

CITY OF MUSKEGON

CITY COMMISSION MEETING

AUGUST 9, 2011

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ **CALL TO ORDER:**
- ❑ **PRAYER:**
- ❑ **PLEDGE OF ALLEGIANCE:**
- ❑ **ROLL CALL:**
- ❑ **HONORS AND AWARDS:**
- ❑ **INTRODUCTIONS/PRESENTATION:**
- ❑ **CONSENT AGENDA:**
 - A. **Approval of Minutes.** CITY CLERK
 - B. **Brownfield Consulting Services – Envirologic Technologies, Inc. Proposal.** PLANNING & ECONOMIC DEVELOPMENT
 - C. **Certification of MERS Representatives.** FINANCE
 - D. **Request to Apply for the Certified Local Government Status from the Michigan Historic Center.** PLANNING & ECONOMIC DEVELOPMENT
 - E. **Consideration of Bids for Parking Lot at L. C. Walker Arena.** ENGINEERING
 - F. **Engineering Services Agreement to Upgrade Traffic Signal at Getty and Evanston.** ENGINEERING
 - G. **Burgess-Norton.** CITY MANAGER
- ❑ **PUBLIC HEARINGS:**
- ❑ **COMMUNICATIONS:**
- ❑ **CITY MANAGER'S REPORT:**
- ❑ **UNFINISHED BUSINESS:**
 - A. **SECOND READING: Encroachment Ordinance Amendment.** CITY CLERK
- ❑ **NEW BUSINESS:**

A. Approval of Sale of City-Owned Home at 1891 Wood. COMMUNITY & NEIGHBORHOOD SERVICES

B. Great Lakes Die Cast Financing Subordination. CITY MANAGER

❑ ANY OTHER BUSINESS:

❑ PUBLIC PARTICIPATION:

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

❑ CLOSED SESSION:

❑ ADJOURNMENT:

ADA POLICY: THE CITY OF MUSKEGON WILL PROVIDE NECESSARY AUXILIARY AIDS AND SERVICES TO INDIVIDUALS WHO WANT TO ATTEND THE MEETING UPON TWENTY FOUR HOUR NOTICE TO THE CITY OF MUSKEGON. PLEASE CONTACT ANN MARIE BECKER, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TDD: (231) 724-4172.

Date: August 9, 2011
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes of the City Commission Meeting that was held on Tuesday, July 26, 2011.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

JULY 26, 2011

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, July 26, 2011.

Mayor Warmington opened the meeting with a prayer from Pastor Josh Dear from the Lakeside Baptist Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

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

Absent: Commissioner Sue Wierengo (excused).

2011-51 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes of the July 11th Commission Worksession Meeting and the July 12th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Switchgear Upgrade Engineering Proposal. WATER FILTRATION

SUMMARY OF REQUEST: Authorize staff to enter into an agreement with Tetra-Tech to provide the necessary engineering design, bidding assistance and start-up construction assistance to replace the existing 1972 pump station switchgear for \$24,950 since they were the design engineer for the entire facility back in 2004.

FINANCIAL IMPACT: This upgrade was budgeted at \$175,000 which includes engineering services.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Authorize staff to enter into an engineering service agreement with Tetra-Tech for \$24,950 as per the proposal.

C. Muskegon County Mutual Police Assistance Agreement. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is requesting that the Commission approve the Muskegon County Mutual Police Assistance Agreement. This agreement will provide for supplemental police service from other law enforcement agencies in the County in the event of an emergent need or large scale incident. This document updates the current agreement which was approved by this body some years ago.

The agreement includes all ten law enforcement agencies in the County.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the agreement.

D. Encroachment Ordinance Amendment. CITY CLERK

SUMMARY OF REQUEST: This request is to amend Chapter 74, Article V of the Code of Ordinances by adding sections 74-200 through 74-214.

Under the proposed ordinance, all encroachments will expire August 31, 2011, and will require renewal on or before September 1st of each year.

FINANCIAL IMPACT: New proposed fees are \$25 if an annual inspection is not required and a \$50 fee if an annual inspection is required.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the ordinance amendment.

(Requires Second Reading)

E. Resolution Authorizing Issuance of Municipal Security with a Grant with Fifth Third Bank. FINANCE

SUMMARY OF REQUEST: As discussed in a recent Worksession meeting, the Finance Director has been able to negotiate a \$2,000,000 loan for the purpose of paying the City's local match of federal and state grants for street improvements at a fixed rate of 2.98% interest rate over a ten-year period of time.

FINANCIAL IMPACT: As described above.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to proceed with the loan as described.

Motion by Commissioner Carter, second by Vice Mayor Gawron to

approve the Consent Agenda as read.

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

Nays: None

MOTION PASSES

2011-52 NEW BUSINESS:

A. Approval of Sale of City-Owned Home at 468 W. Forest. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community & Neighborhood Services department to complete the sales transaction between Ms. Julia A. Johnson for the totally rehabilitated home at 468 W. Forest Avenue, which is part of the City's Neighborhood Stabilization Program through the Michigan State Housing Development Authority Office of Community Development. Ms. Johnson's purchase price is \$52,000. The beautiful three-bedroom, two and a half-bath home was previously vacant.

FINANCIAL IMPACT: The proceeds from the sale will be used to continue the rehabilitation of vacant houses through NSP to sustain our current investments to stabilize and revitalize neighborhoods.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and direct the CNS staff to complete the sale.

Motion by Commissioner Spataro, second by Commissioner Shepherd to approve the sale of the City-owned home at 468 W. Forest.

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

Nays: None

MOTION PASSES

B. Approval of Sale of City-Owned Home at 1080 E. Laketon. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community & Neighborhood Services department to complete the sales transaction between Mr. Thomas Grosswiler for the totally rehabilitated home at 1080 E. Laketon Avenue, which is part of the City's Neighborhood Stabilization Program through the Michigan State Housing Development Authority Office of Community Development. Mr. Grosswiler's purchase price is \$39,900. The beautiful two-bedroom, one-bath home was previously vacant.

FINANCIAL IMPACT: The proceeds from the sale will be used to continue the

rehabilitation of vacant houses through NSP to sustain our current investments to stabilize and revitalize neighborhoods.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and direct the CNS staff to complete the sale.

Motion by Commissioner Carter, second by Commissioner Wisneski to approve the sale of the City-owned home at 1080 E. Laketon.

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

Nays: None

MOTION PASSES

C. Approval of Sale of City-Owned Home at 1644 Division. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community & Neighborhood Services department to complete the sales transaction between Mr. Allen Serio for the totally rehabilitated home at 1644 Division Street, which is part of the City's Neighborhood Stabilization Program through the Michigan State Housing Development Authority Office of Community Development. Mr. Serio's purchase price is \$50,000. The beautiful three-bedroom, one and a half-bath home was previously vacant.

FINANCIAL IMPACT: The proceeds from the sale will be used to continue the rehabilitation of vacant houses through NSP to sustain our current investments to stabilize and revitalize neighborhoods.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and direct the CNS staff to complete the sale.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the sale of the City-owned home at 1644 Division.

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

Nays: None

MOTION PASSES

D. Concurrence with the Housing Board of Appeals Notice and Order to Demolish 407 Marquette. PUBLIC SAFETY

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structure located at 407 Marquette Avenue (commercial) is unsafe, substandard, a public nuisance

and that it be demolished within 30 days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds.

BUDGET ACTION REQUIRED: None.

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

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 407 Marquette.

Motion by Commissioner Spataro, second by Commissioner Shepherd to table action to the second meeting in September.

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

Nays: Wisneski

MOTION TO TABLE PASSES

E. Encroachment Agreement – 1991 Lakeshore Drive, Suite B, Muskegon MI 49441

SUMMARY OF REQUEST: Joe Booker is requesting an encroachment agreement to add an 8' sign from the existing building.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval contingent that all requirements listed by the Inspections Department are met.

Motion by Commissioner Carter, second by Commissioner Wisneski to approve the encroachment agreement at 1991 Lakeshore Drive, Suite B.

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

Nays: None

MOTION PASSES

2011-53 ANY OTHER BUSINESS:

Mayor Warmington stated he had been contacted by Coach Fairfield requesting permission for the Big Red football team, adults only, to sell on street corners this Friday and that the fee be waived.

Motion by Commissioner Carter, second by Commissioner Shepherd to waive the fee for the Muskegon football program to allow them to fundraise on

intersections in the City of Muskegon.

Motion amended by Commissioner Spataro, second by Commissioner Carter that there is no automatic grandfathering based on this action for this organization and that they pay the initial fee.

(VOTE ON AMENDED MOTION)

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

Nays: None

AMENDED MOTION PASSES

(VOTE ON ORIGINAL MOTION)

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

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 6:24 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk

Commission Meeting Date: August 9, 2011

Date: July 20, 2011
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department
RE: Brownfield Consulting Services- Envirologic Technologies, Inc. Proposal

SUMMARY OF REQUEST: The City's brownfield consultant, Anne Couture, is taking a position in Lansing. The City has been working with Envirologic Technologies, Inc. on current brownfield site assessment projects. Since Envirologic has extensive experience with Brownfield Redevelopment Authorities and positive interaction with both the MDEQ and the USEPA, they were requested to submit a proposal to continue with the consulting services that Ms. Couture has been providing up to this point. The proposal is attached.

FINANCIAL IMPACT: The majority of services provided by Envirologic will be financed through existing (and potentially future) grant funds, as well as through Brownfield Plan fees. There will be some funds paid through the City's general fund, which is the case currently with Ms. Couture.

BUDGET ACTION REQUIRED: None, the 2011-12 Planning budget includes funds for this type of consulting service.

STAFF RECOMMENDATION: To approve the "Proposal for Completion of Brownfield Consulting Services" from Envirologic Technologies, Inc. and authorize the Mayor to sign the "Proposal".



**PROPOSAL FOR COMPLETION OF
BROWNFIELD CONSULTING SERVICES**

JULY 6, 2011

Prepared for:

Ms. Cathy Brubaker-Clarke, Director
City of Muskegon Brownfield Redevelopment Authority
933 Terrace Street
Muskegon, Michigan 49440

Prepared by:

ENVIROLOGIC TECHNOLOGIES, INC.
2960 Interstate Parkway
Kalamazoo, Michigan 49048
(269) 342-1100



July 6, 2011

Ms. Cathy Brubaker-Clarke
Director
City of Muskegon Brownfield Redevelopment Authority
933 Terrace Street
Muskegon, Michigan 49440

Re: Proposal for Completion of Brownfield Consulting Services

Dear Ms. Brubaker-Clarke:

Thank you for the opportunity to be of service. Envirollogic Technologies, Inc. (Envirollogic) is pleased to provide this proposal to the City of Muskegon (City) for the completion of brownfield consulting services, including scope of work and cost estimates for various activities to implement of the City's U.S. EPA Brownfield Assessment Grant, and consulting services related to the City's overall Brownfield Redevelopment program.

COMPANY EXPERIENCE

Established in 1989, Envirollogic Technologies, Inc. is a full service environmental consulting and services firm located in Kalamazoo, Michigan. Our environmental services include brownfield redevelopment support, environmental due diligence, contaminant investigation and cleanup, regulatory compliance, ecological services and field services. Services are provided by 24 employees consisting of hydrogeologists and geologists, brownfield specialists, regulatory compliance specialists, biologists, air quality specialists and professional environmental/geotechnical drillers.

Envirollogic is a proven leader in brownfield redevelopment activities. We are actively working with many local units of government in implementing brownfield redevelopment projects funded through U.S. Environmental Protection Agency (U.S. EPA) Brownfield Assessment, Cleanup and Revolving Loan Fund Grants, Michigan Department of Environmental Quality (MDEQ) Grants and Loans, tax credits and private equity.

BACKGROUND

Envirollogic has a successful track record securing funds for communities to meet the challenges of brownfield redevelopment, helping clients net millions of dollars. Funds have been acquired from the MDEQ Brownfield Grant and Loan program, U.S. EPA Brownfield

Ms. Cathy Brubaker-Clarke
July 6, 2011
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Assessment Grants, U.S. EPA Brownfield Cleanup Grants, U.S. EPA Brownfield Cleanup Revolving Loan Fund Grants, and Michigan Business Tax Brownfield Tax credits. We have developed numerous Brownfield Plans using tax increment financing capabilities in a wide range of situations. We are skilled at working with municipalities and developers to develop strategies for projects utilizing these programs. Our capabilities include management of the grants, loans and tax credits by providing progress reports, financial budgets and updates, identifying project strategies, as well as implementation of the environmental components of Brownfield Redevelopment.

SCOPE OF SERVICES

Programmatic Activities – Existing U.S. EPA Assessment Grant

The Cooperative Agreement between the City and U.S. EPA contains programmatic requirements for regular progress and financial reports. Envirologic will complete required programmatic activities throughout the remainder of the grant period (one year). These activities include preparation of quarterly reports, annual financial reports, semi-annual MBE/WBE reports, ACRES reporting, and other eligible program expenses required by the Cooperative Agreement. Envirologic understands the City contracted both Envirologic and Horizon Environmental Services, Inc. (Horizon) to complete project activities under the U.S. EPA Brownfield Assessment Grant. Therefore, Envirologic will coordinate with Horizon to complete the aforementioned programmatic requirements accurately and completely.

Site Eligibility – Existing U.S. EPA Assessment Grant

Once a project is authorized by the City, Envirologic will assemble information about the property and prepare a determination of eligibility for the U.S. EPA. Upon obtaining acceptance of the determination of eligibility, the remaining components of the project can be initiated (i.e., Phase I Environmental Site Assessment, etc.). Envirologic will prepare the appropriate site eligibility documentation as needed throughout the remainder of the grant period.

Brownfield Plan Development

Eligible sites enrolled in a Brownfield Plan can utilize brownfield incentives provided by Michigan's Brownfield Redevelopment program. These incentives include capturing tax increment (TIF) to reimburse eligible costs related to brownfield redevelopment and pursuit of potential MBT Tax Credits (MBT Credits will no longer be available after September 30, 2011).

Ms. Cathy Brubaker-Clarke

July 6, 2011

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Envirologic proposes working with the City, local finance staff, local assessor, and the developer to draft a Brownfield Plan on behalf of the City of Muskegon. Envirologic understands it is the role of the local finance staff to prepare the tax capture estimates and TIF spreadsheet based on information provided by the local assessor and developer. Envirologic will then use this information to draft a Brownfield Plan using the City's existing template. Additionally, Envirologic will review the appropriate public notices drafted by the City for public comment on the proposed Brownfield Plan and the required notifications to the taxing jurisdictions.

These services are eligible for reimbursement through the Assessment Grant during the remainder of the grant period.

General Brownfield Consulting Services

When a development opportunity is presented to the City, it is necessary to evaluate timelines, future tax revenues and tax increment financing options, availability of tax credits, and other incentives. Often, this technical support and input is required before a decision is made to assist the project with existing programs – such as the U.S. EPA Assessment Grant. The purpose of this work item is to set aside a small budget so that the City can engage Envirologic at any time to support the City's Brownfield Redevelopment program. This budget could be used to evaluate opportunities for tax credits, grants or loans, attend strategy development meetings, prepare schedules and financial estimates of tax revenue, and work with the City and the developer to incorporate brownfield redevelopment incentives into the redevelopment project.

ESTIMATED COSTS

Programmatic Activities

Envirologic proposes to perform the services described in the *Scope of Services* on a lump sum basis per item. However, these costs may be reduced if Envirologic has access to project information (i.e., previous reports and data).

Quarterly Report (per Quarter)

Staff Time and Materials..... \$250.00

Annual Financial Reports (Per Fiscal Year)

Staff Time and Materials..... \$150.00

Semi-Annual MBE/WBE reports (Per Report)

Staff Time and Materials..... \$150.00

ACRES reporting (Per Project)

Staff Time and Materials..... \$300.00

Site Eligibility

Envirologic proposes to perform the services described in the *Scope of Services* on a lump sum basis per project. However, these costs may be reduced if Envirologic is managing the project due to the accessibility of information.

Staff Time and Materials \$ 500.00

Brownfield Plan Development

Envirologic proposes to perform the services described in the *Scope of Services* on a time and materials basis according to our current fee schedule (attached). Costs are estimated to range from \$1,000-\$1,500.

General Brownfield Consulting Services

Envirologic proposes to perform the services described in the *Scope of Services* on a time and materials basis according to our current fee schedule (attached). Envirologic is proposing the following budget that would be used on a task-by-task basis as directed by the City. Cost estimates for individual, specific tasks would be provided upon request.

Staff Time and Materials..... \$ 5,000



Ms. Cathy Brubaker-Clarke

July 6, 2011

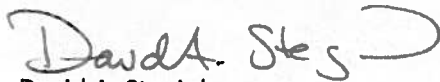
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If you desire to have Envirologic Technologies, Inc. conduct the aforementioned services, please sign and date one copy of the authorization page and return it to our office. A signed copy of the authorization page will serve as our authorization to proceed. This proposal is subject to the terms and conditions previously agreed upon by the City and Envirologic.

If you have any questions, comments, or require additional information, please contact our office at (269) 342-1100.

Sincerely,

ENVIROLOGIC TECHNOLOGIES, INC.



David A. Stegink
Associate Vice President



Brittainy Roth
Brownfield Specialist

DAS:rel

Ms. Cathy Brubaker-Clarke

July 6, 2011

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AUTHORIZATION

To authorize this project, please mail or fax a signed copy of this signature page to our office at (269) 342-4945 (fax number).

Re: Proposal for Completion of Brownfield Consulting Services

Authorized Representative:

Signature

Date

Title

Purchase Order No.



2011 SERVICES RATE SCHEDULE

Professional Service Rates

Position	Charge Rate
Principal	\$105.00-135.00/hour
Senior Project Manager	\$80.00-120.00/hour
Project Manager	\$75.00-105.00/hour
Associate Vice President/Sr. Environ. Scientist	\$80.00-120.00/hour
Environmental Compliance Specialist	\$55.00-85.00/hour
Drilling, Facilities Mgr./Remediation Support	\$55.00-85.00/hour
Project Geologist	\$55.00-85.00/hour
Field Geologist	\$50.00-75.00/hour
Field Scientist	\$45.00-75.00/hour
Field Technician	\$40.00-70.00/hour
Remediation Systems Analyst	\$45.00-75.00/hour
CAD Systems Manager	\$70.00-100.00/hour
Clerical	\$35.00-60.00/hour

RATES ARE SUBJECT TO CHANGE WITHOUT NOTICE

MISCELLANEOUS SERVICES AND EQUIPMENT

Service/Equipment	Rate
Photocopies	\$ 0.10/copy
Mileage	\$ 0.34/mile
Prints	At cost +15% per S.F.
CAD Equipment	\$ 35.00/hour
Subcontractor Expenses	cost +15%
Field Truck	\$ 75.00/day
Field Trailer	\$ 100.00/day
Geoprobe ^(TM) /Drilling	Quote
Organic Vapor Analyzer (HNU, OVA)	\$ 75.00/day
Decontamination Equipment	\$ 85.00/day
Bladder and Development Pump Well Sampling System	\$ 100.00/day
pH/Conductivity Meter	\$ 50.00/day
Survey Equipment	\$ 35.00/day
Soil Gas Sampling Equipment	Quote
Laboratory Analysis	cost +15%
Generator	\$ 50.00/day
Expedite Service Rate	1.5 times

Date: August 9, 2011

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: Certification of MERS Representatives

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

The City’s bargaining units have agreed to a rotating system (based on date of joining MERS) to select one official employee representative. This year the official employee representative attending the MERS conference will be Jeff Balon from the DPW 517 union.

FINANCIAL IMPACT: Registration for the MERS conference in Kalamazoo is \$185 per person. Additionally, mileage and lodging costs will be incurred.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Certification of Tim Paul and Jeff Balon to be the City’s officer and employee delegates at the MERS annual meeting in Traverse City September 27 – 29.

COMMITTEE RECOMMENDATION: None.



Officer and Employee Delegate Certification Form

MERS 65th Annual Meeting | September 27 – 29, 2011 | Grand Traverse Resort | Acme, Michigan

[see reverse for information]

IMPORTANT: Complete and return this form. Your registration is not confirmed until this form has been received by MERS.

In order to be your municipality's (including a court) delegate representative to MERS Annual Meeting, you must be a member of MERS. A member of MERS is defined as an individual on payroll who is enrolled in MERS Defined Benefit Plan (including Hybrid) or Defined Contribution Plan. Please refer to "Delegate Information" on the back for specific requirements.

OFFICER (ALTERNATE) DELEGATE INFORMATION

The officer delegate (or alternate) shall be an officer member who holds a department head position or above, exercises management responsibilities, and is directly responsible to the legislative, executive, or judicial branch of government.

Please type or print:

Officer Delegate TIMOTHY J. PAUL

Officer Alternate _____

OFFICER DELEGATE APPOINTMENT

By official action of the governing body (or chief judge for a participating court) on 8-9, 2011, the officer delegate and alternate listed above were appointed to serve at the 2011 MERS Annual Meeting.

EMPLOYEE (ALTERNATE) DELEGATE INFORMATION

The employee delegate (or alternate) shall be an employee member who is not responsible for management decisions, receives direction from management and, in general, is not directly responsible to the legislative, executive, or judicial branch of government.

Please type or print:

Employee Delegate JEFFREY BALOW

Employee Alternate _____

EMPLOYEE DELEGATE ELECTION

By secret ballot election conducted by an authorized officer on 7-24, 2011, the employee delegate and alternate listed above were elected to serve at the 2011 MERS Annual Meeting.

CERTIFICATION

NOTE: Certification should be signed by a member of the governing body (or municipality's chief administrative officer), or the chief judge for a participating court, and municipality number provided in space at the bottom of certification box.

I certify that the officer delegate and alternate selections are true and correct, and the secret ballot election results for employee delegate and alternate are true and correct.

Name (Signature): _____

Name (Please Print): _____

Official Title: _____

Date: _____

NOTE: Municipality Number Required for Certification

Municipality Number: 6116

Email address: tim.paul@shorelinemich.com

Municipality: CITY OF MUSKEGON

Municipality Mailing Address: PO Box 536

MUSKEGON, MI 49443

Commission Meeting Date: August 9, 2011

Date: August 3, 2011
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Request to apply for the Certified Local Government status from the Michigan Historic Center

SUMMARY OF REQUEST:

Becoming a Certified Local Government will give the City access to more historic rehabilitation grants and free educational workshops. The current historic preservation ordinance was recently revised to meet the criteria required for certification by the Michigan Historic Center. There is no application fee for this certification.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval to apply for the Certified Local Government form the Michigan Historic Center and for the Mayor to sign the cover letter.

COMMITTEE RECOMMENDATION:

None

BENEFITS

Any local unit of government may apply to become a CLG providing it meets certain requirements that are outlined in this manual. The purposes of the CLG program are: to ensure the broadest possible participation of local governments in the Historic Preservation program while maintaining standards consistent with the National Historic Preservation Act; to enrich, develop, and help maintain local historic preservation programs; and to provide financial and technical assistance to further these purposes.

The primary benefit of participating in the CLG program is the strengthening of the Historic Preservation program at the local level. The CLG program ensures that historic preservation issues are understood and addressed at the local level and are integrated into the local planning and decision-making process at the earliest possible opportunity. Historic preservation should be considered equally with other planning issues in a CLG and not be viewed as superfluous to decision-making. CLG status can bring pride and official recognition to a community that is committed to historic preservation.

A CLG participates more directly than other local governments in the National Register nomination process. The SHPO requests the CLG's recommendation on any nomination from its jurisdiction. If the CLG recommends that a property is eligible for listing, the SHPO will proceed with the nomination. If the CLG recommends that a property not be listed, the SHPO may not nominate the property unless an appeal is filed in accordance with federal regulations 36 CFR 60.

A CLG may negotiate other responsibilities as part of its CLG certification agreement with the Michigan SHPO. If a local unit has appropriately qualified staff, a CLG may perform expanded duties in the federal tax credit program and/or the review and compliance program. Under the tax credit program, a CLG could make recommendations to the SHPO about whether or not a rehabilitation project should be certified. Under the review and compliance program, a CLG and the SHPO may prepare a Memorandum of Agreement allowing a historic district commission to review, for example, specific kinds of building rehabilitation projects. When such additional responsibilities are assumed, the performance of the CLG will be evaluated when the SHPO reviews it not less than every three years. When such expanded participation is part of the CLG agreement, the SHPO will not delegate all of its responsibilities, but rather the local unit will have an expanded role in assisting the SHPO.

The SHPO will also provide training for CLGs to enrich, develop and maintain their current historic preservation programs. Such training might include workshops for commission members, information about the Secretary of the Interior's Standards, or updates on the National Register program. Currently the SHPO is providing training to CLGs through the Michigan Historic Preservation Network.

At least 10% of Michigan's annual allocation from the Historic Preservation Fund must be distributed to CLGs. These grants are 60/40 matching grants and are available on a

reimbursement basis. The funds may be used to augment and strengthen the local unit's historic preservation program. All work accomplished under these grants must meet the Secretary of the Interior's Standards for Archaeology and Historic Preservation.

Eligible activities for Historic Preservation CLG grants include survey work, the preparation of National Register nominations, the design and production of educational materials relating to the unit's National Register-listed properties and the preparation of preservation plans for local historic resources. A CLG may also apply for funds for building-specific work for National Register-listed properties. Such grant applications might include facade studies, marketing studies, or plans and specifications. A CLG can apply for funding for design review work providing that the staff performing the work meet appropriate standards in 36 CFR 61 and the local standards meet the Secretary of the Interior's Standards. A CLG can also apply for funding for expanded responsibilities in the reviews needed for the tax credit program or in review and compliance work. If a CLG applies for funding for these responsibilities, appropriate staff must be in charge of this work. The SHPO may not delegate the final responsibilities for the tax credit and review and compliance programs, but these grants can allow a CLG to play a more active role in programs which affect its resources.

The SHPO welcomes other innovative grant applications that promote historic preservation and have measurable results. The staff at the MHC encourages CLGs to discuss other types of projects with them.

Governments interested in applying for the CLG pool of Historic Preservation funds must first be certified. Grant application information is available annually from the Michigan Department of History, Arts and Libraries. This information includes an expanded description of the types of projects which could be funded, an estimate of the amount of funding to become available, the deadline for the applications, and the criteria to be used in scoring grant applications.

When projects are selected for funding, an effort is made to distribute the CLG funding among the maximum number of CLGs and to distribute the funds between rural and urban CLGs. No one CLG should receive a disproportionate share of the funding. All projects funded must have tangible results and have specific products.

Information about CLG grants is available from:

Grants Section
State Historic Preservation Office (SHPO)
Michigan Historical Center
Box 30740
702 W. Kalamazoo Street
Lansing, MI 48909-8240
517-373-1630
preservation@michigan.gov

The Purpose of the Program

The National Historic Preservation Act of 1966 [PDF] was amended in 1980 to provide for a federal-state-local preservation partnership. Grant funds were made available from the National Park Service through the State Historic Preservation Offices for Certified Local Governments (CLGs) to initiate and support historic preservation activities at the local level.

Since then, twenty-three Michigan local governments have become CLGs. Any municipality can become a CLG: a county, a township, a large city or small village, or a town. By meeting a few simple but important standards, a community may receive financial aid and technical assistance that will enhance and promote historic neighborhoods and commercial districts. An active CLG program can become an important planning vehicle for community development by identifying specific preservation projects and applying for grants to carry out the projects. The SHPO provides guidance for all units of government to initiate and develop such programs.

As of January 2011, the following Michigan communities are CLGs:

- **Allegan**
- **Ann Arbor**
- **Battle Creek**
- **Bay City**
- **Birmingham**
- **Boyne City**
- **Canton Township**
- **Detroit**
- **East Lansing**
- **Farmington Hills**
- **Grand Rapids**
- **Holland**
- **Jackson**
- **Kalamazoo**
- **Lansing**
- **Mason**
- **Menominee**
- **Monroe**
- **Mount Clemens**
- **Rochester Hills**
- **Saline**
- **Washtenaw County**
- **Ypsilanti**

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

Assessor/Equalization
(231)724-6708
FAX: (231)726-5181

Cemetery Department
(231)724-6783
FAX: (231)726-5617

City Manager
(231)724-6724
FAX: (231)722-1214

Civil Service
(231)724-6716
FAX: (231)724-4405

Clerk
(231)724-6705
FAX: (231)724-4178

Community and
Neigh. Services
(231)724-6717
FAX: (231)726-2501

Computer Info.
Systems
(231)724-6744
FAX: (231)722-4301

Engineering Dept.
(231)724-6707
FAX: (231)727-6904

Finance Dept.
(231)724-6713
FAX: (231)724-6768

Fire Dept.
(231)724-6792
FAX: (231)724-6985

Income Tax
(231)724-6770
FAX: (231)724-6768

Inspection Services
(231)724-6715
FAX: (231)728-4371

Leisure Services
(231)724-6704
FAX: (231)724-1196

Mayor's Office
(231)724-6701
FAX: (231)722-1214

Planning/Zoning
(231)724-6702
FAX: (231)724-6790

Police Department
(231)724-6750
FAX: (231)722-5140

Public Works Dept.
(231)724-4100
FAX: (231)722-4188

Treasurer's Office
(231)724-6720
FAX: (231)724-6768

Water Billing Dept.
(231)724-6718
FAX: (231)724-6768

Water Filtration
(231)724-4106
FAX: (231)755-5290



CLG Coordinator
State Historic Preservation Office (SHPO)
Michigan Historic Center
PO Box 30740
702 W Kalamazoo St
Lansing, MI 48909

To Whom It May Concern:

The City of Muskegon is herby formally requesting certification from the Michigan Historical Center. Muskegon hosts some of the most historically significant homes in the State of Michigan, which are grouped into seven different historic districts within the city's boundaries. The City has recently revised its Historical Preservation ordinance in order to qualify for this designation and plans on fully taking advantage of the associated benefits. We are excited about this endeavor and look forward to working with you during the certification process.

Sincerely,

Stephen J. Warmington
Mayor, City of Muskegon

Date: August 9, 2011

To: Honorable Mayor and City Commissioners

From: Engineering

**RE: Consideration of Bids
Parking Lot at L.C. Walker**

SUMMARY OF REQUEST:

Authorize staff to enter into an agreement with Michigan Paving & Materials to mill and resurface the northerly parking lot of L.C. Walker (between Shoreline Dr. & L.C.) at a cost of \$20,190.00 for all labor, material and equipment necessary to perform the aforementioned work. Michigan Paving & Materials was the lowest responsible bidder (see bid tabulation) out of the three contractors solicited to bid on this project.

The bids are without prevailing wages and bonds but they are required to provide general liability insurance naming the City as an additional insured.

FINANCIAL IMPACT:

The construction cost of \$20,190.00 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED:

This project, if approved, would have to be added to the 2011/2012 budget in a future quarterly budget re-forecast.

STAFF RECOMMENDATION:

Authorize staff to enter into an agreement with Michigan Paving & Materials to mill and resurface parking lot

COMMITTEE RECOMMENDATION:

Bid Tabulation to Pave the L.C. Walker's Parking Lot

Name	Price, L.Sump
Rieth-Riley Const. Co Ada, MI	\$22,709.55
Michigan Paving & Materials Grand Rapids, MI	\$20,190.00
Asphalt Paving Muskegon, MI	\$20,498.00

Date: August 9, 2011

To: Honorable Mayor and City Commissioners

From: Engineering

RE: Engineering Services Agreement to upgrade Traffic Signal @
Getty & Evanston

SUMMARY OF REQUEST:

Authorize staff to enter into an engineering services agreement with Progressive A/E to perform the necessary design and preparation of specifications and construction documents to upgrade the traffic signal at Getty & Evanston for a not to exceed fee of \$8,815.

Progressive is being recommended due to their familiarity with that traffic signal and others in town.

FINANCIAL IMPACT:

Cost of surveying, design, specifications and construction engineering, \$8,815.00. The construction will be mostly covered by a CMAQ grant.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Authorize staff to enter into an agreement with Progressive.

COMMITTEE RECOMMENDATION:

AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners
FROM: Bryon L. Mazade, City Manager
DATE: August 2, 2011
RE: Burgess-Norton

SUMMARY OF REQUEST:

To approve a Memorandum of Understanding (MOU) with Burgess-Norton to provide access to City property for environmental investigation purposes and to reimburse the City for irrigation system costs.

FINANCIAL IMPACT:

Reimbursement of costs associated with irrigation systems and property access.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To approve the MOU.

COMMITTEE RECOMMENDATION:

None.

THE ENRIGHT LAW FIRM PLLC
2522 WOODMEADOW DRIVE
GRAND RAPIDS, MICHIGAN 49546

James P. Enright
616 957 2984
cell 616 481 7546
enrightj@me.com

August 4, 2011

Eric R. Gielow
Parmenter O'Toole
601 Terrace Street
P.O. Box 786
Muskegon MI 49443

Re: Memorandum of Understanding
Former Burgess-Norton Site; City of Muskegon Irrigation Well

Dear Eric:

This Memorandum of Understanding (MOU) summarizes our discussions on behalf of the City of Muskegon (City) and Burgess-Norton Mfg. Co., Inc. (B-N) about the City's irrigation well (Irrigation Well) in the Restlawn Cemetery along Nims Street, and the parties' understanding regarding future cooperation relating to response activity to address certain groundwater contamination in that area.

To review, B-N owns property near Nims and Getty Streets (Site) at which industrial operations have been conducted since early in the 20th century by B-N and prior owners and operators. The Site is now vacant and used only during environmental response activities. B-N has been investigating the existence, nature, and extent of groundwater contamination beneath the Site, as well as upgradient of the Site and at apparent downgradient locations (Contamination) including the City's Restlawn cemetery and the McCrea playground/ballfield area (collectively the "Premises"). B-N has proposed to continue its investigation in 2011.

A key aspect of B-N's future investigations will be access to City-owned or controlled properties, including the Premises and rights-of-way, in order to sample underlying soil and/or groundwater. Access to these locations in the past has been obtained pursuant to written agreements or permits from the City, and such access is being sought again for 2011. B-N appreciates the City's past cooperation.

THE ENRIGHT LAW FIRM PLLC

Eric R. Gielow
August 4, 2011
Page 2 of 6

The City pointed out that its past cooperation has not been without financial commitment by the City. Approximately two years ago, B-N's environmental consultant found Contamination in groundwater near the Irrigation Well on the Premises. As we discussed, no one consumes water produced from that well. However, as a precaution, the City ceased using the Irrigation Well in 2009 and instead has been purchasing municipal water for application through the irrigation system serving the Premises. The City has asserted that the loss of use of the Irrigation Well creates a financial hardship to the City which will continue until such time as a replacement groundwater supply well is installed or other arrangements are made for an alternate source of water.

We have also discussed the City's past cooperation with access requests, information requests, and assistance in accessing public sidewalks and streets. B-N anticipates a need for additional response activities, and we addressed the scope of potential future cooperation, including reasonable access to the Premises and other City-owned or controlled property; reasonably assisting B-N if it becomes necessary to notify owners of downgradient properties of migrating Contamination; reasonably assisting B-N in communicating with the residents concerning this situation; and promptly facilitating B-N's Petition, if necessary, to restrict groundwater use pursuant to the City's Groundwater Protection Ordinance, Muskegon City Code Section 34-61 et seq. (the "Ordinance").

As a result of our discussions, the parties have identified the following voluntary actions, which, if taken, will advance the mutual interests of the City and B-N:

(1) B-N may elect to make a non-refundable payment to the City of the sum of Forty Five Thousand and no/100 Dollars (\$ 45,000.00) to defray previous administrative expenses, out-of-pocket costs, and loss of use of the Irrigation Well from 2009 to the present. Payment will be made within 60 days of receipt of the City's invoice for that amount.

(2) The City will thereafter, on or after July 1 of each calendar year, invoice B-N for the total amount of municipal water used for irrigation purposes at Restlawn/McCrea Playfield from June 30 of the preceding year through June 30 of the current year. B-N will pay the actual cost of supplying municipal water to the Premises for irrigation purposes, in an amount not to exceed: \$35,000 for the period ending June 30, 2012, and, in subsequent years ending on June 30, \$35,000 multiplied by the factor by which the overall applicable City water rate has increased during such period, if any. B-N will make a non-refundable payment of the invoice within 60 days of receipt. At B-N's request, the

THE ENRIGHT LAW FIRM PLLC

Eric R. Gielow

August 4, 2011

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City will promptly provide B-N all records relating to water rates and usage covered by such invoice.

(3) The City will not draw water from the Irrigation Well without the express written consent of B-N.

(4) The City will extend its reasonable cooperation to B-N and its contractors and consultants, including access to City-owned or controlled properties, including rights-of-way, for further investigation and, when appropriate, remediation, provided, however, that specific terms and conditions of access may be set forth in a written access agreement or permit. The City will exert its best effort to promptly grant access, recognizing that depending upon the nature of the access request, the City reserves the right to request additional information and request reasonable permit fees to defray its administrative expenses and out-of-pocket costs to process the access request.

(5) B-N has requested immediate access to take certain soil and groundwater samples along Isabel and Allen Streets, and to install certain monitoring wells on the Premises and on Kenneth Street. This access request is approved for implementation in accordance with the terms and conditions of the Permit Applications attached as Appendix "1".

(6) The City will promptly facilitate and consider B-N's Petition, if any, to add "Affected Premises" to the "Appendix Map" of parcels of property subject to the Ordinance. B-N understands that such Petition is subject to the requirements of the Ordinance, including coordination with the Michigan Department of Environmental Quality and the final Approval of the City Commission. Such a Petition has not been made and B-N believes it would be premature because the nature and extent of groundwater contamination are not sufficiently defined.

(7) The City and B-N agree to promptly share information concerning citizen complaints, concerns, or information requests by others (including individuals), concerning possible groundwater contamination or environmental response activities carried out by B-N or its contractors in the vicinity of the Site or possible downgradient locations. The City and B-N shall work cooperatively to disseminate information, where possible, in a coordinated manner.

(8) B-N may investigate the installation of a replacement well on the Premises in an area or depth unaffected by the Contamination, and may install a well on the Premises to restore the City's use of groundwater for irrigation purposes. The City agrees to cooperate with these activities, including but not limited to reasonable access requests

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Eric R. Gielow

August 4, 2011

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to evaluate suitable well locations/depths or the installation of a replacement well. The City agrees to retain the pump from the Irrigation Well so that it can be returned to service and will make it available for use with the replacement well at B-N's request. B-N retains the right to install a replacement well at any time in lieu of paying the water bill.

(9) The City and B-N will develop and sign an appropriate tolling agreement in order to preserve whatever claims and defenses they may have against each other relating to environmental contamination or response activities that arise from or affect the B-N property.

(10) The City and B-N will confer at least annually to determine whether or not to carry out these activities set forth in this MOU for another year or a shorter period of time.

For purposes of this MOU, the parties acknowledge that the full scope of facts and circumstances surrounding the Site, the Contamination, the response activities to be undertaken by B-N and the damages sustained by the City are unknown and indefinite at the present time, and may change as B-N continues to conduct response activities on and relating to the Site. In the meantime, it is the intent of the parties to avoid the expense and inconvenience of litigation, and the parties believe that in voluntarily undertaking the above-referenced steps, the parties will promote settlement and significantly reduce the risk of future litigation.

Prior to the closure of the Site, or the cessation of response activities by B-N, it is the intent of the parties to negotiate in good faith a comprehensive settlement agreement which addresses the parties' respective claims and resolution of the issues regarding Irrigation Well, the B-N response activities and other matters arising from the Site. It is the intent of the parties that payments referenced above and actually made by B-N, although not refundable, shall be credited against payments to be made by B-N, if any, under the final Settlement Agreement. B-N fully releases the City from any claim for reimbursement, refund or repayment of amounts voluntarily tendered to the City pursuant to this MOU.

This MOU is an expression of the parties' present intent, but is not intended to be, and shall not be construed as binding in any way on the City or B-N, and is not the final expression of the terms of any contract or agreement with regard to any matter addressed herein. Except as is expressly set forth above with regard to payments made by B-N to the City, this MOU is not intended to be a release, accord, or settlement of any matter whatsoever, and this MOU shall not be admissible in evidence to prove a claim, the amount of any damages, or the existence of any defense. All actions taken by the

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Eric R. Gielow

August 4, 2011

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parties hereunder are entirely optional and without recourse, and neither party shall be liable to the other for failure to comply with this MOU. The parties reserve all rights and defenses.

This MOU does not, and is not intended to modify the terms of the Limited Access Agreement, dated September 22, 2009, nor any permit previously issued by the City to B-N, the effect of which shall continue or expire according to the terms thereof.

Although this MOU does not bind the City or B-N, both intend in good faith to carry out the activities stated above and each will promptly notify the other if it declines to carry out any of the steps, tasks or actions specified above. The City and B-N may coordinate and cooperate in ways not listed above, as appropriate. Our signatures on behalf of the City and B-N indicate that each has reviewed this letter and intends to proceed as stated.

Counsel for Burgess-Norton Mfg. Co., Inc.

Counsel for City of Muskegon

James P. Enright

Date: _____

Eric R. Gielow

Date: _____

Eric R. Gielow
August 4, 2011
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Appendix 1

Permits

TOLLING AGREEMENT

This Tolling Agreement ("Agreement") is made effective as set forth in paragraph L below ("Effective Date") by and between BURGESS-NORTON MFG. CO., INC. of 737 Peyton Street, Geneva, Illinois 60134, a Delaware Corporation, ("B-N") and the CITY OF MUSKEGON, of 933 Terrace Street, Muskegon, Michigan 49440, a Michigan Municipal Corporation ("City") (collectively "Parties"), owner of certain property generally located at 1400 Kenneth Street, Muskegon, Michigan 49442 (the "Premises"), in connection with a release of hazardous substances at the former B-N plant located at 660 Nims Street, Muskegon, Michigan, (the "Site"), and migrating to the Premises.

RECITALS

1. B-N has retained consultants to engage in certain environmental response activities relating to the Site;
2. To perform such response activities, B-N and the City executed a Limited Access Agreement to permit B-N's consultants to enter a portion of the Premises and adjacent streets to investigate the extent of contamination;
3. Based on the results of the investigation, B-N has informed the City that the Premises and other properties may have been impacted with hazardous substances in the groundwater beneath such properties (hereinafter "Contamination");
4. The Michigan Department of Environmental Quality has oversight and monitoring responsibilities with regard to the investigation of the nature and extent of said Contamination and the remediation of said Contamination;
5. The full extent and nature of said Contamination and the remediation of said Contamination are presently unknown;
6. Various disputes related to the Contamination may or potentially exist among B-N and the City, however, the Parties deem it to be mutually beneficial that alleged claims not be pursued until the full extent of Contamination is better understood and B-N has had an opportunity to develop remedial options for the Site and Premises; and
7. To give the parties time to evaluate conditions, viability of claims, and the extent of any alleged damages, the parties make the following Agreement to defer and postpone litigation:

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the adequacy of which is hereby acknowledged, B-N and the City agree as follows:

- A. Statute of Limitations: B-N and the City hereby agree to toll any applicable statute of limitations, estoppel or laches or any other time-related defense, with respect to the filing of each available claim by the respective Parties. The Parties intend that such statute of limitations or other time-related defenses will be tolled as to each Party from the Effective Date until the Expiration Date. As used herein, the term "Expiration Date" shall mean 5:00 p.m. on the earlier of the following dates: five (5) years after the Effective Date of this Tolling Agreement or one hundred twenty (120) days after either party gives written notice of termination, delivered as required under paragraph F of this Agreement. If the termination would otherwise occur on a Saturday, Sunday or legal holiday, the Expiration Date shall be extended to 5:00 p.m. on the first Monday or date beyond the legal holiday, as the case may be.
- B. Timing: The period of time that the statutes or other time-related defenses are tolled (the "Tolling Period") (including the 120 day period following notice of termination) shall be added to the time for bringing an action for each Party's respective claims, pursuant to any United States law, State of Michigan law or other state law (statutory or case law), including any applicable state or federal Code(s) of Civil Procedures that are applicable or may be applicable to each Claim. The Tolling Period shall include the Effective Date of the Agreement and shall continue until the Expiration Date (as defined above).
- C. No Waiver: It is specifically understood that neither Party waives nor releases any statute of limitations or time-related defense which could have been asserted prior to the Effective Date.
- D. Justifiable Reliance: B-N and the City acknowledge and agree that each Party may justifiably and reasonably rely upon the terms and conditions set forth in this Agreement, that the statute of limitations at issue are subject to being tolled, and that this Agreement is enforceable in accordance with its terms.
- E. Termination: The settlement of the Parties' claims or the failure to settle all claims will not affect this Agreement, unless and until terminated pursuant to this Agreement. Each party reserves the right to submit a notice of termination, in its sole discretion, at any time.
- F. Notices: All notices, demands, requests, and information required or permitted to be given under the provisions of this Agreement, shall be in writing and shall be deemed given (a) when personally delivered to the Party to be given such notice or other communication, (b) on the business day that such notice or other communication is sent by facsimile or similar electronic device, fully prepaid, which facsimile or similar electronic communication shall promptly be confirmed by written notice, (c) on the third business day following the date of deposit in the United States mail if such notice or other communication is sent by certified or registered mail with return receipt requested and

postage thereon fully prepaid, or (d) on the business day following the day such notice or other communication is sent by reputable overnight courier, to the following:

If to the City:

Bryon Mazade
City of Muskegon
Department of Public Works
1350 E. Keating Avenue
Muskegon, MI 49442

With a copy to legal counsel:

Eric R. Gielow
Parmenter O'Toole
601 Terrace Street
P.O. Box 786
Muskegon, MI 49443-0786
Fax No: (231) 722-5527

If to B-N:

Burgess-Norton Mfg. Co., Inc.
737 Peyton Street
Geneva, Illinois 60134

With a copy to legal counsel:

James P. Enright
Enright Law Firm PLLC
2522 Woodmeadow Drive
Grand Rapids, MI 49546

- G. Jurisdiction: This Agreement is to be governed by and construed in accordance with the laws of the State of Michigan.
- H. Authority: The individual executing this Agreement below personally warrants to the other Party hereto that such individual, in executing this Agreement, is acting with full authority to bind the respective Party to the terms of this Agreement and that evidence of such authority shall be submitted on request.
- I. No Admission: Nothing contained within this Agreement shall be deemed to be an admission or acknowledgement of responsibility, settlement or accord between the Parties related to the Contamination or otherwise. The City and B-N reserve all rights and claims related to the Contamination except as expressly set forth in this Agreement.
- J. Preparation of Document: Each Party has cooperated in the drafting and preparation of this Agreement, and, accordingly, the normal rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.
- K. Binding Effect: This Agreement shall bind, and inure to the benefit of, the Parties and any other related and affiliated corporations and businesses, as well as their respective successors and assigns.

- L. Execution: This Agreement may be signed in counterparts and the Effective Date will be deemed the date of its full and complete execution.
- M. Entirety; Amendments. The mutual obligations of the parties as provided herein are the sole consideration for this Agreement, and no representations, promises or inducements have been made by the parties other than as appear in this Agreement. The parties agree that this Agreement contains the entire agreement and understanding of the parties related to the subject matter hereof, and that there are no additional promises or terms of the Agreement between the parties other than those written in this Agreement related to the subject matter hereof. This Agreement may not be modified or amended or the rights of any Party hereunder waived unless such modification, amendment or waiver is effected by a written instrument which is executed by each of the Parties.

**BURGESS-NORTON MANUFACTURING
COMPANY, a Delaware Corporation**

**CITY OF MUSKEGON, a Michigan Municipal
Corporation**

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

Date: July 26, 2011
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Encroachment Ordinance Amendment

SUMMARY OF REQUEST: This request is to amend Chapter 74, Article V of the Code of Ordinances by adding sections 74-200 through 74-214.

Under the proposed ordinance all encroachments will expire August 31, 2011, and will require renewal on or before September 1st of each year.

FINANCIAL IMPACT: New proposed fees are \$25 if an annual inspection is not required and a \$50 fee if an annual inspection is required.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the ordinance amendment.

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

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

1. Chapter 74, Article V of the Code of Ordinances of the City of Muskegon, Michigan is amended by adding sections 74-200 through 74-214 to read as follows:

ARTICLE V. ENCROACHMENTS

Sec. 74-200. DEFINITIONS.

The term ENCROACHMENT as used in this subchapter shall mean any of the following which is located on, over, in or under any roadway, sidewalk, alley or other public right of way: architectural projection including belt course, planter, mansard, cosmetic wall covering, roof cornice and wall buttress; awning; canopy; cellar entrance; coal hole; fence; manhole; marquee; sidewalk elevator; step or stair; fire escape; standpipe or sprinkler connection; sign; subgrade spread footing; underground conduit, cables and/or wires (private); wall; loading dock, platform or facility; hoistway opening; sidewalk vault; street vault; elevated craneway or walkway; any device or object, or anything specifically permitted by the Commission and designated by it as an Encroachment subject to the provisions of the subchapter. The term ENCROACHMENT as used in this subchapter shall not include overhead electric and telephone lines, poles and appurtenances; underground electric, telephone, gas and steam lines, together with tunnels and conduits owned by a public utility, a public utility permitted by the City and for which the utility company has agreed to hold the City harmless, or monitoring wells or testing of soils or groundwater for environmental purposes which are permitted by the City Commission and/or City Engineer.

Sec. 74-201. PERMITS REQUIRED.

It shall be unlawful for any person to erect, build, maintain or relocate any Encroachment as defined in this subchapter, without first obtaining a permit from the City Clerk or by Commission approval as provided under Sec. 74-205, paying the permit fee as required under Sec. 74-206, and furnishing the necessary insurance certificate as defined under Sec. 74-208, if applicable.

Sec. 74-202. APPLICATION FOR PERMIT.

Applications for Encroachment Permits (either existing or proposed) shall be made on a form provided by the City Clerk and shall include the following information:

- (A) Name, address, and telephone number of applicant;
- (B) Location and type of the existing or proposed Encroachment, building to which attached or abutting lot which Encroachment serves, or if not abutting a privately owned lot, the location of Encroachment in street, alley or public way;
- (C) Blueprints or ink drawings showing the plans and specifications of the proposed or actual Encroachment, if requested by the City Clerk;
- (D) Such other information as the City Clerk shall require in order to insure compliance with this subchapter and all other ordinances of the City and laws of the State of Michigan.

Sec. 74-203. ENCROACHMENT PERMIT CLASSIFICATIONS.

Upon receipt of an application for an Encroachment Permit, the City Clerk shall determine whether or not such Encroachment, because of its nature, shall or shall not require regular inspections due to public safety and/or potential liability issues the Encroachment may present. Those Encroachments not requiring routine inspections shall be graded Class I Encroachments and those requiring routine inspections shall be graded Class II Encroachments, and fees shall be set accordingly as defined in Sec. 74-206.

Sec. 74-204. EXISTING ENCROACHMENTS.

All existing Encroachment permit holders shall be required to complete an application for permit as defined in Sec. 74-202, including those permitted by special written agreement.

Sec. 74-205. APPROVAL OF ENCROACHMENTS BY CITY.

- (A) It shall be the duty of the City Clerk to review the proposed or actual Encroachment to ensure it does not pose an adverse affect to public safety, inconvenience the public or interfere with public usage and where appropriate, shall order any necessary repairs, alterations or removal.

(B) When the Encroachment meets all the requirements of this and any other ordinance of the City and the laws of the State of Michigan, the City Clerk shall then issue an Encroachment Permit, provided the applicant pays the required fee as defined in Sec. 74-206 and furnishes the necessary Certificate of Insurance as defined in Sec. 74-208, if applicable. In the event the City Clerk does not believe granting the Encroachment Permit would be in the best interest of the City, the City Clerk may deny the granting of a permit.

(C) If the applicant does not concur with the decision of the City Clerk either to make repairs, alterations or removal, or the City Clerk's decision to deny the application, the application shall be transmitted to the City Commission for approval or disapproval. The decision of City Commission shall be final.

Sec. 74-206. PERMIT FEES.

Each applicant shall pay an application fee as provided in the Fee Structure established by the City Commission.

A separate permit and fee will be charged for each encroachment on any one parcel. Application fees are not prorated and are non-refundable. All permits for Encroachments now existing or issued prior to the effective date of this ordinance shall expire on August 31, 2011. All Encroachment Permits shall require renewal on or before September 1st of each year.

Sec. 74-207. LATE PAYMENT PENALTY.

Non-compliance of this Ordinance may result in additional fees as established by the City Commission.

Sec. 74-208. INSURANCE REQUIREMENT.

(A) Prior to the issuance of any Encroachment Permit, the Licensed Inspector shall determine if such Encroachment may present possible claims for personal injury, bodily injury or property damage due to its nature, and as a result may require the applicant to provide proof of liability insurance in an appropriate amount by a company authorized and acceptable to do insurance business in the State of Michigan, specifically naming the City of Muskegon, its agents, employees and elected officials, as additional insured and loss payee for any such claims.

(B) In the event such proof of liability insurance is required, it shall be updated and provided to the City annually at the time of renewal.

Sec. 74-209. INSPECTION.

The City Clerk shall inspect, at such time as he or she deems necessary, each Encroachment Permit granted to determine whether it is in need of repair or removal, and the permit fee shall be deemed to cover the costs of this inspection whether inspection be made annually or at other intervals.

Sec. 74-210. PERMIT REVOCABLE AT ANY TIME.

All rights and privileges acquired under the provisions of this subchapter or any amendment thereto are mere licenses, revocable at any time by the City Clerk or City Commission under the terms and provisions of this subchapter and all such permits shall contain this provision.

Sec. 74-211. REMOVAL OF ENCROACHMENT UPON FAILURE TO APPLY FOR PERMIT, PAY PERMIT FEE, OR MAINTAIN LIABILITY INSURANCE.

Upon failure of any person to make application for an Encroachment Permit where required, to pay the permit fee or maintain liability insurance, if applicable, the City Clerk shall have the authority to remove said Encroachment immediately. Any item(s) confiscated pursuant to the provisions of this section shall be held by the City for a period of thirty (30) days. During the thirty (30) day holding period, the owner of said item may request the return of the item on a form provided by the City Clerk. The City Clerk shall check the inventory of confiscated items and if the item is found to be held by the City the applicant may pay a \$25.00 recovery fee for each item held at which time the City Clerk shall return the item to the owner. After thirty (30) days have passed, the City Clerk may dispose of said item(s) either by disposal in an appropriate landfill or by sale.

Sec. 74-212. REMOVAL OF UNSAFE ENCROACHMENTS.

Any Encroachment which has become unsafe or presents a hazard to the general public by reason of deterioration, dilapidation, lack of repair or maintenance, interferes with any future city usage of the area or city project, or any other cause which results in a limitation by the general public in its use of the public right-of-way, is hereby declared to be a public nuisance and shall be abated in the manner provided for removal of dangerous structures.

Sec. 74-213. TEMPORARY ENCROACHMENTS.

Applications and permits for temporary or intermittent Encroachments shall be obtained in the same manner as applications and permits are obtained for permanent Encroachments.

Sec. 74-214. DELEGATION OF AUTHORITY.

Wherever in this subchapter an act or duty is required to be performed by the City Clerk, said act or duty may be delegated by the City Clerk to any employee of the City.

2. This Ordinance is to become effective ten (10) days after publication.

Ayes:

Nays:

First Reading:

Second Reading:

CERTIFICATE

The undersigned, being the duly qualified Clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the ____ day of _____, 2011, at which meeting a quorum was present and remained throughout, and that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Date: _____, 2011

Ann Marie Becker, MMC
City Clerk

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

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on _____, 2011, the City Commission of the City of Muskegon adopted Chapter 74, Article V of the Muskegon City Code concerning an Encroachment Ordinance, summarized as follows:

1. Section 74-200 provides a definition for this Ordinance.
2. Section 74-201 provides the requirement for a permit if an encroachment on City owned property is going to be permitted.
3. Section 74-202 provides the requirements for an application for an encroachment permit.
4. Section 74-203 provides for a classification of encroachment permits and the need for regular inspections.
5. Section 74-204 provides for the requirement that existing encroachments need to complete an application.
6. Section 74-205 provides for the approval process of encroachments.
7. Section 74-206 provides for fees requirement for an encroachment permit.
8. Section 74-207 provides for a late payment fee.
9. Section 74-208 provides for insurance requirement for encroachments.
10. Section 74-209 provides for inspections of encroachments.
11. Section 74-210 provides that encroachment permits are revocable at any time.
12. Section 74-211 provides for the removal of an encroachment upon failure to apply for a permit, failure to pay the fee or failure to maintain insurance.
13. Section 74-212 provides for the removal of unsafe encroachments.
14. Section 74-213 provides for temporary encroachments.
15. Section 74-214 provides for delegation of authority from the City Clerk to any employee in the City.

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

This ordinance amendment is effective ten (10) days from the date of this publication.

Published: _____, 2011

CITY OF MUSKEGON

By _____
Ann Marie Becker, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

Commission Meeting Date: August 12, 2011

Date: August 4, 2011

To: Honorable Mayor & City Commission

From: Community and Neighborhood Services Department

RE: Approval of Sale of City-owned home at 1891 Wood

SUMMARY OF REQUEST: To approve the attached resolution and instruct the Community and Neighborhood Services department to complete the sales transaction between Ms. Crystal Cervantes for the totally rehabilitated home at 1891 Wood Street, which is part of the City's Neighborhood Stabilization Program (NSP) through the Michigan State Housing Development Authority Office of Community Development. Ms. Cervantes purchase price is \$50,000.

The beautiful three-bedroom, 2-bath home was previously vacant.

FINANCIAL IMPACT: The proceeds from the sale will be used to continue the rehabilitation of vacant houses through NSP to sustain our current investments to stabilize and revitalize neighborhoods.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and direct the CNS staff to complete the sale.

COMMITTEE RECOMMENDATION: None.



MUSKEGON CITY COMMISSION

RESOLUTION TO APPROVE THE PURCHASE OF
CURRENTLY CITY-OWNED PROPERTY AT 1891 WOOD STREET

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

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

WHEREAS, the City of Muskegon is dedicated to promoting homeownership throughout its neighborhoods;

NOW THEREFORE, BE IT RESOLVED that the City Commission hereby approves the sale of 1891 Wood Street to Crystal D. Cervantes of 4268 W. 24th Street, Fremont. Ms. Cervantes will purchase the house as an owner-occupied structure.

Adopted this 9th day of August, 2011.

Ayes:

Nays:

By _____
Stephen J. Warmington, Mayor

By _____
Ann Marie Becker, MMC City Clerk

AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners
FROM: Bryon L. Mazade, City Manager
DATE: August 2, 2011
RE: Great Lakes Die Cast Financing Subordination

SUMMARY OF REQUEST:

Great Lakes Die Cast has a loan with the City and has asked that the City give up its lien on the company's receivables so it can re-finance with Wells Fargo.

FINANCIAL IMPACT:

This impacts our security.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To continue the lien and subordinate the loan to the refinancing with Wells Fargo, and authorize the Mayor and Clerk to execute necessary documents. This is acceptable to the company.

COMMITTEE RECOMMENDATION:

None.



RECEIVED

JUL 15 2011

MUSKEGON
CITY MANAGER'S OFFICE

ISO 9001:2008
Registered Quality Systems

July 12, 2011

Mr. Brian Mazade
City of Muskegon
933 Terrace Street
Muskegon, Michigan 49440

Dear Brian:

Attached you will find a letter addressed to you by Wells Fargo Supply Chain Finance Group.

We have been requested by one of our larger customers, HNI Corporation, to participate in a receivables financing program with Wells Fargo. In order to maintain compliance with the covenants we have with our primary lender, Greenfield Commercial Credit, we have agreed to only include in this program receivables for tooling. Tooling receivables are currently not allowed as collateral by Greenfield. Thus, this program represents an incremental source of attractive financing if needed for the corporation.

We have been and expect to continue to have an annual volume of tooling receivables with HNI of \$1-1.5 million a year. Additionally, the interest rate on borrowings from Wells using the HNI tooling receivables will be 10 percentage points lower than borrowing from Greenfield.

I would appreciate it if you could sign and return the letter document so that we might make available this lower cost additional financing.

For your information, business levels are improved over last year however customer fluctuating schedules are not helping our profitability. The company is operating at approximately break even day to day. We are currently developing numerous new parts for HNI as well as Kimball Furniture, Pioneer Products, and General Products. We are making slow but steady progress in improving our balance sheet and reducing past due debts.

If you have any questions or comments, please advise (231) 728-8813 Cell (231) 740-5292.

Very truly yours,

Con J. Nolan
President

mm
Attachment



Supply Chain Finance Group
301 S College St., 9th Floor
Charlotte, NC 28202

June 29, 2011

City of Muskegon
933 Terracc Street
Muskegon, MI 49440

Dear City of Muskegon,

Wells Fargo Bank, National Association, a national banking association (together with its successors and assigns, "**Wells Fargo**") has been advised that GREAT LAKES DIE CAST CORPORATION, a Michigan corporation together with its successors and assigns, "**Seller**") has entered into financing arrangements with CITY OF MUSKEGON (together with its successors and assigns, "**Secured Party**"). Under such arrangements Secured Party, either individually, or as an agent for other Secured Parties, has a security interest in the inventory, accounts receivable and other related assets of Seller.

Seller may from time to time offer to sell to Wells Fargo accounts receivable arising from sales of goods or services and related assets by Seller to HNI Corporation and its subsidiaries including but not limited to Allsteel, Inc., The Gunlocke Company L.L.C., Hearth & Home Technologies Inc., Hickory Business Furniture, LLC, HNI International Inc., HNI Services L.L.C., HNI Technologies Inc., The HON Company, Maxon Furniture Inc., Paoli Inc. and such of HNI Corporation's and such of its affiliates as Wells Fargo may in writing identify to Supplier as a Buyer (each, together with its successors and assigns, a "**Buyer**") and Wells Fargo may from time to time purchase such accounts receivable and related assets from Seller. Such accounts receivable and related assets (as defined on Exhibit 1, the "**Purchased Receivables**") are to be purchased by Wells Fargo free and clear of any security interests, liens, charges, claims, pledges or other encumbrances (any of the same being referred to as a "**Lien**").

Secured Party hereby consents to the sale of the Purchased Receivables by Seller to Wells Fargo, and agrees that such sale shall not be in violation of the agreements of Seller with Secured Party or give rise to any default under such agreements. Effective on the payment by Wells Fargo of the purchase price for any Purchased Receivables, Secured Party agrees that it will release, and hereby releases, automatically and without any further action, all Liens and any other interests or claims of Secured Party in or to such Purchased Receivables. Nothing in this paragraph shall be deemed to constitute a release by Secured Party of its Liens on the proceeds received by Seller

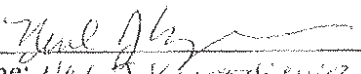
from or on behalf of Wells Fargo for the sale of the Purchased Receivables or any Liens Secured Party may have in any receivables and related assets that are not transferred to Wells Fargo.

Secured Party authorizes and agrees that Wells Fargo may file appropriate UCC amendments to evidence the release and termination of the Liens of Secured Party as provided for above in any Purchased Receivables, including as an exhibit so such amendments the description of the released Purchased Receivables in the form attached to this agreement as Exhibit 2, and that the foregoing shall constitute the irrevocable authorization and direction for such filings. Upon Wells Fargo's request, at Seller's expense, Secured Party will execute and deliver any other documents or instruments that may be reasonably requested by Wells Fargo in order to evidence the release provided above.

This agreement shall become effective on the date set forth above upon its execution by each of the parties hereto and thereafter shall be binding upon and inure to the benefit of the parties hereto and each of their respective successors and assigns. The successors and assigns for Seller shall include a debtor-in-possession or trustee of such party. This agreement shall be applicable both before and after the filing of any petition by or against Seller under the U.S. Bankruptcy Code and all converted or succeeding cases in respect thereof. The validity, interpretation and enforcement of this Agreement shall be governed by the internal laws of the State of New York but excluding any principles of conflict of laws or other rule of law that would cause the application of the law of any jurisdiction other than the laws of the State of New York. Each party hereto irrevocably consents and submits to the non-exclusive jurisdiction of the Supreme Court of the State of New York in New York County and the United States District Court for the Southern District of New York and waives any objection based on venue or *forum non conveniens* with respect to any action instituted therein arising under this agreement. This agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original but all of which when taken together shall constitute one and the same agreement. In making proof of this agreement, it shall not be necessary to produce or account for more than one counterpart hereof signed by each of the parties hereto. EACH PARTY HERETO HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CAUSE OF ACTION ARISING UNDER OR RELATED TO THIS AGREEMENT.

Very truly yours,

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: 
Name: Neil B. Karaszewicz
Title: ANP

AGREED:
CITY OF MUSKEGON, as Secured Party

By: _____
Name: _____
Title: _____

GREAT LAKES DIE CAST
CORPORATION as Seller

By: 
Name: Cornelius J. Nolan
Title: President

EXHIBIT 1
TO
LIEN RELEASE AND CONSENT FORM

The term "**Purchased Receivables**" means all present and future accounts owing and payable to Seller by a Buyer arising pursuant to the sale by Seller of goods or services to such Buyer, including without limitation all of the Seller's interests in and to:

- (a) all rights, but not any obligations, under all related invoices, purchase orders or other agreements between Buyer and Seller with respect to all such accounts;
- (b) all documents, instruments and chattel paper arising pursuant to or in connection with such accounts;
- (c) all returned, repossessed or reclaimed inventory or goods, if any, the sale of which gave rise to any such accounts, and all rights to reclaim, repossess, and demand return of such inventory or goods;
- (d) all commercial tort claims or any other claims relating to any such accounts;
- (e) all books and records related to any such accounts, including all of Seller's present and future books of account of every kind or nature, purchase and sale agreements, invoices, sales orders, credit memos, ledger cards, bills of lading and other shipping evidence, statements, correspondence, and other data relating to any such accounts or any Buyer, together with the software and other medium in or on which the foregoing are stored;
- (f) all funds which are received by Purchaser or Seller in payment of any amounts owed in connection with any such accounts; and
- (g) all proceeds of the foregoing, in any form, including insurance proceeds and all claims against third parties for loss or damage to or destruction of or other involuntary conversion of any kind or nature of any or all of the foregoing.

EXHIBIT 2
TO
LIEN RELEASE AND CONSENT FORM

UCC Amendment – Description of Released Collateral

SELLER/DEBTOR: GREAT LAKES DIE CAST CORPORATION

PURCHASER/SECURED PARTY: Wells Fargo Bank, National Association

The “**Purchased Receivables**” shall mean the following assets and property purchased by Wells Fargo Bank, National Association, a national banking association, as purchaser (together with any successors and assigns, “**Purchaser**”) from GREAT LAKES DIE CAST CORPORATION, a Michigan corporation, as seller (together with any successors and assigns, “**Seller**”), pursuant to the Receivables Purchase Agreement, dated as of May 20, 2011, by and between Seller and Purchaser (as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, the “**Receivables Purchase Agreement**”):

All present and future accounts owing and payable to Seller by a Buyer arising pursuant to the sale by Seller of goods or services to such Buyer, including without limitation all of the Seller’s interests in and to:

- (a) all rights, but not any obligations, under all related invoices, purchase orders or other agreements between Buyer and Seller with respect to all such accounts;
- (b) all documents, instruments and chattel paper arising pursuant to or in connection with such accounts;
- (c) all returned, repossessed or reclaimed inventory or goods, if any, the sale of which gave rise to any such accounts, and all rights to reclaim, repossess, and demand return of such inventory or goods;
- (d) all commercial tort claims or any other claims relating to any such accounts;
- (e) all books and records related to any such accounts, including all of Seller’s present and future books of account of every kind or nature, purchase and sale agreements, invoices, sales orders, credit memos, ledger cards, bills of lading and other shipping evidence, statements, correspondence, and other data relating to any such accounts or any Buyer, together with the software and other medium in or on which the foregoing are stored;
- (f) all funds which are received by Purchaser or Seller in payment of any amounts owed in connection with any such accounts; and
- (g) all proceeds of the foregoing, in any form, including insurance proceeds and all claims against third parties for loss or damage to or destruction of or other involuntary conversion of any kind or nature of any or all of the foregoing.

As used herein “**Buyer**” shall mean HNI Corporation, an Iowa corporation, and its subsidiaries, including but not limited to Allsteel, Inc., The Gunlocke Company L.L.C., Hearth & Home Technologies Inc., Hickory Business Furniture, LLC, HNI International Inc., HNI Services L.L.C., HNI Technologies Inc., The HON Company, Maxon Furniture Inc., Paoli Inc. and such of its affiliates as Purchaser may in writing identify to Seller as a Buyer from time to time, together with its and their successors and assigns.