	\$62,500.00	\$62,500.00	\$32,625.00	\$32,625.00	
3	Minor Traf Devices		1	Lsum	\$25,000.00	\$25,000.00	\$26,380.00	\$26,380.00	\$55,000.00	\$55,000.00	\$150,000.00	\$150,000.00	
4	Tree, Rem, 6 inch to 18 inch		13	Ea	\$395.00	\$5,135.00	\$400.00	\$5,200.00	\$285.00	\$3,705.00	\$395.00	\$5,135.00	
5	Tree, Rem, 19 inch to 36 inch		8	Ea	\$1,150.00	\$9,200.00	\$1,150.00	\$9,200.00	\$1,125.00	\$9,000.00	\$1,750.00	\$14,000.00	*
6	Dr Structure, Rem		73	Ea	\$250.00	\$18,250.00	\$320.00	\$23,360.00	\$385.00	\$28,105.00	\$442.00	\$32,266.00	
7	Sewer Rem, Less than 24 inch		1,545	Ft	\$7.00	\$10,815.00	\$6.00	\$9,270.00	\$10.00	\$15,450.00	\$8.00	\$12,360.00	
8	Sewer Rem, 24 inch and Greater		240	Ft	\$10.00	\$2,400.00	\$8.00	\$1,920.00	\$20.00	\$4,800.00	\$14.00	\$3,360.00	
9	Sewer, Abandon, Less than 20 inch		620	Ft	\$5.00	\$3,100.00	\$11.00	\$6,820.00	\$15.00	\$9,300.00	\$12.80	\$7,936.00	
10	Sewer, Abandon, 20 inch and Greater		90	Ft	\$15.00	\$1,350.00	\$19.00	\$1,710.00	\$55.00	\$4,950.00	\$20.00	\$1,800.00	
11	Curb and Gutter Rem		8,900	Ft	\$3.50	\$31,150.00	\$2.60	\$23,140.00	\$2.50	\$22,250.00	\$5.15	\$45,835.00	
12	Pavt, Rem		23,660	Syd	\$5.50	\$130,130.00	\$4.90	\$115,934.00	\$4.00	\$94,640.00	\$9.80	\$231,868.00	
13	HMA Surface, Rem		22,500	Syd	\$2.50	\$56,250.00	\$1.50	\$33,750.00	\$2.00	\$45,000.00	\$2.50	\$56,250.00	
14	Sidewalk, Rem		2,560	Syd	\$5.00	\$12,800.00	\$5.80	\$14,848.00	\$4.00	\$10,240.00	\$4.25	\$10,880.00	

Bid Tabulation

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Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill											
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730									
Item No.		Description		Quantity	Unit	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
15	Irrigation Repair Allowance		1	Lsum	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00
16	Erosion Control, Inlet Protection, Fabric Drop		39	Ea	\$170.00	\$6,630.00	\$100.00	\$3,900.00	\$85.00	\$3,315.00	\$135.00
17	Machine Grading, Modified		39.6	Sta	\$2,500.00	\$99,000.00	\$2,500.00	\$99,000.00	\$7,450.00	\$295,020.00	\$5,335.00
18	Aggregate Base, 9 inch, Modified		19,510	Syd	\$12.00	\$234,120.00	\$13.00	\$253,630.00	\$10.00	\$195,100.00	\$15.25
19	HMA, 5E1		2,250	Ton	\$82.80	\$186,300.00	\$82.80	\$186,300.00	\$85.00	\$191,250.00	\$82.80
20	HMA, 4E3		2,250	Ton	\$81.98	\$184,455.00	\$82.00	\$184,500.00	\$82.50	\$185,625.00	\$81.98
21	HMA, 3E3		2,250	Ton	\$74.32	\$167,220.00	\$75.00	\$168,750.00	\$82.50	\$185,625.00	\$74.32
22	Driveway, Nonreinf Conc, 6 inch		880	Syd	\$40.00	\$35,200.00	\$27.00	\$23,760.00	\$42.50	\$37,400.00	\$27.00
23	Curb and Gutter, Conc. Det F4		8,640	Ft	\$14.00	\$120,960.00	\$11.00	\$95,040.00	\$17.00	\$146,880.00	\$11.00
24	Sidewalk, Conc, 4 inch		18,330	Sft	\$3.00	\$54,990.00	\$2.55	\$46,741.50	\$4.25	\$77,902.50	\$2.55
25	Sidewalk, Conc, 6 inch		1,070	Sft	\$4.25	\$4,547.50	\$3.20	\$3,424.00	\$5.50	\$5,885.00	\$3.20
26	Sidewalk Ramp, Conc, 6 inch		3,590	Sft	\$5.50	\$19,745.00	\$4.00	\$14,360.00	\$6.00	\$21,540.00	\$4.00
27	Detectable Warning Surface		375	Ft	\$48.00	\$18,000.00	\$32.00	\$12,000.00	\$40.00	\$15,000.00	\$32.00
28	Turf Restoration		39.6	Sta	\$500.00	\$19,800.00	\$400.00	\$15,840.00	\$850.00	\$33,660.00	\$1,850.00
29	Pavt Mrkg, Polyurea, Lt Turn Arrow Sym		1	Ea	\$185.00	\$185.00	\$185.00	\$185.00	\$185.00	\$185.00	\$185.00

Bid Tabulation

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Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill											
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730									
Item No.		Description		Quantity	Unit	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
30	Pavt Mrkg, Polyurea, Thru & Rt Turn Arrow Sym		1	Ea	\$215.00	\$215.00	\$215.00	\$215.00	\$215.00	\$215.00	\$215.00
31	Pavt Mrkg, Polyurea, 4 inch, Yellow		6,650	Ft	\$0.95	\$6,317.50	\$1.00	\$6,650.00	\$0.95	\$6,317.50	\$0.95
32	Pavt Mrkg, Polyurea, 4 inch, White		6,050	Ft	\$0.95	\$5,747.50	\$1.00	\$6,050.00	\$0.95	\$5,747.50	\$0.95
33	Pavt Mrkg, Polyurea, 6 inch, White		75	Ft	\$0.99	\$74.25	\$1.00	\$75.00	\$0.99	\$74.25	\$0.99
34	Pavt Mrkg, Polyurea, 6 inch Crosswalk, White		285	Ft	\$2.95	\$840.75	\$3.00	\$855.00	\$2.95	\$840.75	\$2.95
35	Pavt Mrkg, Polyurea, 12 inch Crosswalk, White		1,220	Ft	\$5.95	\$7,259.00	\$6.00	\$7,320.00	\$5.95	\$7,259.00	\$5.95
36	Pavt Mrkg, Polyurea, 18 inch, Stop Bar, White		1,225	Ft	\$7.50	\$9,187.50	\$8.00	\$9,800.00	\$7.50	\$9,187.50	\$7.50
37	Sign Type IIIB		17.25	Sft	\$25.00	\$431.25	\$25.00	\$431.25	\$10.00	\$172.50	\$25.00
38	Post, Steel 3 LB		45	Ft	\$8.00	\$360.00	\$10.00	\$450.00	\$5.00	\$225.00	\$10.00
39	Sanitary Sewer, 8", Tr Det B		4,362	Ft	\$60.00	\$261,720.00	\$100.00	\$436,200.00	\$85.00	\$370,770.00	\$91.00
40	Sanitary Sewer, 10", Tr Det B		128	Ft	\$90.00	\$11,520.00	\$125.00	\$16,000.00	\$95.00	\$12,160.00	\$83.80
41	Sanitary Manhole, 48 inch Dia		13	Ea	\$3,300.00	\$42,900.00	\$3,680.00	\$47,840.00	\$3,850.00	\$50,050.00	\$2,908.00
42	Sanitary Drop Manhole, 48 inch Dia		6	Ea	\$5,000.00	\$30,000.00	\$5,140.00	\$30,840.00	\$5,250.00	\$31,500.00	\$4,422.00
43	Sanitary Sewer, Wye, 8 inch x 6 inch		76	Ea	\$375.00	\$28,500.00	\$510.00	\$38,760.00	\$200.00	\$15,200.00	\$302.75
44	Sanitary Lateral, 6 inch		2,550	Ft	\$45.00	\$114,750.00	\$40.30	\$102,765.00	\$22.50	\$57,375.00	\$64.22

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45	Sanitary Lateral, 6 inch, Pipe Burst		266	Ft	\$66.00	\$17,556.00	\$110.00	\$29,260.00	\$150.00	\$39,900.00	\$125.00	\$33,250.00
46	Sanitary Lateral, Connect to Ex.		79	Ea	\$150.00	\$11,850.00	\$198.00	\$15,642.00	\$150.00	\$11,850.00	\$227.00	\$17,933.00
47	Sanitary Sewer, Connect to Ex. 8"		9	Ea	\$950.00	\$8,550.00	\$304.00	\$2,736.00	\$750.00	\$6,750.00	\$341.00	\$3,069.00
48	Sanitary Sewer, Connect to Ex. 10"		2	Ea	\$990.00	\$1,980.00	\$345.00	\$690.00	\$900.00	\$1,800.00	\$425.00	\$850.00
49	Sanitary Sewer, Plug, 8 inch		1	Ea	\$300.00	\$300.00	\$250.00	\$250.00	\$250.00	\$250.00	\$107.00	\$107.00
50	Sanitary Sewer, Bulkhead, 20 inch		1	Ea	\$750.00	\$750.00	\$950.00	\$950.00	\$350.00	\$350.00	\$455.00	\$455.00
51	Sanitary Sewer, CCTV		4,490	Ft	\$2.25	\$10,102.50	\$2.50	\$11,225.00	\$1.00	\$4,490.00	\$2.75	\$12,347.50
52	Sewer, Cl E, 12 inch, Tr Det B		1,258	Ft	\$50.00	\$62,900.00	\$52.00	\$65,416.00	\$45.00	\$56,610.00	\$51.10	\$64,283.80
53	Sewer, Cl E, 15 inch, Tr Det B		35	Ft	\$70.00	\$2,450.00	\$126.00	\$4,410.00	\$60.00	\$2,100.00	\$54.10	\$1,893.50
54	Sewer, Cl E, 18 inch, Tr Det B		35	Ft	\$72.00	\$2,520.00	\$130.00	\$4,550.00	\$67.50	\$2,362.50	\$76.00	\$2,660.00
55	Sewer, Cl E, 24 inch, Tr Det B		223	Ft	\$75.00	\$16,725.00	\$102.00	\$22,746.00	\$80.00	\$17,840.00	\$91.20	\$20,337.60
56	Sewer, Connect to Ex. 12"		4	Ea	\$650.00	\$2,600.00	\$230.00	\$920.00	\$1,000.00	\$4,000.00	\$520.00	\$2,080.00
57	Sewer, Connect to Ex. 15"		4	Ea	\$700.00	\$2,800.00	\$340.00	\$1,360.00	\$1,500.00	\$6,000.00	\$703.00	\$2,812.00
58	Sewer, Connect to Ex. 18"		6	Ea	\$900.00	\$5,400.00	\$400.00	\$2,400.00	\$1,750.00	\$10,500.00	\$906.00	\$5,436.00
59	Sewer, Connect to Ex. 24"		3	Ea	\$950.00	\$2,850.00	\$580.00	\$1,740.00	\$2,000.00	\$6,000.00	\$1,245.00	\$3,735.00

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60	Sewer, Bulkhead, 18"		1	Ea	\$500.00	\$500.00	\$830.00	\$830.00	\$300.00	\$300.00	\$232.00	\$232.00
61	Dr Structure, 24 inch dia		20	Ea	\$1,000.00	\$20,000.00	\$1,410.00	\$28,200.00	\$1,850.00	\$37,000.00	\$932.00	\$18,640.00
62	Dr Structure, 48 inch dia		21	Ea	\$1,700.00	\$35,700.00	\$2,180.00	\$45,780.00	\$2,500.00	\$52,500.00	\$1,596.00	\$33,516.00
63	Dr Structure, 60 inch dia		1	Ea	\$3,400.00	\$3,400.00	\$3,140.00	\$3,140.00	\$4,000.00	\$4,000.00	\$3,407.00	\$3,407.00
64	Rebuild Dr Structure, 60 inch dia		1	Ea	\$4,000.00	\$4,000.00	\$5,250.00	\$5,250.00	\$5,250.00	\$5,250.00	\$1,972.00	\$1,972.00
65	Dr Structure Cover, Type B		17	Ea	\$800.00	\$13,600.00	\$375.00	\$6,375.00	\$985.00	\$16,745.00	\$500.00	\$8,500.00
66	Dr Structure Cover, Type K		25	Ea	\$975.00	\$24,375.00	\$525.00	\$13,125.00	\$1,250.00	\$31,250.00	\$650.00	\$16,250.00
67	Dr Structure Cover Adj, Case 1		5	Ea	\$550.00	\$2,750.00	\$750.00	\$3,750.00	\$750.00	\$3,750.00	\$537.00	\$2,685.00
68	Water Main, DI, 4 inch, Tr Det G		10	Ft	\$70.00	\$700.00	\$119.00	\$1,190.00	\$50.00	\$500.00	\$92.40	\$924.00
69	Water Main, DI, 6 inch, Tr Det G		348	Ft	\$70.00	\$24,360.00	\$93.00	\$32,364.00	\$60.00	\$20,880.00	\$64.40	\$22,411.20
70	Water Main, DI, 8 inch, Tr Det G		4,075	Ft	\$73.00	\$297,475.00	\$65.00	\$264,875.00	\$75.00	\$305,625.00	\$67.20	\$273,840.00
71	Water Main, DI, 12 inch, Tr Det G		54	Ft	\$125.00	\$6,750.00	\$122.00	\$6,588.00	\$100.00	\$5,400.00	\$141.50	\$7,641.00
72	Water Main, DI, 16 inch, Tr Det G		60	Ft	\$140.00	\$8,400.00	\$146.00	\$8,760.00	\$125.00	\$7,500.00	\$178.55	\$10,713.00
73	Water Main, Bend, 22.5 Degree, 8 inch		2	Ea	\$763.83	\$1,527.66	\$510.00	\$1,020.00	\$350.00	\$700.00	\$439.00	\$878.00
74	Water Main, Bend, 45 Degree, 6 inch		4	Ea	\$700.00	\$2,800.00	\$380.00	\$1,520.00	\$285.00	\$1,140.00	\$373.00	\$1,492.00

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75	Water Main, Bend, 45 Degree, 8 inch		10	Ea	\$900.00	\$9,000.00	\$510.00	\$5,100.00	\$350.00	\$3,500.00	\$441.00	\$4,410.00
76	Water Main, Reducer, 10 inch x 8 inch		1	Ea	\$550.00	\$550.00	\$530.00	\$530.00	\$385.00	\$385.00	\$492.00	\$492.00
77	Water Main, Reducer, 8 inch x 6 inch		1	Ea	\$450.00	\$450.00	\$430.00	\$430.00	\$325.00	\$325.00	\$424.00	\$424.00
78	Water Main, Sleeve, 4 inch		1	Ea	\$1,200.00	\$1,200.00	\$740.00	\$740.00	\$500.00	\$500.00	\$946.00	\$946.00
79	Water Main, Sleeve, 6 inch		6	Ea	\$1,300.00	\$7,800.00	\$830.00	\$4,980.00	\$750.00	\$4,500.00	\$1,133.00	\$6,798.00
80	Water Main, Sleeve, 8 inch		5	Ea	\$1,800.00	\$9,000.00	\$950.00	\$4,750.00	\$895.00	\$4,475.00	\$1,321.00	\$6,605.00
81	Water Main, Sleeve, 10 inch		1	Ea	\$2,000.00	\$2,000.00	\$1,290.00	\$1,290.00	\$1,050.00	\$1,050.00	\$1,586.00	\$1,586.00
82	Water Main, Sleeve, 12 inch		2	Ea	\$2,500.00	\$5,000.00	\$1,240.00	\$2,480.00	\$1,150.00	\$2,300.00	\$2,348.00	\$4,696.00
83	Water Main, Sleeve, 16 inch		2	Ea	\$3,300.00	\$6,600.00	\$1,520.00	\$3,040.00	\$1,785.00	\$3,570.00	\$2,585.00	\$5,170.00
84	Water Main, Tee, 8 inch x 8 inch x 4 inch		1	Ea	\$700.00	\$700.00	\$710.00	\$710.00	\$550.00	\$550.00	\$610.00	\$610.00
85	Water Main, Tee, 8 inch x 8 inch x 6 inch		14	Ea	\$750.00	\$10,500.00	\$800.00	\$11,200.00	\$650.00	\$9,100.00	\$652.00	\$9,128.00
86	Water Main, Tee, 8 inch x 8 inch x 8 inch		3	Ea	\$850.00	\$2,550.00	\$900.00	\$2,700.00	\$750.00	\$2,250.00	\$656.00	\$1,968.00
87	Water Main, Cross, 12 inch x 12 inch x 8 inch x 8 inch		1	Ea	\$1,500.00	\$1,500.00	\$1,380.00	\$1,380.00	\$1,250.00	\$1,250.00	\$1,209.00	\$1,209.00
88	Water Main, Cross, 16 inch x 16inch x 8 inch x 8 inch		1	Ea	\$2,500.00	\$2,500.00	\$2,190.00	\$2,190.00	\$2,250.00	\$2,250.00	\$2,011.00	\$2,011.00
89	Water Main, Valve and Box, 4 inch		1	Ea	\$1,000.00	\$1,000.00	\$1,150.00	\$1,150.00	\$1,250.00	\$1,250.00	\$1,062.00	\$1,062.00

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90	Water Main, Valve and Box, 6 inch		14	Ea	\$1,100.00	\$15,400.00	\$1,310.00	\$18,340.00	\$1,500.00	\$21,000.00	\$1,200.00	\$16,800.00
91	Water Main, Valve and Box, 8 inch		16	Ea	\$1,600.00	\$25,600.00	\$1,720.00	\$27,520.00	\$1,850.00	\$29,600.00	\$1,716.00	\$27,456.00
92	Water Main, Valve and Box, 12 inch		2	Ea	\$2,600.00	\$5,200.00	\$2,740.00	\$5,480.00	\$2,850.00	\$5,700.00	\$2,792.00	\$5,584.00
93	Water Main, Valve and Box, 16 inch		1	Ea	\$6,800.00	\$6,800.00	\$4,370.00	\$4,370.00	\$9,000.00	\$9,000.00	\$4,068.00	\$4,068.00
94	Water Main, Cut and Cap, 6 inch		1	Ea	\$500.00	\$500.00	\$480.00	\$480.00	\$1,000.00	\$1,000.00	\$461.00	\$461.00
95	Water Main, Cut and Cap, 8 inch		1	Ea	\$600.00	\$600.00	\$520.00	\$520.00	\$1,250.00	\$1,250.00	\$505.00	\$505.00
96	Water Main, Cap, 8 inch		4	Ea	\$150.00	\$600.00	\$380.00	\$1,520.00	\$500.00	\$2,000.00	\$213.00	\$852.00
97	Valve Box, Adjust		3	Ea	\$485.00	\$1,455.00	\$370.00	\$1,110.00	\$325.00	\$975.00	\$340.00	\$1,020.00
98	Hydrant, Rem		19	Ea	\$150.00	\$2,850.00	\$400.00	\$7,600.00	\$500.00	\$9,500.00	\$556.00	\$10,564.00
99	Hydrant		9	Ea	\$3,200.00	\$28,800.00	\$2,920.00	\$26,280.00	\$3,850.00	\$34,650.00	\$3,008.00	\$27,072.00
100	Water Main, Abandon		8,250	Ft	\$2.50	\$20,625.00	\$3.00	\$24,750.00	\$1.00	\$8,250.00	\$3.90	\$32,175.00
101	Water Main, Rem		660	Ft	\$5.00	\$3,300.00	\$8.00	\$5,280.00	\$8.00	\$5,280.00	\$11.00	\$7,260.00
102	Water Service, Corporation Stop, 1 inch		84	Ea	\$250.00	\$21,000.00	\$510.00	\$42,840.00	\$1,250.00	\$105,000.00	\$398.00	\$33,432.00
103	Water Service, Corporation Stop, 2 inch		4	Ea	\$775.00	\$3,100.00	\$890.00	\$3,560.00	\$1,500.00	\$6,000.00	\$714.00	\$2,856.00
104	Water Service, Curb Stop and Box, 1 inch		74	Ea	\$300.00	\$22,200.00	\$965.00	\$71,410.00	\$1,250.00	\$92,500.00	\$740.00	\$54,760.00

Bid Tabulation

Owner: City of Muskegon				1st Kamminga&Roodvoets 3435 Broadmoor Ave SE Grand Rapids, MI 49512		2nd Wadel Stabilization, Inc 2500 N Oceana Dr Hart, MI 49420		3rd Hallack Contracting 4223 W Polk Rd Hart, MI 49420		4th Diversco Construction 570 Market Ave SW Grand Rapids, MI 49503		
Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill												
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730										
Item No.		Description		Quantity	Unit	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	
105	Water Service, Curb Stop and Box, 2 inch		4	Ea	\$800.00	\$3,200.00	\$1,225.00	\$4,900.00	\$1,500.00	\$6,000.00	\$1,088.00	\$4,352.00
106	Water Service, 1 inch		4,820	Ft	\$35.00	\$168,700.00	\$21.00	\$101,220.00	\$25.00	\$120,500.00	\$29.50	\$142,190.00
107	Water Service, 2 inch		195	Ft	\$88.00	\$17,160.00	\$49.00	\$9,555.00	\$35.00	\$6,825.00	\$43.00	\$8,385.00
108	Water Service, Meter Pit		10	Ea	\$1,000.00	\$10,000.00	\$915.00	\$9,150.00	\$550.00	\$5,500.00	\$1,111.00	\$11,110.00
109	Water Service Restoration, Private		72	Ea	\$50.00	\$3,600.00	\$285.00	\$20,520.00	\$25.00	\$1,800.00	\$314.00	\$22,608.00
	SRF/DWRF Eligible Subtotal:				\$3,408,766.41 *		\$3,519,580.75		\$3,689,349.00 *		\$4,064,391.75 *	
	SRF/DWRF Ineligible											
110	Park Irrigation System		1	Lsum	\$3,750.00	\$3,750.00	\$4,650.00	\$4,650.00	\$15,000.00	\$15,000.00	\$10,000.00	\$10,000.00
111	Tree, Rem, 19 inch to 36 inch		2	Ea	\$1,150.00	\$2,300.00	\$1,150.00	\$2,300.00	\$1,250.00	\$2,500.00	\$1,750.00	\$3,500.00
112	Sidewalk, Rem		500	Syd	\$5.00	\$2,500.00	\$5.80	\$2,900.00	\$5.00	\$2,500.00	\$4.25	\$2,125.00
113	Sidewalk, Conc, 4 inch		3,650	Sft	\$3.00	\$10,950.00	\$2.80	\$10,220.00	\$4.50	\$16,425.00	\$2.80	\$10,220.00
114	Sidewalk, Conc, 6 inch		770	Sft	\$4.25	\$3,272.50	\$3.20	\$2,464.00	\$5.50	\$4,235.00	\$3.20	\$2,464.00
115	Sewer, Cl E, 10 inch, Tr Det B		10	Ft	\$45.00	\$450.00	\$52.00	\$520.00	\$40.00	\$400.00	\$60.00	\$600.00
116	Sewer, Cl E, 12 inch, Tr Det B		316	Ft	\$50.00	\$15,800.00	\$52.00	\$16,432.00	\$45.00	\$14,220.00	\$50.10	\$15,831.60
117	Sewer, Connect to Ex. 8"		1	Ea	\$575.00	\$575.00	\$250.00	\$250.00	\$750.00	\$750.00	\$300.00	\$300.00

Bid Tabulation

Owner: City of Muskegon				1st Kamminga&Roodvoets 3435 Broadmoor Ave SE Grand Rapids, MI 49512		2nd Wadel Stabilization, Inc 2500 N Oceana Dr Hart, MI 49420		3rd Hallack Contracting 4223 W Polk Rd Hart, MI 49420		4th Diversco Construction 570 Market Ave SW Grand Rapids, MI 49503	
Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill											
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730									
Item No.		Description		Quantity	Unit	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
118	Sewer, Connect to Ex. 10"			2	Ea	\$600.00	\$1,200.00	\$290.00	\$580.00	\$900.00	\$1,800.00
119	Sewer, Connect to Ex. 12"			2	Ea	\$650.00	\$1,300.00	\$330.00	\$660.00	\$1,000.00	\$2,000.00
120	Dr Structure, 24 inch dia			12	Ea	\$1,000.00	\$12,000.00	\$1,410.00	\$16,920.00	\$1,850.00	\$22,200.00
121	Dr Structure, 48 inch dia			2	Ea	\$1,700.00	\$3,400.00	\$1,990.00	\$3,980.00	\$2,500.00	\$5,000.00
122	Dr Structure, Tap, 8 inch			1	Ea	\$900.00	\$900.00	\$423.00	\$423.00	\$385.00	\$385.00
123	Dr Structure Cover, Type B			2	Ea	\$800.00	\$1,600.00	\$375.00	\$750.00	\$985.00	\$1,970.00
124	Dr Structure Cover, Type K			13	Ea	\$975.00	\$12,675.00	\$525.00	\$6,825.00	\$1,250.00	\$16,250.00
SRF/DWRF Ineligible Subtotal:						\$72,672.50		\$69,874.00		\$105,635.00 *	
Total Bid						\$3,481,438.91 *		\$3,589,454.75		\$3,794,984.00 *	

* Denotes correction made by Engineer

Bid Tabulation

Owner: City of Muskegon				5th Dunigan Bros, Inc 911 E South St Jackson, MI 49203	
Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill					
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730			
Item No.	Description	Quantity	Unit	Unit Price	Total Amount
	SRF/DWRF Eligible				
1	Mobilization, Max, 10%	1	Lsum	\$279,760.00	\$279,760.00
2	Traffic Control	1	Lsum	\$36,150.00	\$36,150.00
3	Minor Traf Devices	1	Lsum	\$14,410.00	\$14,410.00
4	Tree, Rem, 6 inch to 18 inch	13	Ea	\$470.00	\$6,110.00
5	Tree, Rem, 19 inch to 36 inch	8	Ea	\$1,370.00	\$10,960.00
6	Dr Structure, Rem	73	Ea	\$436.00	\$31,828.00
7	Sewer Rem, Less than 24 inch	1,545	Ft	\$17.50	\$27,037.50
8	Sewer Rem, 24 inch and Greater	240	Ft	\$23.40	\$5,616.00
9	Sewer, Abandon, Less than 20 inch	620	Ft	\$14.40	\$8,928.00
10	Sewer, Abandon, 20 inch and Greater	90	Ft	\$41.40	\$3,726.00
11	Curb and Gutter Rem	8,900	Ft	\$5.20	\$46,280.00
12	Pavt, Rem	23,660	Syd	\$5.80	\$137,228.00
13	HMA Surface, Rem	22,500	Syd	\$4.60	\$103,500.00
14	Sidewalk, Rem	2,560	Syd	\$5.20	\$13,312.00

Bid Tabulation

Owner: City of Muskegon				5th Dunigan Bros, Inc 911 E South St Jackson, MI 49203	
Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill					
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730			
Item No.	Description	Quantity	Unit	Unit Price	Total Amount
15	Irrigation Repair Allowance	1	Lsum	\$15,000.00	\$15,000.00
16	Erosion Control, Inlet Protection, Fabric Drop	39	Ea	\$105.50	\$4,114.50
17	Machine Grading, Modified	39.6	Sta	\$4,180.00	\$165,528.00
18	Aggregate Base, 9 inch, Modified	19,510	Syd	\$15.20	\$296,552.00
19	HMA, 5E1	2,250	Ton	\$85.10	\$191,475.00
20	HMA, 4E3	2,250	Ton	\$89.30	\$200,925.00
21	HMA, 3E3	2,250	Ton	\$92.00	\$207,000.00
22	Driveway, Nonreinf Conc, 6 inch	880	Syd	\$31.00	\$27,280.00
23	Curb and Gutter, Conc. Det F4	8,640	Ft	\$12.50	\$108,000.00
24	Sidewalk, Conc, 4 inch	18,330	Sft	\$2.90	\$53,157.00
25	Sidewalk, Conc, 6 inch	1,070	Sft	\$3.60	\$3,852.00
26	Sidewalk Ramp, Conc, 6 inch	3,590	Sft	\$4.50	\$16,155.00
27	Detectable Warning Surface	375	Ft	\$35.50	\$13,312.50
28	Turf Restoration	39.6	Sta	\$2,480.00	\$98,208.00
29	Pavt Mrkg, Polyurea, Lt Turn Arrow Sym	1	Ea	\$232.50	\$232.50

Bid Tabulation

Owner: City of Muskegon				5th Dunigan Bros, Inc 911 E South St Jackson, MI 49203		
Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill						
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730				
Item No.		Description	Quantity	Unit	Unit Price	Total Amount
30	Pavt Mrkg, Polyurea, Thru & Rt Turn Arrow Sym		1	Ea	\$270.00	\$270.00
31	Pavt Mrkg, Polyurea, 4 inch, Yellow		6,650	Ft	\$1.20	\$7,980.00
32	Pavt Mrkg, Polyurea, 4 inch, White		6,050	Ft	\$1.20	\$7,260.00
33	Pavt Mrkg, Polyurea, 6 inch, White		75	Ft	\$1.20	\$90.00
34	Pavt Mrkg, Polyurea, 6 inch Crosswalk, White		285	Ft	\$3.70	\$1,054.50
35	Pavt Mrkg, Polyurea, 12 inch Crosswalk, White		1,220	Ft	\$7.50	\$9,150.00
36	Pavt Mrkg, Polyurea, 18 inch, Stop Bar, White		1,225	Ft	\$9.40	\$11,515.00
37	Sign Type IIIB		17.25	Sft	\$27.70	\$477.83
38	Post, Steel 3 LB		45	Ft	\$11.10	\$499.50
39	Sanitary Sewer, 8", Tr Det B		4,362	Ft	\$176.00	\$767,712.00
40	Sanitary Sewer, 10", Tr Det B		128	Ft	\$116.00	\$14,848.00
41	Sanitary Manhole, 48 inch Dia		13	Ea	\$4,530.00	\$58,890.00
42	Sanitary Drop Manhole, 48 inch Dia		6	Ea	\$7,380.00	\$44,280.00
43	Sanitary Sewer, Wye, 8 inch x 6 inch		76	Ea	\$150.50	\$11,438.00
44	Sanitary Lateral, 6 inch		2,550	Ft	\$67.60	\$172,380.00

Bid Tabulation

Owner: City of Muskegon				5th Dunigan Bros, Inc 911 E South St Jackson, MI 49203	
Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill					
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730			
Item No.	Description	Quantity	Unit	Unit Price	Total Amount
45	Sanitary Lateral, 6 inch, Pipe Burst	266	Ft	\$390.00	\$103,740.00
46	Sanitary Lateral, Connect to Ex.	79	Ea	\$110.00	\$8,690.00
47	Sanitary Sewer, Connect to Ex. 8"	9	Ea	\$413.00	\$3,717.00
48	Sanitary Sewer, Connect to Ex. 10"	2	Ea	\$457.00	\$914.00
49	Sanitary Sewer, Plug, 8 inch	1	Ea	\$147.00	\$147.00
50	Sanitary Sewer, Bulkhead, 20 inch	1	Ea	\$875.00	\$875.00
51	Sanitary Sewer, CCTV	4,490	Ft	\$1.20	\$5,388.00
52	Sewer, CI E, 12 inch, Tr Det B	1,258	Ft	\$101.50	\$127,687.00
53	Sewer, CI E, 15 inch, Tr Det B	35	Ft	\$116.00	\$4,060.00
54	Sewer, CI E, 18 inch, Tr Det B	35	Ft	\$121.00	\$4,235.00
55	Sewer, CI E, 24 inch, Tr Det B	223	Ft	\$135.50	\$30,216.50
56	Sewer, Connect to Ex. 12"	4	Ea	\$525.00	\$2,100.00
57	Sewer, Connect to Ex. 15"	4	Ea	\$579.00	\$2,316.00
58	Sewer, Connect to Ex. 18"	6	Ea	\$698.00	\$4,188.00
59	Sewer, Connect to Ex. 24"	3	Ea	\$873.00	\$2,619.00

Bid Tabulation

Owner: City of Muskegon				5th Dunigan Bros, Inc 911 E South St Jackson, MI 49203	
Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill					
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730			
Item No.	Description	Quantity	Unit	Unit Price	Total Amount
60	Sewer, Bulkhead, 18"	1	Ea	\$215.00	\$215.00
61	Dr Structure, 24 inch dia	20	Ea	\$1,850.00	\$37,000.00
62	Dr Structure, 48 inch dia	21	Ea	\$2,500.00	\$52,500.00
63	Dr Structure, 60 inch dia	1	Ea	\$4,410.00	\$4,410.00
64	Rebuild Dr Structure, 60 inch dia	1	Ea	\$4,410.00	\$4,410.00
65	Dr Structure Cover, Type B	17	Ea	\$825.00	\$14,025.00
66	Dr Structure Cover, Type K	25	Ea	\$978.00	\$24,450.00
67	Dr Structure Cover Adj, Case 1	5	Ea	\$461.00	\$2,305.00
68	Water Main, DI, 4 inch, Tr Det G	10	Ft	\$120.00	\$1,200.00
69	Water Main, DI, 6 inch, Tr Det G	348	Ft	\$90.30	\$31,424.40
70	Water Main, DI, 8 inch, Tr Det G	4,075	Ft	\$92.10	\$375,307.50
71	Water Main, DI, 12 inch, Tr Det G	54	Ft	\$122.50	\$6,615.00
72	Water Main, DI, 16 inch, Tr Det G	60	Ft	\$123.50	\$7,410.00
73	Water Main, Bend, 22.5 Degree, 8 inch	2	Ea	\$252.50	\$505.00
74	Water Main, Bend, 45 Degree, 6 inch	4	Ea	\$188.00	\$752.00

Bid Tabulation

Owner: City of Muskegon				5th Dunigan Bros, Inc 911 E South St Jackson, MI 49203				
Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill								
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730						
Item No.				Description	Quantity	Unit	Unit Price	Total Amount
75	Water Main, Bend, 45 Degree, 8 inch				10	Ea	\$252.50	\$2,525.00
76	Water Main, Reducer, 10 inch x 8 inch				1	Ea	\$276.00	\$276.00
77	Water Main, Reducer, 8 inch x 6 inch				1	Ea	\$218.00	\$218.00
78	Water Main, Sleeve, 4 inch				1	Ea	\$3,280.00	\$3,280.00
79	Water Main, Sleeve, 6 inch				6	Ea	\$3,360.00	\$20,160.00
80	Water Main, Sleeve, 8 inch				5	Ea	\$3,490.00	\$17,450.00
81	Water Main, Sleeve, 10 inch				1	Ea	\$3,610.00	\$3,610.00
82	Water Main, Sleeve, 12 inch				2	Ea	\$4,350.00	\$8,700.00
83	Water Main, Sleeve, 16 inch				2	Ea	\$6,290.00	\$12,580.00
84	Water Main, Tee, 8 inch x 8 inch x 4 inch				1	Ea	\$335.00	\$335.00
85	Water Main, Tee, 8 inch x 8 inch x 6 inch				14	Ea	\$376.00	\$5,264.00
86	Water Main, Tee, 8 inch x 8 inch x 8 inch				3	Ea	\$430.00	\$1,290.00
87	Water Main, Cross, 12 inch x 12 inch x 8 inch x 8 inch				1	Ea	\$852.00	\$852.00
88	Water Main, Cross, 16 inch x 16inch x 8 inch x 8 inch				1	Ea	\$1,670.00	\$1,670.00
89	Water Main, Valve and Box, 4 inch				1	Ea	\$805.00	\$805.00

Bid Tabulation

Owner: City of Muskegon				5th Dunigan Bros, Inc 911 E South St Jackson, MI 49203	
Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill					
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730			
Item No.	Description	Quantity	Unit	Unit Price	Total Amount
90	Water Main, Valve and Box, 6 inch	14	Ea	\$963.00	\$13,482.00
91	Water Main, Valve and Box, 8 inch	16	Ea	\$1,380.00	\$22,080.00
92	Water Main, Valve and Box, 12 inch	2	Ea	\$2,530.00	\$5,060.00
93	Water Main, Valve and Box, 16 inch	1	Ea	\$7,640.00	\$7,640.00
94	Water Main, Cut and Cap, 6 inch	1	Ea	\$273.00	\$273.00
95	Water Main, Cut and Cap, 8 inch	1	Ea	\$314.00	\$314.00
96	Water Main, Cap, 8 inch	4	Ea	\$230.50	\$922.00
97	Valve Box, Adjust	3	Ea	\$353.00	\$1,059.00
98	Hydrant, Rem	19	Ea	\$357.00	\$6,783.00
99	Hydrant	9	Ea	\$4,430.00	\$39,870.00
100	Water Main, Abandon	8,250	Ft	\$8.10	\$66,825.00
101	Water Main, Rem	660	Ft	\$17.50	\$11,550.00
102	Water Service, Corporation Stop, 1 inch	84	Ea	\$574.00	\$48,216.00
103	Water Service, Corporation Stop, 2 inch	4	Ea	\$1,010.00	\$4,040.00
104	Water Service, Curb Stop and Box, 1 inch	74	Ea	\$1,100.00	\$81,400.00

Bid Tabulation

Owner: City of Muskegon				5th Dunigan Bros, Inc 911 E South St Jackson, MI 49203	
Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill					
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730			
Item No.	Description	Quantity	Unit	Unit Price	Total Amount
105	Water Service, Curb Stop and Box, 2 inch	4	Ea	\$1,390.00	\$5,560.00
106	Water Service, 1 inch	4,820	Ft	\$23.80	\$114,716.00
107	Water Service, 2 inch	195	Ft	\$55.30	\$10,783.50
108	Water Service, Meter Pit	10	Ea	\$1,040.00	\$10,400.00
109	Water Service Restoration, Private	72	Ea	\$700.00	\$50,400.00
	SRF/DWRF Eligible Subtotal:			\$4,677,291.73	
	SRF/DWRF Ineligible				
110	Park Irrigation System	1	Lsum	\$55,410.00	\$55,410.00
111	Tree, Rem, 19 inch to 36 inch	2	Ea	\$1,370.00	\$2,740.00
112	Sidewalk, Rem	500	Syd	\$5.20	\$2,600.00
113	Sidewalk, Conc, 4 inch	3,650	Sft	\$3.20	\$11,680.00
114	Sidewalk, Conc, 6 inch	770	Sft	\$3.60	\$2,772.00
115	Sewer, Cl E, 10 inch, Tr Det B	10	Ft	\$98.40	\$984.00
116	Sewer, Cl E, 12 inch, Tr Det B	316	Ft	\$90.80	\$28,692.80
117	Sewer, Connect to Ex. 8"	1	Ea	\$525.00	\$525.00

Bid Tabulation

Owner: City of Muskegon				5th Dunigan Bros, Inc 911 E South St Jackson, MI 49203	
Project Title: Wastewater and Water System Improvements, Peck Street: Laketon to Merrill					
Bid Date & Time: July 30, 2020 at 2:00 PM		Project #: 2190730			
Item No.	Description	Quantity	Unit	Unit Price	Total Amount
118	Sewer, Connect to Ex. 10"	2	Ea	\$525.00	\$1,050.00
119	Sewer, Connect to Ex. 12"	2	Ea	\$700.00	\$1,400.00
120	Dr Structure, 24 inch dia	12	Ea	\$1,850.00	\$22,200.00
121	Dr Structure, 48 inch dia	2	Ea	\$2,500.00	\$5,000.00
122	Dr Structure, Tap, 8 inch	1	Ea	\$440.50	\$440.50
123	Dr Structure Cover, Type B	2	Ea	\$820.00	\$1,640.00
124	Dr Structure Cover, Type K	13	Ea	\$978.00	\$12,714.00
SRF/DWRF Ineligible Subtotal:				\$149,848.30	
Total Bid				\$4,827,140.03	

* Denotes correction made by Engineer

July 31, 2020
2190730

Mr. Leo Evans, P.E.
City of Muskegon
Department of Public Works
1350 Keating Avenue
Muskegon, MI 49442

RE: SRF/DWRF FY 2020 Projects
Peck Street: Laketon to Merrill

Dear Mr. Evans:

On Thursday, July 30th, the City received bids for the referenced project. Five bids were received with prices from \$3,481,438.91 to \$4,827,140.03. Kamminga and Roodvoets of Grand Rapids, MI submitted the lowest bid at \$3,481,438.91. A tabulation of the bids is enclosed for reference.

This project is being financed through both the State Revolving Fund (SRF) and the Drinking Water Revolving Fund (DWRF) with the city funding certain ineligible costs. Due to the overlap of the various scopes of work, the State has required an Alternative Justifiable Expenditures calculation to be completed to determine the financing share for each program, this breakdown is as follows:

SRF Eligible	\$1,961,850.57
DWRF Eligible	\$1,446,915.84
Ineligible Costs	\$72,672.50

We discussed the project with Kamminga and Roodvoets. They indicated a good understanding of the project's critical elements such as phasing, schedule, and criticality of the infrastructure being worked on. Work will begin in the spring of 2020. They did not express any concerns with completing the project successfully and on time.

Kamminga and Roodvoets has successfully completed projects of similar size and scope with Prein&Newhof and the City of Muskegon in the past.

If you have any questions, please do not hesitate to ask.

Sincerely,

Prein&Newhof



Matthew R. Hulst, P.E.

Enclosures: Bid Tabulation Sheets

**A RESOLUTION TO TENTATIVELY AWARD
A CONSTRUCTION CONTRACT
FOR WASTEWATER AND WATER SYSTEM IMPROVEMENTS**

WHEREAS, the City of Muskegon wishes to construct improvements to its existing wastewater treatment and collection system and its existing water treatment and distribution system; and

WHEREAS, the wastewater system improvements project formally adopted on June 26, 2018 will be funded through Michigan's State Revolving Loan Fund (SRF) program; and

WHEREAS, the water system improvements project formally adopted on April 23, 2019 will be funded through the state of Michigan's Drinking Water Revolving Loan Fund (DWRf) program; and

WHEREAS, the City of Muskegon has sought and received construction bids for the Peck Street: Laketon to Merrill Project and has received a low bid in the amount of \$3,481,438.91 from Kamminga and Roodvoets of Grand Rapids, MI; and

WHEREAS, the City of Muskegon's project engineer, Prein&Newhof, has recommended awarding the contract to the low bidder.

NOW THEREFORE BE IT RESOLVED, that the City of Muskegon tentatively awards the contract for construction of the proposed wastewater system and water system improvements project to Kamminga and Roodvoets of Grand Rapids, MI, contingent upon successful financial arrangements with the SRF and DWRf Programs.

Yeas:

Nays:

Abstain:

Absent:

I certify that the above Resolution was adopted by the City Commission of the City of Muskegon on August 11, 2020.

BY: Ann Meisch, City Clerk

Signature

Date



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Water Supply System Bonds
Submitted By: Kenneth D. Grant	Department: Finance
Brief Summary: Ordinance Authorizing the issuance of Water Supply System Junior Lien Revenue Bonds	
Detailed Summary: To authorize the issuance of Water Supply System Bonds in an amount not to exceed \$4,800,000. The Bonds are expected to be sold to the Michigan Finance Authority and payable in 20 annual principal installments at an interest rate of 2%. Scheduled closing is September 30th. Estimated Principal Forgiveness is \$380,000.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the Ordinance authorizing the issuance of Water Supply System Revenue Bonds.	
For City Clerk Use Only: Commission Action:	

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

PATRICK F. MCGOW
TEL (313) 496-7684
FAX (313) 496-8450
E-MAIL mcgow@millercanfield.com

Miller, Canfield, Paddock and Stone, P.L.C.
150 West Jefferson, Suite 2500
Detroit, Michigan 48226
TEL (313) 963-6420
FAX (313) 496-7500
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August 5, 2020

Ms. Elizabeth Lewis
Finance Director
City of Muskegon
933 Terrace Street
P.O. Box 536
Muskegon MI 49443-0536

Re: City of Muskegon
Sanitary Sewer System Junior Lien Revenue Bonds, Series 2020 (SRF Project)
Water Supply System Junior Lien Revenue Bonds, Series 2020 (DWRP Project)

Dear Beth:

As we discussed, I have enclosed an Ordinance authorizing the issuance of the above-captioned Sanitary Sewer System Revenue Bonds and an Ordinance authorizing the issuance of the above-captioned Water Supply System Revenue Bonds to be considered for approval by the City Commission at its meeting on August 11th. The Sewer Bonds and the Water Bonds are to be sold through the Michigan Finance Authority's ("MFA") 4th Quarter State Revolving Fund Program and Drinking Water Revolving Fund Program, respectively, scheduled to close on September 30th.

Sewer Bonds

The Sewer Bond Ordinance authorizes the issuance of the Bonds in an amount not to exceed \$5,400,000 for the sewer projects although the current estimated sizing is around \$4,750,000. The Ordinance provides flexibility for the actual size of the Bond issue to be reduced prior to closing based on the actual construction bids and final approved costs. In addition, the City will receive principal forgiveness for this project which will reduce the amount that needs to be paid back to the MFA.

The Sewer Bond Ordinance authorizes the issuance of the Series 2020 Bonds, which are payable from the Net Revenues of the City's Sanitary Sewer System. The Bonds are expected to be sold to the MFA and payable in 20 annual principal installments at an interest rate of 2.00%. The Bonds are being issued as junior lien bonds which are of equal standing with the Series 2019 Bonds issued last year through the SRF for sewer improvements.

Water Bonds

The Water Bond Ordinance authorizes the issuance of the Bonds in an amount not to exceed \$4,800,000 for the water projects although the current estimated sizing is around \$4,215,000. Again, the Ordinance provides flexibility for the actual size of the Bond issue to be reduced prior to closing based on the actual construction bids and final approved costs. In addition, the City will receive principal forgiveness for this project which will reduce the amount that needs to be paid back to the MFA.

The Water Bond Ordinance authorizes the issuance of the Series 2020 Bonds, which are payable from the Net Revenues of the City's Water Supply System. The Bonds are expected to be sold to the MFA and payable in 20 annual principal installments at an interest rate of 2.00%. The Bonds are being issued as junior lien bonds which are of equal standing with the Series 2004 and Series 2019 Bonds issued through the DWRP for water improvements.

Both Ordinances also authorizes various City officials to take the necessary actions to execute and deliver the Bonds and all related documents, approve the final size of the Bonds and contains the necessary items required by the Revenue Bond Act, Act 94 of 1933.

Pursuant to the Revenue Bond Act, the Ordinances may be adopted in one reading, regardless of any contrary provision in the City's ordinance adoption procedures. Each Ordinance is required to be published once in full in your local newspaper after its adoption. There are no restrictions or requirements on the size of the publication, so it can be as small as possible. Upon adoption by the City Commission, we would appreciate receiving three (3) certified copies of the Ordinance and three (3) Affidavits of Publication of the Ordinance for bond transcripts.

The Part III application with the construction bids is due on August 10th. The Michigan Department of Environmental Quality Order of Approval is expected to be issued on September 9th. There will be a conference call with MFA, EGLE and City officials on August 26th which we will participate in, to make final arrangements relating to the Bond terms. At that time, the final bond size will be determined and we will prepare the necessary documents to be signed by various City officials after that date regarding the sale and delivery of the Bonds. The closing for both the Sewer Bonds and the Water Bonds will be September 30th and the City can begin requesting draws on the Bonds after that date.

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Ms. Elizabeth Lewis

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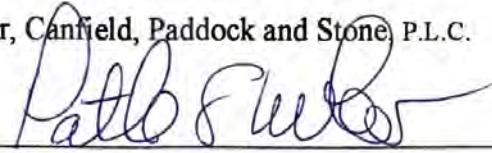
August 5, 2020

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By:



Patrick F. McGow

Enclosure

Cc: Franklin Peterson
Leo Evans
Warren Creamer
Michael McCarty
Barbara Marczak
John Schrier, Esq.

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ORDINANCE NO. _____
CITY OF MUSKEGON

AN ORDINANCE TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION, INSTALLATION, FURNISHING AND EQUIPPING OF ADDITIONS AND IMPROVEMENTS TO THE WATER SUPPLY SYSTEM OF THE CITY; TO PROVIDE FOR THE ISSUANCE AND SALE OF JUNIOR LIEN REVENUE BONDS TO PAY THE COST THEREOF; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS AND CERTAIN OUTSTANDING BONDS OF THE SYSTEM; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF SYSTEM REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS IN ENFORCEMENT THEREOF; TO PRESCRIBE THE FORM OF THE BONDS; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE BONDS AND THE SYSTEM.

THE CITY OF MUSKEGON ORDAINS:

Section 1. Definitions. Whenever used in this Ordinance, except when otherwise indicated by the context, the following terms shall have the following meanings:

- (a) “Act 94” means Act 94, Public Acts of Michigan, 1933, as amended.
- (b) “Adjusted Net Revenues” means for any operating year the excess of revenues over expenses for the System determined in accordance with generally accepted accounting principles, to which shall be added depreciation, amortization, interest expense on Bonds and payments to the City in lieu of taxes, to which may be made the following adjustments.
 - (i) Revenues may be augmented by the amount of any rate increases adopted prior to the issuance of additional Bonds or to be placed into effect before the time principal or interest on the additional Bonds becomes payable from Revenues as applied to quantities of service furnished during the operating year or portion thereof that the increased rates were not in effect.
 - (ii) Revenues may be augmented by amounts which may be derived from rates and charges to be paid by new customers of the System.
- (c) “Authority” means the Michigan Finance Authority or its successor.
- (d) “Authorized Officers” means the Mayor, the City Manager, the City Clerk and the Finance Director of the City.

(e) “Bonds” or “Senior Lien Bonds” means any bonds or series of bonds so designated and payable from Net Revenues, which are secured by a statutory first lien on the Net Revenues established by this Ordinance and which are senior and superior in all respects with respect to the Net Revenues to any Junior Lien Bonds secured by the statutory second lien on the Net Revenues, together with any additional Bonds of equal standing thereafter issued.

(f) “City” or “Issuer” means the City of Muskegon, County of Muskegon, State of Michigan.

(g) “EGLE” means the means the Michigan Department of Environment, Great Lakes, and Energy, or its successor.

(h) “Engineers” means Prein & Newhof, registered engineers of Grand Rapids, Michigan.

(i) “Junior Lien Bonds” means the Series 2020 Bond, the Outstanding Junior Lien Bonds any additional bonds of equal standing with the Series 2020 Bond and the Outstanding Junior Lien Bonds which are secured by a statutory second lien on the Net Revenues and are junior and subordinate to the Senior Lien Bonds.

(j) “Outstanding Junior Lien Bonds” means the Series 2004 Bonds and Series 2019 Bonds.

(k) “Outstanding Ordinances” means Ordinance Nos. 2117 and 2416 of the City.

(l) “Project” means the acquisition, construction, furnishing and equipping of improvements to the Water Supply System of the City, including distribution system improvements, replacement of water mains and service lines, pump station and water filtration plant improvements, together with all related appurtenances and attachments.

(m) “Purchase Contract” means the Purchase Contract to be entered into between the Authority and the City relating to the purchase by the Authority of the Series 2020 Bond.

(n) “Revenues” and “Net Revenues” shall mean the revenues and net revenues of the City derived from the operation of the System and shall be construed as defined in Section 3 of Act 94, including with respect to “Revenues,” the earnings derived from the investment of moneys in the various funds and accounts established by the Outstanding Ordinances and this Ordinance.

(o) “Series 2004 Bond” means the Water Supply System Junior Lien Revenue Bond (Limited Tax General Obligation), Series 2004, dated March 25, 2004, in the outstanding principal amount of Four Million Eight Hundred Thousand Dollars (\$4,800,000).

(p) “Series 2019 Bond” means the Water Supply System Junior Lien Revenue Bond, Series 2019, dated August 28, 2019, in the outstanding principal amount of One Million Six Hundred Thousand Dollars (\$1,600,000).

(q) “Series 2020 Bond” means the Water Supply System Junior Lien Revenue Bond, Series 2020, of the City in the principal amount of not to exceed Four Million Eight Hundred Thousand Dollars (\$4,800,000) authorized by this Ordinance.

(r) “Sufficient Government Obligations” means direct obligations of the United States of America or obligations the principal and interest on which is fully guaranteed by the United States of America, not redeemable at the option of the issuer, the principal and interest payments upon which without reinvestment of the interest, come due at such times and in such amounts as to be fully sufficient to pay the interest as it comes due on the Bonds or Junior Lien Bonds and the principal and redemption premium, if any, on the Bonds or Junior Lien Bonds as it comes due whether on the stated maturity date or upon earlier redemption. Securities representing such obligations shall be placed in trust with a bank or trust company, and if any of the Bonds or Junior Lien Bonds are to be called for redemption prior to maturity, irrevocable instructions to call the Bonds for redemption shall be given to the paying agent.

(s) “Supplemental Agreement” means the supplemental agreement among the City, the Authority and the EGLE relating to the Series 2020 Bond.

(t) “System” means the Water Supply System of the City, including the Project and all additions, extensions and improvements hereafter acquired.

Section 2. Necessity; Approval of Plans and Specifications. It is hereby determined to be a necessary public purpose of the City to acquire and construct the Project in accordance with the plans and specifications prepared by the Engineers, which plans and specifications are hereby approved. The Project qualifies for the Drinking Water Revolving Fund financing program being administered by the EGLE and the Authority, whereby bonds of the City are sold to the Authority and bear interest at a fixed rate of not to exceed two percent (2.00%) per annum.

Section 3. Costs; Useful Life. The cost of the Project is estimated to be an amount not to exceed Four Million Eight Hundred Thousand Dollars (\$4,800,000), including the payment of incidental expenses as specified in Section 4 of this Ordinance, which estimate of cost is hereby approved and confirmed. The period of usefulness of the Project is estimated to be not less than twenty-five (25) years.

Section 4. Payment of Cost; Bonds Authorized. To pay part of the cost of acquiring the Project, legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2020 Bond, the City shall borrow the sum of not to exceed Four Million Eight Hundred Thousand Dollars (\$4,800,000), and issue the Series 2020 Bond therefor pursuant to the provisions of Act 94. The remaining cost of the Project, if any, shall be defrayed from grant funds and City funds on hand and legally available for such use.

Except as amended by or expressly provided to the contrary in this Ordinance, all of the provisions of the Outstanding Ordinances shall apply to the Series 2020 Bonds issued pursuant to

this Ordinance, the same as though each of said provisions were repeated in this Ordinance in detail; the purpose of this Ordinance being to authorize the issuance of additional revenue bonds of junior and subordinate standing and priority of lien to any Outstanding Senior Lien Bonds and of equal standing and priority of lien as to the Net Revenues with the Outstanding Junior Lien Bonds to finance the cost of acquiring additions, extensions and improvements to the System, additional bonds of junior and subordinate standing and priority of lien as to the Outstanding Senior Lien Bonds and of equal standing and priority of lien as to the Outstanding Junior Lien Bonds for such purpose being authorized by the provisions of the Outstanding Ordinances, upon the conditions therein stated, which conditions have been fully met.

Section 5. Issuance of Series 2020 Bond; Details. The Series 2020 Bond of the City, to be designated WATER SUPPLY SYSTEM JUNIOR LIEN REVENUE BOND, SERIES 2020 is authorized to be issued in the aggregate principal sum of not to exceed Four Million Eight Hundred Thousand Dollars (\$4,800,000) or such lesser amount as finally determined by order of the EGLE for the purpose of paying part of the cost of the Project, including the costs incidental to the issuance, sale and delivery of the Series 2020 Bond. The Series 2020 Bond shall be payable out of the Net Revenues, as set forth more fully in Section 8 hereof.

The Series 2020 Bond shall be in the form of a single fully-registered, nonconvertible bond of the denomination of the full principal amount thereof, dated as of the date of delivery, payable in principal installments as finally determined by the order of the EGLE at the time of sale of the Series 2020 Bond and approved by the Authority and an Authorized Officer. Principal installments of the Series 2020 Bond shall be payable on October 1 of the years 2021 through 2040, inclusive, or such other payment dates as hereinafter provided. Interest on the Series 2020 Bond shall be payable on April 1 and October 1 of each year, commencing April 1, 2021 or on such other interest payment dates as hereinafter provided. Final determination of the principal amount of and interest on the Series 2020 Bond and the payment dates and amounts of principal installments of the Series 2020 Bond shall be evidenced by execution of the Purchase Contract and each of the Authorized Officers is authorized and directed to execute and deliver the Purchase Contract when in final form and to make the determinations set forth above; provided, however, that the first principal installment shall be due no earlier than April 1, 2021 and the final principal installment shall be due no later than October 1, 2042 and that the total principal amount shall not exceed \$4,800,000.

The Series 2020 Bond shall bear interest at a rate of not to exceed two percent (2.00%) per annum on the par value thereof or such other rate as evidenced by execution of the Purchase Contract, but in any event not to exceed the rate permitted by law, and any Authorized Officers as shall be appropriate shall deliver the Series 2020 Bond in accordance with the delivery instructions of the Authority.

The principal amount of the Series 2020 Bond is expected to be drawn down by the City periodically, and interest on principal amount shall accrue from the date such principal amount is drawn down by the City.

The Series 2020 Bond shall not be convertible or exchangeable into more than one fully-registered bond. Principal of and interest on the Series 2020 Bond shall be payable as provided in the Series 2020 Bond form in this Ordinance.

The Series 2020 Bond shall be subject to optional redemption by the City with the prior written approval of the Authority and on such terms as may be required by the Authority.

The Treasurer shall record on the registration books payment by the City of each installment of principal or interest or both when made and the cancelled checks or other records evidencing such payments shall be returned to and retained by the Treasurer.

Upon payment by the City of all outstanding principal of and interest on the Series 2020 Bond, the Authority shall deliver the Series 2020 Bond to the City for cancellation.

Section 6. Execution of Series 2020 Bond. The Series 2020 Bond shall be signed by the manual or facsimile signature of the Mayor and countersigned by the manual or facsimile signature of the City Clerk and shall have the corporate seal of the City or facsimile thereof impressed thereon. The Series 2020 Bond bearing the manual or facsimile signatures of the Mayor and the City Clerk sold to the Authority shall require no further authentication.

Section 7. Registration and Transfer. Any Bond or Junior Lien Bond may be transferred upon the books required to be kept pursuant to this section by the person in whose name it is registered, in person or by the registered owner's duly authorized attorney, upon surrender of the Bond or Junior Lien Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the transfer agent. Whenever any Bond or Junior Lien Bond shall be surrendered for transfer, the City shall execute and the transfer agent shall authenticate and deliver a new Bond or Junior Lien Bond, for like aggregate principal amount. The transfer agent shall require payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. The City shall not be required (i) to issue, register the transfer of or exchange any Bond or Junior Lien Bond during a period beginning at the opening of business 15 days before the day of the giving of a notice of redemption of Bonds selected for redemption as described in the form of Series 2020 Bond contained in Section 18 of this Ordinance and ending at the close of business on the day of that giving of notice, or (ii) to register the transfer of or exchange any Bond or Junior Lien Bond so selected for redemption in whole or in part, except the unredeemed portion of Bonds or Junior Lien Bonds being redeemed in part. The City shall give the transfer agent notice of call for redemption at least 20 days prior to the date notice of redemption is to be given.

The transfer agent shall keep or cause to be kept at its principal office sufficient books for the registration and transfer of the Bonds or Junior Lien Bond, which shall at all times be open to inspection by the City; and upon presentation for such purpose the transfer agent shall under such reasonable regulations as it may prescribe transfer or cause to be transferred on said books Bonds or Junior Lien Bond as hereinbefore provided.

If any Bond or Junior Lien Bond shall become mutilated, the City, at the expense of the holder of the Bond, shall execute, and the transfer agent shall authenticate and deliver, a new Bond or Junior Lien Bond of like tenor in exchange and substitution for the mutilated Bond or Junior Lien Bond, upon surrender to the transfer agent of the mutilated Bond or Junior Lien Bond. If any Bond or Junior Lien Bond issued under this Ordinance shall be lost, destroyed or stolen, evidence of the loss, destruction or theft may be submitted to the transfer agent and, if this evidence is satisfactory to both and indemnity satisfactory to the transfer agent shall be given,

and if all requirements of any applicable law including Act 354, Public Acts of Michigan, 1972, as amended ("Act 354"), being sections 129.131 to 129.135, inclusive, of the Michigan Compiled Laws have been met, the City, at the expense of the owner, shall execute, and the transfer agent shall thereupon authenticate and deliver, a new Bond or Junior Lien Bond of like tenor and bearing the statement required by Act 354, or any applicable law hereafter enacted, in lieu of and in substitution for the Bond or Junior Lien Bond so lost, destroyed or stolen. If any such Bond or Junior Lien Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond or Junior Lien Bond the transfer agent may pay the same without surrender thereof.

Section 8. Payment of Series 2020 Bond; Security; Priority of Lien. Principal of and interest on the Series 2020 Bond shall be payable solely from the Net Revenues, and to secure such payment, there is hereby recognized the statutory lien upon the whole of the Net Revenues which shall be a second lien, subject only to the statutory first lien established with respect to the Senior Lien Bonds, to continue until payment in full of the principal of and interest on all Junior Lien Bonds payable from the Net Revenues, or, until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of all Junior Lien Bonds of a series then outstanding, principal and interest on such Junior Lien Bonds to maturity, or, if called for redemption, to the date fixed for redemption together with the amount of the redemption premium, if any. The statutory lien on the Net Revenues created with respect to the Junior Lien Bonds (including the Series 2020 Bond) shall at all times be and remain subordinate and inferior to the pledge of Net Revenues and the statutory first lien thereon authorized to be granted to secure any Senior Lien Bonds hereafter issued.

Upon deposit of cash or Sufficient Government Obligations, as provided in the previous sentences, the statutory lien shall be terminated with respect to that series of Bonds or Junior Lien Bonds, the holders of that series shall have no further rights under this Ordinance except for payment from the deposited funds, and the Bonds or Junior Lien Bonds of that series shall no longer be considered to be outstanding under the Outstanding Ordinance or this Ordinance.

Section 9. Bondholders' Rights; Receiver. The holder or holders of the Bonds or Junior Lien Bonds representing in the aggregate not less than twenty percent (20%) of the entire principal amount thereof then outstanding, may, by suit, action, mandamus or other proceedings, protect and enforce the statutory lien upon the Net Revenues of the System, and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officers of the City, including the fixing of sufficient rates, the collection of Revenues, the proper segregation of the Revenues of the System and the proper application thereof. The statutory lien upon the Net Revenues, however, shall not be construed as to compel the sale of the System or any part thereof.

If there is a default in the payment of the principal of or interest on the Bonds or the Junior Lien Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the City and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the City more particularly set forth herein and in Act 94.

The holder or holders of the Bonds and the Junior Lien Bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Bonds and the Junior Lien Bonds and the security therefor.

Section 10. Management; Fiscal Year. The operation, repair and management of the System and the acquisition and construction of the Project shall be under the supervision and control of the City Commission. The City Commission, in accordance with the relevant provisions of the City Charter, may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System. The City Commission may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System. The fiscal year of the System shall be the fiscal year of the City.

Section 11. Rates and Charges. The rates and charges for service furnished by and the use of the System and the methods of collection and enforcement of the collection of the rates shall be those in effect on the date of adoption of this Ordinance.

Section 12. No Free Service or Use. No free service or use of the System, or service or use of the System at less than cost, shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the City.

Section 13. Fixing and Revising Rates; Rate Covenant. The rates now in effect are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on the Bonds and the Junior Lien Bonds as the same become due and payable, and the maintenance of the reserve therefor and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance. In addition, it is agreed that the rates shall be set from time to time so that there shall be produced each fiscal year Net Revenues in an amount not less than 110% of the principal of and interest on all Bonds coming due in each fiscal year and not less than 100% of the principal of and interest on all Junior Lien Bonds coming due in each fiscal year. The rates shall be fixed and revised from time to time as may be necessary to produce these amounts, and it is hereby covenanted and agreed to fix and maintain rates for services furnished by the System at all times sufficient to provide for the foregoing.

Section 14. Funds and Accounts; Flow of Funds. The funds and accounts established by the Outstanding Ordinances are hereby continued, the flow of funds established by the Outstanding Ordinances, is hereby continued, and the applicable sections of the Outstanding Ordinances, relating to funds and accounts and flow of funds are incorporated herein by reference as if fully set forth.

Section 15. Bond Proceeds. The proceeds of the sale of the Series 2020 Bond shall be deposited in a bank or banks, designated by the City, qualified to act as depository of the proceeds of sale under the provisions of Act 94, in an account designated 2020 WATER SUPPLY SYSTEM PROJECT CONSTRUCTION FUND (the "Construction Fund"). Moneys in the Construction Fund shall be applied solely in payment of the cost of the Project, including any engineering, legal and other expenses incident thereto and to the financing thereof.

Section 16. Bond Form. The Series 2020 Bond shall be in substantially the following form with such changes or completion as necessary or appropriate to give effect to the intent of this Ordinance and further subject to such modifications which may be required by the Michigan Attorney General and the Authority and approved by bond counsel:

**UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF MUSKEGON**

CITY OF MUSKEGON

WATER SUPPLY SYSTEM JUNIOR LIEN REVENUE BOND, SERIES 2020

REGISTERED OWNER: Michigan Finance Authority

PRINCIPAL AMOUNT: _____ Dollars (\$ _____)

DATE OF ORIGINAL ISSUE: August 28, 2020

The CITY OF MUSKEGON, County of Muskegon, State of Michigan (the “City”), for value received, hereby promises to pay, but only out of the hereinafter described Net Revenues of the City’s Water Supply System (hereinafter defined), to the Michigan Finance Authority (the “Authority”), or registered assigns, the Principal Amount shown above, or such portion thereof as shall have been advanced to the City pursuant to a Purchase Contract between the City and the Authority and a Supplemental Agreement by and among the City, the Authority and the State of Michigan acting through the Department of Environment, Great Lakes, and Energy, in lawful money of the United States of America, unless prepaid or reduced prior thereto as hereinafter provided.

During the time funds are being drawn down by the City under this Bond, the Authority will periodically provide the City a statement showing the amount of principal that has been advanced and the date of each advance, which statement shall constitute prima facie evidence of the reported information; provided that no failure on the part of the Authority to provide such a statement or to reflect a disbursement or the correct amount of a disbursement shall relieve the City of its obligation to repay the outstanding principal amount actually advanced, all accrued interest thereon, and any other amount payable with respect thereto in accordance with the terms of this Bond.

The Principal Amount shall be payable on the dates and in the annual principal installment amounts set forth on Schedule A attached hereto and made a part hereof, as such Schedule may be adjusted if less than \$ _____ is disbursed to the City or if a portion of the Principal Amount is prepaid as provided below, with interest on said principal installments from the date each said installment is delivered to the holder hereof until paid at the rate of two percent (2.00%) per annum. Interest is first payable April 1, 2021 and semiannually thereafter and principal is payable on the first day of October commencing October 1, 2021 (as identified in the Purchase Contract) and annually thereafter.

Principal installments of this bond are subject to prepayment by the City prior to maturity only with the prior written consent of the Authority and on such terms as may be required by the Authority.

Notwithstanding any other provision of this bond, so long as the Authority is the owner of this bond, (a) this bond is payable as to principal, premium, if any, and interest at The Bank of New York Mellon Trust Company, N.A. or at such other place as shall be designated in writing to the City by the Authority (the "Authority's Depository"); (b) the City agrees that it will deposit with the Authority's Depository payments of the principal of, premium, if any, and interest on this bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; in the event that the Authority's Depository has not received the City's deposit by 12:00 noon on the scheduled day, the City shall immediately pay to the Authority as invoiced by the Authority an amount to recover the Authority's administrative costs and lost investment earnings attributable to that late payment; and (c) written notice of any redemption of this bond shall be given by the City and received by the Authority's Depository at least 40 days prior to the date on which such redemption is to be made.

Additional Interest

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "additional interest") at a rate equal to the rate of interest which is two percent above the Authority's cost of providing funds (as determined by the Authority) to make payment on the bonds of the Authority issued to provide funds to purchase this bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the Authority has been fully reimbursed for all costs incurred by the Authority (as determined by the Authority) as a consequence of the City's default. Such additional interest shall be payable on the interest payment date following demand of the Authority. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the Authority) the investment of amounts in the reserve account established by the Authority for the bonds of the Authority issued to provide funds to purchase this bond fails to provide sufficient available funds (together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the Authority issued to fund such account, the City shall and hereby agrees to pay on demand only the City's pro rata share (as determined by the Authority) of such deficiency as additional interest on this bond.

For prompt payment of principal and interest on this bond, the City has irrevocably pledged the revenues of the Water Supply System of the City, including all appurtenances, extensions and improvements thereto (the "System"), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), and a statutory second lien thereon is hereby recognized and created, subject to the senior lien of any additional Bonds of the City hereafter issued by the City, as set forth in the Ordinance (hereinafter defined). The bonds of this issue are of equal standing and priority of lien as to the Net Revenues with the City's Water Supply System Revenue Bonds (Limited Tax General Obligation), Series 2004 and Water Supply System Junior Lien Revenue Bonds, Series 2019 (the "Outstanding Junior Lien Bonds") and any additional bonds hereafter issued by the City of equal standing and priority with the Outstanding Junior Lien Bonds. The City has reserved the right to issue such additional Bonds which shall be superior and senior in all respects to the bonds of this issue as to the Net Revenues, or of equal standing and priority of lien as to the Net Revenues.

Purchasers of the bonds of this issue, by their acceptance of the bonds of this issue or a beneficial ownership interest therein, shall be deemed to have consented to the subordination of their interest in and lien upon the Net Revenues upon the issuance of senior lien bonds subsequent to the delivery of the bonds of this issue.

This bond is a single, fully-registered, non-convertible bond in the principal sum indicated above issued pursuant to Ordinance No. ___, duly adopted by the City Commission of the City and the prior ordinances authorizing the issuance of the Outstanding Junior Lien Bonds (together, the "Ordinances"), and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of paying part of the cost of acquiring and constructing additions, extensions and improvements to the System.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of superior and equal standing may hereafter be issued and the general covenants and provisions pursuant to which this bond is issued, reference is made to the above-described Ordinances.

This bond is a self-liquidating bond, payable, both as to principal and interest, solely and only from the Net Revenues of the System. The principal of and interest on this bond are secured by the statutory lien hereinbefore mentioned.

The City has covenanted and agreed, and does hereby covenant and agree, to fix and maintain at all times while any bonds payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest upon and the principal of the bonds of this issue, any additional Bonds, and any additional Junior Lien Bonds, as and when the same shall become due and payable, and to maintain a bond redemption fund (including a bond reserve account, if any) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by said Ordinances.

This bond is transferable only upon the books of the City by the registered owner in person or the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the transfer agent, duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinances, and upon payment of the charges, if any, therein prescribed.

It is hereby certified and recited that all acts, conditions and things required by law to be done precedent to and in the issuance of this bond have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the City of Muskegon, County of Muskegon, State of Michigan, by its City Commission has caused this bond to be executed with the manual or facsimile signatures of its Mayor and its City Clerk and the corporate seal of the City to be impressed or imprinted hereon, all as of the Date of Original Issue.

CITY OF MUSKEGON

By _____
Mayor

(Seal)

Countersigned:

By _____
City Clerk

EGLE Project Number: 7466-01
EGLE Approved Amt: \$ _____

SCHEDULE A

Based on the schedule provided below unless revised as provided in this paragraph, repayment of the principal of the bond shall be made until the full amount advanced to the City is repaid. In the event the Order of Approval issued by the Department of Environment, Great Lakes and Energy (the "Order"), approves a principal amount of assistance less than the amount of the bond delivered to the Authority, the Authority shall only disburse principal up to the amount stated in the Order. In the event (1) that the payment schedule approved by the City and described below provides for payment of a total principal amount greater than the amount of assistance approved by the Order or (2) that less than the principal amount of assistance approved by the Order is disbursed to the City by the Authority, or (3) that any portion of the principal amount of assistance approved by the Order and disbursed to the City is forgiven pursuant to the Order, the Authority shall prepare a new payment schedule which shall be effective upon receipt by the City.

<u>Maturity Date</u>	<u>Principal Amount</u>
October 1, 2021	
October 1, 2022	
October 1, 2023	
October 1, 2024	
October 1, 2025	
October 1, 2026	
October 1, 2027	
October 1, 2028	
October 1, 2029	
October 1, 2030	
October 1, 2031	
October 1, 2032	
October 1, 2033	
October 1, 2034	
October 1, 2035	
October 1, 2036	
October 1, 2037	
October 1, 2038	
October 1, 2039	
October 1, 2040	

Interest on the bond shall accrue on that portion of principal disbursed by the Authority to the City which has not been forgiven pursuant to the Order from the date such portion is disbursed, until paid, at the rate of 2.00% per annum, payable April 1, 2021, and semi-annually thereafter.

The City agrees that it will deposit with the Authority's Depository, or such other place as shall be designated in writing to the City by the Authority payments of the principal of, premium, if any, and interest on this bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise. In the event that the Authority's Depository has not received the City's deposit by 12:00 noon on the scheduled day, the City shall immediately pay to the Authority as invoiced by the Authority an amount to recover the Authority's administrative costs and lost investment earnings attributable to that late payment.

Section 17. Negotiated Sale; Application to EGLE and Authority; Execution of Documents. The City determines that it is in the best interest of the City to negotiate the sale of the Series 2020 Bond to the Authority because the Drinking Water Revolving Fund financing programs provide significant interest savings to the City compared to competitive sale in the municipal bond market. The Authorized Officers are hereby authorized to make application to the Authority and to the EGLE for placement of the Series 2020 Bond with the Authority. The actions taken by the Authorized Officers with respect to the Series 2020 Bond prior to the adoption of this Ordinance are ratified and confirmed. The Authorized Officers are authorized to execute and deliver the Purchase Contract, the Supplemental Agreement and the Issuer's Certificate. Any Authorized Officer is further authorized to execute and deliver such contracts, documents and certificates as are necessary or advisable to qualify the Series 2020 Bond for the Drinking Water Revolving Fund. Prior to the delivery of the Series 2020 Bond to the Authority, any Authorized Officer is hereby authorized to make such changes to the form of the Series 2020 Bond contained in Section 18 of this Ordinance as may be necessary to conform to the requirements of Act 227, Public Acts of Michigan 1985, as amended ("Act 227"), including, but not limited to changes in the principal maturity and interest payment dates and references to additional security required by Act 227.

Section 18. Covenant Regarding Tax Exempt Status of the Bonds. The City shall, to the extent permitted by law, take all actions within its control necessary to maintain the exemption of the interest on the Series 2020 Bond from general federal income taxation (as opposed to any alternative minimum or other indirect taxation) under the Internal Revenue Code of 1986, as amended (the "Code"), including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditure and investment of Series 2020 Bond proceeds and moneys deemed to be Bond proceeds.

Section 19. Approval of Bond Counsel. The representation of the City by Miller, Canfield, Paddock and Stone, P.L.C. ("Miller Canfield"), as bond counsel is hereby approved, notwithstanding the representation by Miller Canfield of the Authority in connection with its financing programs and borrowings.

Section 20. Approval of Bond Details. The Authorized Officers are each hereby authorized to adjust the final bond details set forth herein to the extent necessary or convenient to complete the transaction authorized herein, and in pursuance of the foregoing is authorized to exercise the authority and make the determinations authorized pursuant to Section 7a(1)(c) of Act 94, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, the place of delivery and payment, and other matters, provided that the principal amount of Series 2020 Bond issued shall not exceed the principal amount authorized in this Ordinance, the interest rate per annum on the Series 2020 Bond shall not exceed two percent (2.00%) per annum, and the Series 2020 Bond shall mature in not more than twenty (20) annual installments.

Section 21. Savings Clause. All ordinances, resolutions or orders, or part thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, repealed.

Section 22. Severability; Paragraph Headings; and Conflict. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

Section 23. Publication and Recordation. This Ordinance shall be published in full in the *Muskegon Chronicle*, a newspaper of general circulation in the City qualified under State law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the City and such recording authenticated by the signatures of the Mayor and the City Clerk.

Section 24. Effective Date. This Ordinance shall be effective upon its adoption and publication.

ADOPTED AND SIGNED THIS 11th day of August, 2020.

Signed _____
Mayor

Signed _____
City Clerk

I HEREBY CERTIFY that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan, at a regular meeting held on the 11th day of August, 2020, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as temporarily modified by Governor Whitmer's Executive Order No. 2020-154 and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting: _____ and
that the following Members were absent: _____.

I further certify that Member _____ moved for adoption of said Ordinance, and that said motion was supported by Member _____.

I further certify that the following Members voted for adoption of said Ordinance: _____ and
that the following Members voted against adoption of said Ordinance: _____.

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signatures of the Mayor and the City Clerk.

City Clerk

36076063.1\063684-00049



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Sanitary Sewer Supply System Bonds
Submitted By: Kenneth D. Grant	Department: Finance
Brief Summary: Ordinance Authorizing the issuance of Sanitary Sewer Supply System Junior Lien Revenue Bonds	
Detailed Summary: To authorize the issuance of Sanitary Sewer Supply System Bonds in an amount not to exceed \$5,400,000. The Bonds are expected to be sold to the Michigan Finance Authority and payable in 20 annual principal installments at an interest rate of 2%. Scheduled closing is September 30th. Estimated Principal Forgiveness is \$950,000.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the Ordinance authorizing the issuance of Sanitary Sewer Supply System Revenue Bonds.	
For City Clerk Use Only: Commission Action:	

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

PATRICK F. MCGOW
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ILLINOIS: Chicago

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OHIO: Cincinnati • Cleveland

CANADA: Windsor

CHINA: Shanghai

MEXICO: Monterrey

POLAND: Gdynia

Warsaw • Wrocław

August 5, 2020

Ms. Elizabeth Lewis
Finance Director
City of Muskegon
933 Terrace Street
P.O. Box 536
Muskegon MI 49443-0536

Re: City of Muskegon
Sanitary Sewer System Junior Lien Revenue Bonds, Series 2020 (SRF Project)
Water Supply System Junior Lien Revenue Bonds, Series 2020 (DWRP Project)

Dear Beth:

As we discussed, I have enclosed an Ordinance authorizing the issuance of the above-captioned Sanitary Sewer System Revenue Bonds and an Ordinance authorizing the issuance of the above-captioned Water Supply System Revenue Bonds to be considered for approval by the City Commission at its meeting on August 11th. The Sewer Bonds and the Water Bonds are to be sold through the Michigan Finance Authority's ("MFA") 4th Quarter State Revolving Fund Program and Drinking Water Revolving Fund Program, respectively, scheduled to close on September 30th.

Sewer Bonds

The Sewer Bond Ordinance authorizes the issuance of the Bonds in an amount not to exceed \$5,400,000 for the sewer projects although the current estimated sizing is around \$4,750,000. The Ordinance provides flexibility for the actual size of the Bond issue to be reduced prior to closing based on the actual construction bids and final approved costs. In addition, the City will receive principal forgiveness for this project which will reduce the amount that needs to be paid back to the MFA.

The Sewer Bond Ordinance authorizes the issuance of the Series 2020 Bonds, which are payable from the Net Revenues of the City's Sanitary Sewer System. The Bonds are expected to be sold to the MFA and payable in 20 annual principal installments at an interest rate of 2.00%. The Bonds are being issued as junior lien bonds which are of equal standing with the Series 2019 Bonds issued last year through the SRF for sewer improvements.

Water Bonds

The Water Bond Ordinance authorizes the issuance of the Bonds in an amount not to exceed \$4,800,000 for the water projects although the current estimated sizing is around \$4,215,000. Again, the Ordinance provides flexibility for the actual size of the Bond issue to be reduced prior to closing based on the actual construction bids and final approved costs. In addition, the City will receive principal forgiveness for this project which will reduce the amount that needs to be paid back to the MFA.

The Water Bond Ordinance authorizes the issuance of the Series 2020 Bonds, which are payable from the Net Revenues of the City's Water Supply System. The Bonds are expected to be sold to the MFA and payable in 20 annual principal installments at an interest rate of 2.00%. The Bonds are being issued as junior lien bonds which are of equal standing with the Series 2004 and Series 2019 Bonds issued through the DWRP for water improvements.

Both Ordinances also authorizes various City officials to take the necessary actions to execute and deliver the Bonds and all related documents, approve the final size of the Bonds and contains the necessary items required by the Revenue Bond Act, Act 94 of 1933.

Pursuant to the Revenue Bond Act, the Ordinances may be adopted in one reading, regardless of any contrary provision in the City's ordinance adoption procedures. Each Ordinance is required to be published once in full in your local newspaper after its adoption. There are no restrictions or requirements on the size of the publication, so it can be as small as possible. Upon adoption by the City Commission, we would appreciate receiving three (3) certified copies of the Ordinance and three (3) Affidavits of Publication of the Ordinance for bond transcripts.

The Part III application with the construction bids is due on August 10th. The Michigan Department of Environmental Quality Order of Approval is expected to be issued on September 9th. There will be a conference call with MFA, EGLE and City officials on August 26th which we will participate in, to make final arrangements relating to the Bond terms. At that time, the final bond size will be determined and we will prepare the necessary documents to be signed by various City officials after that date regarding the sale and delivery of the Bonds. The closing for both the Sewer Bonds and the Water Bonds will be September 30th and the City can begin requesting draws on the Bonds after that date.

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Ms. Elizabeth Lewis

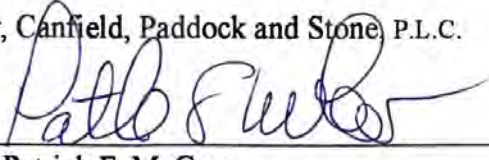
-3-

August 5, 2020

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By: 

Patrick F. McGow

Enclosure

Cc: Franklin Peterson
Leo Evans
Warren Creamer
Michael McCarty
Barbara Marczak
John Schrier, Esq.

36313010.1\063684-00049

ORDINANCE NO. _____
CITY OF MUSKEGON

AN ORDINANCE TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION, INSTALLATION, FURNISHING AND EQUIPPING OF ADDITIONS AND IMPROVEMENTS TO THE SANITARY SEWER SYSTEM OF THE CITY; TO PROVIDE FOR THE ISSUANCE AND SALE OF JUNIOR LIEN REVENUE BONDS TO PAY THE COST THEREOF; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS AND CERTAIN OUTSTANDING BONDS OF THE SYSTEM; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF SYSTEM REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS IN ENFORCEMENT THEREOF; TO PRESCRIBE THE FORM OF THE BONDS; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE BONDS AND THE SYSTEM.

THE CITY OF MUSKEGON ORDAINS:

Section 1. Definitions. Whenever used in this Ordinance, except when otherwise indicated by the context, the following terms shall have the following meanings:

- (a) “Act 94” means Act 94, Public Acts of Michigan, 1933, as amended.
- (b) “Adjusted Net Revenues” means for any operating year the excess of revenues over expenses for the System determined in accordance with generally accepted accounting principles, to which shall be added depreciation, amortization, interest expense on Bonds and payments to the City in lieu of taxes, to which may be made the following adjustments.
 - (i) Revenues may be augmented by the amount of any rate increases adopted prior to the issuance of additional Bonds or to be placed into effect before the time principal or interest on the additional Bonds becomes payable from Revenues as applied to quantities of service furnished during the operating year or portion thereof that the increased rates were not in effect.
 - (ii) Revenues may be augmented by amounts which may be derived from rates and charges to be paid by new customers of the System.
- (c) “Authority” means the Michigan Finance Authority or its successor.
- (d) “Authorized Officers” means the Mayor, the City Manager, the City Clerk and the Finance Director of the City.

(e) “Bonds” or “Senior Lien Bonds” means any bonds or series of bonds so designated and payable from Net Revenues, which are secured by a statutory first lien on the Net Revenues established by this Ordinance and which are senior and superior in all respects with respect to the Net Revenues to any Junior Lien Bonds secured by the statutory second lien on the Net Revenues, together with any additional Bonds of equal standing thereafter issued.

(f) “City” or “Issuer” means the City of Muskegon, County of Muskegon, State of Michigan.

(g) “EGLE” means the means the Michigan Department of Environment, Great Lakes, and Energy, or its successor.

(h) “Engineers” means Prein & Newhof, registered engineers of Grand Rapids, Michigan.

(i) “Junior Lien Bonds” means Series 2020 Bond, the Outstanding Junior Lien Bonds and any additional bonds of equal standing with the Series 2020 Bond and the Outstanding Junior Lien Bonds which are secured by a statutory second lien on the Net Revenues and are junior and subordinate to the Senior Lien Bonds.

(j) “Outstanding Junior Lien Bonds” means the Series 2019 Bonds.

(k) “Outstanding Ordinance” means Ordinance No. 2417 of the City.

(l) “Project” means the acquisition, construction, furnishing and equipping of improvements to the Sanitary Sewer System of the City, including sewer system rehabilitation and replacement of existing sewer lines, together with pump station improvements and all related appurtenances and attachments.

(m) “Purchase Contract” means the Purchase Contract to be entered into between the Authority and the City relating to the purchase by the Authority of the Series 2020 Bond.

(n) “Revenues” and “Net Revenues” shall mean the revenues and net revenues of the City derived from the operation of the System and shall be construed as defined in Section 3 of Act 94, including with respect to “Revenues,” the earnings derived from the investment of moneys in the various funds and accounts established by this Ordinance.

(o) “Series 2019 Bond” means the Sanitary Sewer System Junior Lien Revenue Bond, Series 2019, dated August 28, 2019, in the outstanding principal amount of Two Million Eight Hundred Seventy-Five Thousand Dollars (\$2,875,000).

(p) “Series 2020 Bond” means the Sanitary Sewer System Junior Lien Revenue Bond, Series 2020, of the City in the principal amount of not to exceed Five Million Four Hundred Thousand Dollars (\$5,400,000) authorized by this Ordinance.

(q) “Sufficient Government Obligations” means direct obligations of the United States of America or obligations the principal and interest on which is fully guaranteed by the United States of America, not redeemable at the option of the issuer, the principal and interest payments upon which without reinvestment of the interest, come due at such times and in such amounts as to be fully sufficient to pay the interest as it comes due on the Bonds or Junior Lien Bonds and the principal and redemption premium, if any, on the Bonds or Junior Lien Bonds as it comes due whether on the stated maturity date or upon earlier redemption. Securities representing such obligations shall be placed in trust with a bank or trust company, and if any of the Bonds or Junior Lien Bonds are to be called for redemption prior to maturity, irrevocable instructions to call the Bonds for redemption shall be given to the paying agent.

(r) “Supplemental Agreement” means the supplemental agreement among the City, the Authority and the EGLE relating to the Series 2020 Bond.

(s) “System” means the Sanitary Sewer System of the City, including the Project and all additions, extensions and improvements hereafter acquired.

Section 2. Necessity; Approval of Plans and Specifications. It is hereby determined to be a necessary public purpose of the City to acquire and construct the Project in accordance with the plans and specifications prepared by the Engineers, which plans and specifications are hereby approved. The Project qualifies for the State Revolving Fund financing program being administered by the EGLE and the Authority, whereby bonds of the City are sold to the Authority and bear interest at a fixed rate of not to exceed two percent (2.00%) per annum.

Section 3. Costs; Useful Life. The cost of the Project is estimated to be an amount not to exceed Five Million Four Hundred Thousand Dollars (\$5,400,000), including the payment of incidental expenses as specified in Section 4 of this Ordinance, which estimate of cost is hereby approved and confirmed. The period of usefulness of the Project is estimated to be not less than twenty-five (25) years.

Section 4. Payment of Cost; Bonds Authorized. To pay part of the cost of acquiring the Project, legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2020 Bond, the City shall borrow the sum of not to exceed Five Million Four Hundred Thousand Dollars (\$5,400,000), and issue the Series 2020 Bond therefor pursuant to the provisions of Act 94. The remaining cost of the Project, if any, shall be defrayed from grant funds and City funds on hand and legally available for such use.

Except as amended by or expressly provided to the contrary in this Ordinance, all of the provisions of the Outstanding Ordinance shall apply to the Series 2020 Bonds issued pursuant to this Ordinance, the same as though each of said provisions were repeated in this Ordinance in detail; the purpose of this Ordinance being to authorize the issuance of additional revenue bonds of junior and subordinate standing and priority of lien to any Outstanding Senior Lien Bonds and of equal standing and priority of lien as to the Net Revenues with the Outstanding Junior Lien Bonds to finance the cost of acquiring additions, extensions and improvements to the System, additional bonds of junior and subordinate standing and priority of lien as to the Outstanding Senior Lien Bonds and of equal standing and priority of lien as to the Outstanding Junior Lien

Bonds for such purpose being authorized by the provisions of the Outstanding Ordinance, upon the conditions therein stated, which conditions have been fully met.

Section 5. Issuance of Series 2020 Bond; Details. The Series 2020 Bond of the City, to be designated SANITARY SEWER SYSTEM JUNIOR LIEN REVENUE BOND, SERIES 2020 is authorized to be issued in the aggregate principal sum of not to exceed Five Million Four Hundred Thousand Dollars (\$5,400,000) or such lesser amount as finally determined by order of the EGLE for the purpose of paying part of the cost of the Project, including the costs incidental to the issuance, sale and delivery of the Series 2020 Bond. The Series 2020 Bond shall be payable out of the Net Revenues, as set forth more fully in Section 8 hereof.

The Series 2020 Bond shall be in the form of a single fully-registered, nonconvertible bond of the denomination of the full principal amount thereof, dated as of the date of delivery, payable in principal installments as finally determined by the order of the EGLE at the time of sale of the Series 2020 Bond and approved by the Authority and an Authorized Officer. Principal installments of the Series 2020 Bond shall be payable on October 1 of the years 2021 through 2040, inclusive, or such other payment dates as hereinafter provided. Interest on the Series 2020 Bond shall be payable on April 1 and October 1 of each year, commencing October 1, 2021 or on such other interest payment dates as hereinafter provided. Final determination of the principal amount of and interest on the Series 2020 Bond and the payment dates and amounts of principal installments of the Series 2020 Bond shall be evidenced by execution of the Purchase Contract and each of the Authorized Officers is authorized and directed to execute and deliver the Purchase Contract when in final form and to make the determinations set forth above; provided, however, that the first principal installment shall be due no earlier than April 1, 2021 and the final principal installment shall be due no later than October 1, 2042 and that the total principal amount shall not exceed \$5,400,000.

The Series 2020 Bond shall bear interest at a rate of not to exceed two percent (2.00%) per annum on the par value thereof or such other rate as evidenced by execution of the Purchase Contract, but in any event not to exceed the rate permitted by law, and any Authorized Officers as shall be appropriate shall deliver the Series 2020 Bond in accordance with the delivery instructions of the Authority.

The principal amount of the Series 2020 Bond is expected to be drawn down by the City periodically, and interest on principal amount shall accrue from the date such principal amount is drawn down by the City.

The Series 2020 Bond shall not be convertible or exchangeable into more than one fully-registered bond. Principal of and interest on the Series 2020 Bond shall be payable as provided in the Series 2020 Bond form in this Ordinance.

The Series 2020 Bond shall be subject to optional redemption by the City with the prior written approval of the Authority and on such terms as may be required by the Authority.

The Treasurer shall record on the registration books payment by the City of each installment of principal or interest or both when made and the cancelled checks or other records evidencing such payments shall be returned to and retained by the Treasurer.

Upon payment by the City of all outstanding principal of and interest on the Series 2020 Bond, the Authority shall deliver the Series 2020 Bond to the City for cancellation.

Section 6. Execution of Series 2020 Bond. The Series 2020 Bond shall be signed by the manual or facsimile signature of the Mayor and countersigned by the manual or facsimile signature of the City Clerk and shall have the corporate seal of the City or facsimile thereof impressed thereon. The Series 2020 Bond bearing the manual or facsimile signatures of the Mayor and the City Clerk sold to the Authority shall require no further authentication.

Section 7. Registration and Transfer. Any Bond or Junior Lien Bond may be transferred upon the books required to be kept pursuant to this section by the person in whose name it is registered, in person or by the registered owner's duly authorized attorney, upon surrender of the Bond or Junior Lien Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the transfer agent. Whenever any Bond or Junior Lien Bond shall be surrendered for transfer, the City shall execute and the transfer agent shall authenticate and deliver a new Bond or Junior Lien Bond, for like aggregate principal amount. The transfer agent shall require payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. The City shall not be required (i) to issue, register the transfer of or exchange any Bond or Junior Lien Bond during a period beginning at the opening of business 15 days before the day of the giving of a notice of redemption of Bonds selected for redemption as described in the form of Series 2020 Bond contained in Section 18 of this Ordinance and ending at the close of business on the day of that giving of notice, or (ii) to register the transfer of or exchange any Bond or Junior Lien Bond so selected for redemption in whole or in part, except the unredeemed portion of Bonds or Junior Lien Bonds being redeemed in part. The City shall give the transfer agent notice of call for redemption at least 20 days prior to the date notice of redemption is to be given.

The transfer agent shall keep or cause to be kept at its principal office sufficient books for the registration and transfer of the Bonds or Junior Lien Bond, which shall at all times be open to inspection by the City; and upon presentation for such purpose the transfer agent shall under such reasonable regulations as it may prescribe transfer or cause to be transferred on said books Bonds or Junior Lien Bond as hereinbefore provided.

If any Bond or Junior Lien Bond shall become mutilated, the City, at the expense of the holder of the Bond, shall execute, and the transfer agent shall authenticate and deliver, a new Bond or Junior Lien Bond of like tenor in exchange and substitution for the mutilated Bond or Junior Lien Bond, upon surrender to the transfer agent of the mutilated Bond or Junior Lien Bond. If any Bond or Junior Lien Bond issued under this Ordinance shall be lost, destroyed or stolen, evidence of the loss, destruction or theft may be submitted to the transfer agent and, if this evidence is satisfactory to both and indemnity satisfactory to the transfer agent shall be given, and if all requirements of any applicable law including Act 354, Public Acts of Michigan, 1972, as amended ("Act 354"), being sections 129.131 to 129.135, inclusive, of the Michigan Compiled Laws have been met, the City, at the expense of the owner, shall execute, and the transfer agent shall thereupon authenticate and deliver, a new Bond or Junior Lien Bond of like tenor and bearing the statement required by Act 354, or any applicable law hereafter enacted, in lieu of and in substitution for the Bond or Junior Lien Bond so lost, destroyed or stolen. If any such Bond or Junior Lien Bond shall have matured or shall be about to mature, instead of issuing

a substitute Bond or Junior Lien Bond the transfer agent may pay the same without surrender thereof.

Section 8. Payment of Series 2020 Bond; Security; Priority of Lien. Principal of and interest on the Series 2020 Bond shall be payable solely from the Net Revenues, and to secure such payment, there is hereby recognized the statutory lien upon the whole of the Net Revenues which shall be a second lien, subject only to the statutory first lien established with respect to the Senior Lien Bonds, to continue until payment in full of the principal of and interest on all Junior Lien Bonds payable from the Net Revenues, or, until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of all Junior Lien Bonds of a series then outstanding, principal and interest on such Junior Lien Bonds to maturity, or, if called for redemption, to the date fixed for redemption together with the amount of the redemption premium, if any. The statutory lien on the Net Revenues created with respect to the Junior Lien Bonds (including the Series 2020 Bond) shall at all times be and remain subordinate and inferior to the pledge of Net Revenues and the statutory first lien thereon authorized to be granted to secure any Senior Lien Bonds hereafter issued.

Upon deposit of cash or Sufficient Government Obligations, as provided in the previous sentences, the statutory lien shall be terminated with respect to that series of Bonds or Junior Lien Bonds, the holders of that series shall have no further rights under this Ordinance except for payment from the deposited funds, and the Bonds or Junior Lien Bonds of that series shall no longer be considered to be outstanding under this Ordinance.

Section 9. Bondholders' Rights; Receiver. The holder or holders of the Bonds or Junior Lien Bonds representing in the aggregate not less than twenty percent (20%) of the entire principal amount thereof then outstanding, may, by suit, action, mandamus or other proceedings, protect and enforce the statutory lien upon the Net Revenues of the System, and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officers of the City, including the fixing of sufficient rates, the collection of Revenues, the proper segregation of the Revenues of the System and the proper application thereof. The statutory lien upon the Net Revenues, however, shall not be construed as to compel the sale of the System or any part thereof.

If there is a default in the payment of the principal of or interest on the Bonds or the Junior Lien Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the City and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the City more particularly set forth herein and in Act 94.

The holder or holders of the Bonds and the Junior Lien Bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Bonds and the Junior Lien Bonds and the security therefor.

Section 10. Management; Fiscal Year. The operation, repair and management of the System and the acquisition and construction of the Project shall be under the supervision and control of the City Commission. The City Commission, in accordance with the relevant provisions of the City Charter, may employ such person or persons in such capacity or capacities

as it deems advisable to carry on the efficient management and operation of the System. The City Commission may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System. The fiscal year of the System shall be the fiscal year of the City.

Section 11. Rates and Charges. The rates and charges for service furnished by and the use of the System and the methods of collection and enforcement of the collection of the rates shall be those in effect on the date of adoption of this Ordinance.

Section 12. No Free Service or Use. No free service or use of the System, or service or use of the System at less than cost, shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the City.

Section 13. Fixing and Revising Rates; Rate Covenant. The rates now in effect are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on the Bonds and the Junior Lien Bonds as the same become due and payable, and the maintenance of the reserve therefor and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance. In addition, it is agreed that the rates shall be set from time to time so that there shall be produced each fiscal year Net Revenues in an amount not less than 110% of the principal of and interest on all Bonds coming due in each fiscal year and not less than 100% of the principal of and interest on all Junior Lien Bonds coming due in each fiscal year. The rates shall be fixed and revised from time to time as may be necessary to produce these amounts, and it is hereby covenanted and agreed to fix and maintain rates for services furnished by the System at all times sufficient to provide for the foregoing.

Section 14. Funds and Accounts; Flow of Funds. The funds and accounts established by the Outstanding Ordinance are hereby continued, the flow of funds established by the Outstanding Ordinances, is hereby continued, and the applicable sections of the Outstanding Ordinance, relating to funds and accounts and flow of funds are incorporated herein by reference as if fully set forth.

Section 15. Bond Proceeds. The proceeds of the sale of the Series 2020 Bond shall be deposited in a bank or banks, designated by the City, qualified to act as depository of the proceeds of sale under the provisions of Act 94, in an account designated 2020 SANITARY SEWER SYSTEM PROJECT CONSTRUCTION FUND (the "Construction Fund"). Moneys in the Construction Fund shall be applied solely in payment of the cost of the Project, including any engineering, legal and other expenses incident thereto and to the financing thereof.

Section 16. Bond Form. The Series 2020 Bond shall be in substantially the following form with such changes or completion as necessary or appropriate to give effect to the intent of this Ordinance and further subject to such modifications which may be required by the Michigan Attorney General and the Authority and approved by bond counsel:

**UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF MUSKEGON**

CITY OF MUSKEGON

SANITARY SEWER SYSTEM JUNIOR LIEN REVENUE BOND, SERIES 2020

REGISTERED OWNER: Michigan Finance Authority

PRINCIPAL AMOUNT: _____ Dollars (\$ _____)

DATE OF ORIGINAL ISSUE: August 28, 2020

The CITY OF MUSKEGON, County of Muskegon, State of Michigan (the “City”), for value received, hereby promises to pay, but only out of the hereinafter described Net Revenues of the City’s Sanitary Sewer System (hereinafter defined), to the Michigan Finance Authority (the “Authority”), or registered assigns, the Principal Amount shown above, or such portion thereof as shall have been advanced to the City pursuant to a Purchase Contract between the City and the Authority and a Supplemental Agreement by and among the City, the Authority and the State of Michigan acting through the Department of Environmental Quality, in lawful money of the United States of America, unless prepaid or reduced prior thereto as hereinafter provided.

During the time funds are being drawn down by the City under this Bond, the Authority will periodically provide the City a statement showing the amount of principal that has been advanced and the date of each advance, which statement shall constitute prima facie evidence of the reported information; provided that no failure on the part of the Authority to provide such a statement or to reflect a disbursement or the correct amount of a disbursement shall relieve the City of its obligation to repay the outstanding principal amount actually advanced, all accrued interest thereon, and any other amount payable with respect thereto in accordance with the terms of this Bond.

The Principal Amount shall be payable on the dates and in the annual principal installment amounts set forth on Schedule A attached hereto and made a part hereof, as such Schedule may be adjusted if less than \$ _____ is disbursed to the City or if a portion of the Principal Amount is prepaid as provided below, with interest on said principal installments from the date each said installment is delivered to the holder hereof until paid at the rate of two percent (2.00%) per annum. Interest is first payable April 1, 2021 and semiannually thereafter and principal is payable on the first day of October commencing October 1, 2021 (as identified in the Purchase Contract) and annually thereafter.

Principal installments of this bond are subject to prepayment by the City prior to maturity only with the prior written consent of the Authority and on such terms as may be required by the Authority.

Notwithstanding any other provision of this bond, so long as the Authority is the owner of this bond, (a) this bond is payable as to principal, premium, if any, and interest at The Bank of New York Mellon Trust Company, N.A. or at such other place as shall be designated in writing to the City by the Authority (the "Authority's Depository"); (b) the City agrees that it will deposit with the Authority's Depository payments of the principal of, premium, if any, and interest on this bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; in the event that the Authority's Depository has not received the City's deposit by 12:00 noon on the scheduled day, the City shall immediately pay to the Authority as invoiced by the Authority an amount to recover the Authority's administrative costs and lost investment earnings attributable to that late payment; and (c) written notice of any redemption of this bond shall be given by the City and received by the Authority's Depository at least 40 days prior to the date on which such redemption is to be made.

Additional Interest

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "additional interest") at a rate equal to the rate of interest which is two percent above the Authority's cost of providing funds (as determined by the Authority) to make payment on the bonds of the Authority issued to provide funds to purchase this bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the Authority has been fully reimbursed for all costs incurred by the Authority (as determined by the Authority) as a consequence of the City's default. Such additional interest shall be payable on the interest payment date following demand of the Authority. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the Authority) the investment of amounts in the reserve account established by the Authority for the bonds of the Authority issued to provide funds to purchase this bond fails to provide sufficient available funds (together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the Authority issued to fund such account, the City shall and hereby agrees to pay on demand only the City's pro rata share (as determined by the Authority) of such deficiency as additional interest on this bond.

For prompt payment of principal and interest on this bond, the City has irrevocably pledged the revenues of the Sanitary Sewer System of the City, including all appurtenances, extensions and improvements thereto (the "System"), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), and a statutory second lien thereon is hereby recognized and created, subject to the senior lien of any additional bonds of the City hereafter issued by the City, as set forth in the Ordinance (hereinafter defined). The City has reserved the right to issue such additional bonds which shall be superior and senior in all respects to the bonds of this issue as to the Net Revenues.

Purchasers of the bonds of this issue, by their acceptance of the bonds of this issue or a beneficial ownership interest therein, shall be deemed to have consented to the subordination of their interest in and lien upon the Net Revenues upon the issuance of senior lien bonds subsequent to the delivery of the bonds of this issue.

This bond is a single, fully-registered, non-convertible bond in the principal sum indicated above issued pursuant to Ordinance No. ____ (the "Ordinance") duly adopted by the City Commission of the City, and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of paying part of the cost of acquiring and constructing additions, extensions and improvements to the System.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of superior and equal standing may hereafter be issued and the general covenants and provisions pursuant to which this bond is issued, reference is made to the above-described Ordinance.

This bond is a self-liquidating bond, payable, both as to principal and interest, solely and only from the Net Revenues of the System. The principal of and interest on this bond are secured by the statutory lien hereinbefore mentioned.

The City has covenanted and agreed, and does hereby covenant and agree, to fix and maintain at all times while any bonds payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest upon and the principal of the bonds of this issue, any additional Bonds, and any additional Junior Lien Bonds, as and when the same shall become due and payable, and to maintain a bond redemption fund (including a bond reserve account, if any) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by said Ordinance.

This bond is transferable only upon the books of the City by the registered owner in person or the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the transfer agent, duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance, and upon payment of the charges, if any, therein prescribed.

It is hereby certified and recited that all acts, conditions and things required by law to be done precedent to and in the issuance of this bond have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the City of Muskegon, County of Muskegon, State of Michigan, by its City Commission has caused this bond to be executed with the manual or facsimile signatures of its Mayor and its City Clerk and the corporate seal of the City to be impressed or imprinted hereon, all as of the Date of Original Issue.

CITY OF MUSKEGON

By _____
Mayor

(Seal)

Countersigned:

By _____
City Clerk

EGLE Project Number: 5679-01
EGLE Approved Amt: \$ _____

SCHEDULE A

Based on the schedule provided below unless revised as provided in this paragraph, repayment of the principal of the bond shall be made until the full amount advanced to the City is repaid. In the event the Order of Approval issued by the Department of Environment, Great Lakes and Energy (the "Order"), approves a principal amount of assistance less than the amount of the bond delivered to the Authority, the Authority shall only disburse principal up to the amount stated in the Order. In the event (1) that the payment schedule approved by the City and described below provides for payment of a total principal amount greater than the amount of assistance approved by the Order or (2) that less than the principal amount of assistance approved by the Order is disbursed to the City by the Authority, or (3) that any portion of the principal amount of assistance approved by the Order and disbursed to the City is forgiven pursuant to the Order, the Authority shall prepare a new payment schedule which shall be effective upon receipt by the City.

<u>Maturity Date</u>	<u>Principal Amount</u>
October 1, 2021	
October 1, 2022	
October 1, 2023	
October 1, 2024	
October 1, 2025	
October 1, 2026	
October 1, 2027	
October 1, 2028	
October 1, 2029	
October 1, 2030	
October 1, 2031	
October 1, 2032	
October 1, 2033	
October 1, 2034	
October 1, 2035	
October 1, 2036	
October 1, 2037	
October 1, 2038	
October 1, 2039	
October 1, 2040	

Interest on the bond shall accrue on that portion of principal disbursed by the Authority to the City which has not been forgiven pursuant to the Order from the date such portion is disbursed, until paid, at the rate of 2.00% per annum, payable April 1, 2021, and semi-annually thereafter.

The City agrees that it will deposit with the Authority's Depository, or such other place as shall be designated in writing to the City by the Authority payments of the principal of, premium, if any, and interest on this bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise. In the event that the Authority's Depository has not received the City's deposit by 12:00 noon on the scheduled day, the City shall immediately pay to the Authority as invoiced by the Authority an amount to recover the Authority's administrative costs and lost investment earnings attributable to that late payment.

Section 17. Negotiated Sale; Application to EGLE and Authority; Execution of Documents. The City determines that it is in the best interest of the City to negotiate the sale of the Series 2020 Bond to the Authority because the State Revolving Fund financing programs provide significant interest savings to the City compared to competitive sale in the municipal bond market. The Authorized Officers are hereby authorized to make application to the Authority and to the EGLE for placement of the Series 2020 Bond with the Authority. The actions taken by the Authorized Officers with respect to the Series 2020 Bond prior to the adoption of this Ordinance are ratified and confirmed. The Authorized Officers are authorized to execute and deliver the Purchase Contract, the Supplemental Agreement and the Issuer's Certificate. Any Authorized Officer is further authorized to execute and deliver such contracts, documents and certificates as are necessary or advisable to qualify the Series 2020 Bond for the State Revolving Fund. Prior to the delivery of the Series 2020 Bond to the Authority, any Authorized Officer is hereby authorized to make such changes to the form of the Series 2020 Bond contained in Section 18 of this Ordinance as may be necessary to conform to the requirements of Act 227, Public Acts of Michigan 1985, as amended ("Act 227"), including, but not limited to changes in the principal maturity and interest payment dates and references to additional security required by Act 227.

Section 18. Covenant Regarding Tax Exempt Status of the Bonds. The City shall, to the extent permitted by law, take all actions within its control necessary to maintain the exemption of the interest on the Series 2020 Bond from general federal income taxation (as opposed to any alternative minimum or other indirect taxation) under the Internal Revenue Code of 1986, as amended (the "Code"), including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditure and investment of Series 2020 Bond proceeds and moneys deemed to be Bond proceeds.

Section 19. Approval of Bond Counsel. The representation of the City by Miller, Canfield, Paddock and Stone, P.L.C. ("Miller Canfield"), as bond counsel is hereby approved, notwithstanding the representation by Miller Canfield of the Authority in connection with its financing programs and borrowings.

Section 20. Approval of Bond Details. The Authorized Officers are each hereby authorized to adjust the final bond details set forth herein to the extent necessary or convenient to complete the transaction authorized herein, and in pursuance of the foregoing is authorized to exercise the authority and make the determinations authorized pursuant to Section 7a(1)(c) of Act 94, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, the place of delivery and payment, and other matters, provided that the principal amount of Series 2020 Bond issued shall not exceed the principal amount authorized in this Ordinance, the interest rate per annum on the Series 2020 Bond shall not exceed two percent (2.00%) per annum, and the Series 2020 Bond shall mature in not more than twenty (20) annual installments.

Section 21. Savings Clause. All ordinances, resolutions or orders, or part thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, repealed.

Section 22. Severability; Paragraph Headings; and Conflict. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

Section 23. Publication and Recordation. This Ordinance shall be published in full in the *Muskegon Chronicle*, a newspaper of general circulation in the City qualified under State law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the City and such recording authenticated by the signatures of the Mayor and the City Clerk.

Section 24. Effective Date. This Ordinance shall be effective upon its adoption and publication.

ADOPTED AND SIGNED THIS 11th day of August, 2020.

Signed _____
Mayor

Signed _____
City Clerk

I HEREBY CERTIFY that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan, at a regular meeting held on the 11th day of August, 2020, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as temporarily modified by Governor Whitmer's Executive Order No. 2020-154 and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting: _____ and
that the following Members were absent: _____.

I further certify that Member _____ moved for adoption of said Ordinance, and that said motion was supported by Member _____.

I further certify that the following Members voted for adoption of said Ordinance: _____ and
that the following Members voted against adoption of said Ordinance: _____.

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signatures of the Mayor and the City Clerk.

City Clerk

36312952.1\063684-00050

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Public Hearing on MNRTF Application for Campbell Field
Submitted By: Leo Evans	Department: Public Works
Brief Summary: To receive public input on the attached plan for improvements at Campbell Field and to approve a resolution to apply for grant funds under the Michigan Natural Resources Trust Fund Program with a commitment of matching funds.	
Detailed Summary: Staff has submitted an application to MDNR through the Michigan Natural Resources Trust Fund program to help fund the improvements at Campbell Field. The attached preliminary plan for improvements at Campbell Field was prepared based on staff recommendations and stakeholder feedback. In light of the COVID-19 concerns MDNR allowed for public input on the plans to be received after the initial application was submitted. Staff also posted the plans to Facebook for comment in March of 2020, a summary of comments received on the preliminary plan is included. Matching funds for this project are derived from the Public Improvement Fund in future years and are provided primarily via the PILOT extension that was approved for the Royale Glen Townhouses at the 11/26/2019 Commission Meeting. Proceeds from the PILOT Agreement are expected to provide \$156,000 in matching funds with any additional costs and in kind services to be provided by the City of Muskegon.	
Amount Requested: \$200,000 for MDNR Match + \$100,000 for Engineering & Contingencies	Amount Budgeted: \$300,000 (Future Years)
Fund(s) or Account(s): 404	Fund(s) or Account(s): 404
Recommended Motion: Close public hearing and approve the resolution of authorization and commitment of matching funds for the Michigan Natural Resources Trust Fund application at Campbell Field.	

Check if the following Departments need to approve the item first:

Police Dept. ☐

Fire Dept. ☐

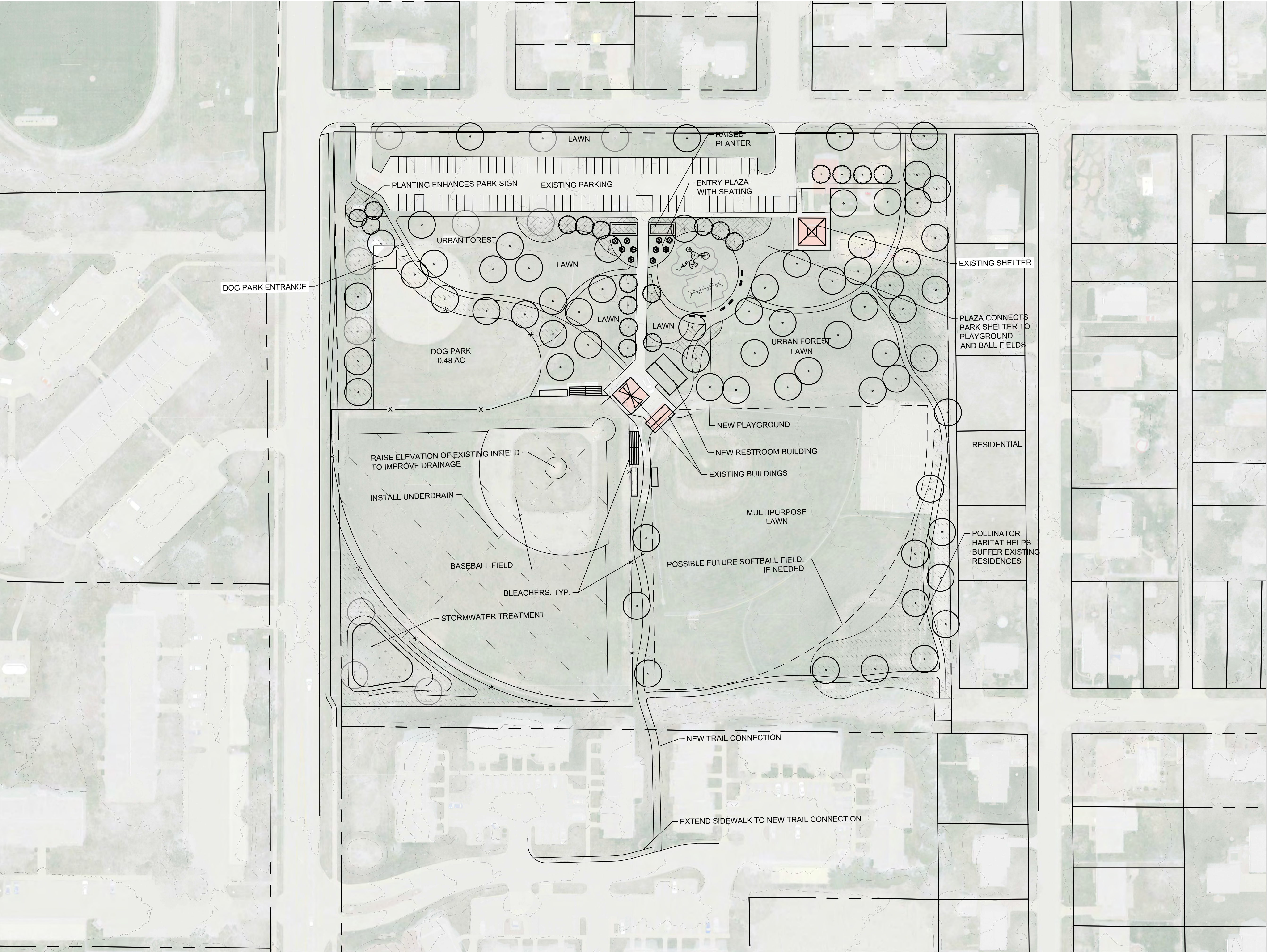
IT Dept. ☐

For City Clerk Use Only:

Commission Action:

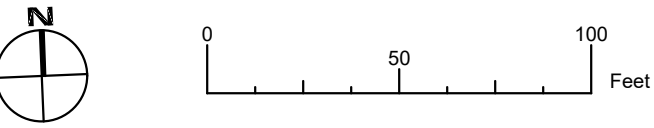
Campbell Field
Concept Plan

March 17, 2020



Landscape Legend

	SHADE TREE	68
	EXISTING TREE	11
	ORNAMENTAL TREE	19
	PERENNIAL BED	8,114 sf
	POLLINATOR HABITAT	52,662 sf
	STORMWATER AREA	5,095 sf
	FENCE	



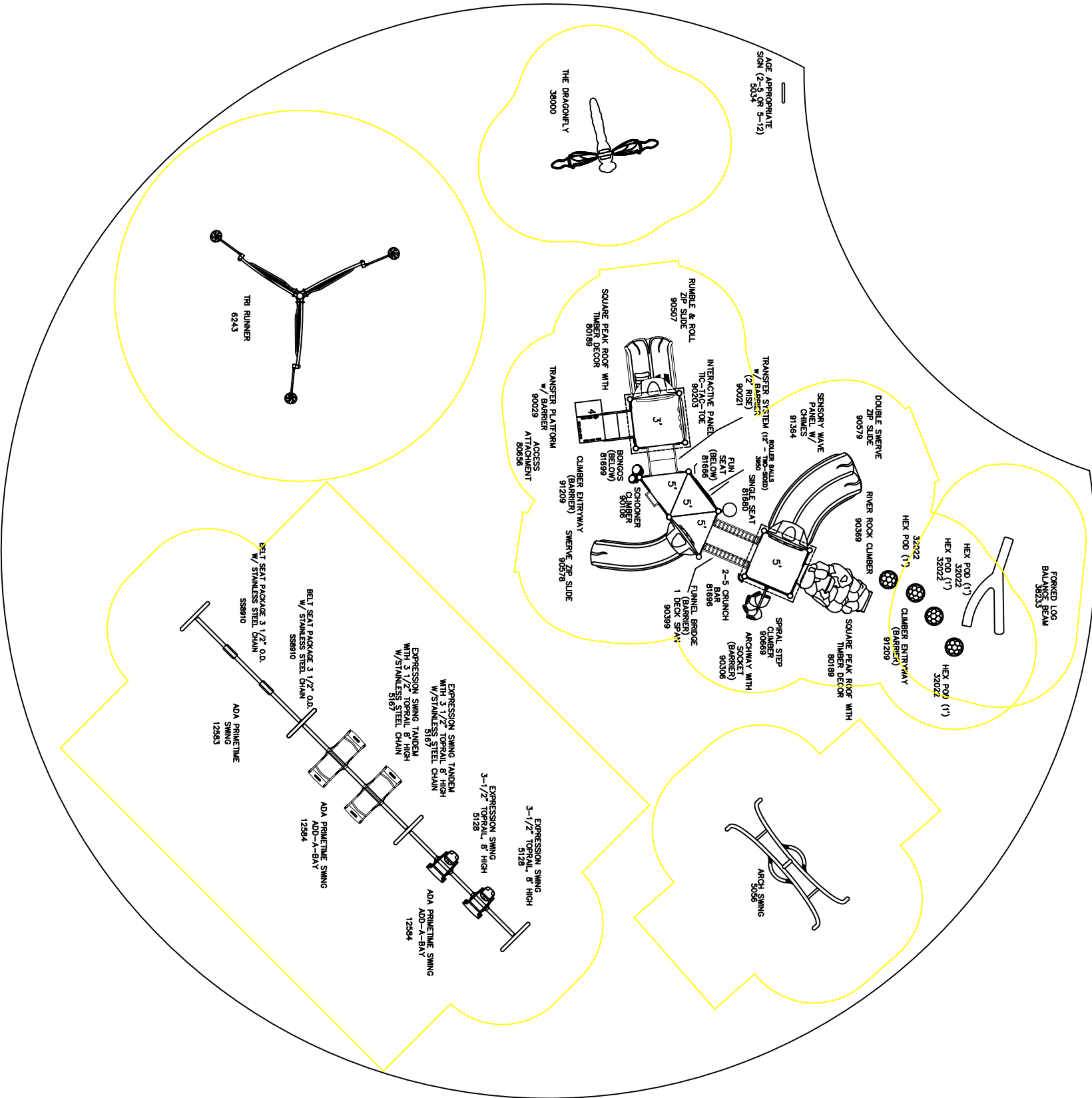


Date: 7/14/2020
SEH: MUSKN-154652

CAMPBELL FIELD PARK IMPROVEMENTS
MUSKEGON, MI
PRELIMINARY ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST

Item	Unit	Total Quantity	Unit Cost	Total Cost
SITE PREPARATION				
SITE CLEARING AND GRUBBING	SY	2,000	\$5.50	\$ 11,000.00
PEDESTRIAN PAVING				
CONCRETE PAVING (4" THICK) (DOES NOT INCLUDE SIDEWALKS IN PUBLIC ROW)	SFT	27,000	\$5.00	\$ 135,000.00
FENCE & RAILING				
DOG PARK ORNAMENTAL FENCING (6' PVC COATED)	LFT	600	\$30.00	\$ 18,000.00
BASEBALL FIELD				
UNDERDRAIN	LF	1,800	\$10.00	\$ 18,000.00
TURF SEEDING	SY	1,000	\$6.50	\$ 6,500.00
REGRADING	SY	2,000	\$3.00	\$ 6,000.00
REPLACE INFIELD AGGREGATE	CY	200	\$400.00	\$ 80,000.00
LANDSCAPING				
TOPSOIL, SEED AND EROSION MATTING	SY	5,000	\$6.50	\$ 32,500.00
SITE AMENITIES				
PLAYGROUND	LS	1	\$105,400.00	\$ 105,400.00
SUBTOTAL				\$401,400.00
<i>Engineering & Design Fees (8%)</i>				<i>\$32,112.00</i>
<i>Construction Observation-RPR Fees (5%)</i>				<i>\$20,070.00</i>
<i>Construction Mobilization (7.5%)</i>				<i>\$30,105.00</i>
<i>Design-Construction Contingency (20%)</i>				<i>\$80,280.00</i>
TOTAL				\$563,967.00

1. This engineer's opinion of probable construction cost has been prepared based upon designs prepared by SEH.
2. This engineer's opinion of probable construction cost has been prepared based upon the engineer's experience as a design professional and is furnished for information only. It does not constitute a guarantee of actual construction costs.
3. This engineer's opinion of probable construction cost does not include any professional design fees or permit fees.
4. This engineer's opinion of probable construction cost does not include construction supervision or inspection costs.
5. Construction Engineering and Mobilization and Demobilization assumed to be 7.5% of total project cost.



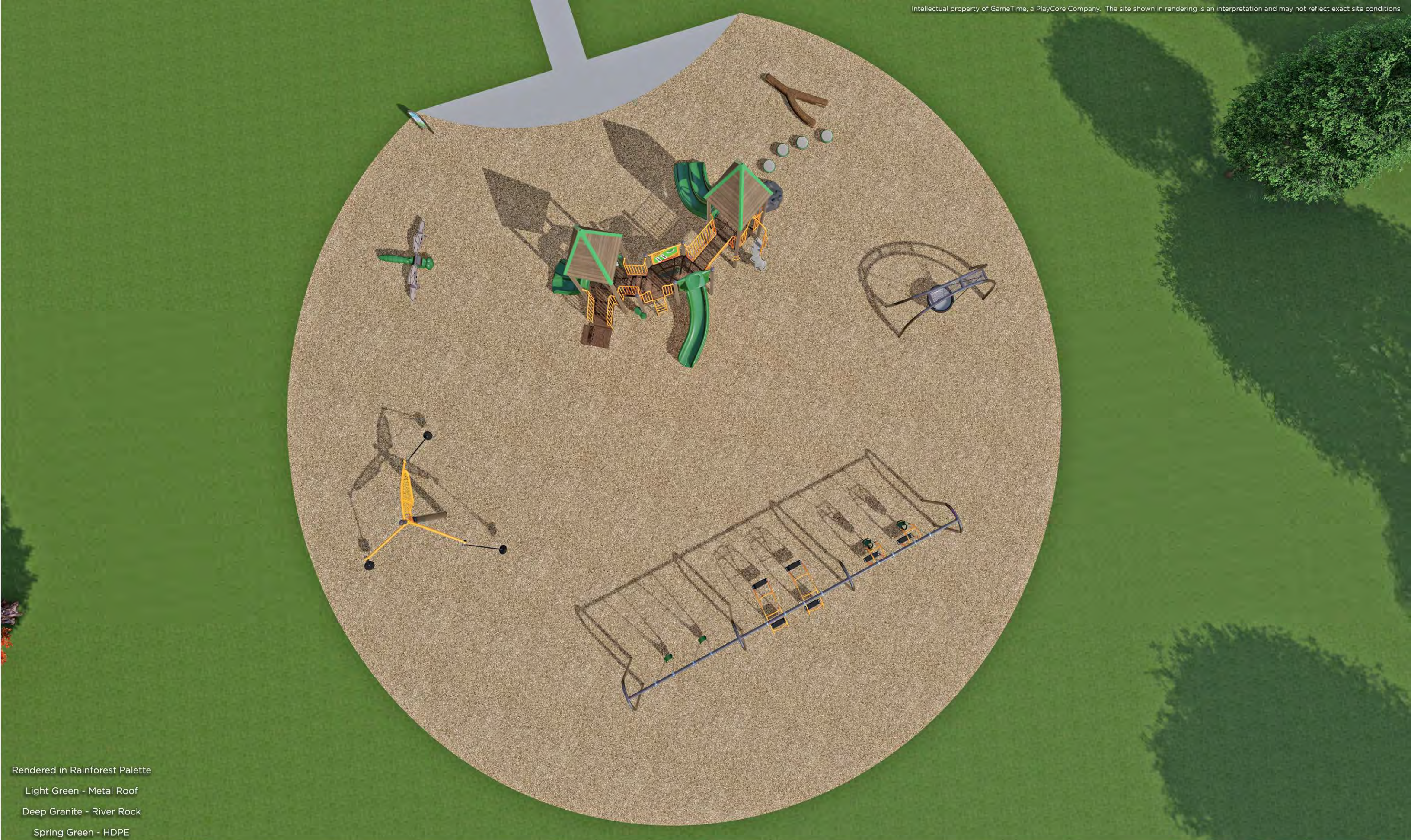


City of Muskegon
Campbell Field - Option One



Rendered in Rainforest Palette
Light Green - Metal Roof
Deep Granite - River Rock
Spring Green - HDPE

City of Muskegon Campbell Field - Option One



Rendered in Rainforest Palette
Light Green - Metal Roof
Deep Granite - River Rock
Spring Green - HDPE



NOTICE OF INTENT FOR RECREATION GRANT PROJECTS

This information is requested by authority of Part 19, Act 451 of 1994, to be considered for a MNRTF grant.

1. Name of Project		2. Date
3a. Identity of the applicant agency, organization, or individual:		3b. Indicate below the representative of the applicant to contact for additional information regarding this notice:
		Name
		Address (Street/PO Box)
		City, State, ZIP Code
		Telephone
4a. Agency from which assistance will be sought: ☐ Michigan Department of Natural Resources		Name of Program: _____ Public Law or USC#: _____ ☐ Michigan Natural Resources Trust Fund _____ Part 19 of Act 451 of 1994
5. Estimated Cost: FEDERAL: _____ STATE: _____ OTHER: _____ TOTAL: _____		6. Estimated date by which time the applicant expects to formally file an application: _____
		7. Geographic location of the project to be assisted: (indicate specific location as well as city or county. Attach map if necessary).
8. Brief description of the proposed project. This will help the clearinghouse identify agencies of state or local government having plans, programs, or projects that might be affected by the proposed project:		
8a. Type of project:		
8b. Purpose:		
8c. General size or scale:		
8d. Beneficiaries (persons or institutions benefited):		
8e. Indicate the relationship of this project to plans, programs, and other activities of your agency and other agencies (attach separate sheet if necessary):		



AREA WIDE RECREATION AND PLANNING CLEARINGHOUSES

PLANNING REGION 1. LIVINGSTON, MACOMB, MONROE, OAKLAND, ST. CLAIR, WASHTENAW, & WAYNE COUNTIES NOTE: Paper submissions will be denied. Submit by email: infocenter@semcog.org (include email receipt with application)	SOUTHEAST MICHIGAN COUNCIL OF GOVERNMENTS (SEMCOG) 1001 WOODWARD AVE., SUITE 1400 DETROIT, MI 48226-1904 PHONE: (313) 961-4266 FAX: (313) 961-4869
PLANNING REGION 2. HILLSDALE, JACKSON, & LENAWEE COUNTIES	REGION 2 PLANNING COMMISSION JACKSON COUNTY TOWER BLDG., 9 TH FLOOR 120 W MICHIGAN AVE. JACKSON, MI 49201 PHONE: (517) 788-4426 FAX: (517) 788-4635
PLANNING REGION 3. BARRY, BRANCH, CALHOUN, KALAMAZOO, & ST. JOSEPH COUNTIES	SOUTH CENTRAL MICHIGAN PLANNING COUNCIL 300 S WESTNEDGE AVE KALAMAZOO, MI 49007 PHONE: (269) 385-0409 FAX:
PLANNING REGION 4. BERRIEN, CASS, & VAN BUREN COUNTIES	SOUTHWEST MICHIGAN PLANNING COMMISSION 376 WEST MAIN STREET, SUITE 130 BENTON HARBOR, MI 49022-3651 PHONE (269) 925-1137 FAX: (269) 925-0288
PLANNING REGION 5. GENESEE, LAPEER, & SHIAWASSEE COUNTIES	GLS REGION V PLANNING AND DEVELOPMENT COMMISSION 1101 BEACH ST., ROOM 223 FLINT, MI 48502-1470 PHONE: (810) 257-3010 FAX: (810) 257-3185
PLANNING REGION 6. EATON, INGHAM, & CLINTON COUNTIES	TRI-COUNTY REGIONAL PLANNING COMMISSION 3135 PINE TREE ROAD, SUITE 2C LANSING, MI 48911-4234 PHONE: (517) 393-0342 FAX: (517) 393-4424
PLANNING REGION 7. ARENAC, BAY, CLARE, GLADWIN, GRATIOT, HURON, IOSCO, ISABELLA, MIDLAND, OGEMAW, ROSCOMMON, SAGINAW, SANILAC & TUSCOLA COUNTIES	EAST MICHIGAN COUNCIL OF GOVERNMENTS 3144 DAVENPORT AVE., SUITE 200 SAGINAW, MI 48602-3494 PHONE: (989) 797-0800 FAX: (989) 797-0896
PLANNING REGION 8. ALLEGAN, IONIA, KENT, MECOSTA, MONTCALM, OSCEOLA, & OTTAWA COUNTIES	WEST MICHIGAN REGIONAL PLANNING COMMISSION 1345 MONROE AVENUE, NW, SUITE 255 GRAND RAPIDS, MI 49505-4670 PHONE: (616) 774-8400 FAX: (616) 774-0808
PLANNING REGION 9. ALCONA, ALPENA, CHEBOYGAN, CRAWFORD, MONTMORENCY, OSCODA, OTSEGO, & PRESQUE ISLE COUNTIES	NORTHEAST MICHIGAN COUNCIL OF GOVERNMENTS 80 LIVINGSTON BLVD., SUITE U-108 GAYLORD, MI 49734 PHONE: (989) 705-3730 FAX: (989) 732-5578
PLANNING REGION 10. ANTRIM, BENZIE, CHARLEVOIX, EMMET, GRAND TRAVERSE, KALKASKA, LEELANAU, MANISTEE, MISSAUKEE, & WEXFORD COUNTIES	NORTHWEST MICHIGAN COUNCIL OF GOVERNMENTS PO BOX 506 TRAVERSE CITY, MI 49685-0506 PHONE (231) 929-5000 FAX: (231) 929-5012
PLANNING REGION 11. CHIPPEWA, LUCE, & MACKINAC COUNTIES	EASTERN UPPER PENINSULA REGIONAL PLANNING AND DEVELOPMENT COMMISSION 1118 E. EASTERDAY AVE. SAULT STE. MARIE, MI 49783 PHONE: (906) 635-1581 FAX: (996) 635-9582
PLANNING REGION 12. ALGER, DELTA, DICKINSON, MARQUETTE, MENOMINEE, & SCHOOLCRAFT COUNTIES	CENTRAL UPPER PENINSULA PLANNING AND DEVELOPMENT REGIONAL COMMISSION 2950 COLLEGE AVE. ESCANABA, MI 49829 PHONE: (906) 786-9234 FAX: (906) 786-4442
PLANNING REGION 13. BARAGA, GOGEBIC, HOUGHTON, IRON, KEWEENAW, & ONTONAGON COUNTIES	WESTERN UPPER PENINSULA REGIONAL PLANNING AND DEVELOPMENT COMMISSION 326 SHELDON AVE. PO BOX 365 HOUGHTON, MI 49931 PHONE: (906) 482-7205 FAX: (906) 482-9032
PLANNING REGION 14. LAKE, MASON, MUSKEGON, NEWAYGO, & OCEANA COUNTIES	WEST MICHIGAN SHORELINE REGIONAL DEVELOPMENT COMMISSION PO BOX 387 / 316 MORRIS AVE., SUITE 340 MUSKEGON, MI 49443-0387 PHONE: (231) 722-7878 FAX: (231) 722-9362

City of Muskegon

RESOLUTION

SUPPORT OF APPLICATION FOR CAMPBELL FIELD RECREATIONAL IMPROVEMENTS

WHEREAS, Muskegon City Commissioner supports the submission of an application titled, “Campbell Field Recreational Improvements” to the Michigan Natural Resources Trust Fund for development of ball field modifications, the addition of a dog park, and paved walking trail, with replacement of the existing playground equipment; and,

WHEREAS, the proposed application is supported by the Community’s 5-year Approved Parks and Recreation Plan; and,

WHEREAS, the City of Muskegon is hereby making a financial commitment to the project in the amount of \$200,000 matching funds in cash and/or force account; and

NOW, THEREFORE LET IT BE RESOLVED, that Muskegon City Commissioners hereby authorizes submission of a Michigan Natural Resources Trust Fund Application for \$200,000, and further resolves to make available its financial obligation amount of \$200,000 of a total \$400,000 project cost during the 2021-2022 fiscal year.

Ayes:

Nayes:

Absent:

Motion Approved.

Dated this _____ of _____ 20__.

Stephen J. Gawron
Mayor

Ann Marie Meisch
City Clerk

Campbell Field – Public Input Received

Kashara Roberts

(Softball Little League)

ADDRESS???

Via telephone (231-769-5333) to Leo Evans on 3/23/2019

Kashara requested to have one field remain for softball and was concerned about the usability of a dual purpose field for baseball and softball. She also requested to be notified prior to any demolition so they can salvage their equipment from the storage rooms they utilize at the field.

Harold Kiel

(Campbell Field Neighborhood Association)

ADDRESS???

Via telephone (231-759-4505) to Leo Evans on 3/23/2019

Harold complimented the overall plan for the site and felt it would be a big improvement over the current uses. He also requested follow up with the apartment complex to the south of the property to have them stop storing brush and yard waste against the fence line that is shared with Campbell Field.

Brad Hastings

(Disability Network West Michigan)

ADDRESS???

Via Email to Leo Evans on 3/19/2019

Play Area

What type of surface are you planning to use?

The drawing key seems to indicate that there are no elevated play elements, but according to the definition provided by the Access Board, you have:

- 3 slides
- 1 rock wall
- 2 climbers
- 2 play elements on the structure

These all qualify as elevated play components as the definition below indicates. Now, these items are not required to have ramp access as there are under 20 elevated components, but transfer access really only works for people who have sufficient upper body strength to lift themselves up each stair onto the structure. Would you consider providing ramped access to the elevated play components?

Elevated Play Components

An elevated play component is a play component that is approached above or below grade and is part of a composite play structure. Play components that are attached to a composite play structure and that can be approached from a platform or deck area are considered elevated play components.

This climber is considered an elevated component since it can be approached or exited from the ground level or above grade from a platform or deck on a composite play structure.



Whole Park Concept

Will there be accessible seating areas near the bleachers?

How many accessible parking spots will there be?

Is the trail that goes around the edge of the park and into the middle paved?

Can you provide clarification on which areas of the park will be paved?

- We want to be sure that there is an accessible route to each of the elements of the park (dog park, play area, bathrooms, baseball field, etc)

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Muskegon Central Dispatch Tower Site Lease Agreement
Submitted By: Jeffrey Lewis	Department: Public Safety
Brief Summary: Review and approve the attached MCD tower site lease agreement. As detailed in the attached lease agreement, the tower site lease includes all communication equipment and buildings necessary for use and maintenance of the newly constructed communications tower.	
Detailed Summary:	
Amount Requested: 0.00	Amount Budgeted: n/a
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: Approval of the tower site lease agreement between the City of Muskegon and Muskegon Central Dispatch.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☒ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

SITE LEASE AGREEMENT

THIS SITE LEASE AGREEMENT ("Lease") is made and entered into this _____, by and between The City of Muskegon, a _____, whose mailing address is 933 Terrace Street, Muskegon, Michigan, hereinafter referred to as "Lessor," and Muskegon Central Dispatch, a Michigan agency, whose mailing address is 770 Terrace Street, Muskegon, Michigan 49440, hereinafter referred to as "Lessee". Lessor and Lessee are each referred to here-in as a "Party," and are collectively referred to here-in as the "Parties."

IT IS HEREBY AGREED that, for the sum of ten and 00/100 dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, Lessor will provide Lessee with certain property, for constructing, installing, housing, and operating certain communications equipment, including but not limited to transmitter/receiver base stations, towers, antenna systems, repeaters, generators and related equipment, buildings and other improvements to house or shelter such equipment, and all other equipment necessary for Lessee's operations on the Site (defined below) and Leased Premises (defined below) (collectively, the "Communications Equipment").

1. **Leased Premises.** Lessor hereby leases to Lessee a portion of that certain parcel of real property, owned by Lessor, and commonly known as 770 Terrace Street, Muskegon, Michigan and as legally described on the attached Exhibit A (hereinafter referred to as the "Site"). Specifically, Lessor will lease to Lessee that portion of the Site approximately depicted on the attached Exhibit B, which will be referred to herein as the "Leased Premises". The Leased Premises shall also include, but not be limited to, the following:

- A. Space for the construction and installation of Lessee's Communication Equipment, including but not limited to, tower and fenced in equipment shelter compound, generator, fuel source, and building. All Communications Equipment will be located within the Leased Premises. Lessee may make any and all repairs, replacements, and/or additions to the Communications Equipment in the ordinary course of Lessee's business.
- B. Space to provide telephone, fiber optic network cabling and equipment, and microwave data equipment, both inside and outside of the shelter compound (underground / overhead) to serve the Communications Equipment.
- C. Space to run telephone lines, coaxial cable, fiber, and applicable utilities across the Site to Lessee's shelter compound and Communications Equipment within the Leased Premises. Lessor agrees to grant to Lessee or to the utility companies as Lessee may designate, a "utilities path" necessary to serve the Communications Equipment consistent with the Easements (defined below) granted pursuant to Section 5 hereof.

2. **Rent.** Except as expressly set forth herein to the contrary, Lessee shall not be required to pay to Lessor rent or any other payment for the rights and interests granted to Lessee under this Lease.

3. **Term.** This Lease will continue for a term of ninety-nine (99) years, commencing on _____, 2020, hereinafter referred to as the "Commencement Date". Lessee may terminate this Lease at any time on ninety (90) days prior written notice to Lessor.

4. **Access to the Leased Premises.** Lessee will have the right of access to the Site and Leased Premises, twenty- four (24) hours a day, seven (7) days a week as may be required for Lessee to access, construct, install, operate, maintain, repair, protect, or secure the Communications Equipment, and otherwise exercise the rights granted herein.

5. **Utilities; Access.**

(a) Lessee shall have the right to install utilities, at Lessee's expense, and to improve the present utilities on or near the Leased Premises (including, but not limited to the installation of emergency back-up power). Subject to Lessor's approval of the location, which approval shall not be unreasonably withheld, conditioned, or delayed, Lessee shall have the right to place utilities on (or to bring utilities across) the Site in order to service the Leased Premises and the Communications Equipment. Upon Lessee's request, Lessor shall execute recordable easement(s) evidencing these rights.

(b) Lessor hereby grants Lessee an easement in, under and across the Site for ingress, egress, utilities and access to the Leased Premises adequate to install and maintain utilities, which may include, but are not limited to, the installation of power and telephone service cables, and to access and service the Leased Premises and the Communications Equipment at all times during the term of this Lease (collectively, the "Easements"). The Easements shall have the same term as this Lease.

6. **RF Compliance.** Lessee will maintain its Communications Equipment in compliance with the Federal Communications Commission (FCC) guidelines. The Lessor agrees to restrict access to the Site and allow the posting of warning signs as specified in any routine evaluation that may be performed by Lessee, if required by the FCC.

7. **Non-Interference.**

(a) Lessor shall not use, nor shall Lessor permit its tenants, licensees, grantees, employees, invitees or agents to use the Site in ways that interfere with Lessee's operations or the Communications Equipment. Lessor shall not install new equipment on the Site or on any adjacent property owned or controlled by Lessor, if such equipment is likely to cause interference with Lessee's operations or Communications Equipment. Such interference shall be deemed a material breach of this Lease by Lessor. In the event any interference occurs, Lessor agrees to take all reasonable steps necessary to eliminate such interference within a reasonable time period, provided, that if the interference cannot be eliminated within forty-eight (48) hours after receipt of written notice from Lessee to Lessor, Lessor shall temporarily disconnect the electric power to and shut down the interfering equipment (except for intermittent operation for the purpose of testing, after performing maintenance, repair, modification, replacement, or other action taken for the purpose of correcting such interference), and, further provided, if such interference is not corrected

within thirty (30) days after receipt of the written notice, Lessor shall remove or cause the removal of the interfering equipment. Lessee shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

(b) Lessor will include non-interference terms similar to those in Section 7(a) above in all future agreements for use of adjacent property owned or controlled by Lessor.

8. **Notice.** Any notice or demand required or permitted to be given hereunder will be sufficiently given if made by regular, registered, certified mail, postage prepaid, or return receipt requested, or nationally recognized overnight courier. Any such notice or demand will be deemed to have been made three (3) business days after it is postmarked in the United States Postal Service, if by mail, or the next business day if by overnight courier. Either Party may from time to time designate any other address for this purpose by giving written notice thereof to the other Party.

9. **Defaults and Remedies.** Failure by either Party to perform any obligation under this Lease will not constitute default unless the non-defaulting Party gives the defaulting party prior written notice of such failure, and the defaulting Party fails to correct such failure within thirty (30) days of that notice; provided, however, that if any such default cannot reasonably be cured within thirty (30) days, there will be no default if the defaulting Party commences to cure such default within the thirty (30) day period and thereafter diligently pursues such cure to completion within sixty (60) days after such notice.

In the event of a default as provided above, the non-defaulting Party, in addition to any other rights it may have at law or in equity, will have the right to terminate this Lease upon ten (10) days prior written notice to the other Party.

10. **Taxes.** Lessor shall be responsible for all real property taxes and special assessments levied against the Site and the Leased Premises. Lessee shall be responsible for any taxes levied against or attributable to the Communications Equipment or other personal property located on the Leased Premises.

11. **Insurance.** Lessee will secure and maintain during the term of this Lease, at its sole cost and expense, a policy of commercial general liability insurance, on an occurrence basis, in the amount of one million and 00/100 dollars (\$1,000,000.00) combined single limit for bodily injury and/or property damage.

12. Condition of Leased Premises; Removal of Communications Equipment.

(a) Lessor will furnish the Site, including the Leased Premises, to Lessee in good condition and repair and will maintain the Site in good condition and repair during the terms of this Lease, including maintenance, repair and snow and ice removal with respect to the roadway(s) on the Site providing access to the Leased Premises.

(b) Lessee shall remove the Communications Equipment from the Leased Premises at such time as Lessee ceases to use the Communications Equipment for public safety purposes, whether by termination of this Lease or otherwise. All costs of such removal will be at the expense of Lessee.

13. **Assignment.** Upon Lessor's written consent, which will not be unreasonably withheld, conditioned or delayed, Lessee will have the right at any time to assign this Lease. Upon such assignment, Lessee will be relieved of all obligations hereunder solely to the assignee for the performance of all obligations hereunder.

14. **Governmental Approvals.** Lessor represents and warrants that the Site, and any improvements thereon, comply with all applicable laws, ordinances, rules and regulations of any municipal, state or federal government having jurisdiction over the Site, including but not limited to zoning and building codes. Lessor further represents and warrants that there are not outstanding or pending notices of violation issued against the Site as of the date of this Lease that would prevent, or otherwise interfere with, Lessee's intended use of the Site.

Lessee will at all times comply with all laws, ordinances, rules and regulations of municipal, state, and federal governmental authorities relating to the installation, maintenance, height, location, use, operation, and removal of its Communications Equipment, and other alterations or improvements authorized herein. Lessee, at its expense, will be responsible for obtaining and maintaining all permits or approvals required by governmental or regulatory agencies arising out of the Lessee's intended use of the Site. Lessor agrees to fully cooperate with Lessee in obtaining such permits and approvals and, without limiting the generality of the foregoing, to execute any applications, maps, certificates or other documents that may be required in connection with the permits and approvals.

16. **Quiet Enjoyment, Title and Authority.** Lessor covenants and warrants to Lessee that (i) Lessor has full right, power and authority to execute this Lease; (ii) Lessor has title to the Site free and clear of any liens or mortgages, except those disclosed to Lessee, of record, or which will not interfere with Lessee's rights to or use of the Leased Premises; and (iii) execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Lessor. Lessor covenants that at all times during the term of this Lease, Lessee's quiet enjoyment of the Leased Premises or any part thereof shall not be disturbed as long as Lessee is not in default beyond any applicable notice and grace or cure period.

17. **Representations and Warranties.** Lessor represents and warrants that:

(a) it is the owner of the Site in fee simple, unencumbered by any lien, agreement, mortgage, condition or covenant that would adversely affect Lessee's use of the Leased Premises pursuant to this Lease;

(b) it is duly organized, validly existing and in good standing and has all the rights, powers and authority to make this Lease and bind itself through the party set forth below as signatory of Lessor; and

(c) it has no knowledge of any substance, chemical or waste (collectively "Hazardous Substance") on the Site or Leased Premises that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Lessor shall not introduce or use (or permit the use of) any Hazardous Substance on the Site or Leased Premises in violation of any applicable federal, state or local environmental laws. Lessor shall be responsible for (and shall promptly conduct any investigation and remediation as required by any applicable environmental laws), and shall indemnify and hold Lessee harmless from and against, all spills or other releases of any Hazardous Substance caused by Lessor or its agents, that have occurred or which may occur on the Site.

18. **Waiver of Lessor's Lien.** Lessor hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Communications Equipment or any portion thereof, which shall be deemed personal property for the purposes of this Lease, whether or not the same is deemed real or personal property under applicable laws, and Lessor gives Lessee the right to remove all or any portion of the same from time to time, whether before or after a default under this Lease, in Lessee's sole discretion and without Lessor's consent.

19. **Condemnation of Site.** If a proceeding is instituted by any governmental authority pursuant to which the Site, in whole or in part, is proposed to be taken or condemned, Lessee will have the option to terminate this Lease at any time thereafter during the pendency of such proceeding without further liability hereunder, upon thirty (30) days written notice to Lessor. Lessee may, at its own expense, make a claim in any condemnation proceeding involving the Site for losses related to Lessee's Communications Equipment and relocation costs.

20. **Estoppel Statement.** Each Party shall, at any time and from time to time upon not less than fifteen (15) days prior written request from the other Party, deliver to the requesting Party a statement in writing certifying that (a) this Lease is unmodified and in full force (or if there have been modifications, that this Lease is in full force as modified and identifying the modifications); and (b) so far as the person making the certificate knows, the requesting Party is not in default under any provisions of this Lease.

21. **Force Majeure.** If a Party is delayed or hindered in, or prevented from the performance required under this Lease (except for payment of monetary obligations) by reason of earthquakes, landslides, strikes, lockouts, labor troubles, failure of power, riots, insurrections, war, acts of God or other reasons of like nature, not the fault of the Party delayed in performing work or doing acts, and where reasonable measures by such Party could not have avoided or mitigated the effects of such acts, then such Party is excused from such performance for the period of delay. The period for the performance of any such act shall then be extended for the period of such delay. In the event that Lessee invokes this provision because damage to the Site has hindered, delayed, or prevented Lessee from using the Leased Premises, Lessee may immediately erect any temporary facilities on another portion of the Site as necessary to resume service.

21. **Memorandum.** At Lessee's request, the Parties shall execute a memorandum of this Lease to be recorded in the Muskegon County Register of Deeds.

22. **Consent.** Whenever under the Lease, the consent of approval of either Party is required or a determination must be made by either Party, no such consent or approval will be unreasonably withheld or delayed, and all such determinations will be made on a reasonable basis and in a reasonable manner.

23. **Modifications.** No modification, alteration, or amendment to this Lease shall be binding unless in writing and signed by both Lessor and Lessee.

24. **Broker's Commission.** Lessor and Lessee warrant and represent to each other that they have had no dealings with any real estate brokers or agents in connection with the negotiation of this Lease. Each Party agrees to indemnify and hold the other harmless from any cost, expense or liability (including reasonable attorneys' fees) for any compensation, commissions or other charges claimed by any real estate broker or agent employed or claiming to represent that Party in connection with the negotiation of this Lease.

25. **Counterparts; Electronic Signatures.** This Lease may be executed in multiple counterparts and by emailed "pdf" transmission or similar electronic transmission, each of which shall be deemed an original and all of which shall constitute one agreement, and the signature of either Lessor or Lessee to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart.

26. **Entire Agreement and Binding Effect.** This Lease constitutes the entire agreement between Lessor and Lessee and shall supersede all prior offers, negotiations and agreements; no prior written or contemporaneous oral promises or representations will be binding. The undersigned have full power and authority to bind their principals to this Lease. This Lease will not be amended, or changed except by written instrument signed by both Parties hereto. If any clause or provision of this Lease is found to be invalid and unenforceable with respect to any Party, the remainder of this Lease will not be affected and will remain valid and enforceable. Section captions herein are for convenience only, and neither limit nor amplify the provisions of this Site Lease.

The provisions of this Lease will be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors, transferees, and permitted assignees.

27. **Choice of Law.** The Lease will be governed and construed by the laws of the State of Michigan. Unresolved disputes will be heard in a Court of competent jurisdiction in Muskegon County.

[Signatures are located on the following page.]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease, effective as of this ____ day of _____, 2020.

LESSOR:

City of Muskegon,
a Michigan municipal corporation

By:_____

Name:_____

Its:_____

LESSEE:

MUSKEGON CENTRAL DISPATCH 9-1-1,
a Michigan agency

By:_____

Name:_____

Its:_____

16360000

EXHIBIT A

LOCATION

**LATITUDE 43° 14' 20.7'' N
LONGITUDE 86° 14' 53.9'' W
GROUND ELEVATION AT BASE OF TOWER = 609.5**

LEGAL DESCRIPTION OF OVERALL PARCEL

LEGAL DESCRIPTION OF A PARCEL OF LAND LOCATED IN THE SOUTHEAST ¼ OF SECTION 19, TOWN 10 NORTH, RANGE 16 WEST, CITY OF MUSKEGON, MUSKEGON COUNTY, MICHIGAN

Lots 9 thru 13, including and part of lots 2 thru 6 and 14, block 556. Revised plat of 1903 described as follows:

Beginning at the south most corner of block 556, said Revised Plat (also being the intersection of the northwesterly right of way line of Western Avenue and the northerly right of way line of Terrace Street);

Thence N 61° 13' 00'' W along the northerly right of way line of Terrace Street a distance of 254.92 feet;
Thence N 28° 47' 00'' E a distance of 222.24 feet;
Thence S 61° 13' 00'' E a distance of 269.90 feet;
Thence S 31° 32' 18'' E a distance of 97.03 feet;
Thence S 58° 27' 42'' W along the northwesterly right of way line of Western Avenue a distance of 200.50 feet to the POINT OF BEGINNING. Being a part of the southeast ¼ of section 19, Town 10 North, Range 16 West, City of Muskegon, Muskegon County, Michigan

BENCH MARK

Southwesterly top of a concrete light pole base located at the northeasterly side of a parking lot, +/- 195 feet northwest of the centerline of Western Avenue; +/- 185 feet easterly of the proposed tower location;

Elevation = 607.74 (NAVD88 DATUM)

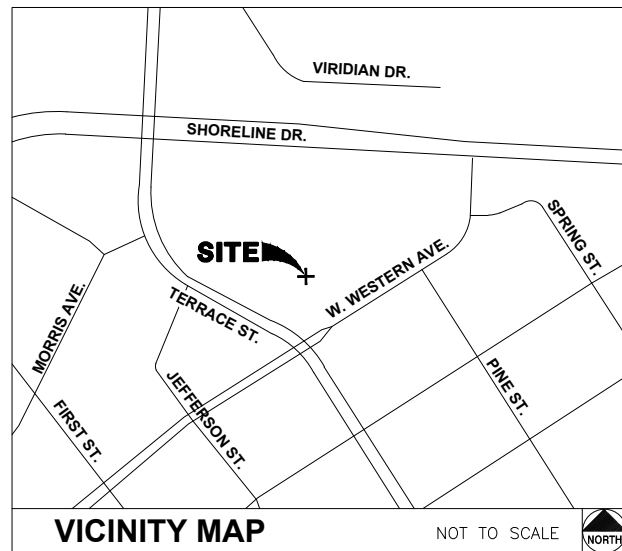
EXHIBIT B

Depiction of the Leased Premises

*** See attached site plan provided by Pyramid Network Services ***



**SITE #30003 - "MUSKEGON
CENTRAL DISPATCH"
____ TERRACE STREET
MUSKEGON, MICHIGAN 49440**



PROJECT DESCRIPTION

THE PROJECT CONSISTS OF THE INSTALLATION AND OPERATION OF TOWER WITH ANTENNAS FOR MOTOROLA SOLUTIONS. A TOTAL OF THREE ANTENNAS, THREE DISH ANTENNAS AND ONE T.T.A. MOUNTED ON A 160 FT TALL MONOPOLE TOWER ARE PROPOSED AT THIS SITE.

DO NOT SCALE DRAWINGS

DRAWING SCALES SHOWN ARE INTENDED FOR 24"x36" DRAWINGS ONLY.
ANY OTHER SIZE DRAWING WILL NOT SHOW A CORRECT SCALE.

CONTRACTOR SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOB SITE AND SHALL IMMEDIATELY NOTIFY THE CIVIL ENGINEERS IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR BE RESPONSIBLE FOR SAME.

GENERAL CONTRACTOR NOTES

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THE LATEST EDITIONS OF THE FOLLOWING CODES.

1. INTERNATIONAL BUILDING CODE - MICHIGAN ADDITION - (IBC)
2. MICHIGAN BUILDING CODE (MBC)
3. UNIFORM MECHANICAL CODE
4. ANSI/EIA-222-F LIFE SAFETY CODE NFPA-101
5. UNIFORM PLUMBING CODE
6. NATIONAL ELECTRIC CODE
7. LOCAL BUILDING CODE
8. CITY/COUNTY ORDINANCES

CODE COMPLIANCE

APPLICANT

NAME: MUSKEGON CENTRAL DISPATCH 9-1-1
ADDRESS: 770 TERRACE STREET
CITY, STATE, ZIP: MUSKEGON, MICHIGAN 49440
PHONE: N/A

PROPERTY INFORMATION

TAX PARCEL: #61-24-205-556-0009-00

OWNER: CITY OF MUSKEGON
ADDRESS: 770 TERRACE STREET
MUSKEGON, MICHIGAN 49440

PRESENT OCCUPANCY TYPE: VACANT

PROPOSED OCCUPANCY TYPE: TELECOMMUNICATIONS FACILITY

CURRENT ZONING: FBC-NC (NEIGHBORHOOD CORE)

HANDICAP REQUIREMENTS: FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. HANDICAPPED ACCESS NOT REQUIRED.

PROJECT SUMMARY

PROJECT MANAGER

NAME: PYRAMID NETWORK SERVICES, LLC
CONTACT: DON COTTRELL
PHONE: (573) 298-3502
E-MAIL: DCOTTRELL@PYRAMIDNETWORKSERVICES.COM

SURVEYOR:

NAME: MIDWESTERN CONSULTING, L.L.C.
ADDRESS: 3815 PLAZA DRIVE
CITY, STATE, ZIP: ANN ARBOR, MICHIGAN 48108
CONTACT: PAUL KOVAKS, P.S.
PHONE: (734) 995-0200 FAX: (734) 995-0599

CIVIL ENGINEER:

NAME: MIDWESTERN CONSULTING, L.L.C.
ADDRESS: 3815 PLAZA DRIVE
CITY, STATE, ZIP: ANN ARBOR, MICHIGAN 48108
CONTACT: COLTON M. WALLACE
PHONE: (734) 995-0200 FAX: (734) 995-0599

PROJECT TEAM

SHEET	DESCRIPTION	REV. DATE
T1	TITLE SHEET	-
T2	GENERAL NOTES AND MATERIAL LIST	-
C1	SITE SURVEY, GENERAL INFORMATION	-
C2	SITE PLAN	-
C3	TOWER ELEVATION & ANTENNA SCHEDULE	-
C4	ANTENNA AND MOUNT DETAILS	-
D1	FENCE DETAILS AND NOTES	-
E1	OVERALL UTILITY PLAN	-
E2	COMPOUND GROUNDING LAYOUT	-
E3	TOWER GROUNDING SCHEMATIC	-
E4	ELECTRICAL GROUNDING DETAILS	-
E5	ELECTRICAL GROUNDING DETAILS	-
		-
		-
		-
		-

SHEET INDEX

ISSUED FOR:
PERMIT

DATE:
3/25/20

JOB NO.	19188-30003	DATE	3/25/20
REVIEWS:		SHEET	1 OF 12
		CADD:	TES
		ENG:	CMW, SGF
		PM:	PEK
		TECH:	
		CDS\19188_30003-T1	

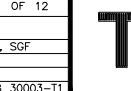


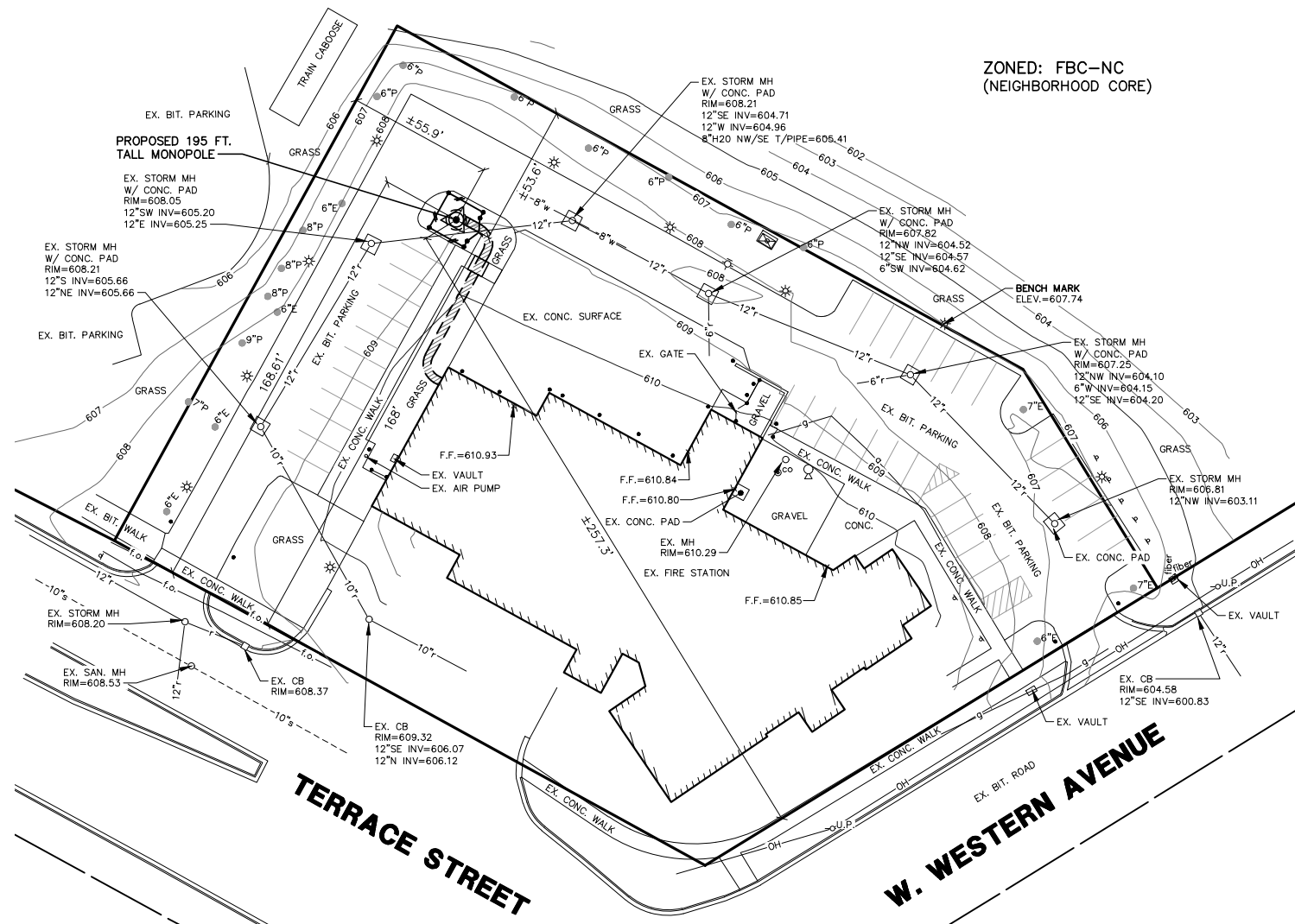
M I D W E S T E R N
C O N S U L T I N G

3815 Plaza Drive Ann Arbor, Michigan 48108
(734) 995-0200 • www.midwesternconsulting.com

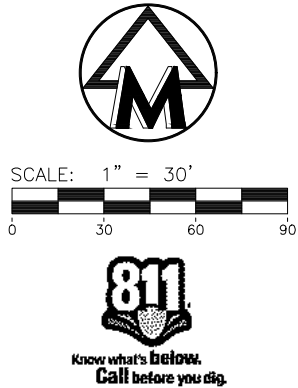
Land Development • Land Survey • Institutional • Municipal
Wireless Communications • Transportation • Landfill Services

RELEASED FOR:	DATE


[Signature]
 COLTON M. WALLACE
P.E.
#6201066649



ZONED: FBC-NC
(NEIGHBORHOOD CORE)



LOCATION

LATITUDE 43° 14' 20.7" N
LONGITUDE 86° 14' 53.9" W
GROUND ELEV. @ TOWER BASE = 609.5

LEGAL DESCRIPTION OF OVERALL PARCEL

LEGAL DESCRIPTION OF A PARCEL OF LAND LOCATED
IN THE SOUTHEAST 1/4 OF SECTION 19, TOWN 18 NORTH, RANGE 16 WEST,
CITY OF MUSKEGON, MUSKEGON COUNTY, MICHIGAN

Lots 9 thru 13, including and part of lots 2 thru 6 and 14, Block 556. Revised Plat of 1903 described as follows:

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thence N 28°47'00" E a distance of 222.24 feet;

thence S 61°13'00" E a distance of 269.90 feet:

thence S 31°32'18" E a distance of 97.03 feet;

thence S 58°27' 42" W along the northwesterly right of way line of Western Avenue a distance of 200.50 feet to the POINT OF BEGINNING. Being a part of the Southeast 1/4 of Section 19, Town 10 North, Range 16 West, City of Muskegon, Muskegon County, Michigan.

BENCH MARK

Southwesterly top of a concrete light pole base located at the northeasterly side of a parking lot; +/-195 feet northwest of the centerline of Western Avenue; +/-185 feet easterly of the proposed tower location;

Elevation = 607.74 (NAVD88 Datum)

LEGEND

- | | | | |
|----------|------------------------------|--|-----------------------|
| 609 | EXIST. CONTOUR | | END SECTION |
| —o— U.P. | EXIST. UTILITY POLE | | CULVERT |
| —OH— | EXIST. OVERHEAD UTILITY LINE | | EXIST. SANITARY SEWER |
| | EXIST. LIGHT POLE | | EXIST. CLEANOUT |
| —t— | EXIST. TELEPHONE LINE | | SIGN |
| —T— | PROP. TELEPHONE LINE | | TELEPHONE RISER |
| —e— | EXIST. ELECTRIC LINE | | POST |
| —E— | PROP. ELECTRIC LINE | | WELL |
| —g— | EXIST. GAS LINE | | FENCE |
| —G— | PROP. GAS LINE | | SINGLE ELM TREE |
| —f.o.— | EXIST. FIBER OPTIC LINE | | SINGLE PINE TREE |
| —F.O.— | PROP. FIBER OPTIC LINE | | TREE OR BRUSH LIMIT |
| —w— | EXIST. WATER MAIN | | SECTION CORNER |
| | EXIST. HYDRANT | | CONTROL PT. |
| —r—o— | EXIST. STORM SEWER | | |
| —□— | EXIST. CATCH BASIN OR INLET | | |

SITE # 30003
'MUSKEGON
CENTRAL DISPATCH'

[illegible]

MIDWESTERN
CONSULTING



JOB No. 19188-30003

DATE: 3/25/20

CADD: IES
ENC: CIVIL SCE

PM: PEK

TECH:

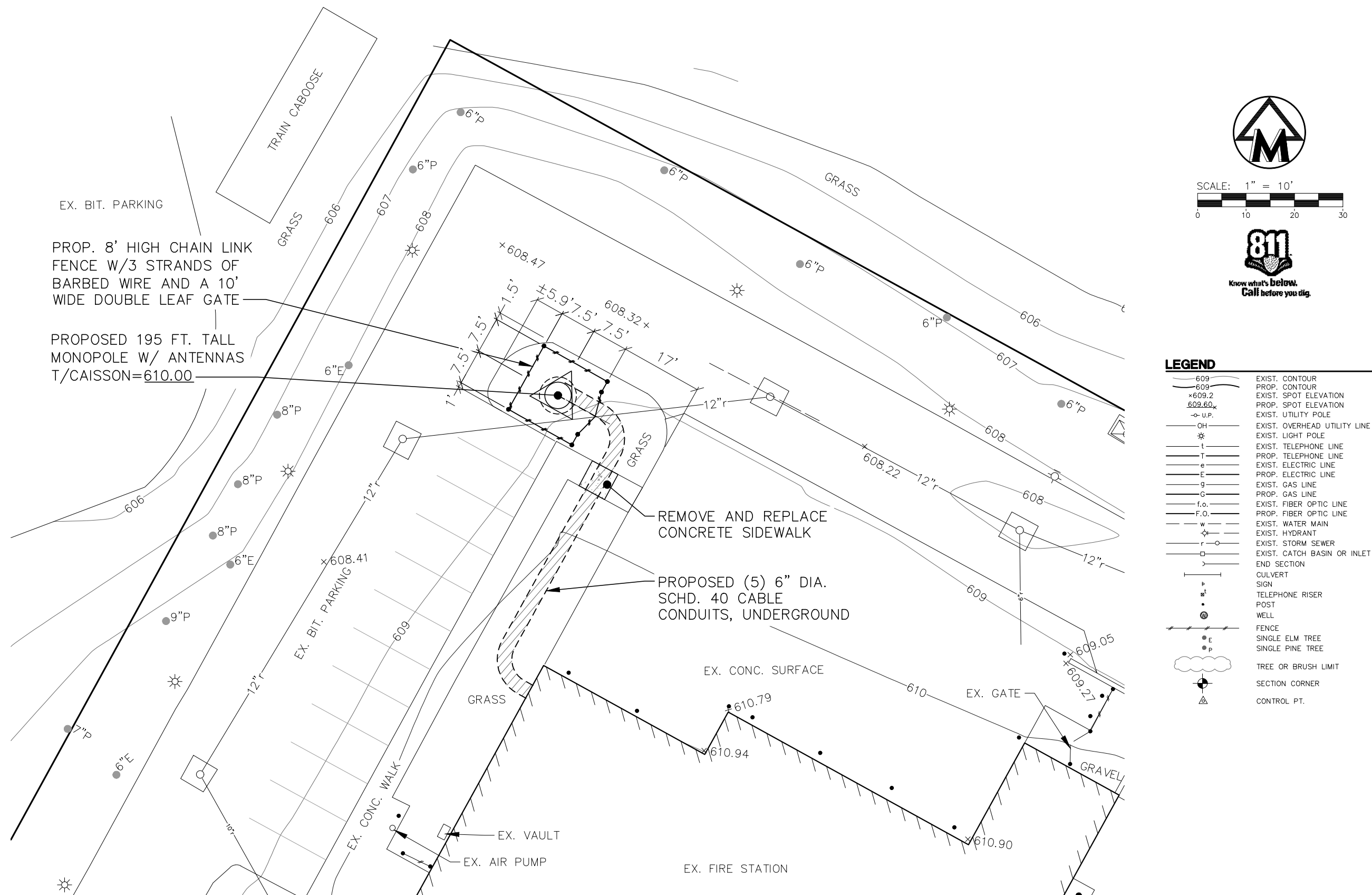
#83

SITE PLAN

C1

[illegible]

JOB No.	19188-30003
DATE:	3/25/20
CADD:	TES
ENG:	CMW, SGF
PM:	PEK
TECH:	
FILE:	CDS\19188_30003-C2
FR#:	



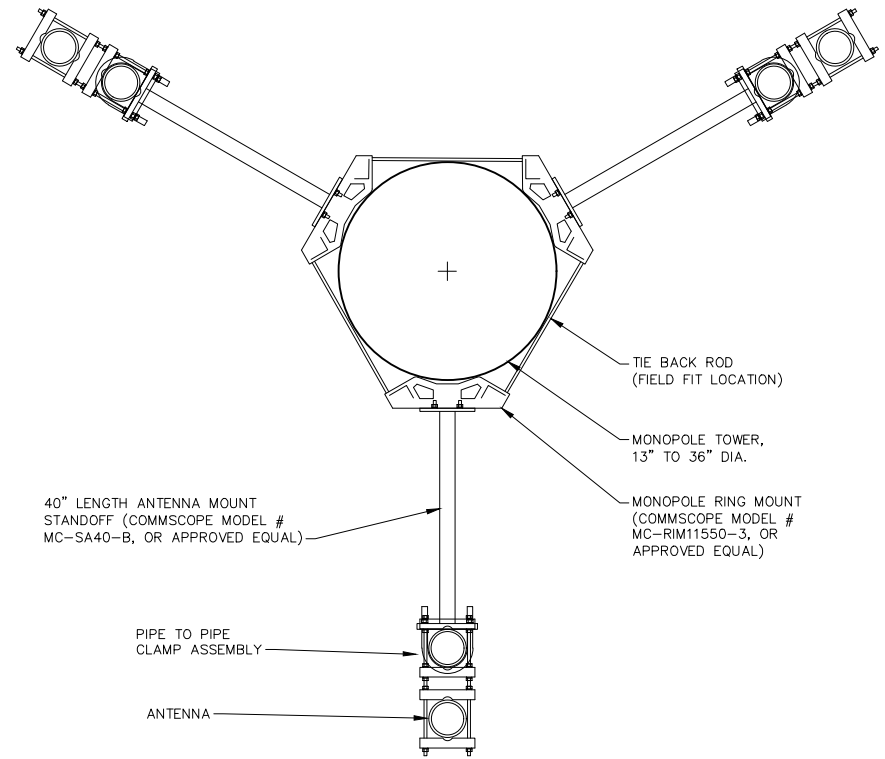
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2

1

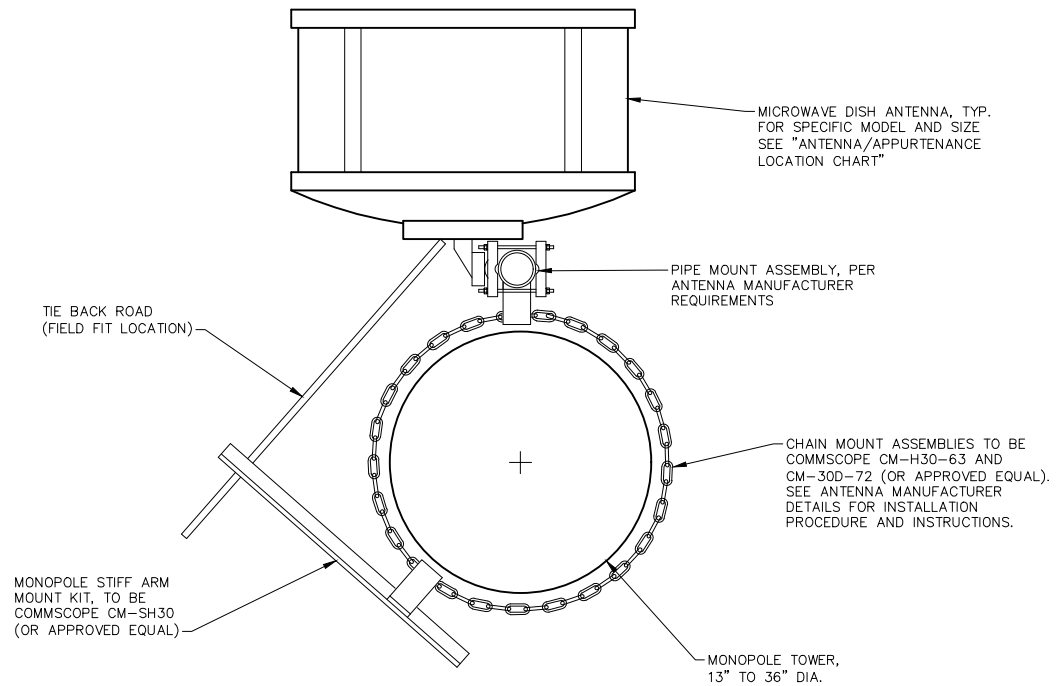
GENERAL TOWER NOTES

1. MIDWESTERN CONSULTING, LLC HAS NOT COMPLETED A STRUCTURAL ANALYSIS FOR THE EXISTING OR PROPOSED LOADING OF ANY STRUCTURES AT THIS TIME. FINAL STRUCTURAL ANALYSIS TO BE COMPLETED BY OTHERS PRIOR TO CONSTRUCTION ACTIVITIES COMMENCE.
2. THE CONTRACTOR SHALL CONDUCT SWEEP TESTING TO MOTOROLA SPECIFICATIONS WITH PERSONNEL TRAINED IN THE EQUIPMENT AND METHODS, RESULTS TO BE SUBMITTED TO MOTOROLA.
3. DRIP LOOPS SHALL BE INCORPORATED IN CABLE RUNS TO MINIMIZE THE FORMATION OF CONDENSATION AND ICE ON THE TRANSMISSION LINES, A DRIP LOOP SHALL BE CREATED AT THE POINT WHERE THE LINE TRANSITIONS FROM VERTICAL TO HORIZONTAL DIRECTION.
4. ALL TRANSMISSION LINES SHALL BE PERMANENTLY IDENTIFIED AT THE LOCATION OF THE ANTENNA, AT THE BOTTOM OF THE TOWER, AT THE EXTERIOR CABLE ENTRY PLATE FEED THRU, AND AT THE INTERIOR ENTRY PLATE FEED THRU, AND AT THE INTERIOR ENTRY PLATE FEED THRU, USING METAL BRASS TAGS OR JURISDICTION-APPROVED EQUIVALENT LABELING METHOD. TAGS SHALL STATE (1) ANTENNA USE (I.E. TX1/RX1), (2) HEIGHT ABOVE GROUND LEVEL (I.E. 375-FT AGL), (3) TOWER LEG, (4) AZIMUTH AS APPLICABLE FOR MIXROWAVE AND DIRECTIONAL LMR ANTENNAS, AND (5) DATE OF INSTALLATION. IN ADDITION TO BRASS TAGS COLOR CODING OF COAX CABLES IS REQUIRED.
5. EACH TRANSMISSION LINE SHALL HAVE A GROUND KIT ATTACHED AT THE (1) TOP OF ITS RUN, (2) BOTTOM OF ITS RUN, AND (3) EXTERIOR CABLE ENTRY PLATE FEED THRU. INTERMEDIATE GROUND KITS SHALL BE INSTALLED ALONG THE TRANSMISSION LINE RUNS SUCH THAT THERE IS NO MORE THAN 75 FEET BETWEEN GROUND KITS. EACH TRANSMISSION LINE GROUNDING KIT SHALL BE APPROVED FOR INSTALLATION BY THE MANUFACTURER OF THE TRANSMISSION LINE OF WHICH IT IS TO BE INSTALLED, AND SHALL BE INSTALLED AS DIRECTED BY ITS MANUFACTURER.



ANTENNA STANDOFF MOUNT

1



MICROWAVE DISH MOUNT

2

[illegible]

E S T E R N
ULTING

3815 Plaza Drive
Ann Arbor, Michigan 48108
(734) 995-0200
www.midwesternconsulting.com

Land Development • Land Survey
Institutional • Municipal
Wireless Communications
Transportation • Landfill Services



JOB No. 19188-30003

DATE: 3/25/20

CADD: TES

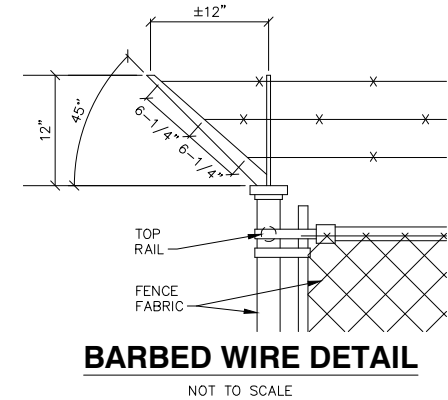
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ANTENNA AND MOUNT DETAILS

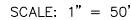
C4



GENERAL NOTES:

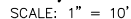
1. INSTALL FENCING PER ASTM F-567
2. INSTALL SWING GATES PER ASTM F-900
3. LOCAL ORDINANCE OF BARBED WIRE PERMIT REQUIREMENT SHALL BE COMPLIED IF REQUIRED.
4. POST & GATE PIPE SIZES ARE INDUSTRY STANDARDS.
ALL PIPE TO BE 1 1/2" GALV.
(HOT DIP, ASTM A120 GRADE "A" STEEL).
ALL GATE FRAMES SHALL BE WELDED.
ALL WELDING SHALL BE COATED WITH (3) COATS
OF COLD GALV. (OR EQUAL).
5. ALL OPEN POSTS SHALL HAVE END-CAPS.
6. USE GALVANIZED HOG-RING WIRE TO MOUNT ALL SIGNS.
7. ALL SIGNS MUST BE MOUNTED ON INSIDE OF FENCE FABRIC.

NOT TO SCALE

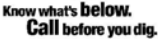
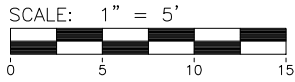


- NOT TO SCALE

NOT TO SCALE



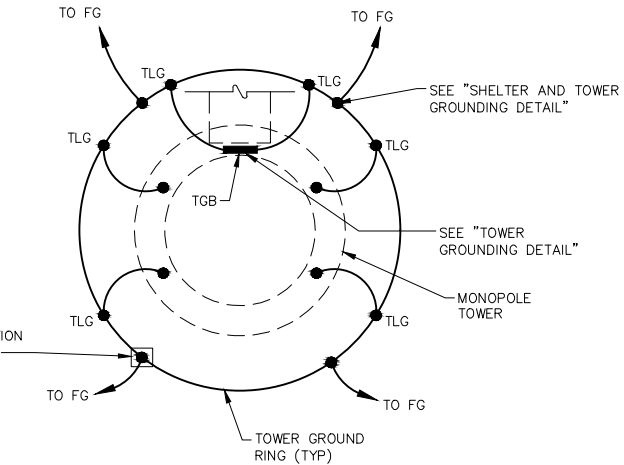
SHEET 8 OF 12



	PROP. ELECTRIC LINE
	PROP. GAS LINE
	PROP. GROUNDING CONDUCTOR, #2 SOLID BARE COPPER GROUND (36" BELOW GRADE)
	5/8" x 10'-0", COPPER OR STAINLESS STEEL COPPERCLAD GROUND ROD
	5/8" x 10'-0", COPPER OR STAINLESS STEEL COPPERCLAD GROUND ROD W/ INSPECTION WELL
	CADWELD CONNECTION (EXOTHERMIC WELD)

TYPICAL GROUNDING NOTES

1. ALL METALLIC ITEMS AND FENCE POSTS WITHIN 6' OF THE GROUNDING SYSTEM TO BE BONDED TO GROUND RING.
2. ALL METALLIC ITEMS AND FENCE POSTS WITHIN 20' OF THE SHELTER TO BE BONDED TO GROUND RING.
3. FENCE FABRIC TO BE BONDED PER MOTOROLA R-56 STANDARDS REV C.
4. FENCE FABRIC RUNS LESS THAN 40' SHALL BE BONDED ON ONE END. FENCE FABRIC RUNS GREATER THAN 40' SHALL BE BONDED ON BOTH ENDS.
5. FENCE TOP RAIL TO BE BONDED TO CORNER POSTS ON BOTH ENDS.



TOWER GROUNDING SCHEMATIC

NOT TO SCALE

GROUNDING/ELECTRICAL SYMBOL LIST

	GROUNDING CONDUCTOR, #2 AWG SOLID TINNED COPPER WIRE (UNLESS OTHERWISE NOTED)
	5/8" x 10'-0", COPPER OR STAINLESS STEEL COPPERCLAD GROUND ROD
	5/8" x 10'-0", COPPER OR STAINLESS STEEL COPPERCLAD GROUND ROD W/ INSPECTION WELL
	EXOTHERMIC WELD (CADWELD)
	MECHANICAL CONNECTION
ESG	ELECTRICAL SERVICE GROUND
TSG	TELCO SERVICE GROUND

GROUNDING ABBREVIATIONS

FG	FENCE GROUND: E.C. TO FURNISH AND INSTALL #2 AWG BARE SOLID TINNED COPPER GROUND WIRE AT FENCE POST. GROUND WIRE TO BE ROUTED ALONG FENCE POST AND CADWELDED FOUR (4) PLACES, TOP RAIL, TOP AND BOTTOM OF CORNER POST, AND GROUND RING.
GG	GATE GROUND: SIMILAR TO FENCE GROUND (FG), E.C. SHALL ALSO FURNISH AND INSTALL #2 BRAIDED GATE JUMPER WIRE BETWEEN THE GATE FRAME AND THE GATE POST. CONNECTIONS AT GATE FRAME AND GATE POST TO BE CADWELD.
TG	TOWER GROUND: E.C. TO FURNISH AND INSTALL #2 AWG BARE SOLID TINNED COPPER GROUND WIRE FROM BASE OF TOWER TO TOWER GROUND RING. ALL CONNECTIONS TO BE CADWELD.
TLG	TOWER LEG GROUND: E.C. TO FURNISH AND INSTALL #2 AWG BARE SOLID TINNED COPPER GROUND WIRE FROM TOWER LEG TO TOWER GROUND RING. ALL CONNECTIONS TO BE CADWELD. PROVIDE A MINIMUM OF 90 DEGREE SERRATION BETWEEN THE TLG AND TG.
TGB	TOWER GROUND BAR: E.C. TO FURNISH AND INSTALL TWO (2) 20"x4"x1/4" TINNED COPPER GROUND BARS ON THE TOWER. ONE TO BE LOCATED AT ANTENNA MOUNT ELEVATION (ATTACHED TO TOWER STEEL), THE OTHER AT THE BASE OF THE TOWER ADJACENT TO THE ICE BRIDGE (ISOLATED FROM TOWER STEEL).
TCG	TOWER COAX GROUND: E.C. TO FURNISH AND INSTALL TWO (2) #2 AWG BARE SOLID TINNED COPPER GROUND WIRES FROM TOWER GROUND BAR (TGB) TO GROUND RING. ALL CONNECTIONS TO BE CADWELD.
ECGB	EXTERIOR GROUND BAR GROUND: E.C. TO FURNISH AND INSTALL TWO (2) #2 AWG BARE SOLID TINNED COPPER GROUND WIRES FROM THE EXTERIOR GROUND BAR (ECB) TO GROUND RING. ALL CONNECTIONS TO BE CADWELD.
CEG	COAX ENTRY GROUND: E.C. TO FURNISH AND INSTALL TWO (2) #2 AWG BARE SOLID TINNED COPPER GROUND JUMPER WIRE FROM COAX ENTRY PANEL TO EXTERNAL GROUND BAR (ECB). ALL CONNECTIONS TO BE CADWELD.
GR	5/8" DIA. x 10' LONG TINNED COPPER CLAD STEEL GROUND ROD DRIVEN VERTICAL TOP OF ROD 30" MIN. BELOW GRADE. SPACING OF GROUND RODS 10' MAX. ALL CONNECTIONS TO BE CADWELD.

NOTE:

ALL GROUND LEADS AT TOWER, ICE BRIDGE SUPPORT POSTS, FENCE POSTS, ETC. TO BE ROUTED IN 1/2" NON-METALLIC PVC FLEX CONDUIT. GROUND LEADS TO BE ROUTED IN 1/2" NON-METALLIC PVC RIGID CONDUIT SECURED TO BUILDING WALL WITH AT LEAST ONE (1) NON-METALLIC CONDUIT CLAMP 36" MAX. SPACING. CONDUIT TO BE 4" MAX. FROM APPLIANCE CONNECTION AND EXTEND 18" MIN. BELOW GRADE.

SITE # 30003
'MUSKEGON
CENTRAL DISPATCH'

CITY OF MUSKEGON
MUSKEGON COUNTY
MICHIGAN

[illegible]

MIDWESTERN
CONSULTING



JOB No. 19188-30003

DATE: 3/25/20

CADD: JES

PM: PEK

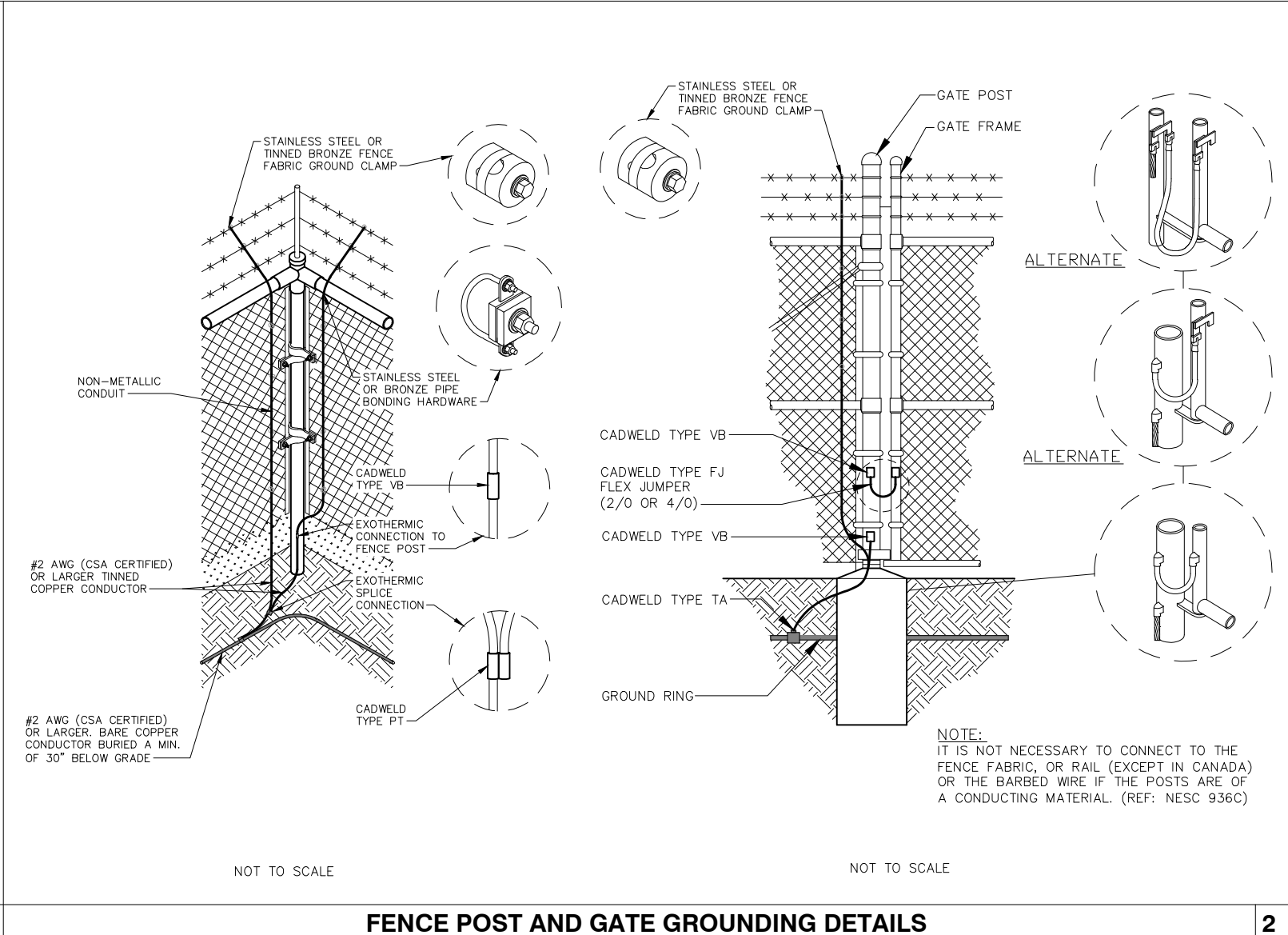
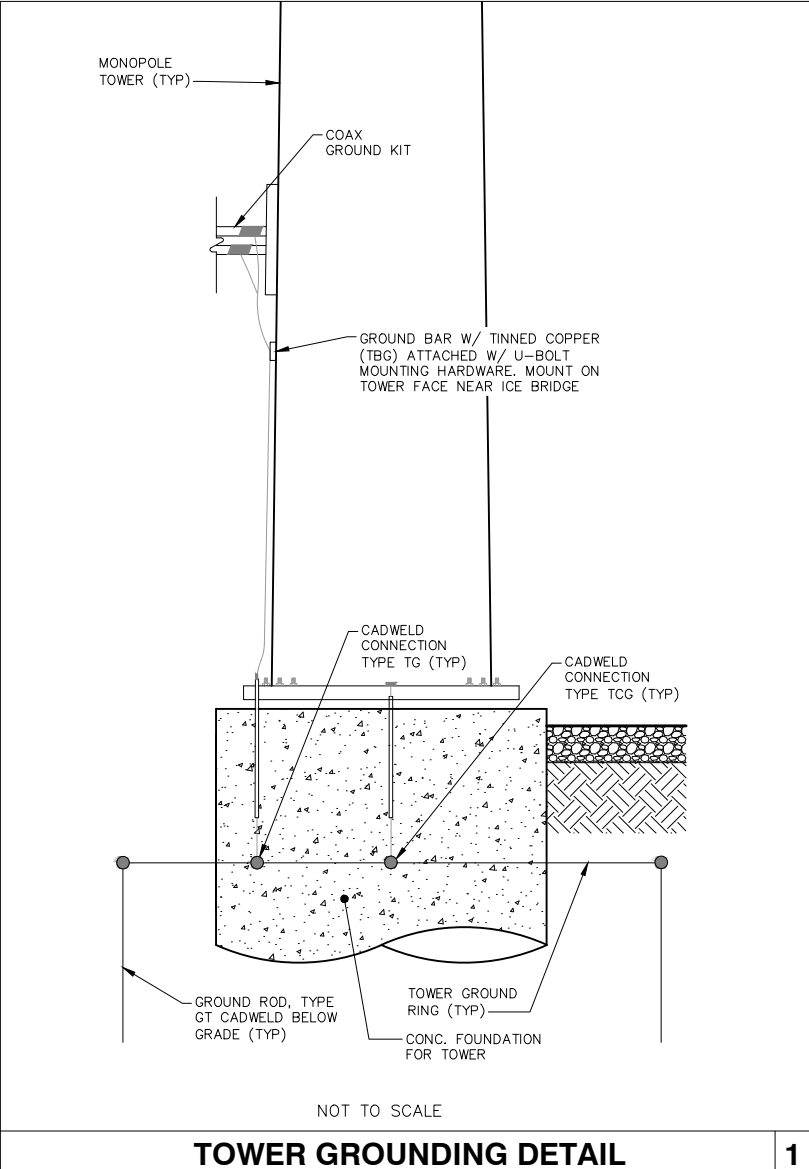
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83#

TOWER GROUNDING SCHEMATIC

E3

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E4	ELECTRICAL GROUNDING DETAILS		JOB No. 19188-30003		MIDWESTERN CONSULTING		REVISIONS:		SITE # 30003 'MUSKEGON CENTRAL DISPATCH' CITY OF MUSKEGON MUSKEGON COUNTY MICHIGAN		PYRAMID Network Services, LLC MOTOROLA SOLUTIONS	
	DATE: 3/25/20	CADD: TES	ENG: CMW	PM: PEK	TECH: CDS	FILE: 19188_30003-E3-E5	FB#:					



GROUNDING ELECTRODE DETAIL

1



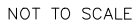
TOWER GROUNDING DETAIL

2



GROUND ROD DETAIL

3



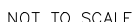
GROUND BAR INSTALLATION DETAIL

4



INSPECTION WELL DETAIL

5



TOWER GROUND BAR DETAIL

e



CADWELD CONNECTION VARIATIONS

5

JOB No.	19188-30003
DATE:	3/25/20
CADD:	TES
ENG:	CWW
PM:	PEK
TECH:	
FILE:	CDS\19188_30003-E3-E5
FR#:	

ELECTRICAL GROUNDING DETAILS

E5

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Designation of Voting Delegates for the Michigan Municipal League Annual Meeting
Submitted By: Ann Marie Meisch, City Clerk	Department: City Commission
Brief Summary: 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.	
Detailed Summary:	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: To appoint an official representative and alternate representative to be in attendance and to cast the vote of the municipality at the Annual Business Meeting of the Michigan Municipal League Convention.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

July 28, 2020

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 as an online virtual conference September 29 - October 2, 2020. The League's "Annual Meeting" is scheduled for 3:00 pm on Tuesday, September 29. 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 Druks 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 28, 2020.

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 28, 2020.

Voting Delegates must have access to a computer with reliable internet connection and a smartphone. Delegates will be sent login information and instructions the week of Convention.

We love where you live.



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 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 28, 2020**. 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."

We love where you live.

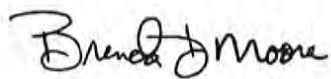


3. Posting of Proposed Resolutions and Core Legislative Principles

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 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 29 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



WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Small Retailer Assistance Program
Submitted By: LeighAnn Mikesell	Department: Development Services
Brief Summary: Staff is seeking approval of the establishment of a small retailer assistance program	
Detailed Summary: CDBG funds in 2019 and 2020 have been allocated to assist in the creation of more small retail businesses downtown and to aid existing small retail businesses negatively impacted by COVID-19. Staff have developed a program to award these funds as outlined below. The Small Retailer Assistance Program will offer one of two incentives to assist in the creation of a new small retail business downtown. These incentives include the Rental Assistance Grant and the Retail Renovation Grant. Both grants require a 50% match with a maximum grant of \$5,000. Two additional incentives are being made available to existing small retail businesses negatively impacted by COVID-19. A CV Rental Assistance Grant and a CV Capital Grant are being offered. Both grants require a 25% match with a maximum grant of \$5,000. Businesses must be located within the Downtown Development Authority District to qualify.	
Amount Requested: \$60,000 + CDBG-CV	Amount Budgeted: \$60,000 + CDBG-CV
Fund(s) or Account(s): CDBG and CDBG-CV	Fund(s) or Account(s): CDBG and CDBG-CV
Recommended Motion: Approve the establishment of the small retailer assistance program.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

SMALL RETAILER ASSISTANCE PROGRAM

MISSION

To assist in the creation of more small retail businesses downtown and to aid existing small retail businesses negatively impacted by COVID-19.

TERMS

The Small Retailer Assistance Program will offer one of two incentives to assist in the creation of a new small retail business downtown. These incentives include the Rental Assistance Grant and the Retail Renovation Grant. Both grants require a 50% match with a maximum grant of \$5,000.

Two additional incentives are being made available to existing small retail businesses negatively impacted by COVID-19. A CV Rental Assistance Grant and a CV Capital Grant are being offered. Both grants require a 25% match with a maximum grant of \$5,000.

Businesses must be located within the Downtown Development Authority District to qualify.

Rental Assistance Grant

The Rental Assistance Grant is intended to help small retailers open new storefronts in traditional brick and mortar buildings downtown. Grantees will be reimbursed 50% of their monthly rent, up to a total of \$5,000.

ELIGIBILITY

To be eligible, the business must:

- Employ no more than five people.
- Offer retail goods for sale. Restaurants and service industries are excluded, unless at least 50% of sales are generated from retail merchandise (excluding prepared food).
- Have an executed rental agreement and agree to pay no more than \$12/sf.
- Prove the need for financial assistance.
- Be new to the City of Muskegon. The owner may not operate other businesses within the city limits. However, existing micro-retailers with under 300 sf of space are still eligible as long as they move into a larger space with their own street frontage.
- Locate within the Downtown Development Authority District in a retail suite that is visible from the street. Grants are not eligible for businesses locating in an incubator / Co-op.

REVIEW CRITERIA

All applications are reviewed on a competitive basis and not every proposal will be approved.

The review process will take place once all the required documentation and supporting evidence is submitted. Incomplete applications will not be considered.

The following criteria will be used:

- Economic Impact – The applicant will demonstrate how this business will provide consumers with a needed brick and mortar retail option.
- Business Plan – The plan must show how the grant will impact business operations and also how the business will adapt once the grant expires.
- Financial Evidence – The applicant will submit evidence for the need of financial assistance.

PROCESS

1. The business owner must submit an application to the City of Muskegon Planning Department. Applications may be submitted at any time and grants will be approved on a competitive basis.
2. Approved applicants will enter into a grant agreement with the City.
3. The business will be reimbursed monthly (up to 50% of rent) upon providing receipt of paid rent.

Retail Renovation Grant

The Retail Renovation Grant is intended to assist in the creation of more rentable retail spaces downtown for small businesses. Grantees will be reimbursed 50% (up to \$5,000) of the renovation costs associated with upgrading a defunct space into a usable retail suite.

ELIGIBILITY

To be eligible, the applicant must:

- Renovate a building to provide rental space for small retailers.
- Provide a retail storefront that is visible from the street.
- Offer the retail space for rent for no more than \$12/sf.

REVIEW CRITERIA

All applications are reviewed on a competitive basis and not every proposal will be approved. The review process will take place once all the required documentation and supporting evidence is submitted. Incomplete applications will not be considered.

The following criteria will be used:

- Project Description – The applicant will describe the extent of the renovations and provide a description of the finished space.
- Economic Impact – The applicant will demonstrate how this renovation will provide a small retailer an affordable rental option.
- Estimates – The applicant must provide estimates for the renovation work.

PROCESS

1. The building or business owner must submit an application to the City of Muskegon Planning Department.
2. Approved applicants will enter into a grant agreement with the City.
3. The applicant will hire a licensed contractor to perform the renovations stated in the application.
4. The applicant will be reimbursed the grant money (up to 50% of renovation costs) upon providing receipt of payment of the renovation and proof of finalized building permits.

CV Rental Assistance Grant

The CV Rental Assistant Grant is intended to help existing small retailers continue operations in storefronts located in traditional brick and mortar buildings downtown. Grantees will be reimbursed 75% of their monthly rent, up to a total of \$5,000.

ELIGIBILITY

To be eligible, the business must:

- Employ no more than five people.

- Offer retail goods for sale. Restaurants and service industries are excluded, unless at least 50% of sales are generated from retail merchandise (excluding prepared food).
- Have an executed rental agreement and agree to pay no more than \$12/sf.
- Prove the need for financial assistance.
- Be located within the Downtown Development Authority District in a retail suite that is visible from the street. Grants are not eligible for businesses locating in an incubator / Co-op.
- Be an existing small business within the City of Muskegon negatively impacted by COVID-19.

REVIEW CRITERIA

All applications are reviewed on a competitive basis and not every proposal will be approved. The review process will take place once all the required documentation and supporting evidence is submitted. Incomplete applications will not be considered.

The following criteria will be used:

- Economic Impact – The applicant will demonstrate how this business will provide consumers with a needed brick and mortar retail option.
- Business Plan – The plan must show how the grant will impact business operations and also how the business will adapt once the grant expires.
- Financial Evidence – The applicant will submit evidence for the need of financial assistance.
- COVID-19 Impact – The owner must demonstrate greater than 50% business loss compared to prior months/years associated with health impacts from COVID-19 or resulting from executive orders reducing capacity or hours of operation.

PROCESS

1. The business owner must submit an application to the City of Muskegon Planning Department. Applications may be submitted at any time and grants will be approved on a competitive basis.
2. Approved applicants will enter into a grant agreement with the City.
3. The business will be reimbursed monthly (up to 75% of rent) upon providing receipt of paid rent.

CV Capital Grant

The CV Capital Grant is intended to help existing small retailers continue operations in storefronts located in traditional brick and mortar buildings downtown. Grantees will be reimbursed 75% of their expenses up to a total of \$5,000 for renovations associated with modifying their storefronts in response to new distancing guidelines and reduced capacity due to COVID-19.

ELIGIBILITY

To be eligible, the business must:

- Employ no more than five people.
- Offer retail goods for sale. Restaurants and service industries are excluded, unless at least 50% of sales are generated from retail merchandise (excluding prepared food).
- Operate a retail storefront located within the Downtown Development Authority District that is visible from the street. Grants are not eligible for businesses located in an incubator / Co-op.
- Prove the need for financial assistance.

- Be an existing small business within the City of Muskegon negatively impacted by COVID-19.

REVIEW CRITERIA

All applications are reviewed on a competitive basis and not every proposal will be approved. The review process will take place once all the required documentation and supporting evidence is submitted. Incomplete applications will not be considered.

The following criteria will be used:

- Project Description – The applicant will describe the extent of the renovations and provide a description of how the revised finished space meets new COVID related guidelines.
- Estimates – The applicant must provide estimates for the renovation work.
- Financial Evidence – The applicant will submit evidence for the need of financial assistance.

PROCESS

1. The business owner must submit an application to the City of Muskegon Planning Department. Applications may be submitted at any time and grants will be approved on a competitive basis.
2. Approved applicants will enter into a grant agreement with the City.
3. The applicant will hire a licensed contractor to perform the renovations stated in the application.
4. The applicant will be reimbursed the grant money (up to 75% of renovation costs) upon providing receipt of payment of the renovation and proof of finalized building permits.

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Purchase Agreement 1188 4 th St
Submitted By: Frank Peterson	Department: City Manager
Brief Summary: City staff is seeking authorization to enter into the purchase agreement with LeighAnn Mikesell, a City of Muskegon employee.	
Detailed Summary: 1188 4th Street was a regular area of concern among neighbors. In an attempt to help mitigate the concerns, the City purchased the property and completed a renovation. The property was listed on the MLS for \$229,900; an offer was accepted for \$225,000. Staff is seeking permission to approve the purchase agreement and complete the sale. Note that this property is part of the scattered site brownfield project. Any difference in sales price and renovation cost will be recovered via tax capture. In order to comply with state and local conflict of interest concerns, Ms. Mikesell has submitted a letter to the mayor disclosing her interest in the property and outlining the benefits of this sale to her and to the City. The letter has been noticed to the public along with the agenda for the commission meeting. The sale can only be approved by a unanimous vote of all commissioners. If approved, the minutes of the commission meeting must disclose the name of each party involved in the contract, the terms of the contract, the nature of the financial interest of the public servant with the conflict, and that the sale is in the best interests of the City.	
Amount Requested: None at this time	Amount Budgeted: \$0
Fund(s) or Account(s): Public Improvement	Fund(s) or Account(s): Public Improvement
Recommended Motion: Declare that the sale is in the best interests of the City to sell the property to Ms. Mikesell and authorize the City Manager to sign the purchase agreement and complete the sale.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

1558 E Harbour Towne Circle
Muskegon, MI 49441

July 20, 2020

Honorable Mayor Steve Gawron
City of Muskegon
933 Terrace Street
Muskegon, MI 49440

Honorable Mayor,

I am writing to express my interest in purchasing the home located at 1188 Fourth Street which is currently owned by the city. The benefit I will receive includes the price the city paid to obtain the property (\$88,710.92) as well as the amounts paid for improvements to it (\$235,716). That total is \$324,427.

The property is currently listed with a real estate agent for \$229,900. I have made an offer to pay \$225,000 and have submitted a check for earnest money in the amount of \$2,500. The commission previously approved an offer for the purchase price of \$225,000 from a different buyer who had given \$2,000 in earnest money and who backed out of the deal.

The city will benefit by selling the property to me because I am a good citizen who cares about the community, I have consistently paid any taxes and utility bills owed to the city, and I will maintain the property in excellent condition. In addition, I will enhance the landscaping to further improve the property and make a positive impact on the neighborhood. My bank has pre-approved me for a loan of this size, and I do not need to sell my current home to purchase the house at 1188 Fourth Street.

Thank you for considering my offer on the property.

Sincerely,



LeighAnn Mikesell

WEST MICHIGAN REGIONAL PURCHASE AGREEMENT

DATE: 07/10/2020, 10:00 PM (time) MLS # 20017194
 SELLING OFFICE: Five Star Real Estate, BROKER LIC.# 6503385486 REALTOR® PHONE: 231-557-1137
 LISTING OFFICE: Coldwell Banker Woodland Schmidt Muskegon REALTOR® PHONE: 231-733-4455

1. **Effective Date:** This Agreement is effective on the date of Seller's acceptance of Buyer's offer or Buyer's acceptance of any counteroffer, as the case may be, and this date shall hereafter be referred to as the "Effective Date". Further, any reference to "days" in this Agreement refers to calendar days. The first calendar day begins at 12:01 a.m. on the day after the Effective Date. Any reference to "time" refers to local time.

2. **Agency Disclosure:** The Undersigned Buyer and Seller each acknowledge that they have read and signed the Disclosure Regarding Real Estate Agency Relationships. The selling licensee is acting as (check one):

☐ Agent/Subagent of Seller ☒ Buyer's Agent ☐ Dual Agent (with written, informed consent of both Buyer and Seller)
☐ Transaction Coordinator

Primary Selling Agent Name: Barbara Holt Email: barbholthomes@gmail.com Lic.#: 6501272913

Alternate Selling Agent Name: _____ Email: _____ Lic.#: _____

3. **Seller's Disclosure Statement:** (This paragraph applies to sales of one-to-four family residential units.)

☒ Buyer has received the Seller's Disclosure Statement, dated 05/12/2020. Seller certifies to Buyer that the Property is currently in the same condition as Seller previously disclosed in that statement. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement.

☐ Buyer has not received the Seller's Disclosure Statement. Buyer may terminate this Agreement, in writing, any time prior to receipt of the Seller's Disclosure Statement. Once Buyer has received the Seller's Disclosure Statement, Buyer may terminate this Agreement, in writing, within 72 hours of receipt if the disclosure was received in person, or within 120 hours if received by registered mail. Exceptions: _____

☐ Seller is exempt from the requirements of the Seller Disclosure Act.

4. **Lead-Based Paint Addendum:** Transactions involving homes built prior to 1978 require a written disclosure which is hereby attached and will be an integral part of this Agreement.

5. **Property Description:** Buyer offers to buy the property located in the ☒ City ☐ Village ☐ Township of Muskegon,

County of Muskegon, Michigan, commonly known as (insert mailing address: street/city/state/zip code)

1188 4th Street Muskegon 49441

with the following legal description and tax parcel ID numbers:

Legal: CITY OF MUSKEGON REVISED PLAT OF 1903 W 92 FT LOT 8 BLK 367

PP# _____ Tax ID #: 24205367000800

The following paragraph applies only if the Premises include unplatted land:

Seller agrees to grant Buyer at closing the right to make (insert number) ALL division(s) under Section 108(2), (3), and (4) of the Michigan Land Division Act. (If no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or REALTOR® do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval on or before Day of Close, of the proposed division to create the Premises.

6. **Purchase Price:** Buyer offers to buy the Property for the sum of \$ 225,000
two hundred twenty-five thousand U.S. Dollars

7. **Seller Concessions**, if any: NONE

8. **Terms:** The Terms of Purchase will be as indicated by "X" below: (Other unmarked terms of purchase do not apply.)

SOURCE OF FUNDS TO CLOSE: Buyer represents that the funds necessary to close this transaction on the terms specified below are currently available to Buyer in cash or an equally liquid equivalent.

If the Property's value stated in an appraisal obtained by Buyer or Buyer's lender is less than the Purchase Price, Buyer shall within three (3) days after receipt of the appraisal: 1) renegotiate with the Seller, 2) terminate the transaction, in which case Buyer shall receive a refund of Buyer's Earnest Money Deposit, or 3) proceed to close the transaction at the agreed Purchase Price.

☐ **CASH.** The full Purchase Price upon execution and delivery of Warranty Deed. Buyer Agrees to provide Buyer Agent/Dual Agent verification of funds within five (5) days after the Effective Date, and consents to the disclosure of such information to Seller and/or Seller's Agent. If verification of funds is not received within 5 days after the Effective Date, Seller may terminate this Agreement at any time before verification of funds is received by giving written notice to Buyer. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement.

☒ **NEW MORTGAGE.** The full Purchase Price upon execution and delivery of Warranty Deed, contingent upon Buyer's ability to obtain a Conventional type 15 (year) mortgage in the amount of 80 % of the Purchase Price bearing interest at a rate not to exceed Current % per annum (rate at time of loan application), on or before the date the sale is to be closed. Buyer agrees to apply for a mortgage loan, and pay all fees and costs customarily charged by Buyer's lender to process the application, within 3 days after the Effective Date, not to impair Buyers' credit after the date such loan is offered. ☐ Seller ☐ Buyer will agree to pay an amount not to exceed \$ _____ representing repairs required as a condition of financing. Buyer ☒ agrees ☐ does not agree to authorize Buyer's Agent/Dual Agent to obtain information from

Buyer's lender regarding Buyer's financing, and consents to the disclosure of this information to Seller and/or Seller's Agent.
 Exceptions:

☐ SELLER FINANCING (check one of the following): ☐ CONTRACT or ☐ PURCHASE MONEY MORTGAGE

In the case of Seller financing, Buyer agrees to provide Seller with a credit report within 72 hours after the Effective Date. If the credit report is unacceptable to Seller, Seller shall have the right to terminate this offer within 48 hours of Seller's receipt, or if Buyer fails to provide said credit report to Seller within the time frame allotted, Seller shall have the right to terminate this offer within 48 hours. Seller is advised to seek professional advice regarding the credit report.

\$_____ upon execution and delivery of a _____ form (name or type of form and revision date), a copy of which is attached, wherein the balance of \$_____ will be payable in monthly installments of \$_____ or more including interest at _____ % per annum, interest to start on date of closing, and first payment to become due thirty (30) days after date of closing. The entire unpaid balance will become due and payable _____ months after closing. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ EQUITY (check one of the following): ☐ Formal Assumption or ☐ Informal Assumption
 Upon execution and delivery of: ☐ Warranty Deed subject to existing mortgage OR ☐ Assignment of Vendee Interest in Land Contract, Buyer to pay the difference (approximately \$_____) between the Purchase Price above provided and the unpaid balance (approximately \$_____) upon said mortgage or land contract, which Buyer agrees to assume and pay. Buyer agrees to reimburse Seller for accumulated funds held in escrow, if any, for payment of future taxes and insurance premiums, etc. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ OTHER:

9. **Contingencies:** Buyer's obligation to consummate this transaction (check one):

☒ **IS NOT CONTINGENT** - is not contingent upon the sale or exchange of any other property by Buyer.

☐ **IS CONTINGENT UPON CLOSING** - is contingent upon closing of an existing sale or exchange of Buyer's property located at:

A copy of Buyer's agreement to sell or exchange that property is being delivered to Seller along with this offer. If the existing sale or exchange terminates for any reason, Buyer will immediately notify Seller, and either party may terminate this Agreement in writing, within 3 days of Buyer's notice to Seller. If either party terminates, Buyer shall receive a refund of any applicable Earnest Money Deposit.

☐ **IS CONTINGENT UPON THE SALE AND CLOSING** - is contingent upon the execution of a binding agreement and the closing of a sale or exchange of Buyer's property located at _____ on or before _____. Seller will have the right to continue to market Seller's Property until Buyer enters into a binding agreement to sell or exchange Buyer's property and delivers a copy thereof to Seller. During such marketing period, Seller may enter into a binding contract for sale to another purchaser on such price and terms as the Seller deems appropriate. In such event, this Agreement will automatically terminate, Buyer will be notified promptly, and Buyer's Earnest Money Deposit will be refunded. Exceptions:

10. **Fixtures & Improvements:** The following is not intended to be an all-inclusive list of items included with the Property. All improvements and appurtenances are included in the Purchase Price, if now in or on the Property, unless rented, including the following: all buildings; landscaping; attached smart home devices; attached security systems; lighting fixtures and their shades and bulbs; ceiling fans; hardware for draperies and curtains; window shades and blinds; built-in kitchen appliances, including garbage disposal and drop-in ranges; wall to wall carpeting, if attached; all attached mirrors; all attached TV mounting brackets; all attached shelving; attached work benches; stationary laundry tubs; water softener; water heater; incinerator; sump pump; water pump and pressure tank; heating and air conditioning equipment (window units excluded); attached humidifiers; heating units, including add-on heating stoves and heating stoves connected by flue pipe; fireplace screens, inserts, and grates; fireplace doors, if attached; liquid heating and cooking fuel tanks; TV antenna and complete rotor equipment; satellite dish and necessary accessories and complete rotor equipment; all support equipment for inground pools; screens and storm windows and doors; awnings; installed basketball backboard, pole and goal; mailbox; flagpole(s); fencing, invisible inground fencing and all related equipment, including collars; detached storage buildings; underground sprinkling, including the pump; installed outdoor grills; all plantings and bulbs; garage door opener and control(s); and any and all items and fixtures permanently affixed to the Property; **and also includes:**

Dishwasher; Garbage Disposal; Microwave; Range; Refrigerator; Washer; Dryer; All Window Treatments; Ceiling Fans; Garage Remotes

but does not include:

Any personal property currently in home or on premises

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11. **Heating and Cooking Fuels:** Liquid heating and cooking fuels in tanks are included in the sale and will transfer to Buyer at time of possession unless usage is metered (in which case it is not included in the sale). Sellers are responsible for maintaining heating and cooking liquid fuels at an operational level and shall not permit fuels to fall below 10% in the tank(s) at the time of possession, except that the tank(s) may be empty only if now empty. Further, Seller is precluded from removing fuel from tank(s) other than what is expended through normal use. Exceptions:

N/A

12. **Assessments (choose one):**

If the Property is subject to any assessments,

- ☒ Seller shall pay the entire balance of any such assessments that are due and payable on or before the day of closing (regardless of any installment arrangements), except for any fees that are required to connect to public utilities.
- ☐ Seller shall pay all installments of such assessments that become due and payable on or before day of closing. Buyer shall assume and pay all other installments of such assessments.

13. **Property Taxes:** Seller will be responsible for any taxes billed prior to those addressed below. Buyer will be responsible for all taxes billed after those addressed below.

Buyer is also advised that the state equalized value of the Property, principal residence exemption information and other real property tax information is available from the appropriate local assessor's office. Buyer should not assume that Buyer's future tax bills on the Property will be the same as Seller's present tax bills. Under Michigan law, real property tax obligations can change significantly when property is transferred.

☐ No proration. (Choose one):

- ☐ Buyer ☐ Seller will pay taxes billed summer _____ (year);
- ☐ Buyer ☐ Seller will pay taxes billed winter _____ (year);

- ☒ Calendar Year Proration (all taxes billed or to be billed in the year of the closing). Calendar year tax levies will be estimated, if necessary, using the taxable value and the millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying for January 1 through the day before closing.

☐ Fiscal Year Proration - Taxes will be prorated as though they are paid in (choose one): ☐ advance. ☐ arrears.

Fiscal Year will be assumed to cover a 12-month period from date billed, and taxes will be prorated to the date of closing. Fiscal year tax levies will be estimated, if necessary, using the taxable value and millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying through the day before closing. Exceptions:

14. **Well/Septic:** Within ten (10) days after the Effective Date, Seller will arrange for, at Seller's expense, an inspection of the primary well used for human consumption (including a water quality test for coliform bacteria and nitrates) and septic systems in use on the Property. The inspection will be performed by a qualified inspector in a manner that meets county (or other local governmental authority, if applicable) protocol. Seller will also follow any governmental rules regarding pumping of tanks.

Where no county or government protocol is in place, Seller will arrange for, at Seller's expense, well and septic inspections (as referenced above) by a qualified inspector and Seller will have the septic tank(s) pumped at Seller's expense.

If any report discloses a condition unsatisfactory to Buyer, or doesn't meet county standards that are a condition of sale, Buyer may, within three (3) days after Buyer has received the report, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the well/septic as-is. Seller will respond in writing within three (3) days to Buyer's request. If Seller fails to respond or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer will have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate the contract, Buyer will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

N/A City Systems

15. **Inspections & Investigations:**

Inspections: Buyer, or someone selected by Buyer, has the right to inspect the buildings, premises, components and systems, at Buyer's expense. Any damage, misuse, abuse, or neglect of any portion of the Property or premises as a result of inspections will be Buyer's responsibility and expense. **In the event of VA financing, Seller will pay for the inspection for termites and other wood destroying insects.**

Investigations: It is Buyer's responsibility to investigate (i) whether the Property complies with applicable codes and local ordinances and whether the Property is zoned for Buyer's intended use; (ii) whether Buyer can obtain a homeowner's insurance policy for the Property at price and terms acceptable to Buyer; (iii) and whether or not the Property is in a flood zone.

All inspections and investigations will be completed within ten (10) days after the Effective Date. If the results of Buyer's inspections and investigations are not acceptable to Buyer, Buyer may, within the above referenced period, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be

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deemed to have accepted the Property as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Inspections & Investigations and will proceed to closing according to the terms and conditions of this Agreement.

☐ Buyer has waived all rights under this Inspections & Investigations paragraph.

16. **Municipal Compliances:** Seller will arrange and pay for current certificates of occupancy, sidewalk compliance, and smoke detector ordinances, if applicable.

17. **Title Insurance:** Seller agrees to convey marketable title to the Property subject to conditions, limitations, reservation of oil, gas and other mineral rights, existing zoning ordinances, and building and use restrictions and easements of record. An **expanded coverage** ALTA Homeowner's Policy of Title Insurance in the amount of the Purchase Price shall be ordered by Seller and furnished to Buyer at Seller's expense, and a commitment to issue a policy insuring marketable title vested in Buyer, including a real estate tax status report, will be made available to Buyer within **ten (10) days** after the Effective Date. If Buyer so chooses, or if an expanded policy is not applicable, then a **standard** ALTA Owners' Policy of Title Insurance shall be provided.

If Buyer objects to any conditions, Buyer may, within three (3) days of receipt of the Title Commitment, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the Title Commitment as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and shall receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Title Commitment as-is and will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

18. **Property Survey:** Broker advises that Buyer should have a survey performed to satisfy Buyer as to the boundaries of the Property and the location of improvements thereon.

☐ Buyer or ☐ Seller (check one) shall within ten (10) days of the Effective Date, order, at their expense, a boundary survey certified to Buyer with iron corner stakes showing the location of the boundaries, improvements and easements in connection with the Property. Upon receipt of the survey, Buyer will have three (3) days to review the survey. If the survey shows any condition, in Buyer's sole discretion, which would interfere with Buyer's intended use of the Property, the marketability of the title, or zoning non-compliance, then Buyer may, within said three (3) day period, terminate this Agreement, in writing, and Buyer will receive a full refund of Buyer's Earnest Money Deposit.

☒ No survey. Buyer has waived all rights under this paragraph.

When closing occurs, Buyer shall be deemed to have accepted the boundaries of the Property and the location of such improvements thereon. Exceptions:

Seller to provide if available

19. **Home Protection Plan:** Buyer and Seller have been informed that home protection plans may be available. Such plans may provide additional protection and benefit to the parties. Exceptions:

NONE

20. **Prorations:** Rent; association dues/fees, if any; insurance, if assigned; interest on any existing land contract, mortgage or lien assumed by Buyer; will all be adjusted to the date of closing.

21. **Closing:** If agreeable to Buyer and Seller, the sale will be closed as soon as closing documents are ready, but not later than 08/10/2020. An additional period of fifteen (15) days will be allowed for closing to accommodate the correction of title defects or survey problems which can be readily corrected, or for delays in obtaining any lender required inspections/repairs. During this additional period, the closing will be held within 5 days after all parties have been notified that all necessary documents have been prepared. Buyer and Seller will each pay their title company closing fee, if applicable, except in the case of VA financing where Seller will pay the entire closing fee. Exceptions:

22. **Possession:** Seller will maintain the Property in its present condition until the completion of the closing of the sale. Possession to be delivered to Buyer, subject to rights of present tenants, if any.

☒ At the completion of the closing of the sale.

☐ At _____ ☐ a.m. ☐ p.m. on the _____ day **after** completion of the closing of the sale, during which time Seller will have the privilege to occupy the Property and hereby agrees to pay Buyer \$_____ as an occupancy fee for this period payable at closing, WITHOUT PRORATION. Payment shall be made in the form of cash or certified funds.

If Seller fails to deliver possession to Buyer on the agreed date, Seller shall become a tenant at sufferance and shall pay to Buyer as liquidated damages \$_____ per day plus all of the Buyer's actual reasonable attorney's fees incurred in removing the Seller from the Property.

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If Seller occupies the Property after closing, Seller will pay all utilities during such occupancy. Buyer will maintain the structure and mechanical systems at the Property. However, any repairs or replacements necessitated by Seller's misuse, abuse, or neglect of any portion of the Property will be Seller's responsibility and expense.

On the agreed delivery date, Seller shall deliver the Property free of trash and debris and in broom-clean condition, shall remove all personal property (unless otherwise stated in this or an additional written agreement), shall make arrangements for final payment on all utilities, and shall deliver all keys to Buyer. Exceptions:

23. **Earnest Money Deposit:** For valuable consideration, Buyer gives Seller until 07/11/2020 (date), to deliver the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding Agreement between Buyer and Seller. An Earnest Money Deposit in the amount of \$ 2500.00 shall be submitted to Five Star Real Estate Norton Shores (insert name of broker, title company, other) within 72 hours of the Effective Date of this Agreement, and shall be applied against the Purchase Price. If the Earnest Money Deposit is not received within 72 hours of the Effective Date or is returned for insufficient funds, Seller may terminate this Agreement until such time as the Earnest Money Deposit is received. If Seller terminates this Agreement under this provision, Seller waives any claim to the Earnest Money Deposit. If the sale is not closed due to a failure to satisfy a contingency for a reason other than the fault of Buyer, the Earnest Money Deposit shall be refunded to Buyer. If the sale is not closed as provided in this Agreement and Buyer and Seller do not agree to the disposition of the Earnest Money Deposit, then Buyer and Seller agree that the Broker holding the Earnest Money Deposit may notify Buyer and Seller, in writing, of Broker's intended disposition of the Earnest Money Deposit. If Buyer and Seller do not object to such disposition in writing within fifteen (15) days after the date of Broker's notice, they will be deemed to have agreed to Broker's proposed disposition; if either Buyer or Seller object and no mutually agreeable disposition can be negotiated, Broker may deposit the funds by interpleader with a court of proper jurisdiction or await further actions by Buyer and Seller. In the event of litigation involving the deposit, in whole or in part, either the Seller or the Buyer that is not the prevailing party, as determined by the court, will reimburse the other for reasonable attorneys' fees and expenses incurred in connection with the litigation, and will reimburse the Broker for any reasonable attorneys' fees and expenses incurred in connection with any interpleader action instituted. If the entity holding the Earnest Money Deposit is not the Broker, then to the extent that the terms of any escrow agreement conflict with this paragraph, then the terms and conditions of the escrow agreement shall control.
24. **Professional Advice:** Broker hereby advises Buyer and Seller to seek legal, tax, environmental and other appropriate professional advice relating to this transaction. Broker does not make any representations or warranties with respect to the advisability of, or the legal effect of this transaction. Buyer further acknowledges that REALTOR® above named in the Agreement hereby recommends to Buyer that an attorney be retained by Buyer to pass upon the marketability of the title and to ascertain that the required details of the sale are adhered to before the transaction is consummated. Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether intentionally or negligently) regarding any aspect of the Property or this sale transaction, except as may be expressly set forth in this Agreement, a written amendment to this Agreement, or a disclosure statement separately signed by Seller.
25. **Disclosure of Information:** Buyer and Seller acknowledge and agree that the Purchase Price, terms, and other details with respect to this transaction (when closed) are not confidential, will be disclosed to REALTORS® who participate in the applicable Multiple Listing Service, and may otherwise be used and/or published by that Multiple Listing Service in the ordinary course of its business.
26. **Other Provisions:**
- Home must appraise at or above purchase price.
27. **Mergers and Integrations:** This Agreement is the final expression of the complete agreement of Buyer and Seller, and there are no oral agreements existing between Buyer and Seller relating to this transaction. This Agreement may be amended only in writing signed by Buyer and Seller and attached to this Agreement.
28. **Fax/Electronic Distribution and Electronic Signatures:** Buyer and Seller agree that any signed copy of this Agreement, and any amendments or addendums related to this transaction, transmitted by facsimile or other electronic means shall be competent evidence of its contents to the same effect as an original signed copy. Buyer and Seller further agree that an electronic signature is the legal equivalent of a manual or handwritten signature, and consent to use of electronic signatures. Buyer and Seller agree that any notice(s) required or permitted under this Agreement may also be transmitted by facsimile or other electronic means.
29. **Wire Fraud:** Seller and Buyer are advised that wire fraud is an increasingly common problem. If you receive any electronic communication directing you to transfer funds or provide nonpublic personal information (such as social security numbers, drivers' license numbers, wire instructions, bank account numbers, etc.), **even if that electronic communication appears to be from the Broker, Title Company, or Lender, DO NOT** reply until you have verified the authenticity of the email by direct communication with Broker, Title Company, or Lender. **DO NOT** use telephone numbers provided in the email. Such requests may be part of a scheme to steal funds or use your identity.

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Date

10:00 PM
Time

30. Buyer's Approval and Acknowledgment: Buyer approves the terms of this offer and acknowledges receipt of a copy of this offer.Buyer 1 Address 1558 E. Harbour Towne Circle Muskegon, MI 49441

X

*LeighAnn Mikesell*dotloop verified
07/10/20 10:03 PM
EDT**Buyer**Buyer 1 Phone: (Res.) _____ (Bus.) 231-343-3830LeighAnn Mikesell

Print name as you want it to appear on documents.

Buyer 2 Address _____

X

Buyer 2 Phone: (Res.) _____ (Bus.) _____

Print name as you want it to appear on documents.

31. Seller's Response: The above offer is approved: ☐ As written. ☒ As written except:**Quit Claim Deed**Counteroffer, if any, expires 07/15/2020, at 6pm (time). Seller has the right to withdraw this counter offer and to accept other offers until Seller or Seller's Agent has received notice of Buyer's acceptance.**32. Certification of Previous Disclosure Statement:** Seller certifies to Buyer that the Property is currently in the same condition as disclosed in the Seller's Disclosure Statement dated _____ (check one): ☒ Yes ☐ No. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement prior to closing.**33. Notice to Seller:** Seller understands that consummation of the sale or transfer of the Property described in this Agreement will not relieve Seller of any liability that Seller may have under the mortgages to which the Property is subject, unless otherwise agreed to by the lender or required by law or regulation. Buyer and Seller are advised that a Notice to Seller & Buyer of Underlying Mortgage form is available from the respective agents via the West Michigan REALTOR® Boards.**34. Listing Office Address:** 131 Seaway Drive, Muskegon, MI 49444Listing Broker License # 6505346469**Listing Agent Name:** mary jamieson& Charlotte barnes evansListing Agent License # 6501432199&6501294351**35. Seller's Approval and Acknowledgment:** Seller approves the terms of this Agreement and acknowledges receipt of a copy. If Seller's response occurs after Buyer's offer expires, then Seller's response is considered a counteroffer and Buyer's acceptance is required below.**X (Seller's Signature, Date, Time):***Frank Peterson*dotloop verified
07/15/20 9:31 AM EDT
6TIE-XSEC-ZD7U-UP6MFrank Peterson, City Mgr., City of Muskegon

Print name as you want it to appear on documents.

Is Seller a U.S. Citizen? ☒ Yes ☐ No***X (Seller's Signature, Date, Time):**Is Seller a U.S. Citizen? ☐ Yes ☐ No*

Print name as you want it to appear on documents.

Seller's Address: 1188 4th St, Muskegon, MI 49441

Seller's Phone (Res.) _____ (Bus.) _____

* If Seller(s) is not a U.S. Citizen, there may be tax implications and Buyer and Seller are advised to seek professional advice.

36. Buyer's Receipt/Acceptance: Buyer acknowledges receipt of Seller's response to Buyer's offer. In the event Seller's response constitutes a counteroffer, Buyer accepts said counteroffer. All other terms and conditions in the offer remain unchanged.**X (Buyer's Signature, Date, Time):***LeighAnn Mikesell*dotloop verified
07/15/20 4:55 PM
EDT**X (Buyer's Signature, Date, Time):****37. Seller's Receipt:** Seller acknowledges receipt of Buyer's acceptance of counter offer.**X (Seller's Signature, Date, Time):****X (Seller's Signature, Date, Time):**1188 4th St, Muskegon, MI 49441

Subject Property Address/Description

07/10/2020

Date

Time

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: August 10, Work Session and August 11 Regular Meeting	Title: Groundwater Ordinance Amendment
Submitted By: Mike Franzak	Department: Planning
Brief Summary: They City has received a petition from Consumers Energy to designate the Veterans Memorial Park parcel under the water supplies ordinance. The ordinance prohibits the use of groundwater wells and secondary water supplies under certain circumstances and in certain locations, to prevent exposure to contaminated groundwater, as well as to prevent wells from influencing the movement of contaminated water.	
Detailed Summary: Notice was sent to the only affected address (Veterans Memorial Park) prior to this meeting.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the amendment groundwater ordinance as presented.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

- _____ A clear statement of the nature and extent of contamination, identifying the types and concentrations of contaminants, the likely or anticipated path of migration of the contaminants if not remediated (as well as a detailed statement of any plan to remediate, correct, and/or contain the contamination).
- _____ Completed Summary table (see below).
- _____ List of street addresses, legal descriptions, and parcel I.D. numbers for all *affected premises* (other than source of contamination).
- _____ List of names, addresses (mailing and street), and telephone numbers of all persons with an interest as owner or occupant of all *affected premises* (other than source of contamination).
- _____ A scaled map showing the boundary lines of all *affected premises* covered by this Petition. The map must also show building/structure outlines, groundwater well locations, parking lots, roads, estimated direction of groundwater flow, and estimated location and extent of the contaminant plume(s). See Summary Table below for description of additional contaminant information required.
- _____ A description of the current status, and usage characteristics of all existing groundwater wells known to the Petitioner within all proposed *affected premises*.
- _____ A description and time schedule for any actions the Petitioner will take to properly close and abandon any existing wells subject to the use prohibition within the restricted zone.
- _____ Written documentation from the DNRE indicating approval of the usage of the groundwater protection ordinance as an institutional control.

Summary Table

A Hazardous Substance	B CAS No.	C Sample Loc.	D Max. Conc.	E Migration Direction

Note: Attach additional sheets, as necessary.

- Column A: Name of the hazardous substance
 Column B: Chemical Abstract Service (CAS) Number for the hazardous substance
 Column C: Sample location for Column D (show on site map)
 Column D: Maximum hazardous substance concentration measured on the property, including units of measurement
 Column E: Direction of contaminant migration, if known

Please find the following in responses to question number 3 on the City of Muskegon Petition to Designate Affected Premises Under Water Supplies Ordinance:

- Legal description of the source or site of contamination, which includes the Consumers Energy and the Michigan Electric Transmission Company, LLC which have an interest in the property – See Exhibit A of the attached BC Cobb Plant Ponds 4 & 4 A Restrictive Covenant.
- Clear statement of the nature and extent of contamination, identifying the types and concentrations of contaminants, the likely or anticipated path of migration of the contaminants if not remediated (as well as a detailed statement of any plan to remediate, correct, and/or contain the contamination). - See attached October 22, 2019 report by Golder on the Results of the Groundwater Quality Testing at Veterans Memorial Park Pond. In summary, arsenic was determined to be above the drinking water standard but inconsistent with the distribution of other ash constituents and thus determined to be from an alternate source, likely the highly organic peat seams. Boron was measured below the generic GSI criteria but above the drinking water criteria (which is based on phytotoxicity, not human health, concerns). Groundwater in general moves from outside the west side of Cobb 4&4A toward Veterans Memorial Park as shown in the groundwater elevation contours of the above referenced report.
- Completed Summary table – completed
- List of names and address of all persons with an interest as owner or occupant - There are only two owners that are also included in the attached Notice of Migration:

Muskegon County
Steve Fink, P.E., Public Works Engineer / Project Manager
131 E. Apple Avenue, 4th Floor
Muskegon, MI 49442
Phone: 231-724-6522
Property Tax ID Number: 61-24-117-100-0002-00

Michigan Department of Transportation
Muskegon, MI
Property Tax ID Number: Not applicable

- Scaled map – See attached
- A description of the current status and usage characteristics of all existing groundwater wells known to the Petitioner within all proposed affected premises – There are only 4 wells that are used for groundwater monitoring only.
- A description and time schedule for any action the Petitioner will take to properly close and abandon any existing wells subject to the use prohibition within the restricted zone. – There are no wells that need to be abandoned. There are only groundwater monitoring wells.
- Written EGLE documentation was provided via e-mail by Mr. Fred Sellers, District Supervisor, on July 21, 2020 (see attached).



Received & Sealed for Record
MARK F. FAIRCHILD REGISTER OF DEEDS
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DECLARATION OF RESTRICTIVE COVENANT

This Declaration of Restrictive Covenant ("Restrictive Covenant") has been recorded with the Muskegon County Register of Deeds for the purpose of restricting activities that could result in unacceptable exposure to environmental contamination which may be present at the Property located at **North Causeway Street, Muskegon, Muskegon County** and legally described in **Exhibit A** attached hereto ("Property"). **Exhibits B & C** provide a survey of the Property that is subject to the land use or resource use restrictions specified herein.

The Property is Consumers Energy's BC Cobb ash landfill 4 & 4A, for which response activities were implemented to address environmental contamination pursuant to Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101 et seq.

The Property described contains contaminants in excess of the concentrations developed as the unrestricted residential criteria under Section 20120a(1)(a) or (17) of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101 et seq.

The restrictions contained in this Restrictive Covenant are based upon information available at the time the response activities were implemented. Failure of the response activities to achieve and maintain the criteria, exposure controls, and any requirements specified by the response activities; future changes in the environmental condition of the Property or changes in the cleanup criteria as defined in the NREPA; the discovery of environmental conditions at the Property that were not accounted for during implementation of the response activities; or use of the Property in a manner inconsistent with the restrictions described herein, may result in this Restrictive Covenant not being protective of public health, safety, and welfare, and the environment.

Consumers Energy previously received notice of approval from the Michigan Department of Environmental Quality, Waste and Hazardous Materials Division (MDEQ) dated June 15, 2005 for a Remedial Action Plan (RAP) that includes land use-based cleanup criteria as set forth in Section 20120a(2) of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101 et seq

This Restrictive Covenant shall replace the Restrictive Covenant recorded on September 1, 1979, in Liber 1241, Page 725-728, Muskegon County Records and the Restrictive Covenant recorded on July 1, 2005, in Liber 3657, Page 528, Muskegon County Records that are concurrently being terminated.

Definitions

For the purposes of this Restrictive Covenant, the following definitions shall apply:

"MDEQ" means the Michigan Department of Environmental Quality, its successor entities, and those persons or entities acting on its behalf.

"Owner" means at any given time the then current title holder of the Property or any portion thereof.

All other terms used in this document which are defined in Part 3, Definitions, of the NREPA; Part 201 of the NREPA; or the Part 201 Administrative Rules, Michigan Administrative Code, 2013 AACRS R 299.1 – R 299.50, shall have the same meaning in this document as in Parts 3 and 201 of the NREPA and the Part 201 Administrative Rules, as of the date of filing of this Restrictive Covenant.

Summary of Response Activities and Environmental Contamination

The metals boron and selenium have been historically detected above groundwater/surface water interface (GSI) criteria in the groundwater on Consumers Energy's Cobb Ash Landfills 4 & 4A. Prior to recording this Restrictive Covenant, response activities have been undertaken at the landfill site including 1) obtaining a Mixing Zone Authorization from MDEQ and implementing a Mixing Zone Compliance Monitoring Plan, 2) placing a restrictive covenant on Consumers Energy's property that restricts excavation and drilling activities, thus eliminating the installation of any water supply wells, and 3) installation of a soil bentonite slurry wall and impermeable final cover which isolates and contains the existing ash and eliminates the transport of any surface or groundwater into or out of the landfill area. The response activities are described in the Remedial Action Plan titled "Final Remedial Investigation Feasibility Study and Remedial Action Plan", January 29, 2002, prepared by STS Consultants, Ltd. The MDEQ approved the Remedial Action Plan on June 15, 2005.

The restrictions provided for in this restrictive covenant serve to prevent the potential for unacceptable exposure to hazardous substances as a result of the conditions created by the presence of groundwater contaminant concentrations that exceed the residential cleanup criteria under Section 20120a(1)(a) of the NREPA.

NOW THEREFORE,

1. Declaration of Land Use or Resource Use Restrictions

Consumers Energy, the Owner of the Property, hereby declares and covenants that the Property shall be subject to the following restrictions and conditions.

a. Activity and Use Limitations. The Owner shall restrict activities that include: excavation activities below the thickness of a soil barrier without prior approval of the MDEQ; drilling of wells for domestic, public water, or industrial use. Planned excavation below the thickness of a soil or geomembrane barrier within the landfill cap boundaries for the purpose of non-emergency, planned installation of new poles, towers, guys, groundwires, or similar equipment shall be performed only with the MDEQ's prior approval. Prior approval of the MDEQ is not required for: a) normal repair and maintenance of the landfill cap; b) installation, maintenance, and repair of utility service lines outside of the boundaries of the landfill cap; c) any and all

above ground activities, including but not limited to, patrolling, inspecting, construction, maintenance, alteration, modification or any other work related to electric or communication lines on the Property; or d) emergency work on electric lines within the boundaries of the landfill cap, including emergency excavation to install new poles, towers, guys, groundwires, or similar equipment. Any disturbance to the barrier layer and/or its protective covering shall be repaired and re-certified following the repair. An emergency includes any damage to or unplanned failure of the equipment that requires immediate response to fully restore electric service in a safe manner. The MDEQ shall be notified at the earliest practical time of any such emergencies.

b. Restriction for Use of Groundwater. The Owner shall prohibit the construction and use of wells or other devices on the Property to extract groundwater for consumption, irrigation, or any other purpose, except as provided below:

(i.) Wells and other devices constructed as part of a response activity for the purpose of evaluating groundwater quality or to remediate subsurface contamination associated with a release of hazardous substances into the environment are permitted provided the construction of the wells or devices complies with all applicable local, state, and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, or federal laws or regulations.

(ii.) Short-term dewatering for construction purposes is permitted provided the dewatering, including management and disposal of the perched groundwater, is conducted in accordance with all applicable local, state, and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, and federal environmental laws and regulations.

c. Contaminated Soil Management. The Owner shall manage any contaminated soils, media and/or debris located on the property in accordance with the applicable requirements of Section 20120c of the NREPA; Part 111, Hazardous Waste Management, of the NREPA; Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the administrative rules promulgated thereunder; and all other relevant state and federal laws.

2. Term of Restrictive Covenant. This Restrictive Covenant shall run with the Property and shall be binding on the Owner; future owners; and their successors and assigns, lessees, easement holders, and any authorized agents, employees, or persons acting under their direction and control. Pursuant to Section 20121(5)(b) of the NREPA, the duration of this Restrictive Covenant is perpetual. Improper modification or rescission of any restriction necessary to prevent unacceptable exposure to regulated substances may result in the need to perform additional response activities by those parties responsible for performing response activity at the Property or to comply with Section 20107a of the NREPA.

3. Enforcement of Restrictive Covenant. The State of Michigan, through the MDEQ, and Consumers Energy may individually enforce the restrictions set forth in this Restrictive Covenant by legal action in a court of competent jurisdiction.

4. Severability. If any provision of this Restrictive Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other



provisions hereof, and all such other provisions shall continue unimpaired and in full force and effect.

5. Authority to Execute Restrictive Covenant. The undersigned person executing this Restrictive Covenant is the Owner, and represents and certifies that he or she is duly authorized and has been empowered to execute and record this Restrictive Covenant.

6. Access. The Owner grants to MDEQ and its designated representatives the right to enter the Property at reasonable times for the purpose of conducting any activities necessary to maintain compliance with federal, state or local laws, rules regulations or ordinances, including but not limited to Part 201, Part 115, and any orders or agreements thereunder.

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IN WITNESS WHEREOF, Consumers Energy has caused this Restrictive Covenant, to be executed on this 5th day of ~~September~~ December, 2018

Signed in the presence of:

CONSUMERS ENERGY COMPANY

By: [Signature]
Brad Krabel

Its: Real Estate Acquisition Manager

Signed in the presence of:

MICHIGAN ELECTRIC TRANSMISSION
COMPANY, LLC a Michigan limited liability
company

By: ITC Holdings Corp., a Michigan corporation
Its: Manager

[Signature]
Constance Scott
[Signature]
Rebecca Takacs

By: [Signature]
Jean Kim D'Anna
Its Assistant General Counsel – Utility
Operations

STATE OF MICHIGAN
COUNTY OF JACKSON

The foregoing instrument was acknowledged before me this 5th day of Dec., 2018,
by BRAD KRABEL, REAL ESTATE ACQUISITION MANAGER of Consumers Energy
Company, a Michigan corporation, on behalf of the corporation.

[Signature]
TIM R. CLAUCHEN Notary Public
JACKSON County, Michigan
Acting in JACKSON County
My Commission expires: 1-8-2020

STATE OF MICHIGAN)
COUNTY OF OAKLAND)

On this 17th day of December, 2018, personally appeared Jean Kim
D'Anna, Assistant General Counsel – Utility Operations, on behalf of ITC Holdings Corp, to me



known to be the person described and who executed the foregoing instrument and acknowledge that she executed the same as her free act and deed.

CONSTANCE M. SCOTT
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Sep 10, 2021
ACTING IN COUNTY OF Oakland

Constance M. Scott
Constance M. Scott Notary Public
State of Michigan, County of Oakland
My Commission Expires: 9/10/2021
Acting in the County of Oakland

Prepared By:
Michelle Marion
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201

After recording, return to:
Julie Nau, EP7-431
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201

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Exhibit A
BC Cobb Plant
Ponds 4 & 4A
Restrictive Covenant

Legal Description: Restrictive Covenant Area - BC Cobb Plant

That part of Sections 8, 17, & 18, Town 10 North, Range 16, West, City of Muskegon, Muskegon County, Michigan, described as: Commencing at the South 1/4 Corner of said Section 17; thence North 02°35'44" East 2658.13 feet along the North-South 1/4 Line of said Section 17 to the Center of said Section; thence North 02°36'12" East 340.60 feet along said North-South 1/4 Line; thence North 87°23'48" West 1081.77 feet to a point at the intersection of the westerly line of the CSX Railroad (100' wide) and the easterly right of way line of State Highway M-120 (locally known as Causeway Drive)(650' wide) for THE PLACE OF BEGINNING OF THIS DESCRIPTION; thence North 40°26'45" West 2772.17 feet along said easterly right of way line, to Point "C"; thence Northwest 174 feet, more or less, to the centerline of said Cedar Creek; thence Northeast 100 feet, more or less, along the centerline of said Cedar Creek; thence Southeast 185 feet, more or less, to Point "D"; thence South 40°26'45" East 162.87 feet; thence South 49°33'15" West 60.00 feet; thence North 86°32'56" East 75.12 feet; thence North 54°21'52" East 241.21 feet; thence North 34°43'26" East 148.18 feet; thence North 18°24'43" East 53.19 feet; thence North 49°33'15" East 40.00 feet to Point "A"; thence continuing North 49°33'15" East 30 feet, more or less, to the Southerly edge of Cedar Creek; thence North 40°26'45" West 150 feet, more or less, to the centerline of Cedar Creek; thence Northeast 1380 feet, more or less, along the centerline of said Cedar Creek to a point on the westerly line of the CSX Railroad (100' wide); thence Southeast 124 feet, more or less, along said westerly line to Point "B", said point being North 80°11'32" East 1322.63 feet from Point "A"; thence Southeast, Southerly, and Southwest 2406.96 feet along the westerly line of said CSX Railroad, along a 5351.31 foot radius curve to the right, with a chord which bears South 00°12'07" West 2386.72 feet; thence South 13°05'15" West 189.71 feet along said westerly line to the place of beginning; containing 66.5 acres±.

The Intermediate Traverse line for Cedar Creek is described as: BEGINNING at the aforescribed Point "A"; thence North 75°02'48" East 100.16 feet; thence North 83°41'13" East 358.01 feet; thence South 83°27'53" East 481.40 feet; thence North 71°11'44" East 373.67 feet; thence North 11°18'30" East 96.34 feet to aforescribed Point "B" for the place of ending of this Intermediate Traverse Line.

ALSO, BEGINNING at the aforescribed Point "C"; thence North 56°08'39" East 100.67 feet to aforescribed Point "D" for the place of ending of this Intermediate Traverse Line.

Legal Description: Facility/Solid Waste Area - BC Cobb Plant

An area of land located in Sections 8, 17, & 18, Town 10 North, Range 16, West, City of Muskegon, Muskegon County, Michigan, described as: Commencing at the South 1/4 Corner of said Section 17; thence North 02°35'44" East, along the North-South 1/4 Line of said Section 17, 2658.13 feet to the Center of said Section; thence North 02°36'12" East, along said North-South 1/4 Line, 462.41 feet; thence North 87°23'48" West 1082.59 to the POINT OF BEGINNING; thence 321.90 feet along a curve to the right, said curve having a central angle of 147°32'55", a radius of 125.00 feet, and a long chord length of 240.04 feet bearing North 85°49'52" West; thence North 19°49'24" West 250.49 feet; thence North 33°08'20" West 352.09 feet; thence North 39°48'36" West 1606.51 feet; thence North 57°43'09" East 299.89 feet; thence North 33°32'02" East 315.77 feet; thence North 80°21'46" East 284.97 feet; thence South 81°34'05" East 490.74 feet; thence North 75°36'55" East 422.44 feet; thence 2127.13 feet along a curve to the right, said curve having a central angle of 23°16'18", a radius of 5237.10 feet, and a long chord length of 2112.54 feet bearing South 00°33'25" West; thence South 12°13'54" West 177.66 feet to the POINT OF BEGINNING; said area contains 52.81 acres.

Rev. A 8/14/18:
Added Facility/Solid
Waste Area, Added area to
restrictive covenant area.
Rev. B 9/26/18:
Updated restrictive covenant
description to reflect new
boundary.
Rev. C 10/18/2018:
Added area subject to
MDOT easement to
restrictive covenant
boundary.



Nicholas J. Ryan

Consumers Energy

1945 WEST PARNALL
JACKSON, MICHIGAN 49201
517-788-1526

BC Cobb Plant
Ash Ponds 4 & 4A
Sections 8, 17, 18
T10N-R16W
City of Muskegon
Muskegon Co., Michigan

Drawing No. SB-23644

Filename: 23644base.dwg
Drawn By: N. Ryan, FS
Date: 8/1/2018
Scale: N/A
Sheet 1

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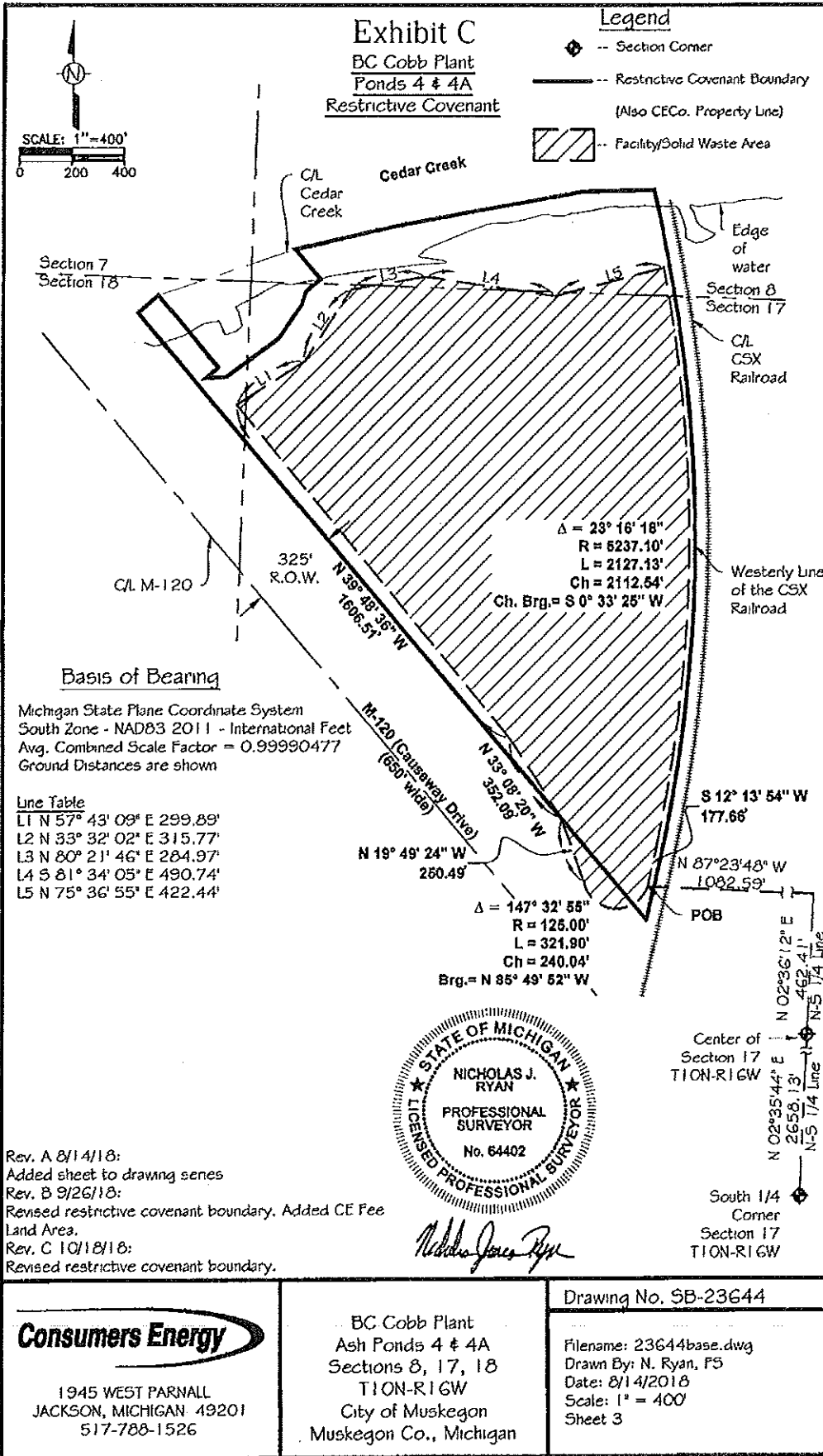
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MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
REMEDATION AND REDEVELOPMENT DIVISION

For DEQ Use Only
ITS # _____
Site ID # _____
Category Code: _____

NOTICE OF MIGRATION OF CONTAMINATION (FORM EQP4482 REV. 4/16)

(Under the authority of Part 201, Natural Resources and Environmental Protection Act, 1994 Act 451, as amended, (NREPA) and the Rules promulgated thereunder)

An owner or operator of property that is a facility, and/or who is subject to MCL324.20107a, and who has reason to believe that a hazardous substance is emanating from, has emanated from, or is likely to be emanating from the property and migrating beyond the boundaries of the property that he or she owns or operates is required under R 299.51017(1) and MCL 324.20114(1)(b)(ii) & (iii) to notify the Michigan Department of Environmental Quality (DEQ) and affected property owners. Submission of this notice does not fulfill the notification requirements of MCL 324.21309a.

The notice must be provided within 45 days (MCL 324.20107a) or within 30 days (MCL 324.20114) after the owner or operator has reason to believe that hazardous substances have migrated, or are likely to have migrated, to or beyond the boundary of his or her property (see R 299.51017 for exceptions that apply to parties subject to MCL 324.20107a).

Use of this form is mandatory for the notice required by R 299.51017(1) and may also be used by parties subject to MCL 324.20114(1)(b)(ii) & (iii). This form may also be used to provide notice to affected property owners as required by those rules.

If a person holds a permit for an oil and gas well under Part 615, Supervisor of Wells, of the NREPA and there is a release from the oil and gas exploration or production activities, that person shall give notice to the DEQ and to the owner of the surface rights of the property.

If a person holds an easement and there is a release from the easement holder's activities, that person shall provide notice to the DEQ and to the grantor of the easement, or the grantor's successor in interest, if any.

Completing this notice in no way relieves a person who is subject to MCL 324.20114 from the responsibility to undertake required response activities.

This notice must be sent to the DEQ office that serves the county in which the property is located. A list of DEQ offices is available at www.michigan.gov/deqducare, or by calling the Remediation and Redevelopment Division's Lansing office at 517-284-5187. The DEQ will not prepare acknowledgement of receipt of these notices. The sender is responsible for sending the report using a method that provides proof of delivery if such proof is desired. Please label the outside of the envelope "Migration Notice." Additional guidelines for the compliance with the requirements of R 299.51017(1) or MCL 324.20114(1)(b)(ii) & (iii) are available at www.michigan.gov/deqducare.

THIS NOTICE IS PROVIDED PURSUANT TO:
(check both, if applicable)

R 299.51017 ☐ MCL 324.20114(1) ☒

Please provide the following information as completely as possible.

1. Name and location of the property that hazardous substances are emanating from:

2. Status relative to the property:
(Check one or both, as applicable.)

Name: Consumers Energy Company
Address: North Causeway (N.B. M-120)
Location: Closed Area 4&4A Landfill

Owner ☒
Operator ☒

City/County: Muskegon/Muskegon County

Property Tax Identification Number, or if applicable, the ward and item number: 61-24-117-100-0001-00

Latitude (decimal degrees): 43.2608

Longitude (decimal degrees): -86.2395

Reference Point for Latitude and Longitude:

Center of Site: ☒ Main/front door: ☐ Front gate/main entrance: ☐ Other: ☐

Collection Method: Survey: ☐ Interpolation: ☒ GPS: ☐



MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
REMEDATION AND REDEVELOPMENT DIVISION

2. Provide any additional ID numbers associated with the property (e.g., EPA ID No., BEA No., Part 213 facility ID No., etc.):

WDS 398018, Consent Order 115-04-31-01-05, and Modification of Consent Order 115-04-31-01-05-16A

3. Name, address, and telephone number of the property owner, operator, or other party submitting the notice:

Name: Consumers Energy Company

Address: 1945 West Parnall Road

City/State: Jackson, MI 49201

Telephone Number: See below

4. Name, address and telephone number of a contact person familiar with the content of the notice:

Name: Michelle Marion (michelle.marion@cmsenergy.com)

Address: 1945 West Parnall Road

City/State: Jackson, MI 49201

Telephone Number: (517) 788-5824

5. If this Notice is provided pursuant to R 299.51017, provide the address and other location information for the *adjacent* property(s) onto which contamination is migrating, has migrated, or is likely to migrate.

If this Notice is provided pursuant to MCL Section 324.20114(1), provide the address and other location information for *each* property onto which contamination has migrated. Notice should be sent to the property owner of record. If the impacted property is owned by the State of Michigan, notice should be sent to the department managing the property (e.g., a prison, state park, etc.). Notices to the Michigan Department of Transportation (MDOT) for state owned roadways should be sent to Contaminated Site Specialist, Environmental Services Section, MDOT-Bureau of Development, 425 W. Ottawa Street, P.O. Box 30050, Lansing, MI 48909. If the impacted property is owned by the State of Michigan, notice should be sent to the department managing the property (i.e. a prison, state park, etc.).

Address: Michigan Department of Transportation
(MDOT) (M-120 right-of-way located immediately
south/southwest of the site)

City/State: Muskegon, MI

Property Tax ID number: Not applicable

Other:

Notified? No ☐ Yes ☒ Date: Oct 28, 2019

Address: Veterans Memorial Park

City/State: Muskegon, MI

Property Tax ID number: 61-24-117-100-0002-00

Other: Northbound M-120

Notified? No ☐ Yes ☒ Date: Sept 13, 2019

Address:

City/State:

Property Tax ID number:

Other:

Notified? No ☐ Yes ☐ Date:

Address:

City/State:

Property Tax ID number:

Other:

Notified? No ☐ Yes ☐ Date:

Address:

City/State:

Property Tax ID number:

Other:

Notified? No ☐ Yes ☐ Date:



6. Complete the Table on Page 3 of this Form for each hazardous substance which has migrated, or is likely to have migrated, beyond the property boundary at a concentration that exceeds a Generic Residential Cleanup Criterion developed by the DEQ pursuant to MCL 324.20120a(1). Complete and attach additional copies of Page 3, if necessary, to list all hazardous substances that must be reported. Include a scaled map or drawing that shows the location of sampling points identified on the Table on Page 3, the property boundaries, and the adjacent property owners if providing notice pursuant to R 299.1017(1) or all impacted property owners if providing notice pursuant to MCL 324.20114(1).
7. Provide a summary of the information which shows that contamination is emanating from, or has emanated from, and is present beyond the boundary of the source property at a concentration which exceeds the generic residential criteria developed by the DEQ pursuant to MCL 324.20120a(1)(a). This summary shall identify the environmental media affected, specific hazardous substances, and the concentrations of those hazardous substances in all affected environmental media at the property boundary and in any sample locations beyond the property boundary. The summary shall also describe the basis for the conclusion that the contamination is emanating, has emanated, or is present beyond the boundary of the source property, including whether the conclusion is based on groundwater analytical data or fate and transport modeling, both, or neither.

Response: In September 2018, Consumers Energy Company (CEC) was issued an access agreement by the City of Muskegon to install and sample for a period of 24 months a series of four groundwater monitor wells along the east bank of the south end of the pond at Veterans Memorial Park (VMP), to assess groundwater quality downgradient of CEC's closed Area 4&4A coal ash landfill. Wells MW-305 through MW-308 (see attached Figure 1) were subsequently installed at the VMP pond in October 2018 and were sampled quarterly between November 2018 and August 2019. This work was performed in response to a request from the Michigan Department of Environmental Quality (now Environment, Great Lakes, and Energy).

The results of this study were described to the City of Muskegon in a September 13, 2019 teleconference. The groundwater flow direction from the landfill to the pond (passing beneath M-120) has been confirmed via groundwater elevation measurements at the landfill (P2-O and P-3O; Figure 1) and the VMP pond wells, as well as the elevation of the VMP pond itself. Attached Figures 2 through 6 display water elevations as determined during the 2018-2019 quarterly sampling.

The quarterly groundwater sample results (Figure 1) demonstrate that dissolved boron, which is interpreted as being derived from the coal ash originally deposited in the landfill, has migrated from the landfill to the VMP pond, in concentrations that exceed the EGLE's generic residential criterion of 0.5 mg/L established under Part 201(20a) of Michigan Act 451.

Arsenic has been detected periodically in MW-305 and MW-306 above its generic residential criterion of 0.01 mg/L, but site-specific data suggests that it is not derived primarily from the landfill. Instead, its source is interpreted as the natural peat strata that are present in the aquifer adjacent to the VMP pond.

8. If the person making this notice has reason to believe that a migrating hazardous substance has affected, or is likely to affect, a private or public water supply, then that water supply must be identified here:

The surface water in the VMP pond is not used for drinking water purposes. It is periodically used for irrigation.

- | | YES | NO |
|---|--------------------------|-------------------------------------|
| 9. Is this notice being submitted within the timeframes established under R 299.51017 and/or MCL 324.20114(1), as applicable? | ☐ | ☒ |
| 10. Is this notice in addition to a notice that was submitted prior to <i>December 21, 2002</i> ? (R 299.51017(4)(c)) | ☐ | ☒ |
| 11. Is this notice related to an oil and gas well permit (R 299.51017(2))? Permit #: | ☐ | ☒ |
| 12. Is this notice related to an easement (R 299.51017(3))? (NOTE: All easement grantors <i>must</i> receive this notice.) | ☐ | ☒ |



MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
REMEDATION AND REDEVELOPMENT DIVISION

13. Has surface water been affected (R 299.51017(1)?
(If yes, please identify the affected surface water body.)

☒ ☐

See description of groundwater flow from the Area 4&4A landfill to the Veterans Memorial Park Pond in Section 7.

CERTIFICATION:

With my signature below, I certify that I am the owner of the facility or that I am legally authorized to execute this notice on behalf of the owner or operator named on this form, and that to the best of my knowledge and belief the above representations are complete and accurate. I understand that intentionally submitting false information to the DEQ is a felony and may result in fines up to \$25,000 for each violation.

Signature *Michelle Marion*
(Owner or person legally authorized to bind the person making this report)

Date 10/28/19

Name (Typed or Printed) Michelle Marion

Title (Typed or Printed) Senior Engineer



See Item 6 on Page 3 of this Form for instructions to be used in completing this table. Attach additional pages if necessary. The information to be included in each column of the table is:

- Column A Name of hazardous substance.
Column B Chemical Abstract Service (CAS) Number for the hazardous substance.
Column C Maximum hazardous substance concentration measured on the property, expressed in parts per billion (e.g., ug/L or ug/Kg). Report maximum concentration separately for each environmental medium.
Column D Sample location for Column C (relate to label on map).
Column E Environmental medium in which concentration reported in Column C was measured (e.g., soil or groundwater).
Column F Distance from point of maximum measured concentration (Column D) to property boundary, in direction of contaminant migration, if direction is known or can reasonably be inferred. If direction is unknown, list distance to nearest property boundary.
Column G Direction of contaminant migration, if known.
Column H Concentration closest to property boundary, if known. If a concentration lower than the maximum concentration reported in Column C has been measured at a point closer to the property boundary in the direction of contaminant migration, use Column I to list the concentration that was measured closest to the property boundary in the direction of contaminant migration.
Column I Sample location for Column H (relate to label on map).
Column J Environmental medium for measurement reported in Column H, if applicable.

A Hazardous Substance	B CAS Number	C Maximum Concentration	D Sample Location for "C"	E Environmental Medium for "C"	F Distance to Property Boundary	G Direction of Migration	H Boundary Concentration	I Sample Location for "H"	J Environmental Medium for "H"
Arsenic	7440382	<1	P2-O	Groundwater	200'	WSW	7.4 to 17	MW-305	Groundwater
Boron	7440428	29,700	P2-O	Groundwater	200'	WSW	940 to 2,100	MW-307	Groundwater

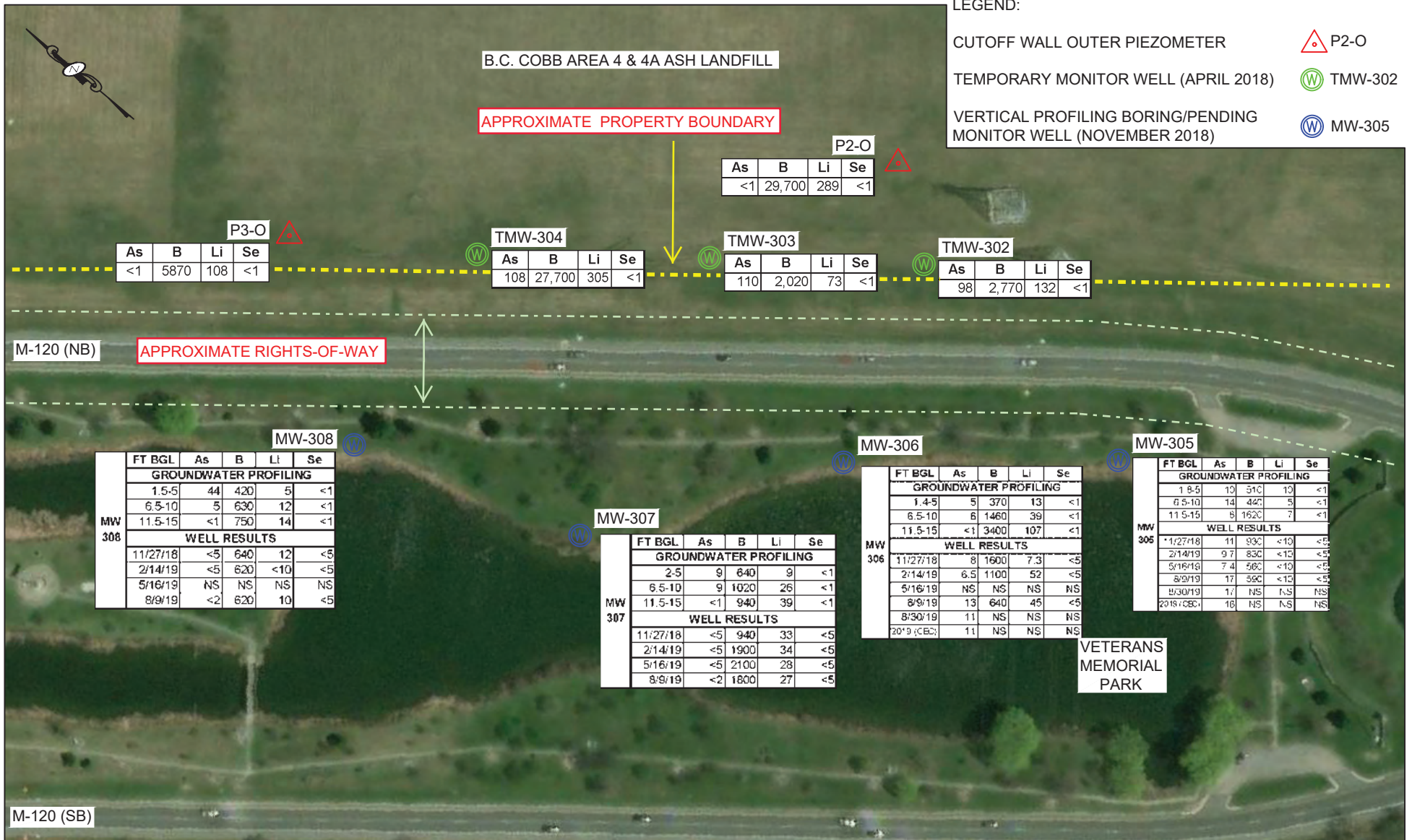
Total Number Samples Collected: 30 (16 Arsenic, 14 Boron)

Total Number of Samples Exceeding Criteria: Arsenic: 5
Boron: 14

A scaled map or drawing showing these locations and the property boundaries must be submitted with this Notice



Figures



NOTES:

- VALUES REPORTED AS MICROGRAMS/LITER (µg/L). "NS" INDICATES NOT SAMPLED, WELL UNDERWATER.
- P2-O, P3-O, AND TMW-SERIES WELLS SAMPLED IN MAY 2018 BY CONSUMERS ENERGY.
- MW-SERIES PROFILED NOVEMBER 5-6, 2018 BY GOLDER ASSOCIATES
- MW-SERIES WELLS INSTALLED NOVEMBER 19, 2018, AND DEVELOPED NOVEMBER 20, 2018 BY GOLDER ASSOCIATES.

CLIENT
CONSUMERS ENERGY COMPANY
COBB LANDFILL

CONSULTANT



YYYY-MM-DD 2019-08-30
DESIGNED
PREPARED AM
REVIEWED DR
APPROVED

PROJECT
GSI PATHWAY ASSESSMENT
VETERANS MEMORIAL PARK POND

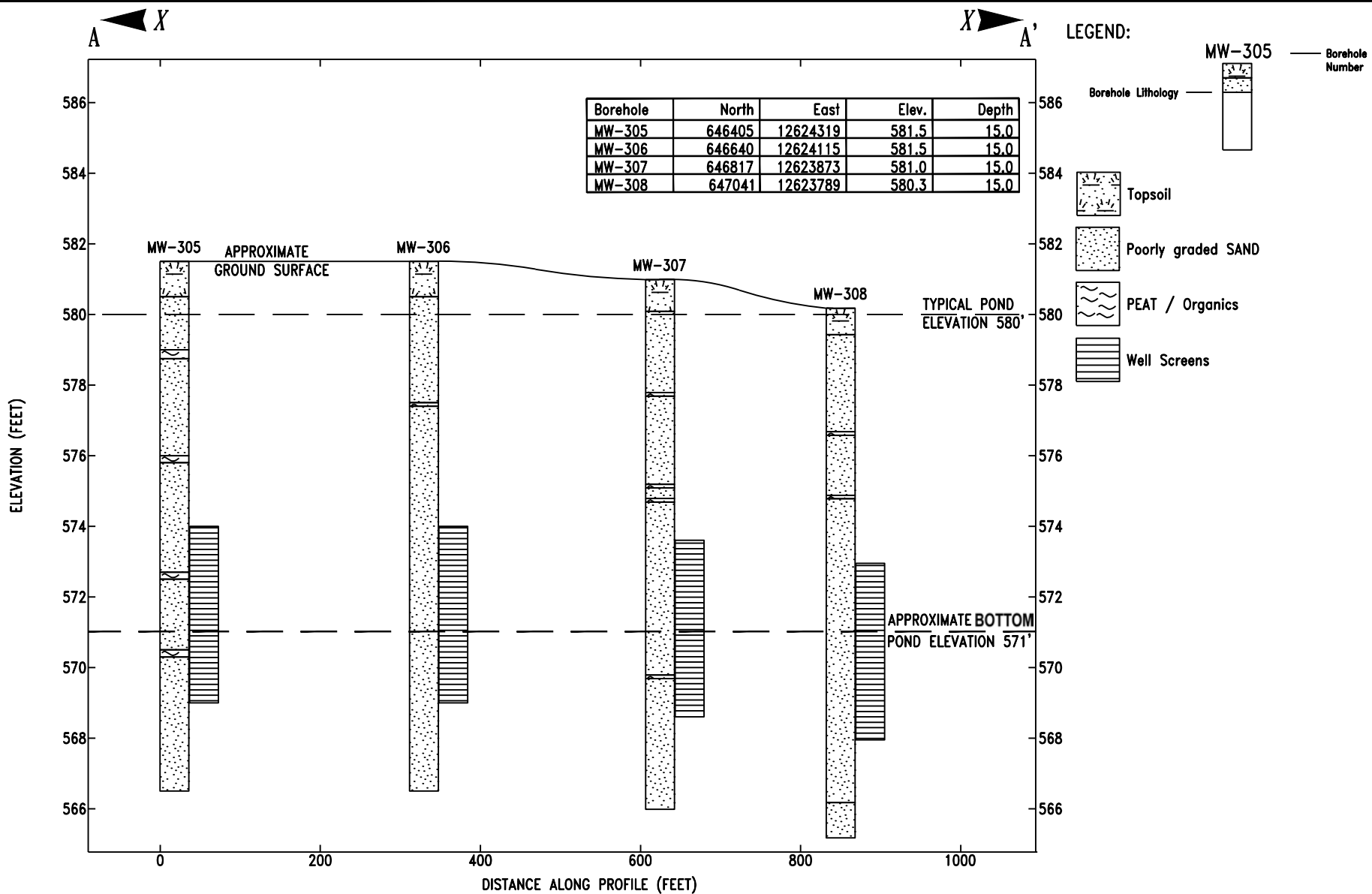
TITLE
GSI WELL RESULTS (µg/L)

PROJECT NO.
18104377.0001

REV.
0

SHEET NO.
1

0 150 300
SCALE: 1"=150'



NOTES:

1. BOREHOLE PROFILES BASED ON GOLDBER FIELD SOIL BOREHOLE LOG, NOVEMBER 8-9, 2018.
2. BOREHOLE ELEVATIONS ARE APPROXIMATED THROUGH INTERPOLATION BASED ON GEI PROJECT 1414800, DRAWING C-2.0



Horizontal Scale (FEET)

Vertical Exaggeration: 22x

CLIENT
CONSUMERS ENERGY COMPANY
COBB LANDFILL

CONSULTANT



YYYY-MM-DD 2018-12-18

DESIGNED

PREPARED AM

REVIEWED DR

APPROVED

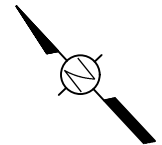
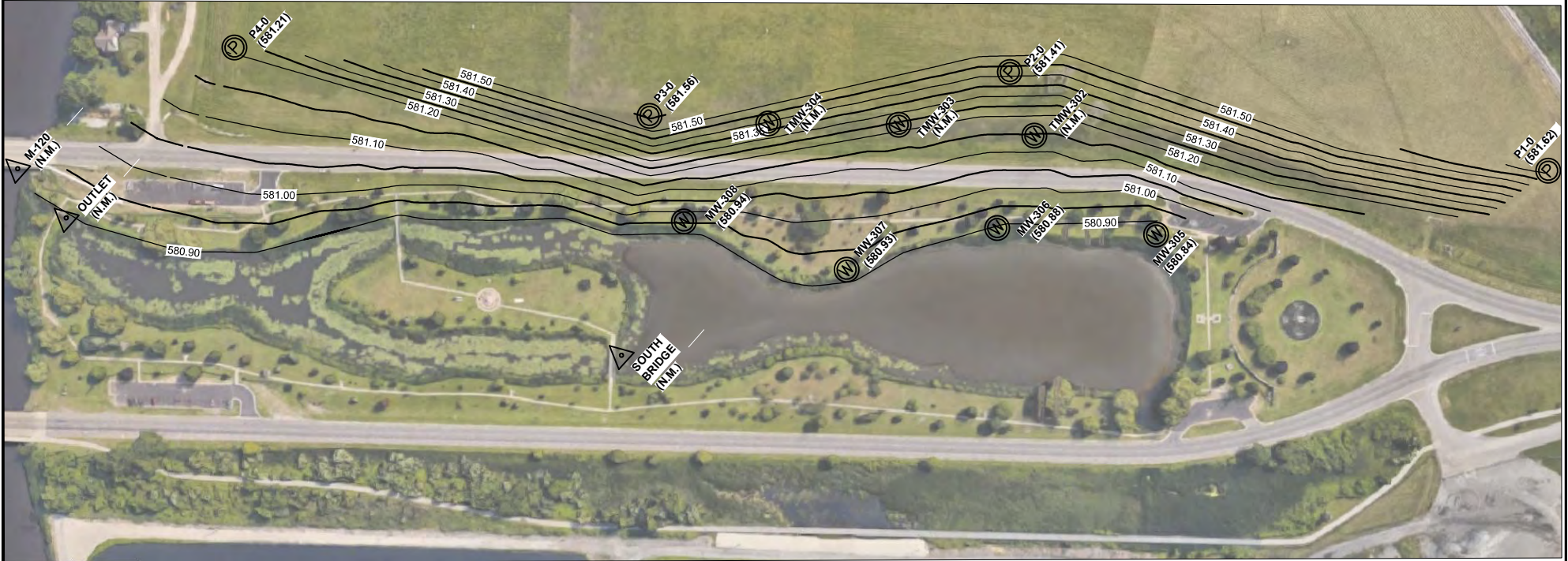
PROJECT
GSI PATHWAY ASSESSMENT
VETERANS MEMORIAL PARK POND

TITLE
GEOLOGIC CROSS SECTION

PROJECT NO.
18104377.0001

REV.
0

SHEET NO.
2



CLIENT
CONSUMERS ENERGY COMPANY
COBB LANDFILL

CONSULTANT



YYYY-MM-DD	2019-05-24
DESIGNED	-
PREPARED	AM
REVIEWED	DR
APPROVED	DR

PROJECT
GSI PATHWAY ASSESSMENT
VETERANS MEMORIAL PARK POND

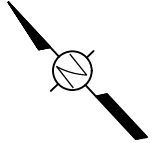
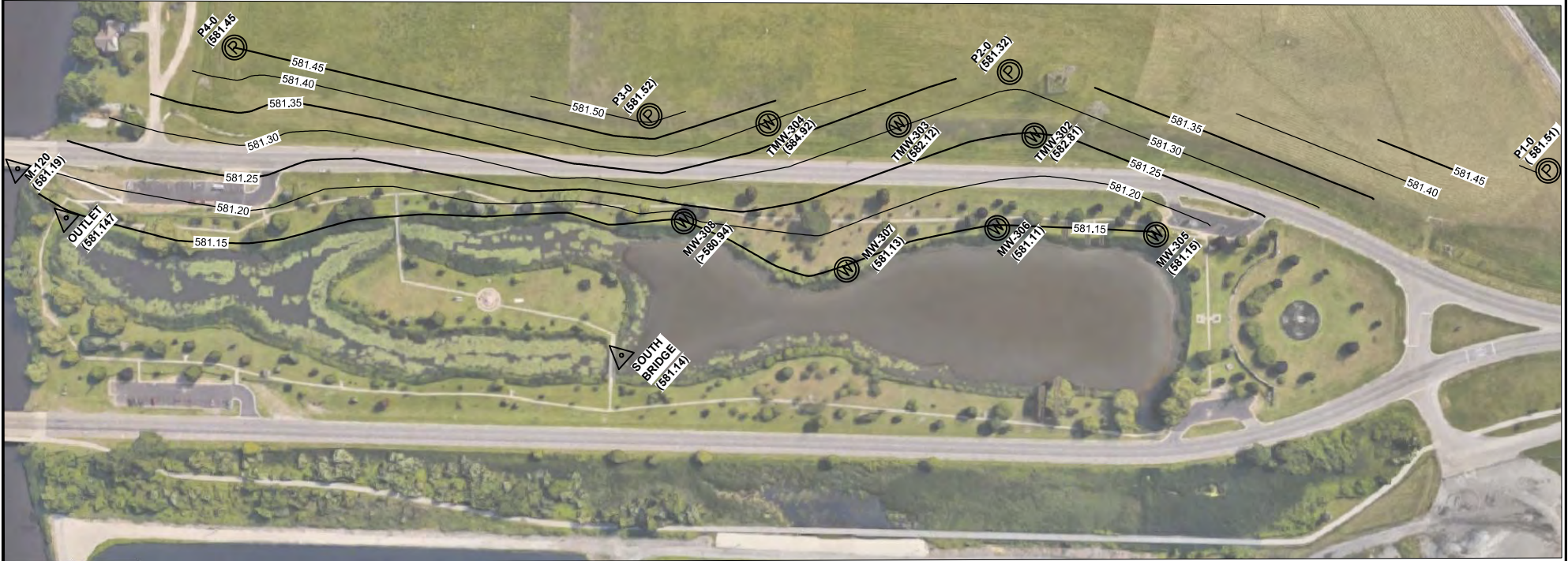
TITLE
**GROUNDWATER ELEVATION CONTOURS
FEBRUARY 14, 2019**

PROJECT NO.
18104377.0005

REV.
1

SHEET NO.
3

1 in



CLIENT
CONSUMERS ENERGY COMPANY
COBB LANDFILL

CONSULTANT



YYYY-MM-DD	2019-04-08
DESIGNED	-
PREPARED	AM
REVIEWED	DR
APPROVED	DR

PROJECT
GSI PATHWAY ASSESSMENT
VETERANS MEMORIAL PARK POND

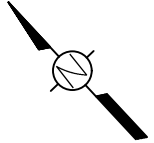
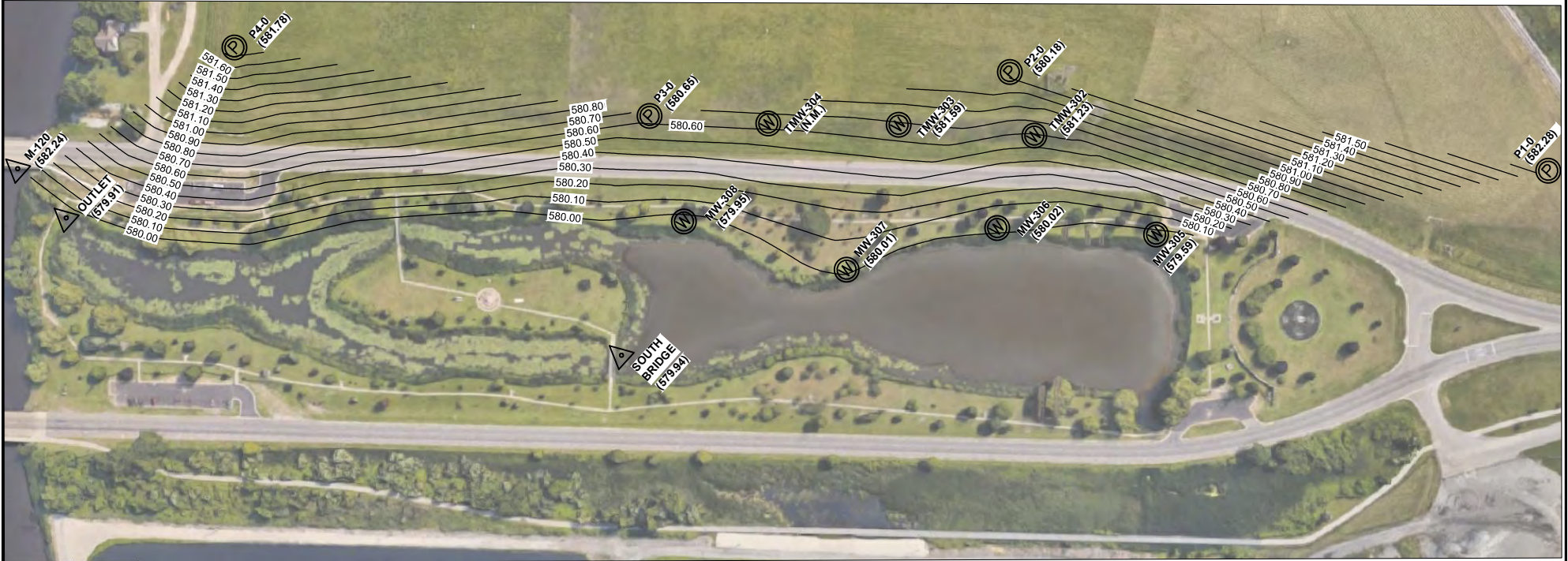
TITLE
GROUNDWATER ELEVATION CONTOURS
APRIL 8, 2019

PROJECT NO.
18104377.0005

REV.
1

SHEET NO.
4

1 in



CLIENT
CONSUMERS ENERGY COMPANY
COBB LANDFILL

CONSULTANT



YYYY-MM-DD	2019-08-09
DESIGNED	-
PREPARED	AM
REVIEWED	DR
APPROVED	DR

PROJECT
GSI PATHWAY ASSESSMENT
VETERANS MEMORIAL PARK POND

TITLE
GROUNDWATER ELEVATION CONTOURS
AUGUST 9, 2019

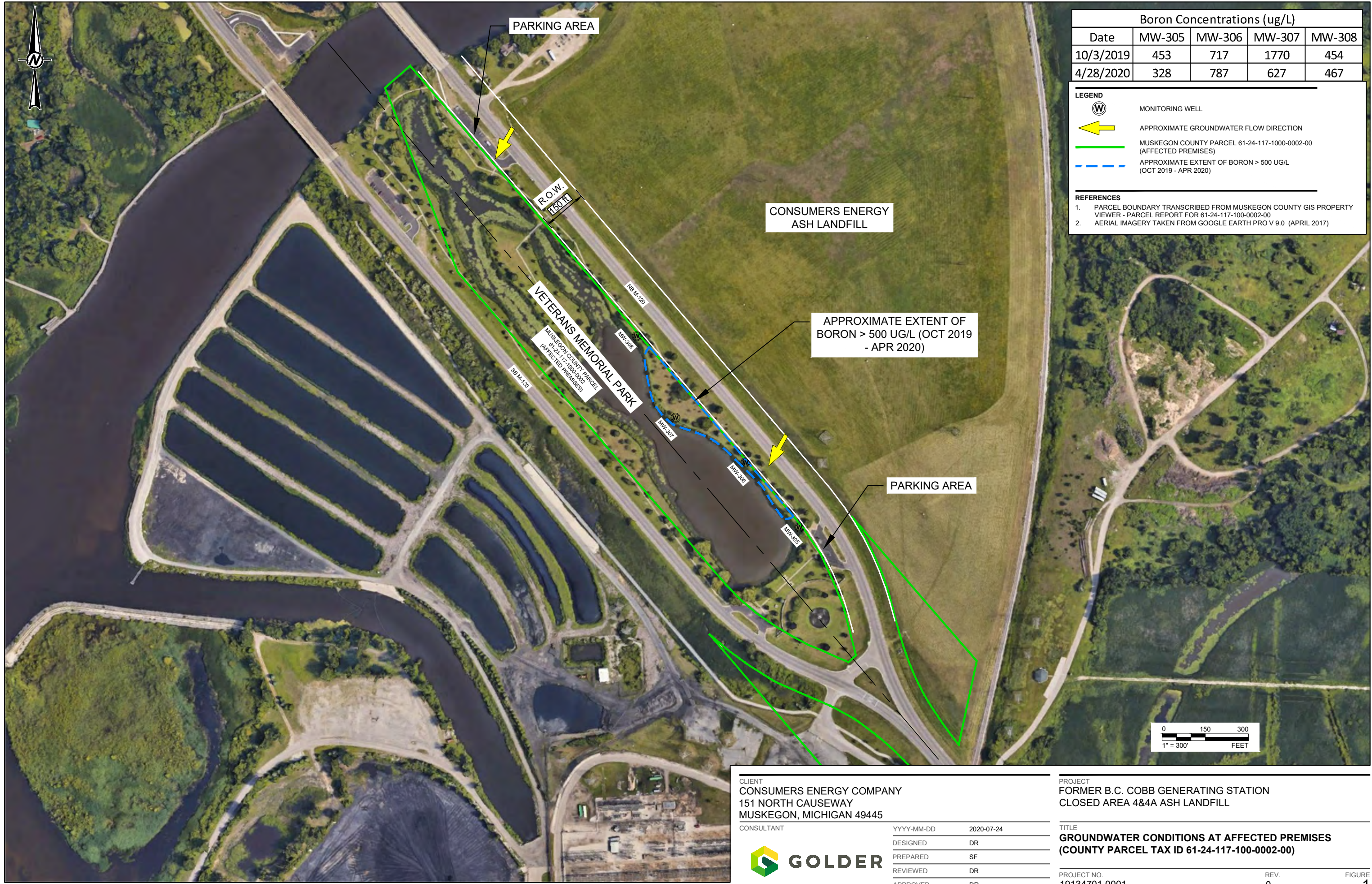
PROJECT NO.
18104377.0005

REV.
1

SHEET NO.
5

1 in

Path: \\vitaland\staff\Projects\MAJOR CLIENTS\Consumers Energy\19104377_Cobb\Veterans Park\CADD\BORON - File Name: COBB BORON SITE MAP.dwg | Last Edited By: sfulmer Date: 2020-07-27 Time: 12:08:05 PM



Boron Concentrations (ug/L)				
Date	MW-305	MW-306	MW-307	MW-308
10/3/2019	453	717	1770	454
4/28/2020	328	787	627	467

LEGEND

MONITORING WELL

APPROXIMATE GROUNDWATER FLOW DIRECTION

MUSKEGON COUNTY PARCEL 61-24-117-1000-0002-00 (AFFECTED PREMISES)

APPROXIMATE EXTENT OF BORON > 500 UG/L (OCT 2019 - APR 2020)

- REFERENCES**
1. PARCEL BOUNDARY TRANSCRIBED FROM MUSKEGON COUNTY GIS PROPERTY VIEWER - PARCEL REPORT FOR 61-24-117-100-0002-00
 2. AERIAL IMAGERY TAKEN FROM GOOGLE EARTH PRO V 9.0 (APRIL 2017)

CLIENT
CONSUMERS ENERGY COMPANY
151 NORTH CAUSEWAY
MUSKEGON, MICHIGAN 49445

CONSULTANT
 GOLDER

YYYY-MM-DD	2020-07-24
DESIGNED	DR
PREPARED	SF
REVIEWED	DR
APPROVED	DR

PROJECT
FORMER B.C. COBB GENERATING STATION
CLOSED AREA 4&4A ASH LANDFILL

TITLE
**GROUNDWATER CONDITIONS AT AFFECTED PREMISES
(COUNTY PARCEL TAX ID 61-24-117-100-0002-00)**

PROJECT NO.
19134701.0001

REV.
0

FIGURE
1

Michelle A. Marion

From: Sellers, Fred (EGLE) <SELLERSF@michigan.gov>
Sent: Tuesday, July 21, 2020 9:21 AM
To: mike.franzak@shorelinecity.com
Cc: Johnson, Nancy (EGLE); Schrems, Kevin (EGLE); BRADLEY T. RUNKEL; Michelle A. Marion
Subject: BC Cobb Ordinance Support

##CAUTION##: This email originated from outside of CMS/CE.

Remember your security awareness training: Stop, think, and use caution before clicking links/attachments.

Dear Mr. Franzak,

The Michigan Department of Environment, Great Lakes and Energy (EGLE) has been working with Consumers Energy Company (CEC) to properly monitor groundwater at CECs coal ash landfill located on parcel 61-24-117-100-0001-00. Recent investigations detected concentrations of Boron above Part 201 drinking water standards between the landfill and the immediately adjacent Veterans Memorial Pond (VMP). The Groundwater Surface Water Interface (GSI) pathway was investigated at VMP and determined that boron was not venting to surface water above surface water quality standards. CEC has agreed to monitor the GSI pathway semi-annually over the duration of their 30-year post closure monitoring obligations for the landfill to ensure it stays in compliance of surface water standards.

Groundwater impacted above part 201 standards has migrated off CECs property and onto County of Muskegon property. CEC is obligated to restrict the use of groundwater at VMP to prevent any usage of groundwater for drinking purposes or irrigation. CEC and Muskegon County have been in discussion to restrict the use of groundwater via a restrictive covenant. However, CEC has informed EGLE that due to some of the language that Muskegon County requested to be added to the document, an agreement was not possible between the two parties.

CEC proposed to use an alternate method of groundwater restriction by using a City of Muskegon ordinance, specifically, Chapter 34, Article III, Section 34-69. Muskegon County has indicated that they are agreeable to this method of groundwater use restriction. According to the language within the ordinance, EGLE needs to notify the City of Muskegon of their support to restrict groundwater use for the area of interest.

After review, groundwater use is equally as restricted and protective of human health as a restrictive covenant. EGLE is in support of using the City of Muskegon Ordinance Chapter 34, Article III, Section 34-69 to restrict the use of groundwater at the County of Muskegon parcel number 61-24-117-100-0002-00.

If you require additional site-specific information, please contact Kent Walters by phone at 616-278-4350 or by email at waltersk7@michigan.gov.

Fred L. Sellers, District Supervisor
Materials Management Division
Michigan Department of Environment, Great Lakes, and Energy
Kalamazoo and Grand Rapids District Offices
Ph. 269-569-1476 | sellersf@michigan.gov
[Follow Us](#) | Michigan.gov/EGLE

Resolution No. _____

MUSKEGON CITY COMMISSION

An ordinance amending the City Code of Ordinances by adding to Ordinance No. 2039 (Muskegon City Code of Ordinances Section 34, Article III) certain identifying "Appendix Maps" and descriptions of properties determined to be "affected premises" on which groundwater wells are prohibited unless excepted under Section 34-65 due to the contamination or potential contamination of said groundwater. The said Ordinance No. 2039 is amended by this Ordinance.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

1. The properties identified in this amending ordinance are determined to be affected premises within the meaning of and regulated in accordance with, Ordinance No. 2039 or any successor ordinance prohibiting wells on such premises. The said affected premises are included in Attachment A.
2. Attached to this ordinance and incorporated herein are Appendix Maps locating the affected premises and their legal descriptions.
3. This ordinance shall be effective ten (10) days after publication. In the event any part of this ordinance is finally determined to be invalid or unenforceable by a court having jurisdiction, then said determination shall not affect the validity of the remaining provisions.

Adopted this 11th Day of August 2020.

Ayes:

Nays:

Absent:

BY: _____
Stephen J. Gawron
Mayor

ATTEST: _____
Ann Meisch
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on August 11, 2020.

Ann Meisch
Clerk

Attachment A

Parcel Number	Address
24-117-100-0002-00	401 N Causeway

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: City of the Dead Event
Submitted By: Planning Department	Department: Planning Department
Brief Summary: City of the Dead is an annual event scheduled to take place October 10 from 6 pm – 8 pm & Oct 11 from 2 pm – 4 pm that is a historical reenactment at Evergreen Cemetery. The application indicates they expect 600 people within the two days and they will be taken on tours in small groups. They indicate they will keep within the rules of social distancing and crowds under 100.	
Detailed Summary: The event indicates as many as 600 people can attend within two days. Organizers indicate they will follow the guidelines, but because estimated number of overall attendees is higher than currently allowed, we defer to the Commission for a decision.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: Staff has no recommendation.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

2019 CITY OF MUSKEGON SPECIAL EVENT APPLICATION

A special event application is required for any public event held on City property. The application and fee must be submitted to the City of Muskegon Planning Department at least 30 days prior to the event date. In addition, any events where alcohol is served will require a *temporary liquor license*, which is handled through the Muskegon Police Department. Contact the Police Department at 231.724.6750 for liquor license fees and requirements.

**Return completed application with payment to the City of Muskegon Planning Department,
P.O. Box 536, 933 Terrace St., Muskegon, MI 49443-0536. Telephone: 231.724.6702**

► SPECIAL EVENT APPLICATION FEE SCHEDULE

Events occurring during peak event season April 15 - September 30	Events occurring outside of peak season January 1 - April 14 & October 1 - December 31
\$100 fee for applications submitted 60 days or more prior to the event date	\$100 fee for applications submitted 60 days or more prior to the event date
\$250 fee if submitted 59-45 days prior to the event date	\$200 fee if submitted 59-45 days prior to the event date
\$400.00 fee if submitted 44-30 days prior to the event	\$300.00 fee if submitted 44-30 days prior to the event
Applications submitted less than 30 days prior to the event date will not be accepted.	\$400 fee for applications submitted less than 30 days prior to the event

► I. EVENT SUMMARY

EVENT NAME	City of the Dead
EVENT DATE(S)	Friday Oct 9, 2020 Dress Rehearsal, Sat Oct 10 Sun Oct 11, 2020
EVENT TIME(S)	START: END: Friday 6-8 pm/Sat 5-8 pm/Sunday 2-4 pm
EVENT LOCATION	Evergreen Cemetery

NOTE: Some City parks require an additional exclusive use fee if your event will utilize the entire park. This includes Hackley Park, Margaret Drake Elliott Park, and the Pere Marquette Ovals center parking lot.

► II. APPLICANT INFORMATION

ORGANIZATION NAME	Harbor Unitarian Universalist Church
APPLICANT'S NAME/ RESPONSIBLE PARTY	Jackie Engel, planning committee COTD
ORGANIZATION / APPLICANT ADDRESS /CITY/ STATE/ ZIP	HUUC 1296 Montgomery, Muskegon, MI 49441
APPLICANT PHONE NO(s).	231-740-2270 cell
APPLICANT E-MAIL ADDRESS	Jackiengel68@gmail.com
CONTACT NAME & PHONE NUMBER DURING EVENT	Jackie Engel 231-740-2270 Representative must be on site and available during event hours

Would you like your event listed on the City's website, free of charge? ☒ Yes ☐ No

Event website address (optional): WWW.HarborUU.org

To Staff
7-27-20
paid \$100
7-23-20

► III. ALCOHOL SERVICE

Will there be alcohol sold/served at the event?



NO (proceed to Section IV, Event Site Details)
YES (complete remainder of Section III, below)

Applicant must contact the Muskegon Police Department to apply for a separate liquor license. The liquor license application also requires State of Michigan approval so it is imperative that you get this done early. No liquor license will be issued within 14 days of an event date.

Name of non-profit organization you are partnering with for the liquor license:	
Contact person at non-profit organization (name & phone number):	

► IV. EVENT SITE DETAILS

If your event is for a run/walk/parade, you must include a MAP of your route with the application.

Provide a detailed description of your event. Use additional sheet if necessary: **Historic reenactments**
of Muskegon historic persons. Honoring the lives of many who "built" Muskegon and honoring Muskegon's history.

Number of people expected at event <u>600 total</u>	Is this a new/ first-time event? No <u>x</u> Yes _____
Will there be food concessions at the event?	No <u>x</u> Yes _____** **Contact Fire Marshall for requirements
Will there be emergency medical services present? (Other municipalities may not provide services in the City)	No <u>x</u> Yes _____ Provider: _____
Will there be pyrotechnics/fire features at the event?	No <u>x</u> Yes _____**If yes, contact the Fire Marshall re: inspections/permits required
Will you have your own security present?	No <u>x</u> Yes _____ Provider: _____
Number/location of portable toilet facilities provided	# <u>1</u> Location: <u>Near NW corner of mauseum</u>
Will there be inflatables/bounce houses at the event?	No _____ <u>X</u> Yes _____ must be securely anchored <u>x</u>
Will there be assembly tents erected at the event?	No _____ Yes _____ If yes, contact the building inspection department to schedule an inspection

► V. CITY EQUIPMENT REQUESTED

Indicate the number of each item you're requesting, below. **There are additional fees if you require City staff to transport the items.** Labor charges start at \$60/hour per person. Larger items may require 2 people to move/transport.

ITEM	QUANTITY	ITEM	QUANTITY
Wooden picnic tables (\$10 each)		Fire hydrant use (\$100 per hydrant)	
55-gallon metal trash cans (\$5 each)		Wood snow fence (\$30/roll)	
Trash bags (\$50 per case)		Fence posts (\$3 per post)	
Check one: I request that City staff deliver the above items to the event site (for an additional fee): _____ I agree to pick up and return the above items from/to the Public Works building: _____			
The 2 items listed at right are available for your use free of charge, as long as they are picked up and returned to the City's Public Works building. →		No Parking signs	
		Safety Vests	

Are you requesting any other City services or equipment? (use of water, electric, etc) No x Yes _____*

* List other services here:

► Are you requesting any **STREET CLOSURES** No x Yes _____

If yes, you must complete section VIII on page 4

► VI. LIABILITY INSURANCE

Liability insurance naming the City of Muskegon as an additional insured is required for all events. You may contact an insurance agent of your choice to obtain liability insurance coverage. Please inform your insurance agent that the wording on the certificate must read:

"The City of Muskegon, all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof; it is understood and agreed that by naming the City of Muskegon as additional insured, coverage afforded is considered to be primary and any other insurance the City of Muskegon may have in effect shall be considered secondary and/or excess."

■ My event falls under... (check one): -- If you are not sure, check with the City's events coordinator when you turn in your application or call 231-724-6702.	
• LOW RISK (L) <u>X</u> Requires \$300,000 liability insurance coverage.	No physical activity by participants and no severe exposure to spectators. Examples of low-risk events include such things as indoor or outdoor meetings, small theatrical performances, auctions, and social gatherings (with no alcoholic beverages).
• MEDIUM RISK (M) _____ Requires \$500,000 liability insurance coverage.	Limited physical activity by participants & minimal exposure to spectators. Examples of medium-risk events include dances, animal shows, flea markets, picnics, parades with no floats, and family-type concerts. Also includes events with a crowd size of 500 to 10,000.
• HIGH RISK (H) _____ Requires \$1,000,000 liability insurance coverage.	Major participation by participants and/or moderate to severe exposure to spectators. Events in this category include team or individual sporting events (non-professional), circuses and carnivals with rides, parades with floats, and marathons or similar races. Also included is any event with a crowd size of over 10,000 but under 25,000. Examples of such events include: Parties in the Park, Rebel Road, Seaway Run, Girls on the Run, and most events with alcohol licenses.

An acceptable certificate of insurance must be submitted no later than **10 days** before the event date.

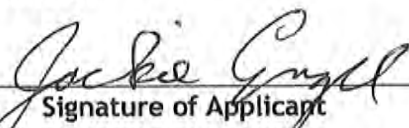
Name of Insurance Company/Agent Church Mutual Ins Co, Tracy Zomerlei 800-554-2642

► VII. REQUIREMENTS OF THE SPECIAL EVENT PERMIT

1. Applicant shall comply with all rules and regulations of the City of Muskegon Special Event Policy.
2. Applicant shall comply with all City of Muskegon Ordinances.
3. The applicant organization will save the City of Muskegon harmless from all claims.
4. City staff may require a meeting with applicant organization to help clarify requests for services.
5. Event grounds will be left clean and free of litter. Failure of the applicant to satisfactorily clean the site may result in the City cleaning the site and billing the applicant for its services.
6. The City reserves the right to deny changes to the application once final approval is given.
7. Failure to provide any requested information in a timely manner or providing false information may result in denial or revocation of the special event permit.

► Failure to comply with any requirements of the Special Event Permit may result in the forfeiture of your deposit and/or the denial of future event requests.

With my signature, I certify that I have read and agree to the City of Muskegon Special Event Policy and all items listed on this application. I agree to abide by all applicable ordinances & regulations.


Signature of Applicant

7-18-2020
Date

Jackie Engel
6084 Ridgeview Dr
Norton Shores, MI 49441
231-740-2270
Jackiengel68@gmail.com

City of Muskegon
Planning Dept
PO Box 536
933 Terrace St
Muskegon, MI 49443-0536

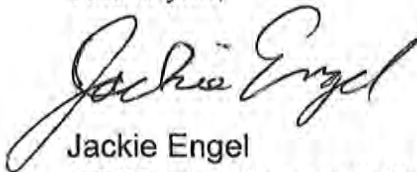
Good Morning

Enclosed is our special event application for City of the Dead for October 2020 along with a check for the \$100 filing fee.

We understand the uncertain times we are all navigating. Our planning committee feels we would be able to manage our event with social distancing since it is held outside.

If you need more information or have any questions, please contact me.

Thank you,

A handwritten signature in black ink that reads "Jackie Engel". The signature is written in a cursive, flowing style.

Jackie Engel
COTD planning committee

Enclosures



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Swan Alpha Development Agreement
Submitted By: Frank Peterson	Department: City Manager
Brief Summary: City staff has been working with Swan Alpha Development on a proposal to reuse the former Farmers Market site as a residential development. The development would add 53 new units to the site over two project phases.	
Detailed Summary: We are proposing a development agreement that follows much of the framework of the West Urban Properties Development Agreement. This project is very similar in that the developer intends to build a combination of detached and attached single-family homes that will be made available for rent. These properties will function more like a single multi-family development on one or two adjacent parcels. One key difference between this agreement and the West Urban Agreement is that this Agreement does not ask the City to subsidize any rents. The only proposed use of the "Swan Alpha Development Fund" would be in the event that the city's tax assessor sets the property assessment for the 53 units above the anticipated amount. Note that this amount is similar to the benefit that would be expected with a Neighborhood Enterprise Zone certificate. The development agreement does contemplate that the City of Muskegon would make certain investments in the infrastructure necessary for the second phase. These improvements (underground utilities, alleys, greenspace, trails, etc.) are reimbursable expenses in the scattered site brownfield plan. \$777,000 is contemplated for reimbursement here. Note that 287 East Muskegon and 225 Eastern are included in the Brownfield, but not the purchase agreement – these areas are being held for park/greenspace improvements.	
Amount Requested: \$0	Amount Budgeted: \$0
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: To authorize the City Manager to sign the Development Agreement.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐	
For City Clerk Use Only: Commission Action:	

SWAN ALPHA
PILOT DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the “**Agreement**”) is made on the ____ day of _____, 2020, by and between the CITY OF MUSKEGON, a Michigan municipal corporation, whose address is 933 Terrace Street, Muskegon, Michigan 49440 (the “**City**”) and Swan Alpha Investments, LLC, a Michigan limited liability company, whose address is 2186 East Centre Ave., Portage, Michigan 49002 (the “**Developer**”).

RECITALS

A. Pursuant to P.A. 381 of 1996, as amended, (“**Act 381**”), the Muskegon Brownfield Authority adopted a brownfield plan on _____ (the “**Brownfield Plan**”) to add numerous vacant properties, including 731 Yuba Street, 185 East Muskegon, 205 East Muskegon, and 209 East Walton, Muskegon, Michigan (the “**Property**”).

B. The Property is included in the City’s Scattered Site Brownfield Project, as amended by the Muskegon Brownfield Redevelopment Authority on _____.

C. The Developer intends to redevelop the Property into a 53-unit residential rental neighborhood where no less than **21** of the units are allocated to tenants with income levels between 70% and 120% of the Area Median Income, as defined by the Michigan State Housing Development Authority (the “**Project**”) over two phases.

NOW, THEREFORE, the parties agree as follows:

1. Project Completion.

a. Developer agrees to purchase the Property described in attached Exhibit A.

i. The Developer will be responsible for all survey work associated with lot line adjustments, including costs associated with any necessary survey to create tax parcels related to Phase 1. The City will be responsible for seeking appropriate internal approvals necessary to facilitate the Phase 1.

ii. The CITY will be responsible for all survey work associated with lot line adjustments, including costs associated with any necessary survey to create tax parcels related to Phase 2. The City will be responsible for seeking appropriate internal approvals necessary to facilitate the Phase 2. During the engineering for Phase 2, the City and Developer shall mutually agree on the design, grading and building pad specifications for construction. This City will be responsible for all costs associated with grading and building pad preparation.

ii. All pedestrian pathways, alleys, sidewalks proposed for Phase 1 and Phase 2 shall be dedicated to the public and maintained by the City.

iii. City will waive or pay for all water and sewer connection fees. Developer shall be responsible for all other fees, specifically including mechanical, plumbing electrical and any other construction and building permit fees.

iv. Prior to closing on Phase 1, the City shall remove all remaining pavement and gravel on the Property and grade the open areas of Phases 1 and 2 to allow positive drainage towards the future public park area.

2. Streets and Utilities.

The Property is currently platted with two public alleys and one public street. The City will complete, at the City's expense, the construction of all modifications and/or additions to pedestrian pathways, franchise utilities, water and sewer services necessary to serve the lots in Phase 1 abutting Murphy Street and Walton Avenue. In addition, existing curb repairs or modifications desired shall be the responsibility of the City. The City will also complete, at the City's expense, the construction of the two alleys as part of Phase 2. The City will install, at the City's expense, pedestrian pathways, franchise utilities, water and sewer mains and services in the current and proposed public street right-of-way and utility easements as part of Phase 2. All utilities shall be stubbed 10 feet into each lot.

3. Operating Incentive.

In exchange for the Developer's commitment to allocate 21 of the units to be rented by individuals with income levels between 70% and 120% of Area Median Income, as defined by the Michigan State Housing Development Authority, the City agrees to provide an operating incentive to ensure such affordability as provided in Paragraph 5.

4. Rental Rates.

The Developer shall be responsible for verifying tenant income to ensure his/her qualifications for any income-restricted units. An income-qualified tenant's rent shall be set to follow the RENT LIMITS established annually by the Michigan State Housing Development Authority (MSHDA) for a Muskegon County family earning between 70% and 120% AMI and renting 1-3-bedroom home. The Developer is not obligated to rent any units below the 70%

RENT LIMIT, regardless of the tenant's verified income level. Exhibit D of This Agreement demonstrates that initial rent limits as established by MSHDA in April 2020.

5. Rental Subsidy Fund.

(a). City shall establish the "SWAN ALPHA Rental Subsidy Fund". On July 1, 2022, the City shall deposit \$100,000 from the City of Muskegon Economic Development Revolving Loan Fund, which was created in part by a gift from Sappi Paper Company when the company ceased operations for economic development. On July 1, 2023, the City shall deposit an additional \$150,000 from the City of Muskegon Economic Development Revolving Loan Fund. In the event that the City of Muskegon Economic Development Revolving Loan Fund is unable to make the contributions contemplated above, the deposits will be made as monies come available.

(b). In the event that the State Equalized Values (SEV) assigned to properties by the City Assessor on January 1, 2022 results in an initial annual property tax bill in excess of \$76,320, parties agree to offset the additional property tax burden using the funds available in the SWAN ALPHA Rental Subsidy Fund. Annually, beginning January 1, 2023, the \$76,320 annual property tax limit shall increase or decrease with the Consumers Price Index regularly used by the Muskegon City Assessor. In the event that the Developer constructs a total number of units that is either more or less than 53 units, the property tax bill cap shall be recalculated using an average unit tax of \$1,440 (\$76,320 divided by 53 units).

(c). All monies owed to the Developer by City pursuant to Paragraph 3 shall be paid from the SWAN ALPHA Rental Subsidy Fund. Upon termination of this Pilot Development Agreement, all monies left in the SWAN ALPHA Properties Rental Subsidy Fund shall revert to the City of Muskegon Economic Development Revolving Loan Fund for economic development, and

any amounts owed to the Developer shall be waived. The City shall have no obligation to reimburse Developer for any reason from any other City fund.

(d). In the event the SEV assigned to the property results in an annual property tax bill that requires no use of the monies deposited in the SWAN ALPHA Rental Subsidy Fund for three consecutive calendar years, the City shall be relieved of its obligations to maintain the fund and provide the rental subsidy to the Developer as described in Section 5.

6. Term of Agreement.

The Developer's and City's obligations under this Agreement for any individual parcel shall terminate 20 years from the issuance of the original certificate of occupancy or upon a sale of the parcel that results in an uncapping of the Property's Taxable Value, but never after January 1, 2045 (the "**Term**").

This 53-unit Pilot shall be completed in 2 phases. The first phase shall include 18 units. The second phase shall include 35 units. The Developer and City agree to meet upon the completion of each phase to discuss the performance of the prior phase before proceeding onto the next phase. At that time, if either party is dissatisfied with the performance of the phase, the upcoming phase may be postponed for up to 12 months by providing written notice.

If Developer is not constructing units on the Property for a 12-month period, as evidenced by the failure to pull permits and complete construction in a timely manner, the Pilot Development Agreement shall terminate, after Notice as required by Paragraph 8, as to Parcels where Developer is not pursuing construction.

Should any court of competent jurisdiction find any portion of the Pilot Development Agreement void and/or prohibits City from funding any obligation provided in this Pilot

Development Agreement, either City or Developer may terminate this Pilot Development Agreement with no consequences from the other party.

7. Notices.

All notices, payments, demands or requests required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to have been properly given or served effective on the second (2nd) business day after being deposited in the United States mail, postpaid and registered or certified with return receipt requested; or when sent by private courier service for same-day delivery or one day after being sent by private courier service for next-day delivery. Notices shall be sent via e-mail and also to the respective addresses set forth below:

To Seller:	THE CITY OF MUSKEGON
	Attn: City Manager
	933 Terrace St.
	Muskegon, MI 49440
With copy to:	Parmenter Law
	P.O. Box 786
	Muskegon, MI 49443-0786
To Purchaser:	SWAN ALPHA INVESTMENTS, LLC
	2186 East Centre Ave
	Portage, MI 49002

8. Assignment.

Developer and City shall have the right to assign all of its rights and delegate all of its obligations under this Agreement to either an existing or a newly created entity, provided, however, that no assignment shall operate as a release of that party without the written consent of the other, which consent may be withheld in such other party's sole discretion.

9. Arbitration.

Any and all disputes, controversies, or claims arising out of or in connection with or relating to this Agreement, or any breach or alleged breach thereof, shall, on the request of either party, be submitted to and settled by arbitration in the State of Michigan pursuant to the rules, then in effect, of the American Arbitration Association (or at any other place or under any other form of arbitration mutually acceptable to the parties involved). This Agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. Notice of the demand for arbitration shall be filed, in writing, within a reasonable time after the claim, dispute, or other matter in question arose where the party asserting the claim should reasonably have been aware of it, but in no event later than the applicable Michigan statute of limitations. Cost of arbitration shall be shared equally by the parties, provided that each party shall pay for and bear the cost of his or her own experts, evidence, and attorney fees. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction to do so.

10. Entire Agreement.

This Agreement supersedes all agreements previously made between the parties relating to the subject matter. There are no other understandings or agreements between them.

11. Non-Waiver.

No delay or failure by any party to exercise any right under this Agreement, and no partial or single exercise of that right, constitutes a waiver of that or any other right, unless otherwise expressly provided herein.

12. Headings.

Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

13. Governing Law.

This Agreement shall be construed in accordance with and governed by the laws of the State of Michigan.

14. Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

15. Binding Effect.

The provisions of this Agreement shall be binding upon and inure to the benefit of all the parties and their respective heirs, legal representatives, successors and assigns.

The parties have executed this Agreement on the date set forth above.

CITY OF MUSKEGON

By: _____

Its: _____

SWAN ALPHA INVESTMENTS, LLC

By: _____

Its: _____

EXHIBIT A
TO DEVELOPMENT AGREEMENT

DEVELOPMENT PARCELS

731 Yuba

CITY OF MUSKEGON REVISED PLAT 1903 ENTIRE BLK 183 LYING ELY OF C & O R/W EX COM ON NLY LINE SAID BLK 44 FT M/L SWLY OF NE COR LOT 5 TH S 24 DEG 39 MIN 59 SEC W 63 FT M/L TH NLY 39 FT M/L TO NLY LINE SAID BLK TH NELY ON NLY LINE SAID BLK 39 FT M/L TO BEG

205 East Muskegon

CITY OF MUSKEGON REVISED PLAT OF 1903 LOTS 1 THRU 12 INCL BLK 192

209 East Walton

CITY OF MUSKEGON REVISED PLAT OF 1903 LOTS 9 AND 10 BLK 191

185 East Muskegon

CITY OF MUSKEGON REVISED PLAT 1903 LOT 1 BLK 191

SITE PLAN

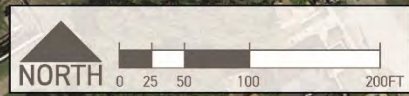


EXHIBIT C
TO DEVELOPMENT AGREEMENT

PARCEL PURCHASE AGREEMENT

This PARCEL PURCHASE AGREEMENT (this “Agreement”) is made on the ____ day of _____, 2020, by and between SWAN ALPHA INVESTMENTS, LLC, a Michigan limited liability company of 2186 E. Centre Ave., Portage, Michigan 49002 (“Purchaser”) and THE CITY OF MUSKEGON, a Michigan municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49440 (“Seller”) as follows:

BACKGROUND

Purchaser and Seller entered into a Development Agreement which contemplates that Purchaser will purchase two separate parcels of land, known as Phase 1 and Phase 2, respectively. The Phase 1 Parcel and Phase 2 Parcel are both located in the City of Muskegon, Muskegon County, Michigan, and are depicted on the attached Exhibit A.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS SET FORTH HEREIN THE PARTIES AGREE AS FOLLOWS:

1. Phase Parcels. Seller agrees to sell and Purchaser agrees to Purchase the Phase 1 Parcel and the Phase 2 Parcel, as depicted on the attached Exhibit A. The precise description of each Phase and any individual building sites within each Phase will be agreed to by the parties prior to closing, as contemplated by the Development Agreement.

2. Purchase Price. The Purchase Price shall be one dollar (\$1.00) for each Phase Parcel.

The Purchase Price shall be delivered at Closing in immediately available funds subject to the terms and conditions stated in this Agreement. The Purchaser’s obligations under this Agreement are not contingent upon financing.

3. Investigation Period; Right to Terminate. The “Investigation Period” shall expire ninety (90) days following the date this Parcel Purchase Agreement has been executed by both parties (the “Effective date”). During the Investigation Period, Purchaser shall have the right to have the Parcel inspected, surveyed, evaluated, analyzed, tested, appraised and/or assessed for any matter whatsoever, including but not limited to, market value; soil conditions; location of flood plains; presence of wetland and necessary mitigation, if any; storm water drainage systems; presence of environmental contamination; health and safety conditions; access to utilities; access to public roads; zoning; entitlement; compliance with laws, codes and ordinances and any other matter desired by Purchaser. Seller hereby grants Purchaser and Purchaser’s agents, employees, representatives, consultants, and contractors a nonexclusive license during the term of this Agreement, to enter and have access to the Parcel for purposes of having such investigations performed and the right to discuss the Parcel and the conditions related thereto with governmental authorities. During the Investigation Period, and any extensions thereof, Purchaser has sole discretion to terminate this Agreement. All investigations, testing, and inspections by Purchaser

shall be at Purchaser's sole cost and expense. Any permits or permitting requested or required by Purchaser shall be at Purchaser's sole cost and expense, and at Purchaser's sole risk. Purchaser may extend the Investigation Period for up to an additional ninety (90) days if Purchaser in good faith decides to do so based on information learned during the Investigation Period.

4. Payment of Property Taxes. Purchaser shall have no obligation to pay any amount for Property taxes that may have been assessed through the date of closing.

5. Closing Deadline; Schedule. The parties agree to schedule closings as follows:

A. For the Phase 1 Parcel, at the earliest possible time following the latter of: 1) end of the Investigation Period, or any extension thereof; or 2) Completion of the work by the City in Sections 3(a) and (b) of the Development Agreement for Phase 1;

B. For the Phase 2 Parcel, the latter of: 1) 12 months after the closing on the Phase 1 Parcel; or 2) Completion of the work by the City required by Sections 3(a) and (b) of the Development Agreement for Phase 2.

6. Seller's Closing Deliveries. At the Closing, Seller shall deliver to the Purchaser, the following items, which shall be in a form and substance satisfactory to Purchaser:

A. A Quit Claim Deed conveying to Purchaser Seller's interest to the Parcel, executed and acknowledged by Seller in recordable form;

B. Such other documents, including a signed Closing Statement, as are necessary and appropriate for the consummation of this transaction by Seller.

7. Purchaser's Closing Deliveries. At Closing, Purchaser shall deliver to Seller: a) approved building plans and permits for the Parcel; b) the Purchase Price; and c) such other documents, including a signed Closing Statement, as are necessary and appropriate for the consummation of this transaction by Purchaser.

8. Special Assessments. Seller agrees to disclose to Purchaser, in writing, information regarding any outstanding special assessments on the Parcel, within ten (10) days of execution of this Agreement.

9. Title. It is Purchaser's obligation to order a commitment for an owner's policy of title insurance from Devon Title Agency (the "Title Policy") within ten (10) days of the date of this Agreement. If Purchaser has any objections to matters disclosed in the title commitment, Purchaser has the right to terminate this Agreement without further obligation.

10. Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser that to the best of Seller's knowledge, as of the date hereof and on the date of Closing, which representations and warranties shall survive Closing, but without additional investigation by Seller:

A. Seller has the right, power and authority to enter into this Agreement and to sell the Parcel in accordance with the terms hereof, and Seller has granted no option or right of

first refusal to any other person or entity to purchase the Parcel and has not entered into any contract to sell the Parcel as of the date of the Agreement. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Seller are and shall be duly authorized to sign the same on Seller's behalf and to bind Seller thereto.

B. Except as disclosed in the writing to Purchaser by Seller, Seller has not received any notice of, and has no knowledge within the past ten (10) years, of existing violations on the Parcel or any portion thereof of any zoning, building, fire, health, pollution, environmental protection, hazardous or toxic substance or waste disposal law or ordinance.

C. At the Closing, there will be no parties in possession of the Parcels or entitled to possession thereof other than Seller. There will be no leases, agreements, options or other instruments or agreements in effect with respect to the Parcel.

D. There are no existing or pending condemnations or sales in lieu thereof with respect to the Parcel, or any part thereof, nor have any such actions, suits, proceedings or claims been threatened or asserted.

E. There are no delinquent assessments. Except for any ordinary accruals of dues, no future assessments against the Parcel has been announced.

F. There is no litigation, proceeding or investigation pending or, to Seller's knowledge, threatened against or involving Seller or the Parcel, and Seller does not know or have reason to know of any grounds for any such litigation, proceeding or investigation, which could have an adverse impact on Purchaser or Purchaser's title to or use of the Parcel, either before or after Closing.

G. Seller has not received any notice of assessment or proposed assessment in connection with the Parcel.

H. Seller is not a "foreign person" as that term is defined in section 1445 of the Internal Revenue Code of 1986, as amended.

I. Except as set forth in documents provided by Seller to Purchaser, the Parcels and Seller are in full compliance with all requirements of federal, state and local environmental, health or safety laws, regulations and administrative or judicial decrees, as amended (the "Environmental Laws").

J. With the exception of the documents available in the public domain and the documents provided by Seller to the Purchaser, there are no reports, studies, appraisals, engineering reports, agreements with governmental authorities, wetland studies or reports, flood plain studies or reports related to the Parcel of which Seller is aware within the last ten (10) years, or that are in Seller's possession or control.

11. Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller, which representations and warranties shall survive Closing, that as of the date hereof, and on the date of Closing:

A. Purchaser has the full power and authority to execute, deliver and perform this Agreement and all of Purchaser's obligations under this Agreement; and

B. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Purchaser are and shall be duly authorized to sign the same on Purchaser's behalf and to bind Purchaser thereto.

12. Indemnification. Seller agrees to indemnify and hold Purchaser and its managers, members, and successors and assigns and their members, managers and representatives (the "Purchaser Group") harmless from and against any and all liabilities, claims, demands, and expenses, of any kind or nature, including but not limited to, all expenses related thereto, including, without limitation, court costs and attorney's fees for matters (i) arising or accruing prior to the Closing and which are in any way related to the ownership, maintenance, or operation of the Parcel; and/or (ii) arising from or related to the inaccuracy or breach of any of Seller's representations and warranties. Purchaser agrees to indemnify and hold Seller and its managers, members, and successors and assigns and their members, managers and representatives (the "Seller Group") harmless from and against any and all liabilities, claims, demands, and expenses, of any kind or nature, including but not limited to, all expenses related thereto, including, without limitation, court costs and attorney's fees for matters (i) arising or accruing after the Closing and which are in any way related to Purchaser's ownership, maintenance, or operation of the Parcel; and/or (ii) arising from or related to the inaccuracy or breach of any of Purchaser's representations and warranties. It is expressly stipulated and agreed that the provisions of this Section shall survive the Closing.

13. Default and Remedies.

A. Purchaser's Default; Seller's Remedy. If the Purchaser fails to close on the purchase of the Parcel, Seller may, as its sole and exclusive remedy, terminate this Agreement by giving an appropriate Notice of Default as provided below.

B. Seller's Default; Purchaser's Remedies. If the Seller fails to close on the purchase of the Parcel, Purchaser may, as its sole and exclusive remedy, terminate this Agreement by giving an appropriate Notice of Default as provided below.

C. Notice of Default. In the event either party declares the other to be in default, such declaration shall be in writing, with an outline of the actions required to cure such default. The recipient of such notice of default shall have 15 days to cure the alleged default.

14. Attorneys' Fees. The prevailing party in any legal proceeding brought under or with relation to this Agreement or transaction shall be entitled to recover court costs, reasonable attorneys' fees and all other litigation expenses from the non-prevailing party.

15. Sale and Assignment of Agreement. Purchaser shall have the right to assign all of its rights and delegate all of its obligations under this Agreement to either an existing or a newly created entity, provided however, that no assignment shall operate as a release of the Purchaser. Except as otherwise set forth above, neither party may assign its rights or delegate its obligations under this Agreement without the consent of the other party, which consent may be withheld in such other party's sole discretion.

16. Confidentiality. The parties hereto agree to keep the terms and provisions of this Agreement strictly confidential with the exception of disclosures to their respective attorneys, financial consultants, lenders, investors and other persons or entities necessary for consummation of this Agreement and for Purchaser's purposes as provided above.

17. Miscellaneous.

A. TIME IS OF THE ESSENCE OF THIS AGREEMENT.

B. This Agreement shall be governed by and construed under the laws of the State of Michigan.

C. This Agreement supersedes all prior discussions and agreements between Seller and Purchaser with respect to the conveyance of the Parcel and all other matters contained herein and constitutes the sole and entire agreement between Seller and Purchaser with respect thereto. This Agreement may not be modified or amended unless such amendment is set forth in writing and signed by both Seller and Purchaser.

D. All notices, payments, demands or requests required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to have been properly given or served effective on the second (2nd) business day after being deposited in the United States mail, postpaid and registered or certified with return receipt requested; or when sent by private courier service for same-day delivery or one day after being sent by private courier service for next-day delivery. Notices shall be sent via e-mail and also to the respective addresses set forth below:

To Seller: THE CITY OF MUSKEGON
Attn: _____
933 Terrace St.
Muskegon, MI 49440
e-mail: _____

To Purchaser: SWAN ALPHA INVESTMENTS, LLC
Attn: Thomas M. Larabel
795 Clyde Court
Byron Center, MI 49315
tlarabel@allenedwin.com

With a copy to: Eric J. Guerin
2186 E. Centre Ave.
Portage, MI 49002
eguerin@allenedwin.com

E. This Agreement shall inure to the benefit of and bind the parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

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

SELLER:

THE CITY OF MUSKEGON

By: _____

Its:

PURCHASER:

SWAN ALPHA INVESTMENTS, LLC

By: _____

Thomas Larabel

Its: Vice President

YUBA STREET

MURPHY STREET

WALTON AVENUE

FUTURE PUBLIC PARK

PHASE 2

0 25 50 100 200FT

NORTH

EXHIBIT D TO DEVELOPMENT AGREEMENT

04/01/2020 INCOME AND RENT LIMITS

County: 61 Muskegon

Effective Date: 4/1/2020

Income	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
20%	8,960	10,240	11,520	12,780	13,820	14,840	15,860	16,880
25%	11,200	12,800	14,400	15,975	17,275	18,550	19,825	21,100
30%	13,440	15,360	17,280	19,170	20,730	22,260	23,790	25,320
35%	15,680	17,920	20,160	22,365	24,185	25,970	27,755	29,540
40%	17,920	20,480	23,040	25,560	27,640	29,680	31,720	33,760
45%	20,160	23,040	25,920	28,755	31,095	33,390	35,685	37,980
50%	22,400	25,600	28,800	31,950	34,550	37,100	39,650	42,200
55%	24,640	28,160	31,680	35,145	38,005	40,810	43,615	46,420
60%	26,880	30,720	34,560	38,340	41,460	44,520	47,580	50,640
70%	31,360	35,840	40,320	44,730	48,370	51,940	55,510	59,080
80%	35,840	40,960	46,080	51,120	55,280	59,360	63,440	67,520
100%	44,800	51,200	57,600	63,900	69,100	74,200	79,300	84,400
120%	53,760	61,440	69,120	76,680	82,920	89,040	95,160	101,280
125%	56,000	64,000	72,000	79,875	86,375	92,750	99,125	105,500
140%	62,720	71,680	80,640	89,460	96,740	103,880	111,020	118,160
150%	67,200	76,800	86,400	95,850	103,650	111,300	118,950	126,600

Rent By Person	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
20%	224	256	288	319	345	371	396	422
25%	280	320	360	399	431	463	495	527
30%	336	384	432	479	518	556	594	633
35%	392	448	504	559	604	649	693	738
40%	448	512	576	639	691	742	793	844
45%	504	576	648	718	777	834	892	949
50%	560	640	720	798	863	927	991	1,055
55%	616	704	792	878	950	1,020	1,090	1,160
60%	672	768	864	958	1,036	1,113	1,189	1,266
80%	896	1,024	1,152	1,278	1,382	1,484	1,586	1,688
100%	1,120	1,280	1,440	1,597	1,727	1,855	1,982	2,110
120%	1,344	1,536	1,728	1,917	2,073	2,226	2,379	2,532
125%	1,400	1,600	1,800	1,996	2,159	2,318	2,478	2,637
140%	1,568	1,792	2,016	2,236	2,418	2,597	2,775	2,954
150%	1,680	1,920	2,160	2,396	2,591	2,782	2,973	3,165

Rent By Bedroom	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom
20%	224	240	288	332	371	409
25%	280	300	360	415	463	511
30%	336	360	432	498	556	613
35%	392	420	504	581	649	716
40%	448	480	576	665	742	818
45%	504	540	648	748	834	920
50%	560	600	720	831	927	1,023
55%	616	660	792	914	1,020	1,125
60%	672	720	864	997	1,113	1,227
70%	784	840	1,008	1,163	1,298	1,432
80%	896	960	1,152	1,330	1,484	1,637
100%	1,120	1,200	1,440	1,662	1,855	2,046
120%	1,344	1,440	1,728	1,995	2,226	2,455
125%	1,400	1,500	1,800	2,078	2,318	2,557
140%	1,568	1,680	2,016	2,327	2,597	2,864
150%	1,680	1,800	2,160	2,493	2,782	3,069

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: 4 th Amendment to Lease - Lumberjacks
Submitted By: Frank Peterson	Department: City Manager
Brief Summary: Staff is seeking approval of the fourth amendment to the lease agreement with WC Hockey. This amendment will provide relief to the team as they endeavor to compete in the 2020-21 USHL season with new rules related to the COVID-19 Pandemic.	
Detailed Summary: We are proposing an amendment to one section of the lease to accommodate anticipated reduced capacity at the arena: Paragraph 14. The Lumberjacks previously agreed to undertake a certain amount of construction in the facility and be reimbursed for those costs only if they exercised their first option to extend the lease. Previously, we acknowledged that the work was complete and the cost was \$260,215.35; it was be deducted from their rent in years 3-7. Staff is proposing that the cost be deducted in years 2-4 as follows: Year 2: \$125,000; Year 3: \$100,000; Year 4: \$35,2015.	
Amount Requested: \$0	Amount Budgeted: \$0
Fund(s) or Account(s):	Fund(s) or Account(s): N/A
Recommended Motion: Approve the Agreement and authorize the Mayor to sign.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

SHARED USE AGREEMENT

This shared use agreement (the “Agreement”) is entered into effective July 1, 2019, between the **City of Muskegon**, a municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49440 (“City”) and **WC Hockey, LLC**, a Michigan limited liability company, of 13854 Simone Drive, Shelby Township, Michigan 48315 (“Lumberjacks”) (collectively, the “Parties”) with reference to the following facts:

A. The City of Muskegon is the owner of the L.C. Walker Arena and Conference Center located at 470 West Western Avenue, Muskegon, Michigan 49440 (“Arena”).

B. The City desires to permit the Lumberjacks shared use of a portion of the Arena for use in connection with the operation of a USHL junior hockey franchise commonly known as the “Muskegon Lumberjacks”, or any other hockey organization that the Lumberjacks become affiliated with, in accordance with the terms and conditions of this Agreement.

B. The City acknowledges that the Lumberjacks are the primary user of the Arena and that the Lumberjacks have the first rights to the Arena for all hockey games and hockey related events, and as otherwise set forth herein, such that wherever reasonably possible any discrepancies or conflicts with the Lumberjack games, including playoff games, will be resolved in favor of the Lumberjacks.

In consideration of the mutual covenants and obligations set forth herein, the Parties agree as follows:

1. **Shared Space.** City agrees to permit the Lumberjacks to use, and Lumberjacks agree to jointly occupy with the City, those portions of the Arena described and identified on attached **Exhibit A** (collectively, the “Shared Space”), subject to the terms and conditions of this Agreement. Attached as **Exhibit B** is a diagram that sets forth those portions of the Shared Space that shall be used exclusively by Lumberjacks and the City and those that will be shared with the City and other occupants of the Arena, and the terms according to which such shared use shall be permitted to occur, it being the understanding of the parties that the Lumberjack’s use of the Shared Space shall take precedence over the City and other occupants of the Arena.

Notwithstanding the identification of the current Leased Space on Exhibit A, it is understood and agreed that the City may in the future relocate certain portions of the Shared Space (e.g. training room, Lumberjacks offices). The Lumberjacks are amenable to such relocations provided the relocated portions of the Shared Space are comparable to the current spaces being occupied by the Lumberjacks. In any event, the parties agree to work together in good faith to determine the location and physical layout of such relocated portions of the Shared Space.

In consideration of payment of Rent and the Facility Fee (as defined herein below), in addition to the Shared Space, the City agrees to provide Lumberjacks the following:

- All ice time for all Lumberjack hockey preseason games, home games, playoff games and all practices for home and visiting USHL teams (collectively referred to as “Lumberjacks Hockey Dates”)
- Lumberjacks shall have first priority regarding the scheduling of exhibition games, playoff games and two camps held during the year.
- Lumberjacks shall host, at no additional cost, a Tryout Camp for the period of five consecutive days during May or June of each year this Agreement is in effect. If the Lumberjacks agree to host any other events (such as hockey tournaments, additional camps) requiring ice time, the cost will be \$185 per hour, subject to increasing the amount by the Price Escalator in Paragraph 4 A.

- Lumberjacks shall provide to City the dates of all preseason games and home games no later than July 10 for the following 12 months.
- Lumberjacks will have access to the ice time for scheduled practice times each day from 10:00 a.m. to 11:30 a.m. and again from 2:00 p.m. to 3:45 p.m. with the understanding that the Lumberjacks will end practice on non-game days by 3:45 p.m., which will allow the City to generate additional revenue.
- On game days, use of the ice shall be in accordance with the standards established for all USHL teams by the League Office: (a) no on-ice events may be scheduled or permitted during the two hours before any scheduled Lumberjack home hockey game; (b) with permission of Arena Manager, use of ice for a “morning skate” for the Lumberjacks and its visiting opponent.
- For every home hockey game, beginning four hours before the game, Lumberjacks shall have exclusive use of the parking lot adjacent to the rear of the Arena (“Lot A”) for any purpose within their sole discretion. The Lumberjacks agree to reserve six (6) spaces in Lot A for use by the sports rehabilitation clinic that will occupy the Annex, during the clinic’s normal business hours.
- Lumberjacks will be granted ten (10) days per year at no charge under this Agreement to produce hockey or non-hockey related special events (“Additional Events”). Notwithstanding the waiver of any rental fee for Additional Events, the Lumberjacks shall be responsible to pay for all agreed upon costs and expenses related to “set up” the Arena to conduct each Additional Event (e.g. take down glass, cover ice, etc).
- During the first year of this Agreement, the Lumberjacks have agreed to provide certain game night management operations for all Lumberjack Hockey Dates. Such management shall be limited: ushers, ticket takers, security, game operations, video and PA services, off-ice officials and the Box office personnel and staffing (“The Game Night Operations”). In return for providing The Game Night Operations, the City will reduce the team’s annual rent by \$40,000 per year, which will be prorated among the regular season hockey games and the Minimum Gross Rent in Paragraph 4(c) will be adjusted accordingly. The \$40,000 annual amount will be subject to increase starting in year 3 of this Agreement pursuant to the Price Escalator referenced in Paragraph 4(a) below. In the event the Lumberjacks elect to no longer provide The Game Night Operations, it shall provide written notice to the City. Notwithstanding such notice, the Lumberjacks agree to continue to provide The Game Night Operations through the end of the then-current USHL hockey season.
- The City will provide all operations management for the Additional Events, except for those management services that will be provided by the Lumberjacks, which are limited to the following: ushers, ticket takers, security, game operations, video and PA services, off-ice officials and the Box office personnel and staffing.
- City agrees that the Lumberjacks shall continue to be permitted to access and use the Peak Performance Center in the same manner as is currently exercised. In the event the City elects to change the current use of the Peak Performance space into a non-fitness/rehab/training facility, the City agrees to provide the Lumberjacks, with no interruption of access to and use of a training facility, a suitable space within the Arena to perform off-ice training commensurate with that currently used by the Lumberjacks. The time/space requirements of the Lumberjacks include:
 - 1) Monday – Wednesday’s 10-11am & 11am -12 pm and shooting throughout the day
 - 2) Thursdays and Fridays extra work and shooting throughout the day
 - 3) Friday, Saturday & Sundays Pre-Game Stretch and post-game cool down
 - 4) Stretching area for future camps
 - 5) Usage as needed when approved by Peak Staff member

2. **RP Hockey Shared Use Agreement.** The City has entered into a shared use agreement with the Reeths Puffer High School Hockey team (“RP Hockey”), which will soon be coming up for renewal. The City and the Lumberjacks will mutually work together to allow the RP Hockey team to renew its agreement as long as none of the provisions of that document conflict with the Lumberjacks requirements as set forth in this Agreement.

3. **Term.** The term of this Agreement shall be two years beginning July 1, 2019 – June 30, 2021 with the Lumberjacks, at their sole discretion, having three (3), five-year options (each an “Option Term”). Each option must be exercised on or before six month’s before the expiration of the then-current term.

4. **Rent/Facility Fee.** During the Term and any Option Term, Lumberjacks shall pay the City an annual sum of the following amounts, which amount shall be paid on a quarterly basis:

a. **Base Rent.** \$125,000 per year, which covers the use of all space as specified in Paragraph 1. This Base Rent will increase two (2) percent during the First Option period – years 3-7 to \$127,500; four-percent during the Second Option Period (years 8-12) for a total of \$132,600 and an additional four-percent during the Third Option Period (years 13-17) for a total of \$137,800. Many of the terms in this Agreement are subject to the Base Rent increase above of two percent, four percent and four percent and will be referred to in this Agreement as the “Price Escalator.”

b. **Ticket Surcharge.** In addition to Base Rent, the Lumberjacks agree to allow the City to implement a ticket surcharge of \$1.00 per each ticket sold. It is the understanding of the Parties that during the First option period this ticket surcharge will be increased to \$1.25 per each ticket sold and during the Second and Third option period, the ticket surcharge will be limited to \$1.50 per ticket sold. It is the mutual understanding of the parties that the ticket surcharge will increase to \$2.00 per ticket sold after the completion of the last year of the Third option period.

c. **Minimum Gross Revenues.** The City and the Lumberjacks agree that the Lumberjacks will guarantee a minimum of \$225,000 in Gross Revenue for each year of the Shared Use Agreement. Gross Revenue includes all monies received by the City with respect to the Shared Use Agreement, including but not limited to Base Rent, Ticket Surcharge, Concessions, Merchandise, Signage and any and all other sponsorship or promotional opportunities related to the Arena that may arise in the future. Any Minimum Gross Revenue deficiency will be calculated as of June 30th of each year and will be paid within forty-five (45) days of being determined.

5. **Co-Licensee under MLCC License.** The City is the owner of a certain Class C License (No.1962-2015) issued by the Michigan Liquor Control Commission (“MLCC”) for the sale of alcohol within the Arena (“License”). The MLCC has previously approved the Lumberjacks being added as a co-licensee of the License. It is the mutual desire of the Parties that the Lumberjacks be dropped as a co-licensee, Lumberjacks agree to immediately prepare and file with the MLCC all necessary forms and documents in order to effectuate the “drop” of Lumberjacks as a co-licensee with the City. At all times during the pendency of the “drop” of Lumberjacks as co-Licensee, Lumberjacks and City shall keep the License in good standing with the MLCC.

6. **City’s Obligations as to Shared Space.** To the extent that the City rents the Arena or hosts an event on the ice surface, it shall not interfere with the Lumberjacks access to or use of the ice for any Lumberjack hockey games, practices, scheduled hockey related events or any other approved non-hockey events conducted by Lumberjacks pursuant to separate agreements with the City.

7. **Repairs and Maintenance.**

- a. **City's Requirement for Repair and Maintenance.** At all times during the Term or Additional Year, the City, at its sole expense, shall be responsible to keep and maintain and repair the Arena and Shared Space, and every part thereof, including, but not limited to, the ice floor, home team and visiting team locker rooms, seating, common areas, the parking lots serving the Arena, all Zambonis and the Zamboni area, structural, nonstructural, roof, interior and exterior portions of the buildings, the boiler, the dehumidification system, lighting and electrical, sound, plumbing and other improvements located upon the Arena, in good and sanitary order, condition and repair, and at all times suitable for the uses of the Arena and Shared Space contemplated by Lumberjacks and the City in entering into this Agreement, except for reasonable use and wear thereof. As such, the City shall guarantee the facility is in good working order.
- b. **Cure Period if Repair and/or Maintenance Obligations are Not Met.** If the City does not perform any of its Repair and/or Maintenance Obligations, upon a seven (7) day written cure period, the team shall be permitted to remedy any deficient repair or maintenance issue and may, at its option, deduct any reasonable expenses from the rent and adjust the Minimum Gross Revenue set forth in paragraph 4c accordingly. In the event any particular repair or maintenance is deemed by the Lumberjacks, in its reasonable discretion, to be an emergency that cannot wait for the expiration of the seven (7) day cure period, it may undertake to make such repair or perform such maintenance and shall be permitted to deduct such expenses incurred from rent as set forth above.
- c. **Cure Period for Other Defaults by the City.** In addition to Repair and Maintenance Obligations, the City has other requirements that it must meet with respect to the Shared Agreement, for example, quality of concessions and merchandise. With respect to any Default by the City relating to any provisions of the Shared Agreement, The Lumberjacks may use the Cure provision set forth in Paragraph 7b.

8. **Utilities.** During the Term or Additional Year, the City shall maintain in its own name all gas, heat, light, power, water and sewer supplied to Lumberjacks at the Arena.

9. **Concessions and Merchandise.**

- a. The City will sell all concessions during the Lumberjack Hockey Dates and the Additional Events and will provide the Lumberjacks with twenty-percent (20%) of the gross revenue. The City will also market and manage the team store, which includes but is not limited to Lumberjacks merchandise. The City will provide Lumberjacks with twenty-percent (20%) of the gross revenue from all Jack's merchandise sold. For both the Concession and Merchandise, it is important to the parties that the Lumberjacks are able to maintain their quality and team reputation by insuring the quality of concessions and merchandise, the amount of merchandise inventory levels and the pricing and quality of any Jack's merchandise and concessions. As such, the parties shall mutually agree in advance to the saleable concessions, merchandise levels, product quality and pricing of any Jack's merchandise sold by the City.

- b. For all Lumberjack Hockey Dates and Additional Events, the City, through its concession and/or Merchandise manager, will provide a detailed report of the revenue generated for the Lumberjacks and make such report available within twenty-four (24) hours of the event and payments to the Lumberjacks will be made within seven (7) days of the event.

10. **Box Office.** The Lumberjacks will manage all box office operations.

11. **Parking.** As part of the Base Rent, the City will guarantee 1,000 parking spaces within 1,500 feet of the Arena on Lumberjacks Hockey Dates (“Lumberjacks Parking Area”). Additionally, Lot A is included in the Base Rent on game days starting no later than 3:00 p.m. Of the 1,000 parking spaces, any Lumberjack season ticket holder issued a parking pass shall not be charged for parking within the Lumberjacks Parking Area. Of the remaining 1,000 parking spaces not allocated to Lumberjack season ticket holders, the City and the Lumberjacks must mutually agree in advance upon any price to be charged to such customers, as well as the split of any revenues generated therefrom.

12. **Sponsorship and Advertising.**

a. Shared Sponsorships. The Lumberjacks and the City agree to split 50/50 any and all net revenue from the 9 sponsorship packages included in Exhibit C. This split also includes any additional sponsorship or promotional opportunities related to the Arena that may arise in the future.

b. Jack’s Advertising Revenue. All Advertising revenue for the Lumberjacks Hockey Dates and Additional Events, including game night signage, on-ice advertising, including but not limited to dasher boards, center-ice scoreboard and Zamboni, SHALL BE solely the revenue of the Lumberjacks.

13. **Building Access.** The City shall provide Lumberjacks keys to access the Arena using the rear doors along Shoreline Drive, and keys to access to the Shared Space. The Arena manager for the City will retain a key to the Shared Space should authorized personnel need access.

14. **Capital Construction and Arena Modifications.**

a. Capital Construction. Subject to the mutual agreement of the City and the Lumberjacks as to certain improvements to the Stage, Club Loge and moving the Videoboard, the Lumberjacks agree to pay the upfront costs of such improvements. However, if the Lumberjacks extend this Agreement to the First Option Period (years 3-7), the City agrees to reimburse the Lumberjacks its payment of the upfront costs at a rate of twenty (20) percent in each of the years 3-7.

b. Arena Modifications. The City agrees that it will not make any modifications to the Arena without the express written consent of the Lumberjacks, such consent to not be unreasonably withheld. However, the condition for agreeing to any arena modifications must include that the modifications will not adversely impact the Lumberjacks’ use and enjoyment of the Shared Space for its intended purpose. Prior to any arena modifications the City and Lumberjacks shall work together in good faith to confirm that such modifications will not have any adverse impact on the Lumberjacks.

c. Additional Lease Space, Future Restaurants, Pubs or Retail Space. The City agrees that it will not engage in any additional leases, Shared Use Agreements or rental arrangements that impact the Shared Space without the mutual agreement of the City and the Lumberjacks to the extent there is any impact whatsoever on the Lumberjacks use of the Shared Space for the purposes set forth in this Agreement (e.g. the issue of patrons of tenants having access to the Arena in order to view Lumberjack's hockey games and any Additional Events or conversely the issue of patrons of the Lumberjacks having access to the tenant's venue.) The City anticipates leasing space for two additional restaurants along the Western Ave. side of the Arena. To the extent this occurs, the City and the Lumberjacks shall work together prior to the execution of the restaurant leases to ensure that they contain provisions that protect Lumberjacks from being adversely impacted by such tenancy; to the extent this occurs, the City will use reasonable efforts to ensure that the Lumberjacks are not materially and adversely impacted by such tenancy, provided, however, that a commercially reasonable decrease in concession sales due to a restaurant opening in the Arena shall not be deemed to be such an impact.

d. Rad Dad's Lease. The City acknowledges that the Rad Dad rental agreement will need to be amended, or a new agreement will need to be executed in connection with Rad Dad's being added as a co-licensee to the MLCC License. The City agrees that it shall work with Rad Dad's and the Lumberjacks to ensure that any such amended or new lease shall contain provisions that address the issues set forth in Paragraph 14(c) above.

15. **Rules & Regulations.** It is acknowledged and agreed by the Parties hereto that the rules and regulations that are posted in and about the Arena, as amended from time to time by the City, shall be incorporated into this Agreement and Lumberjacks agree to abide by them in its use of the Arena.

16. **Insurance.** Lumberjacks shall, at its sole cost and expense, obtain and maintain liability insurance necessary to protect Lumberjacks and the City from all claims for damages to property and persons related to the use of the Arena and the Shared Space, including but not limited to commercial general liability insurance. Such liability insurance shall provide limits of not less the One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate for each bodily injury, property damage and personal injury. The City shall be named as an additional insured in any such policy, and Lumberjacks shall furnish to The City certificates of insurance or other appropriate documentation (including evidence of renewal of insurance) evidencing all coverage required hereunder. Such certificates or other documentation shall include a provision whereby the City must receive not less than thirty (30) days notice prior to any coverage cancellation or any material change in coverage. Any such cancellation or material change in coverage shall not relieve Lumberjacks of the continuing obligation to maintain insurance coverage in accordance with this Agreement.

17. **Default.**

a. **By Lumberjacks.** The violation of any term, provision or condition of this Agreement by Lumberjacks, including the failure to pay any amounts owed to the City shall be an event of default. Notwithstanding the foregoing, prior to declaring a default, the City agrees to provide Lumberjacks with a written notice of default, specifying the nature of the default, and what actions are required to be taken by Lumberjacks to cure the default. Lumberjacks shall have three (3) business days thereafter to cure the default, provided Lumberjacks shall have such extended period as may be required beyond the three (3) business days if the nature of the cure is such that it reasonably requires more than three (3) business days and Lumberjacks commence the cure within the three (3) business day period and thereafter continuously and diligently pursues the cure to completion. In such event, the City may suspend Lumberjacks' continued use of the Arena and Shared Space until such time as Lumberjacks cures the default. Upon the expiration or early termination of this Agreement, Lumberjacks shall be permitted to remove all

personal property and removable equipment owned by Lumberjacks from the Arena, which removal shall occur within a reasonable time (not to exceed 14 days) following expiration or termination. In the event of a non-monetary default and a failure of Lumberjacks to cure as provided above, the City may elect to terminate this Agreement as its sole remedy. In the event of a monetary default, in addition to terminating this Agreement, the City shall be permitted to initiate legal proceeding to recover any monies owed under this Agreement. In such event, the prevailing party in any litigation or other legal proceedings arising under this Agreement shall be entitled to reimbursement from the non-prevailing party for reasonable attorneys' fees and expenses.

b. **By the City.** The violation of any term, provision or condition of this Agreement by the City, including the failure to perform any of its obligations under this Agreement, shall be an event of default. Notwithstanding the foregoing, prior to declaring a default, Lumberjacks agrees to provide the City with a written notice of default, specifying the nature of the default, and what actions are required to be taken by the City to cure the default. The City shall have three (3) business days thereafter to cure the default, provided the City shall have such extended period as may be required beyond the three (3) business days if the nature of the cure is such that it reasonably requires more than three (3) business days and the City commences the cure within the three (3) business day period and thereafter continuously and diligently pursues the cure to completion. In the event that the City fails to cure the default, and such default substantively and materially interferes with the use of the Shared Space for the purpose agreed to by the City and Lumberjacks, Lumberjacks are permitted to undertake any actions necessary to cure the default, and if such cure requires the expenditure of money, Lumberjacks shall be entitled to deduct said amount from Rent or Facility Fee next coming due to the City under this Agreement. Notwithstanding for foregoing, in the event that the City receives a notice of default from Lumberjacks and in good faith disputes that both the existence of the default and its obligation to effectuate the requested cure, the failure to immediately undertake the requested cure shall not provide the grounds to permit Lumberjacks from curing the default and deducting monies expended from Rent or Facility Fee next coming due to the City under this Agreement. The prevailing party in any litigation or other legal proceedings arising under this Agreement shall be entitled to reimbursement from the non-prevailing party for reasonable attorneys' fees and expenses.

18. **City Participation.** For each year of the Shared Use Agreement, including any Option periods, the City agrees to purchase a \$20,000 advertising package which includes 15 season tickets in the Jacks Club, a Party Deck on Opening Night for 75 people, 150 tickets for the Boys and Girls Club and a Party Deck with 100 tickets on Saturday night in January, which event shall include the Jack's Meal Deal and the team wearing mutually agreed upon City Specialty Jerseys. The above prices are subject to the Price Escalator in Paragraph 4A.

19. **Scoreboard and Personal Property.** In consideration of the long-term partnership between the Lumberjacks and the City, the Lumberjacks agree to relinquish all rights to the video board and scoreboard, which will become the sold property of the City. The City must maintain the video board and scoreboard and keep them in good working condition, otherwise the Lumberjacks may maintain the system and charge the City for any such deficient conditions. Additionally, the City acknowledges that nothing contained in this Agreement is "personal property" to the Lumberjacks and that the City will be responsible for all personal property taxes incurred as part of the Shared Space set forth in paragraph 1.

20. **Assignment.** Lumberjacks may assign this Agreement, or any right or obligation under this Agreement to any third party approved by the USHL Board of Commissioners to operate a USHL junior hockey franchise or any other hockey organization that the Lumberjacks become affiliated with. In the event that the City no longer owns, leases or manages the Arena, the City agrees to assign this Agreement to any successor owner, lessee or manager of the Arena, each of whom shall agree to assign this Agreement to any future successor owner, lessee or manager. The City shall provide written notice of any such assignment to Lumberjacks, identifying the new party.

21. **Amendment and Waiver.** This Agreement may be amended only in writing signed by both parties. The provisions of this Agreement may be waived only in writing signed by the party waiving compliance. The failure of any party at one time to require performance of any provision of this Agreement shall not affect the right of that party at a later time to enforce the provision. No waiver by any party of a breach of any provision in any one or more instances shall be deemed to be an amendment or a continuing waiver of the provision.

22. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

23. **Jurisdiction and Venue.** Any dispute under this Agreement shall be resolved in accordance with the laws of the State of Michigan, including with respect to jurisdiction and venue.

24. **Severability.** If any provision of this Agreement is held to be contrary to law or otherwise unenforceable, in whole or in part, then such provision shall be modified and amended to the extent necessary to be enforceable to the maximum extent permitted by applicable law and if such modification or amendment is not possible, then the offending provision shall be severed from and shall not affect the remaining terms of this Agreement, which shall be interpreted as if the unenforceable provisions were absent from this Agreement.

25. **Title and Headings.** Titles and headings are inserted in this agreement for referenced purposes only and must not be used to interpret the Agreement.

26. **Entire Agreement.** This Agreement contains the entire understanding among the Parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements, or conditions, express or implied, oral or written, except as herein contained. The express terms hereof control and supersede any course of performance or usage of the trade inconsistent with any of the terms hereof.

The Parties hereto have executed this Agreement on the dates set forth below.

Lumberjacks – WC Hockey, LLC

By: _____
Name: Daniel L. Israel
Title: Manager
Date: March ___, 2019

City – City of Muskegon

By: _____
Name: Franklin Peterson
Title: City Manager
Date: March ___, 2019

By: _____
Name: Ann Meisch
Title: City Clerk
Date: March ___, 2019

Exhibit A Shared Space

Lumberjacks Shared Space Areas:

- Lumberjacks locker room
- offices (need to identify offices including Sales Office, GM Office, Existing Coaches Offices, and Finance and Accounting Office (collectively, “Office Space”))
- changing Room next to Assistant Coaches Office. This room is used by the coaching staff to change clothes
- Merchandise Store (should be the name) gift shop area during Lumberjack home games. The City shall permit the placement of temporary kiosk stations
- laundry facilities

Other Occupants Shared Space Areas:

- non-exclusive use of the shower room
- training room, subject to the Lumberjacks priority of usage for educational purposes, viewing game film, team meetings, etc. consistent with its historical use
- weight/workout room and puck shooting training area (RP Hockey to use for a fee that shall be paid to and retained by Lumberjacks at rates set forth in the RP Lease). It is understood that the current location of the shooting area may need to change. The City agrees to cooperate in finding a suitable alternative location should this occur

Exhibit B
Diagram of Shared Space

Exhibit C
Annual Sponsorships

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: August 11, 2020	Title: Beach Noise and Signage
Submitted By: Commissioner Emory	Department: City Commission
Brief Summary: We have received a request from Commissioner Emory to install signage at the beach pertaining to noise rules and alcohol consumption. The request also included a request to reduce the music level coming from The Deck Restaurant.	
Detailed Summary: Commissioner Emory's email is shown below verbatim: I have received multiple complaints from residents of Harbour Town and Beachwood/Bluffton neighborhoods regarding the volume of music coming from The Deck this year. These neighbors have lived in their homes for many years and all say The Deck music is much louder this year than in the past. I made a call to after hours 911 to have an officer go to The Deck and have the volume lowered. I was told "it isn't that loud" but he would do what he could. It was reported to me a hour later that the music was not turned down but was now louder. These residents are hearing the feeling the base boom over their TV's and air conditioning. I went around the neighborhoods to check on the volume, I could hear it on Edgewater, Cherry St and on E Harbour Towne. If the music is so loud that it is disturbing the peace of our residents it is too loud and must be lowered. I also noticed there are no signs on the beach this year prohibiting loud music, noise, alcohol. Why are these signs not there? Thank you for your attention to this Teresa	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: Staff has no recommendation on this item and has received no more complaints in 2020 than in years' past. The beach is significantly busier this year.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	