

# CITY OF MUSKEGON

## CITY COMMISSION MEETING

**JULY 12, 2005**

**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. Used Computer Equipment Sale. H.E.A.L.T.H. Committee
  - C. Sale of Buildable Vacant Lot at 551 South Getty. PLANNING & ECONOMIC DEVELOPMENT
  - D. Policy Change to "Policy for Sale of City owned Residential Property. PLANNING & ECONOMIC DEVELOPMENT
- ❑ **PUBLIC HEARINGS:**
- ❑ **COMMUNICATIONS:**
- ❑ **CITY MANAGER'S REPORT:**
- ❑ **UNFINISHED BUSINESS:**
- ❑ **NEW BUSINESS:**
  - A. Accounting Services Contract. FINANCE
  - B. Request to Purchase Two Fire Engines. PUBLIC SAFETY
  - C. Fire Truck Lease Purchase. FINANCE
  - D. Resolution to Acquire 280 Iona. COMMUNITY AND NEIGHBORHOOD SERVICES
  - E. City - MDNR Memorandum of Understanding for Bike Trail along Laketon. ENGINEERING

**F. Fireworks Display Request for the Greek Festival. CITY CLERK**

**❑ 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.)

**❑ 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 GAIL A. KUNDINGER, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TDD: (231) 724-4172.

**Date: July 12, 2005**  
**To: Honorable Mayor and City Commissioners**  
**From: Gail A. Kunding, City Clerk**  
**RE: Approval of Minutes**

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SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, June 28, 2005.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

# CITY OF MUSKEGON

## CITY COMMISSION MEETING

**JULY 12, 2005**

**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, Michigan at 5:30 p.m., Tuesday, July 12, 2005.

Mayor Warmington opened the meeting with a prayer from Pastor Sarah Johnson of the Word of Truth Outreach 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 Bill Larson, Commissioner Lawrence Spataro, Chris Carter, Kevin Davis, Stephen Gawron, and Clara Shepherd, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Gail Kundinger.

#### **2005-61 CONSENT AGENDA:**

##### **A. Approval of Minutes. CITY CLERK**

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, June 28, 2005.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

##### **C. Sale of Buildable Vacant Lot at 551 South Getty. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: To approve the sale of a vacant buildable lot at 551 S. Getty Street to Angela Hawkins, 531 S. Getty Street, Muskegon, MI. The lot is 80 x 111 ft. and is being offered to Angela Hawkins for \$3,000. Angela Hawkins will be combining this property with her existing property and building an addition to her home. Her home is a two story home and the addition will be in line with the existing structure. She will be adding just over 1,000 square feet in total to the home. The True Cash Value for the property listed in the Assessor's Office is \$4,000, and our price is set at \$3,000 which is 75% of that amount.

FINANCIAL IMPACT: The sale of this lot to the adjacent property owner for the construction of an addition to her existing home will generate additional tax revenue for the City and will place the property back on the City's tax rolls thus relieving the City of continued maintenance costs.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign said resolution and deed.

COMMITTEE RECOMMENDATION: The Land Reutilization Committee recommends approval of the sale with the condition that the property be combined with the owner's original parcel and they have 18 months to build the addition.

**D. Policy Change to "Policy for Sale of City owned Residential Property.**  
**PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: To approve the change to the "Policy for Sale of City-Owned Residential Property" to include that Closing Costs will be split between the buyer and the seller.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: none

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign said resolution.

COMMITTEE RECOMMENDATION: The Land Reutilization Committee recommended approval of the policy change at their regular meeting of June 28, 2005.

**Motion by Commissioner Carter, second by Commissioner Gawron to approve the Consent Agenda as read with the exception of item B.**

**ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro**

**Nays: None**

**MOTION PASSES**

**2005-62 ITEM REMOVED FROM THE CONSENT AGENDA:**

**B. Used Computer Equipment Sale.** H.E.A.L.T.H. Committee

SUMMARY OF REQUEST: The City H.E.A.L.T.H. and Fitness Committee seeks City Commissioners' approval to sell obsolete computer equipment that the Information Technology Department has in storage in the City Hall basement. This old equipment is set to be discarded or destroyed by the Information Technology Department. The proceeds from this fundraiser will be used to purchase exercise equipment for the fitness area in the City Hall basement this

fall.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the request for sale of obsolete computer equipment and the proceeds from the sale go to the H.E.A.L.T.H. Exercise Equipment Project for City Hall.

**Motion by Commissioner Davis, second by Commissioner Carter to approve the used computer equipment sale.**

**ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, and Warmington**

**Nays: None**

**MOTION PASSES**

**2005-63 UNFINISHED BUSINESS:**

**A. Greek Festival Liquor License. (Mayor & Commission)**

**Motion by Commissioner Spataro, second by Commissioner Carter to approve The Big Fat Greek Festival's request to sell ouzo using one ounce serving containers, with the Fraternal Order of Police being in charge of serving at a separate location from the beer and wine.**

**ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, and Carter**

**Nays: None**

**MOTION PASSES**

**2005-64 NEW BUSINESS:**

**A. Accounting Services Contract. FINANCE**

SUMMARY OF REQUEST: In 1997, in conjunction with an early retirement initiative, the Finance Department replaced a full-time finance clerk position with a contractual accounting services arrangement. This has proven to be a very successful and efficient arrangement: the number of billable hours has steadily declined each year while the quality and volume of work has increased. In 2004, the total cost of the contract was \$11,279 for 262 hours of work. By way of comparison, the 2005 budgeted cost (wages and benefits) for a position comparable to the one replaced in 1997 is \$60,000.

The contract for accounting services has been with Hoffman, Steensma & Plamondon (HSP) since the start. The HSP individual assigned to this account now has several years of valuable experience with city financial procedures and maintains an excellent working relationship with finance staff. HSP has submitted a proposal for a three-year renewal of the contract which staff believes is fair

and reasonable.

FINANCIAL IMPACT:

|         | <u>Professional Staff</u> | <u>% Increase</u> | <u>Manager &amp; Partner</u> | <u>% Increase</u> |
|---------|---------------------------|-------------------|------------------------------|-------------------|
| Current | \$42.00                   |                   | \$50.00                      |                   |
| 2006    | \$43.00                   | 2.4%              | \$51.00                      | 2.0%              |
| 2007    | \$44.00                   | 2.3%              | \$52.00                      | 2.0%              |
| 2008    | \$45.00                   | 2.3%              | \$53.00                      | 1.9%              |

BUDGET ACTION REQUIRED: The 2005 budget includes adequate funding for these services. Future budgets will incorporate the proposed rates.

STAFF RECOMMENDATION: Approval of a three-year contract extension with Hoffman, Steensma & Plamondon, PLC for accounting services.

**Motion by Vice Mayor Larson, second by Commissioner Gawron to approve a three-year contract extension with Hoffman, Steensma & Plamondon, PLC for accounting services.**

**ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis**

**Nays: None**

**MOTION PASSES**

**B. Request to Purchase Two Fire Engines. PUBLIC SAFETY**

SUMMARY OF REQUEST: Fire Department staff is requesting approval by the Commission to allow for the procurement of two fire engines. The first engine would be a standard front-line engine, which would be purchased. The second would be an engine to include a 75' aerial ladder with a water delivery system which would be leased over a period of ten years. These two engines would replace two engines that are currently in service. The low bid, which meets all stated specifications, was submitted by Crimson Fire, 907 7<sup>th</sup> Ave., Brandon, South Dakota. Crimson is a subsidiary of Spartan Motors of Charlotte, Michigan. The bid price submitted by Crimson is \$1,031,390.

FINANCIAL IMPACT: Funds for this purchase and lease would originate in the City's Public Improvement Fund. The current balance would provide for the purchase of the first engine. Part of the future funds would provide the lease payments for the engine/aerial.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the purchase and lease agreement.

**Motion by Commissioner Spataro, second by Commissioner Davis to approve the request to purchase two fire engines.**

**ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and**

**Gawron**

**Nays: None**

**MOTION PASSES**

**C. Fire Truck Lease Purchase. FINANCE**

SUMMARY OF REQUEST: One of the commitments made in the 1993 income tax campaign was to set aside \$150,000 each year to replace major fire equipment on a "pay-as-you-go" basis. This commitment has been met each year. As of 12/31/04, there was \$470,086 held in this account with an additional \$150,000 to be contributed in 2005. Public Safety staff has determined there is serious need to replace two trucks at this time at a total projected cost of \$1,031,390. Staff is proposing to pay cash for the less expensive truck (\$425,566) and to finance the larger truck (\$605,824) via an Act 99 installment purchase contract. Staff is currently soliciting installment purchase quotes from various banks and other lending sources.

FINANCIAL IMPACT: Quotes are being taken for two repayment terms: 7-year and 10-year. Depending on which term is selected (and on quoted interest rates), annual installments are estimated to be \$70,000 - \$100,000.

BUDGET ACTION REQUIRED: None. Each year's budget includes \$150,000 allocation for fire equipment replacement. Funding for the installment purchase contract will come from this allocation.

STAFF RECOMMENDATION: To be determined.

**Motion by Commissioner Carter, second by Commissioner Shepherd to approve the fire truck lease purchase through National City Bank.**

**ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson**

**Nays: None**

**MOTION PASSES**

**D. Resolution to Acquire 280 Iona. COMMUNITY AND NEIGHBORHOOD SERVICES**

SUMMARY OF REQUEST: To approve the resolution that instructs the Community and Neighborhood Services office to obtain 280 Iona from the State of Michigan, which is currently a vacant abandoned home. The structure is located next door to 284 Iona, a recently completed infill home under the "Operation: At Long Last" project. The department's objective is to obtain 280 Iona for the minimum price of \$300, rehabilitate it and sell the property to a qualified family. The obtaining of this property and the total rehabilitation is one additional piece to the City's continuous neighborhood revitalization efforts.

FINANCIAL IMPACT: CNS Office will supply \$300 from the HOME program

income fund.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution and instruct the CNS Office to send the document to the State of Michigan.

COMMITTEE RECOMMENDATION: The Commission approved this transaction during the December 7, 2004, meeting.

**Motion by Commissioner Shepherd, second by Commissioner Spataro to approve the resolution to acquire 280 Iona from the State of Michigan.**

**ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, and Shepherd**

**Nays: None**

**MOTION PASSES**

**E. City - MDNR Memorandum of Understanding for Bike Trail along Laketon. ENGINEERING**

SUMMARY OF REQUEST: Approve the memorandum of understanding between the City and MDNR for the construction of a 10' asphalt trail starting at Getty and moving east to the extent the available funds of \$50,000 permits. The project will use City man power for the work while the State will pay for the material and the rental of any other equipment necessary to do the work. It is expected that the \$50,000 from MDNR will be enough to construct a bike path between Getty & Roberts.

FINANCIAL IMPACT: The salaries of those individuals that will be involved in the work which is estimated at about \$10,000 and the use of City owned equipment.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve the Memorandum of Understanding.

**Motion by Commissioner Spataro, second by Commissioner Gawron to approve the Michigan Department of Natural Resources Memorandum of Understanding for the Bike Trail along Laketon Avenue.**

**ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro**

**Nays: None**

**MOTION PASSES**

**F. Fireworks Display Request for the Greek Festival. CITY CLERK**

SUMMARY OF REQUEST: At the June 28<sup>th</sup> Commission Meeting you approved the request from Summit Pyrotechnics for a fireworks display permit for the Big Fat Greek Festival on July 30<sup>th</sup>. They are now requesting to set the fireworks off from

land instead of the Barge at Heritage Landing. Fire Marshall Metcalf will inspect the fireworks on the day of the event.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval contingent on site plan inspection and inspection of the fireworks.

**Motion by Commissioner Carter, second by Commissioner Davis to approve the fireworks display request.**

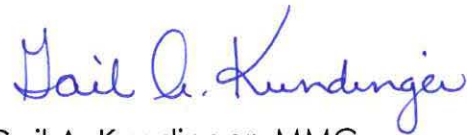
**ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, and Warmington**

**Nays: None**

**MOTION PASSES**

**ADJOURNMENT:** The City Commission Meeting adjourned at 6:47 p.m.

Respectfully submitted,



Gail A. Kunding, MMC  
City Clerk

**Commission Meeting Date: July 12, 2005**

**Date: July 1, 2005**

**To: Honorable Mayor & City Commission**

**From: Planning & Economic Development Department CBL**

**RE: Sale of Buildable Vacant Lot at 551 S. Getty**

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**SUMMARY OF REQUEST:**

To approve the sale of a vacant buildable lot at 551 S. Getty Street (Parcel #24-205-035-0001-11) to Angela Hawkins, 531 S Getty Street, Muskegon, MI. The lot is 80 x 111 ft. and is being offered to Angela Hawkins for \$3,000. Angela Hawkins will be combining this property with her existing property and building an addition to her home. Her home is a two story home and the addition will be in line with the existing structure. She will be adding just over 1,000 square feet in total to the home. The True Cash Value (TCV) for the property listed in the Assessor's office is \$4,000, and our price is set at \$3,000 which is 75% of that amount.

**FINANCIAL IMPACT:**

The sale of this lot to the adjacent property owner for the construction of an addition to her existing home will generate additional tax revenue for the City and will place the property back on the City's tax rolls thus relieving the City of continued maintenance costs.

**BUDGET ACTION REQUIRED:**

None

**STAFF RECOMMENDATION:**

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

**COMMITTEE RECOMMENDATION:**

The Land Reutilization Committee recommends approval of the sale with the condition that the property be combined with the owner's original parcel and they have 18 months to build the addition.

CITY OF MUSKEGON  
LAND REUTILIZATION COMMITTEE  
REGULAR MEETING  
MINUTES

June 28, 2005

Chairman M. Amrhein called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: M. Amrhein, R. Hill, R. Allen, K. Davis

MEMBERS ABSENT: C. Shepherd, J. Martin Jr., J. McClain

STAFF PRESENT: H. Mitchell, D. Leafers, C. Brubaker-Clarke

OTHERS PRESENT: A. Hawkins, 531 S. Getty; C. Miel, 531 S. Getty

APPROVAL OF MINUTES

A motion to approve the minutes of the regular meeting of April 26, 2005 was made by K. Davis, supported by R. Hill and unanimously approved.

NEW BUSINESS

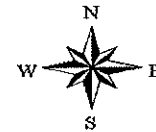
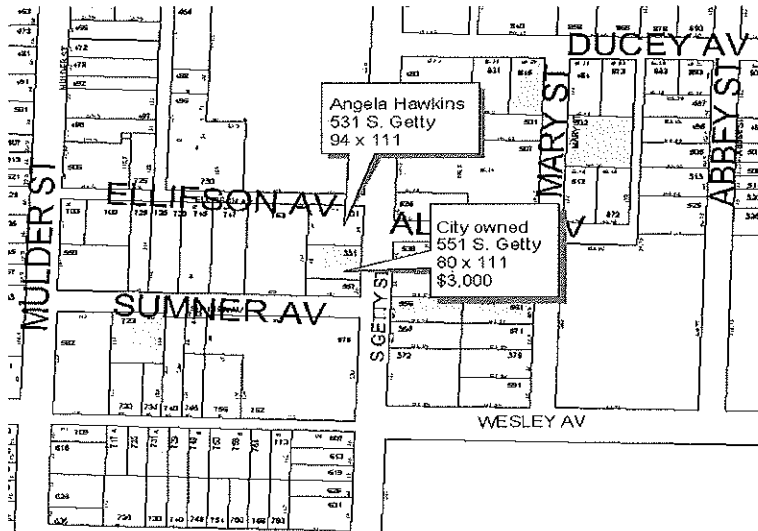
551 S. Getty St. – Request to sell the 80 x 111 buildable lot at 531 S. Getty St. to Angela Hawkins of 531 S. Getty St. for \$3,000 to combine with her property, and not require her to build a home on the lot. Ms. Hawkins would like to purchase the buildable City-owned property that is adjacent to hers. She will be getting married and her family will be expanding. She would like to build an addition to her current home and is asking to purchase the property at the policy requirement price of 75% of the TCV (\$3,000). She is asking that she not be required to build a home on the property. The City-owned property does have a slight slope headed toward Sumner Ave. The property at the corner of Sumner and Getty is owned by Bethesda Baptist Church, and is vacant and unbuildable. Staff does not know what the church intends to do with their property. With the lot being unbuildable, their options are limited. Staff recommends approval of this request, or a compromise for the property. This would not go to City Commission until the sale is ready to proceed. Any past due water bills or property taxes would have to be paid prior to the sale being completed.

M. Amrhein asked if the purchase of this lot would allow the owners to meet the side setback requirements for the planned addition to their home. H. Mitchell stated it would. R. Hill asked about the scope of the construction plans. C. Miel stated the addition would be 16 feet across from north to south, and 34 feet deep. It would cover what is now their side yard, and would be two stories. M. Amrhein stated they would be adding over 1,000 square feet to the residence, thus increasing the taxable value. He asked how many feet existed between the home and the property line. A. Hawkins stated roughly 40 feet. R. Allen asked about the unbuildable corner lot owned by the church. C. Miel stated that the church uses it for parking. R. Allen asked if there were plans to fence the yard in. C. Miel stated they would be.

M. Amrhein asked if they could add the condition that the addition is to be built within 18 months. H. Mitchell stated they could.

A motion to recommend approval to the City Commission to sell the buildable lot at 551 S. Getty St. to Angela Hawkins for \$3,000 to be combined with her property at 531 S. Getty St., and waive the requirement to build a home on the lot, provided the planned addition to the home is completed within 18 months, was made by R. Hill, supported by K. Davis and unanimously approved.

# City-Owned Property to Sell



551 S. Getty



531 S. Getty

**MUSKEGON CITY COMMISSION**

RESOLUTION APPROVING THE SALE OF A BUILDABLE LOT AT 551 S. GETTY STREET IN JACKSON HILL NEIGHBORHOOD FOR \$3,000 as recommended by the Land Reutilization Committee at their regular meeting of June 28, 2005.

WHEREAS, Angela Hawkins has placed a \$400 deposit for the parcel designated as parcel number 24-205-035-0001-11, located at 551 S. Getty Street; and

WHEREAS, the price for parcel number 24-205-035-0001-11 is set by the City at \$3,000, which is 75% of the True Cash Value (TCV) listed in the City Assessor's Office; and

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

WHEREAS, the sale is not consistent with City policy regarding the disposition of buildable lots, in that, this property will be combined with the adjacent property in order to construct an addition to the existing home located at 531 S. Getty Street.

NOW THEREFORE BE IT RESOLVED, that parcel number 24-205-035-0001-11, located at 551 S. Getty Street be sold to Angela Hawkins for \$3,000.

**CITY OF MUSKEGON REVISED PLAT OF 1903 N 40 FT OF S 105 FT OF E 111 FT OF BLK 35 & N 40 FT OF S 145 FT OF E 111 FT BLK 35**

Adopted this 12<sup>th</sup> day of July 2005

Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro

Nays: None

Absent: None

By: \_\_\_\_\_

  
Stephen J. Warmington  
Mayor

Attest: \_\_\_\_\_

  
Gail A. Kundergei, MMC  
City Clerk

## CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on July 12, 2005.

By: Gail A. Kunderger  
Gail A. Kunderger, MMC  
City Clerk

## REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT is made July 12, 2005, by and between the **CITY OF MUSKEGON**, a municipal corporation, with offices at 933 Terrace, Muskegon, Michigan 49440 ("Seller"), and **ANGELA HAWKINS** of 531 S. Getty Street, Muskegon, Michigan 49442 ("Buyer").

1. **General Agreement and Description of Premises.** Seller agrees to sell, and Buyer agrees to buy, record title of real estate, and all improvements thereon, with all beneficial easements, and with all of Seller's right, title and interest in all adjoining public ways, the real property located in the City of Muskegon, Muskegon County, Michigan ("Premises"), and specifically described as:

CITY OF MUSKEGON REVISED PLAT OF 1903, NORTH 40 FEET OF SOUTH 105 FEET OF EAST 111 FEET OF BLOCK 35 AND NORTH 40 FEET OF THE SOUTH 145 FEET OF THE EAST 111 FEET OF BLOCK 35

Subject to the reservations, restrictions and easements of record, provided said reservations, restrictions and easements of record are acceptable to Buyer upon disclosure and review of the same, and subject to any governmental inspections required by law.

2. **Purchase Price and Manner of Payment.** The purchase price for the Premises shall be Three Thousand and no/100 Dollars (\$3,000.00).

3. **Taxes and Assessments.** All taxes and assessments that are due and payable at the time of Closing shall be paid by Seller prior to or at Closing. All taxes and special assessments that become due and payable after Closing shall be the responsibility of Buyer.

4. **Title Insurance.** Seller agrees to deliver to Buyer, ten (10) days prior to closing, a commitment for title insurance, issued by Land America Transnation Title Insurance Company, for an amount not less than the purchase price stated in this Agreement, guaranteeing title on the conditions required herein. In the event the reservations, restrictions or easements of record disclosed by said title commitment is, in the sole discretion of Buyer, deemed unreasonable, Seller shall have forty-five (45) days from the date Seller is notified in writing of such unreasonableness of restriction and such unmarketability of title, to remedy such objections. If Seller resolves such restrictions and remedies the title (by obtaining satisfactory title insurance or otherwise) within the time specified, Buyer agrees to complete this sale as herein provided, within ten (10) days of written notification thereof. If Seller fails to resolve such restrictions or remedy the title within the time above specified or fails to obtain satisfactory title insurance, this Agreement will be terminated at Buyer's option. The premium for the owner's title policy shall be paid by Seller.

5. **Covenant to Construct Improvements and Use.** Buyer acknowledges that, as part of the consideration inuring to the City, Buyer, covenants to the construction of a two-story addition to the already existing two-story home on the property adjacent to the premises herein

conveyed within eighteen (18) months of the closing of this transaction and this parcel shall then be combined with the original parcel bearing an identification number of (61-24-205-035-0001-09). The two-story addition constructed must be just over 500 square feet for each story (approximately 16 feet to the South and 34 feet to the West) and shall remain in line with the height of the existing home, up to all codes. Buyer may only remove those trees necessary for construction of the two-story addition to the already existing two-story home and driveway. The two-story addition shall be substantially completed within eighteen (18) months and, in the event said substantial completion has not occurred, or the restriction of this paragraph relating to tree removal is violated, in the sole judgment of the City, the property and all improvements then installed shall revert in title to the City, without any compensation or credit to Buyer. The covenants in this paragraph shall survive the closing and run with the land.

6. **Survey.** Buyer at its own expense may obtain a survey of the Premises, and Buyer or its surveyor or other agents may enter the Premises for that purpose prior to Closing. If no survey is obtained, Buyer agrees that Buyer is relying solely upon Buyer's own judgment as to the location, boundaries and area of the Premises and improvements thereon without regard to any representations that may have been made by Seller or any other person. In the event that a survey by a registered land surveyor made prior to closing discloses an encroachment or substantial variation from the presumed land boundaries or area, Seller shall have the option of effecting a remedy within thirty (30) days after disclosure, or tendering Buyer's deposit in full termination of this Purchase Agreement, and paying the cost of such survey. Buyer may elect to purchase the Premises subject to said encroachment or variation.

7. **Condition of Premises and Examination by Buyer.** NO IMPLIED WARRANTIES OF HABITABILITY, QUALITY, CONDITION, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER IMPLIED WARRANTIES SHALL OPERATE BETWEEN SELLER AND BUYER, AND BUYER EXPRESSLY WAIVES ANY AND ALL SUCH IMPLIED WARRANTIES. BUYER UNDERSTANDS AND AGREES THAT THE PREMISES ARE TAKEN "AS IS," SUBJECT TO THE EXPRESS COVENANTS, CONDITIONS AND/OR EXPRESS WARRANTIES CONTAINED IN THIS PURCHASE AGREEMENT. BUYER FURTHER SAYS THAT HE HAS PERSONALLY INSPECTED THE PREMISES AND IS SATISFIED WITH THE CONDITION OF THE LAND, AND THE BUILDINGS AND IMPROVEMENTS THEREON, AND THAT THE PROPERTY IS BEING PURCHASED AS A RESULT OF SUCH INSPECTION AND INVESTIGATION AND NOT DUE TO ANY REPRESENTATIONS MADE BY OR ON BEHALF OF SELLER. SELLER KNOWS OF NO HAZARDOUS SUBSTANCES OR CONTAMINATION, AND BUYER WAIVES ANY CLAIM AGAINST SELLER IN THE EVENT SUCH SUBSTANCES ARE FOUND.

8. **Closing.** The closing date of this sale shall be on or before \_\_\_\_\_, 200\_\_ ("Closing"). The Closing shall be conducted at Land America Transnation Title Insurance Company, 570 Seminole Road, Ste. 102, Muskegon, MI 49444. If necessary, the parties shall execute an IRS closing report at the Closing.

9. **Delivery of Deed.** Seller shall execute and deliver a quit claim deed to Buyer at Closing for the Premises.

10. **Affidavit of Title.** At the Closing, Seller shall deliver to Buyer an executed Affidavit of Title.

11. **Date of Possession.** Possession of Premises is to be delivered to Buyer by Seller on the date of Closing.

12. **Costs.** Seller shall be responsible to pay the Michigan transfer tax, if any, in the amount required by law. In addition, Seller shall be responsible to pay for the recording of any instrument that must be recorded to clear title to the Premises, to the extent required by this Agreement. Buyer and Seller shall equally split the cost of the closing.

Buyer shall pay for the cost of recording the deed to be delivered at Closing.

13. **General Provisions.**

a. **Paragraph Headings.** The paragraph headings are inserted in this Agreement only for convenience.

b. **Pronouns.** When applicable, pronouns and relative words shall be read as plural, feminine or neuter.

c. **Merger.** It is understood and agreed that all understandings and agreements previously made between Buyer and Seller are merged into this Agreement, which alone fully and completely expresses the agreement of the parties.

d. **Governing Law.** This Agreement shall be interpreted and enforced pursuant to the laws of the State of Michigan.

e. **Successors.** All terms and conditions of this Agreement shall be binding upon the parties, their successors and assigns.

f. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision(s) had never been contained herein.

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

h. **Modification of the Agreement.** This Agreement shall not be amended except by a writing signed by Seller and Buyer.

The parties have executed this Real Estate Purchase Agreement the day and year first above written.

WITNESSES:

Linda Potter  
Linda Potter

Jo Ann Krzkowski  
Jo Ann Krzkowski

SELLER: CITY OF MUSKEGON

By [Signature]  
Stephen J. Warmington, Mayor

Gail A. Kunding  
Gail A. Kunding, MMC, Clerk

BUYER:

Alpe Mitchell

Angela Hawkins  
ANGELA HAWKINS  
SS No.: 369-78-7494

QUIT-CLAIM DEED

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

QUIT CLAIMS to **ANGELA HAWKINS** of 531 S. Getty Street, Muskegon, Michigan 49442,

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

CITY OF MUSKEGON REVISED PLAT OF 1903, NORTH 40 FEET OF SOUTH 105  
FEET OF EAST 111 FEET OF BLOCK 35 AND NORTH 40 FEET OF THE SOUTH  
145 FEET OF THE EAST 111 FEET OF BLOCK 35

for the sum of Three Thousand and no/100 Dollars (\$3,000.00)

PROVIDED, HOWEVER, Grantee, or its assigns, shall complete construction of a two-story addition to the already existing two-story home on the property adjacent to the premises herein conveyed within eighteen (18) months after the date hereof and this parcel shall then be combined with the original parcel bearing an identification number of (61-24-205-035-0001-09). The two-story addition constructed must be just over 500 square feet for each story (approximately 16 feet to the South and 34 feet to the West) and shall remain in line with the height of the existing home. In default of such construction, title to the premises shall revert to the City of Muskegon free and clear of any claim of Grantee or its assigns. In addition, the City of Muskegon may retain the consideration for this conveyance free and clear of any claim of Grantee or its assigns. Grantee shall remove only those trees necessary for construction of the two-story addition to the already existing two-story home and driveway. "Complete construction" means: (1) issuance of a residential building permit by the City of Muskegon; and, (2) in the sole opinion of the City of Muskegon's Director of Inspections, substantial completion of the dwelling described in the said building permit. In the event of reversion of title of the above-described premises, improvements made thereon shall become the property of Grantor. Provided, further, that Grantee covenants that the parcel described above shall be improved with not more than the two-story addition described above. These covenants and conditions shall run with the land.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Signed in the presence of:

CITY OF MUSKEGON

Linda Potter  
Linda Potter

By [Signature]  
Stephen J. Warmington, Its Mayor

JoAnn M Krukowski  
JoAnn M Krukowski

and Gail A. Kunding  
Gail A. Kunding, MMC, Its Clerk

STATE OF MICHIGAN  
COUNTY OF MUSKEGON

Signed and sworn to before me in Muskegon County, Michigan, on July 21, 2005, by STEPHEN J. WARMINGTON and GAIL A. KUNDINGER, MMC, the Mayor and Clerk, respectively, of the CITY OF MUSKEGON, a municipal corporation, on behalf of the City.

PREPARED BY: John C. Schrier  
Parmenter O'Toole  
175 W. Apple Avenue/P.O. Box 786  
Muskegon, MI 49443-0786  
Telephone: 231/722-1621

Linda S. Potter  
Linda S. Potter, Notary Public  
Acting in the County of Muskegon  
Muskegon County, Michigan  
My Comm. Expires: 9-25-06

WHEN RECORDED RETURN TO: Grantee

SEND SUBSEQUENT TAX BILLS TO: Grantee

clerk

Transnation Title Insurance Company  
570 Seminole Rd Ste 102  
Muskegon, MI 49444

Escrow Officer: Kimber VanderWall

Title No.: MUS439460  
Date: 08/02/2005

PURCHASER'S SETTLEMENT STATEMENT

Buyer(s): Angela Hawkins  
Property: 551 S. Getty St.  
Muskegon, MI 49442  
Revised Blk 35 part

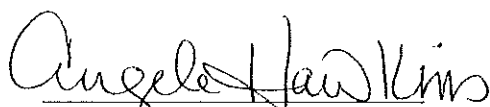
Seller(s): City of Muskegon, a municipal corporation

|                                          | DEBIT      | CREDIT     |
|------------------------------------------|------------|------------|
| Contract Sales Price                     | \$3,000.00 |            |
| Deposit or earnest money                 |            | \$400.00   |
| Settlement or closing fee to LandAmerica | \$200.00   |            |
| Transnation Recording Fees               | \$17.00    |            |
| Deed: \$17.00                            |            |            |
| Mortgage:                                |            |            |
| Releases:                                | \$17.00    |            |
| ***** Sub Total                          | \$3,217.00 | \$400.00   |
| Balance Due From Borrower                |            | \$2,817.00 |
| Total                                    | \$3,217.00 | \$3,217.00 |

The above figures do not include sales or use taxes on personal property.

ACCEPTED AND APPROVED

Broker:

  
Angela Hawkins

By: \_\_\_\_\_

Transnation Title Insurance Company  
570 Seminole Rd Ste 102  
Muskegon, MI 49444

Escrow Officer: Kimber VanderWall

Title No.: MUS439460  
Date: 08/02/2005

SELLER'S SETTLEMENT STATEMENT

Seller(s): City of Muskegon, a municipal  
corporation

Buyer(s): Angela Hawkins

Property: 551 S. Getty St.  
Muskegon, MI 49442  
Revised Blk 35 part

|                                                                | DEBIT      | CREDIT     |
|----------------------------------------------------------------|------------|------------|
| Contract Sales Price                                           |            | \$3,000.00 |
| Earnest money held by seller                                   | \$400.00   |            |
| Commission Paid at Settlement                                  | \$0.00     |            |
| to                                                             |            |            |
| to                                                             |            |            |
| Settlement or closing fee to LandAmerica Transnation           | \$200.00   |            |
| Title insurance to LandAmerica Transnation                     | \$200.00   |            |
| Record Quit Claim Deed to MUSKEGON COUNTY REGISTER<br>OF DEEDS | \$14.00    |            |
| ***** Sub Total                                                | \$814.00   | \$3,000.00 |
| Balance Due To Seller                                          | \$2,186.00 |            |
| Total                                                          | \$3,000.00 | \$3,000.00 |

The above figures do not include sales or use taxes on personal property.  
APPROVED AND ACCEPTED

City of Muskegon, a municipale corporation

Broker:

BY

  
Hope Mitchell, Assistant Planner I

By: \_\_\_\_\_

**Commission Meeting Date: July 12, 2005**

**Date:** June 29, 2005  
**To:** Honorable Mayor & City Commission  
**From:** Planning & Economic Development Department *CBC*  
**RE:** Policy change to "Policy for Sale of City-Owned Residential Property"

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**SUMMARY OF REQUEST:**

To approve the change to the "Policy for Sale of City-Owned Residential Property" to include that Closing Costs will be split between the buyer and the seller.

**FINANCIAL IMPACT:**

None.

**BUDGET ACTION REQUIRED:**

None

**STAFF RECOMMENDATION:**

To approve the attached resolution and to authorize both the Mayor and the Clerk to sign said resolution.

**COMMITTEE RECOMMENDATION:**

The Land Reutilization Committee recommended approval of the policy change at their regular meeting of June 28, 2005

RESOLUTION NO. 2005-61(d)

**MUSKEGON CITY COMMISSION**

RESOLUTION TO ADOPT AN AMENDMENT TO THE "POLICY FOR SALE OF CITY-OWNED RESIDENTIAL PROPERTY"

WHEREAS, the City of Muskegon owns many lots and wishes to sell these lots, and;

WHEREAS, the City of Muskegon would like to disclose to the purchaser the payment of closing costs;

NOW, THEREFORE, BE IT RESOLVED that the City Commission hereby adopts the following policy amendment:

(to be added to page 3 )

**Closing Costs**

*All closing costs will be split between the buyer and the seller.*

Adopted this 12th day of July, 2005.

Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro

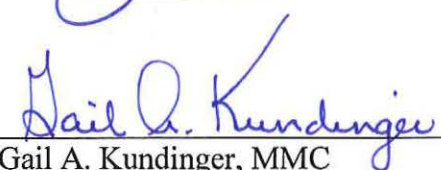
Nays: None

Absent: None

By

  
Stephen J. Warmington  
Mayor

Attest

  
Gail A. Kunding, MMC  
City Clerk

CERTIFICATION  
2005-61(d)

This resolution was adopted at a regular meeting of the City Commission, held on July 12, 2005. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By:

  
\_\_\_\_\_

Gail A. Kunderger, MMC  
City Clerk

# City of Muskegon

## Policy for Sale of City-Owned Residential Property

### **Objective**

The City of Muskegon (the City) wishes to expand its residential tax base while simultaneously alleviating itself of the significant cost burden associated with year-round maintenance of vacant lots. The City reserves the right to join and split lots to assist with this process. All property will be sold as is. All sales are subject to City Commission approval.

Pursuant to the above, the City will periodically implement neighborhood marketing strategies. Elements of this policy may be superseded by a marketing strategy, if said strategy is approved by the City Commission as an exception to this policy, and only while said strategy is being utilized to market properties identified by the strategy.

### **Non-Buildable Lots/Marginal Lots**

- Non-Buildable lots are defined as lots that are insufficient in size or configuration for new construction under the Zoning Ordinance. Marginal lots are defined as residential lots that are between 50 and 60 feet of frontage, however it would not be in the best interest of the neighborhood to create increased density, or would create buildable lots for adjoining property owners. These lots may only be sold to adjacent property owners; neighborhood organizations; or valid non-profit agencies, to expand/improve or beautify existing property. In the event that both adjacent owners seek to purchase a property, the City shall divide the property in the most equitable manner. Factors considered before approvals of property sales include but are not limited to the following:
  - Amount of existing property owned by interested parties
  - Current upkeep of existing property owned by interested parties
  - Evidence of unresolved zoning issues.
  - Unpaid environmental invoices or delinquent property taxes.

These lots will be sold for \$1.

### **Buildable Lots**

Buildable lots are defined as lots of legal record which are suitable in size and configuration under the Zoning Ordinance, for the construction of single-family homes, and may only be sold for such a purpose. As a condition of sale, structures built on these properties must be owner occupied for a minimum of 5 years. The buyer must <sup>1</sup>commence construction within 18 months of the date of purchase, or the property will revert back to the City's ownership, free and clear of any claim of the buyer. Buyers requiring frontage of 130' or more must build homes with a minimum of 2,500 square

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<sup>1</sup> "Commence Construction" means that a buyer has been issued a residential building permit by the City of Muskegon and also (in the sole opinion of the City of Muskegon's Building Official) that at least twenty-five percent (25%) of the dwelling has been completed.

feet of living space and go before the Land Reutilization Committee (LRC) for a recommendation. All structures must conform to all City building and zoning requirements. These lots shall be sold for market value.

### Home Design

Any person wishing to purchase land from the City for the purposes of constructing a single family or duplex structure (in areas zoned for duplexes) shall adhere to the following standards:

1. The structure shall have a minimum of 1,260 square feet of usable living space per unit (excluding all basement area).
2. The roof of the structure shall have a minimum pitch of 5/12, that is, for every twelve inches (12") of lateral run, the roof shall rise five inches (5").
3. A single-story home shall have a variable roof line on the front elevation (e.g. gable, dormer or offset).
4. The building design shall be approved by the City and shall include at least two of the following:
  - a. A covered front porch with design amenities (e.g., decorative railing). (potential \$300 lot credit)
  - b. A picture or bay window in the front elevation. (potential \$500 lot credit)
  - c. A starburst or other siding design features in roof gables or over doorways or windows. (potential \$200 lot credit)
  - d. Shutters or other acceptable outdoor window treatments (potential \$100 lot credit)
  - e. Brick or stone accents in the front elevation (potential \$1,000 lot credit)
  - f. Decorative windows (potential \$200 lot credit)
5. A second story may be a potential \$2,000 lot credit but may not be included as one of the two required design elements.
6. A "stick-built" home may be a potential \$2,000 lot credit but may not be included as one of the two required design elements.
7. In no case shall the total number of credits amount to more than \$2,500.
8. The house shall have a garage or at least an 8 foot x 8 foot painted or vinyl covered wood storage shed constructed as per City requirements for sheds.
9. All bedrooms shall have at least one hundred (100) square feet of livable floor area.

10. At the time the building permit application is submitted, the plot plan and building design will be reviewed to determine compliance with all requirements of this policy.
11. Removal of existing trees shall be approved by zoning staff prior to lot clearing. Trees shall only be taken to accommodate the structure and driveway. A performance guarantee may be required of the owner or contractor for tree protection.
12. At least two (2) shade trees shall be provided on site of at least two and one-half (2.5") inches in diameter four feet from the ground. Preservation of existing trees may be considered in lieu of this requirement.
13. The lot shall be established with appropriate grass, ground cover or other plantings within one year of occupancy or the city may arrange for such planting and bill the owner.

The aforementioned conditions and credits shall be incorporated into a sales contract between the city and the buyer.

### **Large Blocks of Land**

This type of lot is defined as contiguous property that would allow for the construction of a minimum of 3 single-family residential structures. It is the preference of the City that these lots be sold as a single parcel to individuals with the means to develop the land for multiple single family units or multi-family units such as townhouses, site condos; and the like. Development must conform to either Single Family or Multiple Family building/zoning requirements. All interested parties must comply with preliminary site review requirements as determined by the Zoning Administrator.

### **Process for Purchasing Land**

The procedure for purchasing city-owned property can be found in a brochure produced by the Planning Department, entitled "Purchase of City-Owned Residential Property".

### **Recording of the Deed**

All property sales must be recorded with the Muskegon County Register of Deeds. This is the sole responsibility of the buyer. All sales will be handled as quit claim deeds.

### **Closing Costs**

*All closing costs will be split between the buyer and the seller.*

### **Property Survey**

All costs and activities associated with a survey are the sole responsibility of the buyer.

### **Environmental**

Properties will be sold as is. Any environmental analysis is the sole responsibility of the buyer.

**Title Evidence/Insurance**

Quitting title of tax reverted properties sold and properties spit for minimal amounts such as non-buildable lots, shall be the responsibility of the buyer.

**Financing**

Financing the acquisition of City-owned property and subsequent construction (if applicable) is the sole responsibility of the buyer. Failure to provide proof of adequate financing may be used as a basis for denial of a sale.

**Appeal Procedure**

Any denial of a sale can be appealed to the LRC using the appeals procedure as defined by the LRC. All sales whether appealed or not go before the City Commission for approval before a sale can be initiated.

**CITY COMMISSION MEETING**  
**July 12, 2005**

**Agenda Item**

**TO: HONORABLE MAYOR AND CITY COMMISSIONERS**

**FROM: H.E.A.L.T.H AND FITNESS COMMITTEE**

**DATE: June 30, 2005**

**RE: Used Computer Equipment Fundraiser**

**SUMMARY OF REQUEST:** The City H.E.A.L.T.H and Fitness Committee seeks City Commissioners' approval to sell obsolete computer equipment that the Information Technology Department has in storage in the City Hall basement. This old equipment is set to be discarded or destroyed by the Information Technology Department. The proceeds from this fundraiser will be used to purchase exercise equipment for the fitness area in the City Hall basement this fall. Any questions, please contact Ken Grant at 724-6932 or Gail Kundinger at 724-6721.

**FINANCIAL IMPACT:**

None

**BUDGET ACTION REQUIRED:**

None

**STAFF RECOMMENDATION:**

To approve the request for sale of obsolete computer equipment and the proceeds from the sale go to the H.E.A.L.T.H. Exercise Equipment Project for City Hall.

**Date:** July 12, 2005

**To:** Honorable Mayor and City Commissioners

**From:** Finance Director

**RE:** Accounting Services Contract

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**SUMMARY OF REQUEST:** In 1997, in conjunction with an early retirement initiative, the Finance Department replaced a full-time finance clerk position with a contractual accounting services arrangement. This has proven to be a very successful and efficient arrangement: the number of billable hours has steadily declined each year while the quality and volume of work has increased. In 2004, the total cost of the contract was \$11,279 for 262 hours of work. By way of comparison, the 2005 budgeted cost (wages and benefits) for a position comparable to the one replaced in 1997 is \$60,000.

The contract for accounting services has been with Hoffman, Steensma & Plamondon (HSP) since the start. The HSP individual assigned to this account now has several years of valuable experience with city financial procedures and maintains an excellent working relationship with finance staff. HSP has submitted a proposal for a three-year renewal of the contract which staff believes is fair and reasonable.

**FINANCIAL IMPACT:**

|         | Professional Staff | % Increase | Manager & Partner | % Increase |
|---------|--------------------|------------|-------------------|------------|
| Current | \$ 42.00           |            | \$ 50.00          |            |
| 2006    | \$ 43.00           | 2.4%       | \$ 51.00          | 2.0%       |
| 2007    | \$ 44.00           | 2.3%       | \$ 52.00          | 2.0%       |
| 2008    | \$ 45.00           | 2.3%       | \$ 53.00          | 1.9%       |

**BUDGET ACTION REQUIRED:** The 2005 budget includes adequate funding for these services. Future budgets will incorporate the proposed rates.

**STAFF RECOMMENDATION:** Approval of a three-year contract extension with Hoffman, Steensma & Plamondon, PLC for accounting services.

**COMMITTEE RECOMMENDATION:** No committee action was taken.

*Hoffman, Steensma & Plamondon, P.L.C.*

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Certified Public Accountants

ROGER E. HOFFMAN, C.P.A.  
ROGER D. STEENSMA, C.P.A.

DOUGLAS A. PLAMONDON, C.P.A.  
RANDY J. NOVOTNY, C.P.A.

**June 24, 2005**

**Mr. Tim Paul  
City of Muskegon  
933 Terrace Street  
Muskegon, Michigan 49443**

**Dear Tim:**

**We are pleased to confirm our understanding of the accounting and support services that we are to provide to the City of Muskegon.**

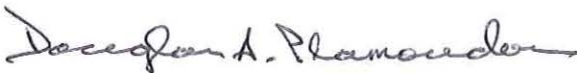
**We will provide accounting and bookkeeping services at the following rates:**

| <u>Rate Per Hour</u> | <u>Professional Staff</u> | <u>Manager &amp; Partner</u> |
|----------------------|---------------------------|------------------------------|
| 2005                 | \$42                      | \$50                         |
| 2006                 | \$43                      | \$51                         |
| 2007                 | \$44                      | \$52                         |
| 2008                 | \$45                      | \$53                         |

**Our invoices for these fees are payable upon presentation. Our fees on this engagement are for the services described herein.**

**We appreciate the opportunity to be of service to the City of Muskegon and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.**

**Very truly yours,**

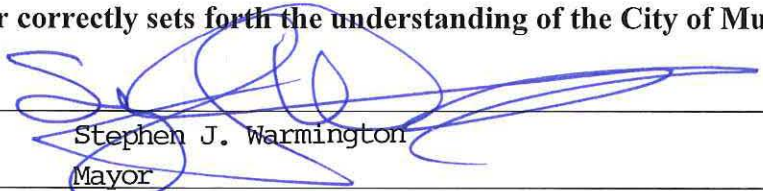


**Douglas A. Plamondon**

**RESPONSE:**

**This letter correctly sets forth the understanding of the City of Muskegon.**

**By:**

  
Stephen J. Warmington

**Title:**

Mayor

**Date:**

July 21, 2005

CITY COMMISSION MEETING  
Tuesday, July 12, 2005

TO: Honorable Mayor and City Commissioners

FROM: Mark Kincaid  
Deputy Director of Public Safety

DATE: July 5, 2005

SUBJECT: Request to Purchase Two Fire Engines

SUMMARY OF REQUEST:

Fire Department staff is requesting approval by the Commission to allow for the procurement of two fire engines. The first engine would be a standard front-line engine, which would be purchased. The second would be an engine to include a 75' aerial ladder with a water delivery system which would be leased over a period of ten years. These two engines would replace two engines that are currently in service. The low bid, which meets all stated specifications, was submitted by Crimson Fire, 907 7<sup>th</sup> Ave., Brandon, South Dakota. Crimson is a subsidiary of Spartan Motors of Charlotte, Michigan. The bid price submitted by Crimson is \$1,031,390. A bid sheet is attached.

FINANCIAL IMPACT:

Funds for this purchase and lease would originate in the city's Public Improvement Fund. The current balance would provide for the purchase of the first engine. Part of the future funds would provide the lease payments for the engine/aerial.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATIONS:

Approval of the purchase and lease agreement.

# **City of Muskegon Apparatus Bids**

**5-24-05**

Crimson Fire                      \$1,031,390  
907 7<sup>th</sup> Ave.  
Brandon SD 57005

E-One Inc.                      810,873 (Took total exception to our specs and bid demo stock  
3611 SW 20<sup>th</sup> St.              trucks)  
Ocala FL 34474

KME Fire Apparatus        1,056,539 (Gave alternative bid of \$808,774 for stock trucks)  
One Industrial Complex  
Nesquehoning PA 18240

Pierce Manufacturing       Declined to bid  
2600 American Dr.  
Appleton WI 54912

Seagrave Fire Apparatus   1,132,028 (This is using Detroit Diesel, gave alternative bid of  
105 E. 12<sup>th</sup> St.              1,147,403 using aluminum cab with Cummins)  
Clintonville WI 54929

Toyne Inc.                      1,012,124 (Took exception to single source provision)  
104 Granite Ave.  
Breda IA 51436



**CRIMSON FIRE**  
A Spartan Company

9077<sup>th</sup> AVENUE NORTH BRANDON, SD 57005-2003 (605) 582-4000  
FAX (605) 582-4001

**CONTRACT- Muskegon Michigan- Pumper**

THIS AGREEMENT, made by and between Crimson Fire, Inc. Brandon, SD, first party, and The City of Muskegon MI By its authorized representative, second party.

**WITNESSETH:**

First: The said first party hereby agrees to furnish the apparatus and equipment according to the specifications hereto attached and made part of this contract, and to deliver the same as hereinafter provided.

Second: The first party agrees that all material and workmanship in and about said apparatus and equipment shall comply with said specifications. In the event there is any conflict between Customer Specifications previously submitted to Crimson Fire, Inc., and the specifications attached hereto, it is understood and agreed between the parties that the apparatus and equipment made the basis of this contract shall meet only the specifications attached hereto and made a part hereof, as if fully and completely set out herein, and no other. This sole and exclusive warranty accompanying this sale is contained in the warranty attached hereto, and made a part hereof by reference, as if fully and completely set out herein.

Third: This contract for fire apparatus conforms with all Federal Department of Transportation (DOT) rules and regulations in effect at the time of contract signing, and with all National Fire Protection Association (NFPA) Guidelines for Automotive Fire Apparatus as published at the time of contract signing, except as modified by Customer Specifications. Any increased cost incurred by first party because of future changes in or additions to said DOT or NFPA standards will be passed along to the customer as an addition to the price set forth below.

Fourth: The said apparatus and equipment shall be ready for delivery from the first party's factory, within about 330 calendar after the receipt and acceptance of this contract at the first party's office at Brandon, SD, delays due to strikes, failures to obtain chassis, materials, or other causes beyond its control not preventing, and shall be delivered to said party of the second party at The City of Muskegon Fire Department.

Fifth: A competent serviceman shall upon request, be furnished by first party to demonstrate said apparatus for second party and to give its employees the necessary instructions in the operation and handling of said apparatus.

Sixth: The second party hereby purchases and agrees to pay for said apparatus and equipment, the sum of **Four Hundred and Twenty Five Thousand Five Hundred Sixty Six Dollars and no cents (\$425,566.00)**.

In the event the apparatus is placed in fire service prior to payment in full, the first party reserves the right to charge a rental fee of Two Hundred Fifty Dollars (\$ 250.00) per day.

Any applicable taxes not specified noted above will be paid by the second party directly, or will be added to the Purchase Price and paid by the first party. If second party claims exemption from any tax, second party agrees to furnish applicable exemption certificate and save the party harmless from any such tax, interest or penalty, which may at any time, is assessed against the first party.

Seventh: Acceptance of goods shall occur when the second party takes delivery. In case the second party desires to test the apparatus, such tests shall be made within 10 days after arrival of the goods at destination and a written report of such tests. Forthwith delivered to the first party at its principal office at Brandon, South Dakota. If no such tests be made, or if no such report be made by the second party within 10 days after arrival, then said apparatus and equipment shall be conclusively determined to be in full compliance with contract specifications and conclusively determined to be conforming and in accordance with the obligations under this contract. No revocation of acceptance shall take place unless communicated to the first party within 10 days after delivery of the goods. In the event notice of revocation of acceptance is communicated to the first party within 10 days, the second party's right to revoke its acceptance shall be governed by the laws of the State of Michigan.

Eighth: Force Majeure:

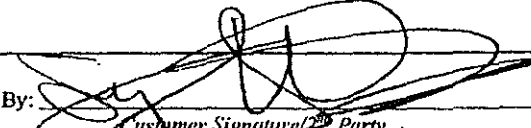
The Contractor shall not be liable if performance failure arises out of causes beyond his control and without the fault or negligence of the Contractor (acts of God, war, fires, floods, freight embargoes, order of any court, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance). Should a performance failure occur, it will be the responsibility of the Contractor to notify the Purchaser in writing and submit proof of the circumstances for non-performance. Immediately following the resolution of circumstances responsible for non-performance, the Contractor must renegotiate delivery schedules.

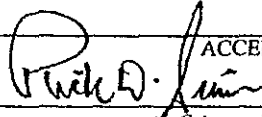
Ninth: It is agreed that the apparatus and equipment covered by this contract shall remain the property of the first party until the entire contract price has been paid, but if more than one piece of apparatus is covered by this contract, then each piece shall remain the property of the first party until the above listed price for such piece has been paid in full, and in case of an default in payment the first party may take full possession of the apparatus and equipment, or of the piece or pieces upon which default has been made, and any payments that have been made shall be applied as payment for the use of the apparatus and equipment up to date taking possession.

Tenth: This contract to be binding must be signed and approved by an officer of Crimson Fire Fire Apparatus Co., or someone authorized by it to do so. This contract and specifications take precedence over all previous negotiations and no representatives are considered as entering into this contract except as are contained herein or in the specifications attached hereto. This contract cannot be altered or modified except by mutual written agreement signed by the parties.

Severability. If any part hereof is contrary to, prohibited by, or deemed invalid under applicable laws or regulations, such provision shall be deemed inapplicable and deemed omitted to the extent to contrary, prohibited or invalid, but remainder shall be deemed inapplicable and deemed omitted to the extent to contrary, prohibited or invalid, but remainder shall not be invalidated and shall be given effect so far as possible.

Crimson Fire, Inc.

|                                                                                                                           |                                                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| By: <b>Michael R Zahnen</b><br>Sales Representative Signature<br>Michael R. Zahnen<br>Print Name<br>July 13, 2005<br>Date | By: <br>Customer Signature 2nd Party<br><b>Stephen J. Warrington</b><br>Print Name<br>7-21-05<br>Date |
|---------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                            |                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| By: <br>Crimson Fire, Inc. Officer Signature<br>Print Name: <b>Rick D. Sien</b><br>Title: <b>Dir of Finance</b><br>Date: <b>7/29/05</b> | ACCEPTED AT Brandon, South Dakota |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|

## Supply Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable

CONTRACTOR (Name and Address):

**Crimson Fire, Inc.**  
907 - 7<sup>th</sup> Avenue North  
Brandon, SD 57005

SURETY (Name and Principal Place of Business):

**Hartford Fire Insurance Company**  
Hartford Plaza  
Hartford, CT 06115

OWNER (Name and Address):

**City of Muskegon**  
75 W. Walton  
Muskegon, MI 49440

CONTRACT

Date: July 29, 2005  
Amount: \$425,566.00  
Description (Name and Location): One Crimson Star SM Pumper

BOND

Date (Not earlier than Contract Date): August 2, 2005  
Amount: \$425,566.00  
Modifications to this Bond:

☒ None

☐ See Page 3

CONTRACTOR AS PRINCIPAL

Company: **Crimson Fire, Inc.** (Corporate Seal)

Signature: \_\_\_\_\_

Name and Title: James E. Salmi  
President

SURETY

Company: **Hartford Fire Insurance Company** (Corporate Seal)

Signature: \_\_\_\_\_

Name and Title: Julie Mroz, Attorney-in-Fact.

(Any additional signatures appear on page 3)

(FOR INFORMATION ONLY - Name, Address and Telephone)

AGENT or BROKER: Marsh USA Inc.  
200 Ottawa Ave. N.W. - Suite 700  
Grand Rapids, MI 49503  
(616) 233-4200

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Contract, which is incorporated herein by reference.

2 If the Contractor performs the Contract, the Surety and the Contractor shall have no obligation under this bond, except to participate in conferences as provided in Subparagraph 3.1.

3 If there is no Owner Default, the Surety's obligation under this Bond shall arise after:

3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and

3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Contract or to a contractor selected to perform the Contract in accordance with the terms of the contract with the Owner.

4 When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Contract; or

4.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or

4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to the Owner the amount of damages as

described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or

.2 Deny liability in whole or in part and notify the Owner citing reasons therefor.

5 If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6 After the Owner has terminated the Contractor's right to complete the Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of the Contractor.

7 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators or successors.

8 The Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations

9 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

11 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the contract was to be fulfilled, any provision in this bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

## 12 DEFINITIONS

12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Contract.

12.2 Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.

12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

## MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

None

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page)

### CONTRACTOR AS PRINCIPAL

Company: \_\_\_\_\_ (Corporate Seal)

Signature: N/A

Name and Title:

Address:

### SURETY

Company: \_\_\_\_\_ (Corporate Seal)

Signature: N/A

Name and Title:

Address:

# POWER OF ATTORNEY

THE HARTFORD

BOND, T-4

690 ASYLUM AVENUE

HARTFORD, CONNECTICUT 06115

call: 888-266-3488 or fax: 860-757-5835

Agency Code: 81-150500

KNOW ALL PERSONS BY THESE PRESENTS THAT:

- ☒ Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- ☒ Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- ☒ Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- ☐ Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- ☐ Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- ☐ Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- ☐ Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- ☐ Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of unlimited:**

*Drew Brach, Brian Cook, H. David Hoovler, Loretta A. Peretti, Ronda L. Pekel, James A. Dawdy, Bryan L. Formsma, Julie Mroz*  
of  
*Grand Rapids, MI*

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by ☒, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

**In Witness Whereof**, and as authorized by a Resolution of the Board of Directors of the Companies on July 21, 2003 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



*Paul A. Bergenholtz*

Paul A. Bergenholtz, Assistant Secretary

*David T. Akers*

David T. Akers, Assistant Vice President

STATE OF CONNECTICUT

COUNTY OF HARTFORD

ss. Hartford

On this 4th day of August, 2004, before me personally came David T. Akers, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hampden, Commonwealth of Massachusetts; that he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

*Scott E. Paseka*

Scott E. Paseka  
Notary Public

My Commission Expires October 31, 2007

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of August 2, 2005.

Signed and sealed at the City of Hartford.



*Gary W. Stumper*

Gary W. Stumper, Assistant Vice President



## Claims Inquiries Notice

Hartford Fire Insurance Company  
Hartford Casualty Insurance Company  
Hartford Accident and Indemnity Company  
Hartford Underwriters Insurance Company

Twin City Insurance Company  
Hartford Insurance Company of Illinois  
Hartford Insurance Company of the Midwest  
Hartford Insurance Company of the Southwest

Please address inquiries regarding **Claims** for all surety and fidelity products issued by The Hartford's underwriting companies to the following:

Phone Number: : 888-266-3488  
Fax – Claims : 860-757-5835 or 860-547-8265  
E-mail : [claims@1stepsurety.com](mailto:claims@1stepsurety.com)

Mailing Address : The Hartford  
BOND, T-4  
690 Asylum Avenue  
Hartford, CT 06115



|                                                                 |
|-----------------------------------------------------------------|
| <i>Obligee's/Insured's Name</i><br>See Attached Bond            |
| <i>Obligee's/Insured's Mailing Address</i><br>See Attached Bond |
| <i>Bond/Policy Number</i><br>See Attached Bond                  |

## **IMPORTANT NOTICE TO OBLIGEE'S/POLICYHOLDERS – TERRORISM RISK INSURANCE ACT OF 2002**

You are hereby notified that, under the Terrorism Risk Insurance Act of 2002, effective November 26, 2002, we must make terrorism coverage available in your bond/policy. However, the actual coverage provided by your bond/policy for acts of terrorism, as is true for all coverages, is limited by the terms, conditions, exclusions, limits, other provisions of your bond/policy, any endorsements to the bond/policy and generally applicable rules of law.

Any terrorism coverage provided by this bond/policy is partially reinsured by the United States of America under a formula established by Federal Law. Under this formula, the United States will pay 90% of covered terrorism losses exceeding a statutorily-established deductible paid by sureties/insurers until such time as insured losses under the program reach \$100 billion. If that occurs, Congress will determine the procedures for, and the source of, any payments for losses in excess of \$100 billion.

The premium charge that has been established for terrorism coverage under this bond/policy is either shown on this form or elsewhere in the bond/policy. If there is no premium shown for terrorism on this form or elsewhere in the bond/policy, there is no premium for the coverage.

|                           |     |
|---------------------------|-----|
| <b>Terrorism premium:</b> | \$0 |
|---------------------------|-----|

State of Michigan  
County of Kent } ss:

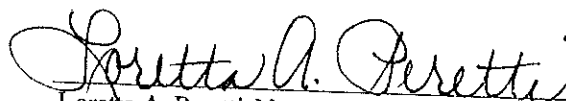
Notary Acknowledgement of Surety

On **August 2, 2005**, before me, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared **Julie Mroz**

known to me to be Attorney-in-Fact of **Hartford Fire Insurance Company** the corporation described in and that executed the within and foregoing instrument, and known to me to be the person who executed the said instrument in behalf of the said corporation, and he duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in this certificate above.

My Commission Expires August 19, 2007

  
Loretta A. Peretti, Notary Public



**CRIMSON FIRE**  
A Spartan Company

9077<sup>th</sup> AVENUE NORTH BRANDON, SD 57005-2003 (605) 582-4000  
FAX (605) 582-4001

**CONTRACT- Muskegon Michigan- Aerial**

THIS AGREEMENT, made by and between Crimson Fire, Inc. Brandon, SD, first party, and The City of Muskegon MI By its authorized representative, second party.

**WITNESSETH:**

First: The said first party hereby agrees to furnish the apparatus and equipment according to the specifications hereto attached and made part of this contract, and to deliver the same as hereinafter provided.

Second: The first party agrees that all material and workmanship in and about said apparatus and equipment shall comply with said specifications. In the event there is any conflict between Customer Specifications previously submitted to Crimson Fire, Inc., and the specifications attached hereto, it is understood and agreed between the parties that the apparatus and equipment made the basis of this contract shall meet only the specifications attached hereto and made a part hereof, as if fully and completely set out herein, and no other. This sole and exclusive warranty accompanying this sale is contained in the warranty attached hereto, and made a part hereof by reference, as if fully and completely set out herein.

Third: This contract for fire apparatus conforms with all Federal Department of Transportation (DOT) rules and regulations in effect at the time of contract signing, and with all National Fire Protection Association (NFPA) Guidelines for Automotive Fire Apparatus as published at the time of contract signing, except as modified by Customer Specifications. Any increased cost incurred by first party because of future changes in or additions to said DOT or NFPA standards will be passed along to the customer as an addition to the price set forth below.

Fourth: The said apparatus and equipment shall be ready for delivery from the first party's factory, within about 330 calendar after the receipt and acceptance of this contract at the first party's office at Brandon, SD, delays due to strikes, failures to obtain chassis, materials, or other causes beyond its control not preventing, and shall be delivered to said party of the second party at The City of Muskegon Fire Department.

Fifth: A competent serviceman shall upon request, be furnished by first party to demonstrate said apparatus for second party and to give its employees the necessary instructions in the operation and handling of said apparatus.

Sixth: The second party hereby purchases and agrees to pay for said apparatus and equipment, the sum of **Six Hundred and Five Thousand Eight Hundred Twenty Four Dollars and no cents (\$605,824.00)**.

In the event the apparatus is placed in fire service prior to payment in full, the first party reserves the right to charge a rental fee of Two Hundred Fifty Dollars (\$ 250.00) per day.

Any applicable taxes not specified noted above will be paid by the second party directly, or will be added to the Purchase Price and paid by the first party. If second party claims exemption from any tax, second party agrees to furnish applicable exemption certificate and save the party harmless from any such tax, interest or penalty, which may at any time, is assessed against the first party.

Seventh: Acceptance of goods shall occur when the second party takes delivery. In case the second party desires to test the apparatus, such tests shall be made within 10 days after arrival of the goods at destination and a written report of such tests. Forthwith delivered to the first party at its principal office at Brandon, South Dakota. If no such tests be made, or if no such report be made by the second party within 10 days after arrival, then said apparatus and equipment shall be conclusively determined to be in full compliance with contract specifications and conclusively determined to be conforming and in accordance with the obligations under this contract. No revocation of acceptance shall take place unless communicated to the first party within 10 days after delivery of the goods. In the event notice of revocation of acceptance is communicated to the first party within 10 days, the second party's right to revoke its acceptance shall be governed by the laws of the State of Michigan.

Eighth: Force Majeure:

The Contractor shall not be liable if performance failure arises out of causes beyond his control and without the fault or negligence of the Contractor (acts of God, war, fires, floods, freight embargoes, order of any court, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance). Should a performance failure occur, it will be the responsibility of the Contractor to notify the Purchaser in writing and submit proof of the circumstances for non-performance. Immediately following the resolution of circumstances responsible for non-performance, the Contractor must renegotiate delivery schedules.

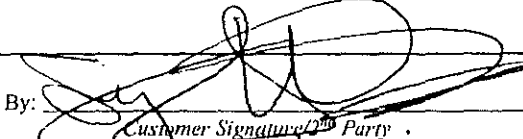
Ninth: It is agreed that the apparatus and equipment covered by this contract shall remain the property of the first party until the entire contract price has been paid, but if more than one piece of apparatus is covered by this contract, then each piece shall remain the property of the first party until the above listed price for such piece has been paid in full, and in case of an default in payment the first party may take full possession of the apparatus and equipment, or of the piece or pieces upon which default has been made, and any payments that have been made shall be applied as payment for the use of the apparatus and equipment up to date taking possession.

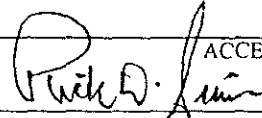
Tenth: This contract to be binding must be signed and approved by an officer of Crimson Fire Fire Apparatus Co., or someone authorized by it to do so. This contract and specifications take precedence over all previous negotiations and no representatives are considered as entering into this contract except as are contained herein or in the specifications attached hereto. This contract cannot be altered or modified except by mutual written agreement signed by the parties.

Severability. If any part hereof is contrary to, prohibited by, or deemed invalid under applicable laws or regulations, such provision shall be deemed inapplicable and deemed omitted to the extent to contrary, prohibited or invalid, but remainder shall be deemed inapplicable and deemed omitted to the extent to contrary, prohibited or invalid, but remainder shall not be invalidated and shall be given effect so far as possible.

Crimson Fire, Inc.

By: **Michael R Zahnen** Michael  
Sales Representative Signature  
Michael R. Zahnen  
Print Name  
July 13, 2005  
Date

By:   
Customer Signature/2nd Party  
Stephen J. Warrington  
Print Name  
7-21-05  
Date

ACCEPTED AT Brandon, South Dakota  
By:   
Crimson Fire, Inc. Officer Signature  
Print Name: Rick D. Siem  
Title: DIR OF FINANCE  
Date: 7/29/05

---

## Supply Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable

---

CONTRACTOR (Name and Address):

**Crimson Fire, Inc.**  
907 - 7<sup>th</sup> Avenue North  
Brandon, SD 57005

SURETY (Name and Principal Place of Business):

**Hartford Fire Insurance Company**  
Hartford Plaza  
Hartford, CT 06115

OWNER (Name and Address):

**City of Muskegon**  
75 W. Walton  
Muskegon, MI 49440

CONTRACT

Date: July 29, 2005  
Amount: \$605,824.00  
Description (Name and Location): One Crimson Star 75 RM Aerial

BOND

Date (Not earlier than Contract Date): August 2, 2005  
Amount: \$605,824.00  
Modifications to this Bond:

X None

\_\_\_ See Page 3

CONTRACTOR AS PRINCIPAL

Company: **Crimson Fire, Inc.** (Corporate Seal)

SURETY

Company: **Hartford Fire Insurance Company** (Corporate Seal)

Signature: \_\_\_\_\_

Name and Title: James A. Salmi, President

Signature: \_\_\_\_\_

Name and Title: Julie Mroz, Attorney-in-Fact

(Any additional signatures appear on page 3)

---

(FOR INFORMATION ONLY - Name, Address and Telephone)

AGENT or BROKER: Marsh USA Inc.  
200 Ottawa Ave. N.W. - Suite 700  
Grand Rapids, MI 49503  
(616) 233-4200

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Contract, which is incorporated herein by reference.

2 If the Contractor performs the Contract, the Surety and the Contractor shall have no obligation under this bond, except to participate in conferences as provided in Subparagraph 3.1.

3 If there is no Owner Default, the Surety's obligation under this Bond shall arise after:

3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and

3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Contract or to a contractor selected to perform the Contract in accordance with the terms of the contract with the Owner.

4 When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Contract; or

4.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or

4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to the Owner the amount of damages as

described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or

.2 Deny liability in whole or in part and notify the Owner citing reasons therefor.

5 If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6 After the Owner has terminated the Contractor's right to complete the Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of the Contractor.

7 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators or successors.

8 The Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations

9 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

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**12.1** Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Contract.

**12.2** Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

**12.3** Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.

**12.4** Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

## MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

None

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page)

### CONTRACTOR AS PRINCIPAL

Company: \_\_\_\_\_ (Corporate Seal)

Signature: N/A

Name and Title:

Address:

### SURETY

Company \_\_\_\_\_ (Corporate Seal)

Signature: N/A

Name and Title:

Address:

# POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD

BOND, T-4

690 ASYLUM AVENUE

HARTFORD, CONNECTICUT 06115

call: 888-266-3488 or fax: 860-757-5835

Agency Code: 81-150500

KNOW ALL PERSONS BY THESE PRESENTS THAT:

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- ☒ Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- ☐ Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- ☐ Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- ☐ Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- ☐ Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- ☐ Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of unlimited:**

*Drew Brach, Brian Cook, H. David Hoovler, Loretta A. Peretti, Ronda L. Pekel, James A. Dawdy, Bryan L. Formsma, Julie Mroz*  
of  
*Grand Rapids, MI*

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by ☒, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

**In Witness Whereof**, and as authorized by a Resolution of the Board of Directors of the Companies on July 21, 2003 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



*Paul A. Bergenholtz*

Paul A. Bergenholtz, Assistant Secretary

*David T. Akers*

David T. Akers, Assistant Vice President

STATE OF CONNECTICUT }  
COUNTY OF HARTFORD } ss. Hartford

On this 4th day of August, 2004, before me personally came David T. Akers, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hampden, Commonwealth of Massachusetts; that he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

*Scott E. Paseka*

Scott E. Paseka  
Notary Public

My Commission Expires October 31, 2007

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of August 2, 2005.

Signed and sealed at the City of Hartford.



*Gary W. Stumper*

Gary W. Stumper, Assistant Vice President



## Claims Inquiries Notice

Hartford Fire Insurance Company  
Hartford Casualty Insurance Company  
Hartford Accident and Indemnity Company  
Hartford Underwriters Insurance Company

Twin City Insurance Company  
Hartford Insurance Company of Illinois  
Hartford Insurance Company of the Midwest  
Hartford Insurance Company of the Southwest

Please address inquiries regarding **Claims** for all surety and fidelity products issued by The Hartford's underwriting companies to the following:

Phone Number: : 888-266-3488  
Fax – Claims : 860-757-5835 or 860-547-8265  
E-mail : [claims@1stepsurety.com](mailto:claims@1stepsurety.com)  
  
Mailing Address : The Hartford  
BOND, T-4  
690 Asylum Avenue  
Hartford, CT 06115



|                                                                 |
|-----------------------------------------------------------------|
| <i>Obligee's/Insured's Name</i><br>See Attached Bond            |
| <i>Obligee's/Insured's Mailing Address</i><br>See Attached Bond |
| <i>Bond/Policy Number</i><br>See Attached Bond                  |

## **IMPORTANT NOTICE TO OBLIGEES/POLICYHOLDERS – TERRORISM RISK INSURANCE ACT OF 2002**

You are hereby notified that, under the Terrorism Risk Insurance Act of 2002, effective November 26, 2002, we must make terrorism coverage available in your bond/policy. However, the actual coverage provided by your bond/policy for acts of terrorism, as is true for all coverages, is limited by the terms, conditions, exclusions, limits, other provisions of your bond/policy, any endorsements to the bond/policy and generally applicable rules of law.

Any terrorism coverage provided by this bond/policy is partially reinsured by the United States of America under a formula established by Federal Law. Under this formula, the United States will pay 90% of covered terrorism losses exceeding a statutorily-established deductible paid by sureties/insurers until such time as insured losses under the program reach \$100 billion. If that occurs, Congress will determine the procedures for, and the source of, any payments for losses in excess of \$100 billion.

The premium charge that has been established for terrorism coverage under this bond/policy is either shown on this form or elsewhere in the bond/policy. If there is no premium shown for terrorism on this form or elsewhere in the bond/policy, there is no premium for the coverage.

|                           |     |
|---------------------------|-----|
| <b>Terrorism premium:</b> | \$0 |
|---------------------------|-----|

Notary Acknowledgement of Surety

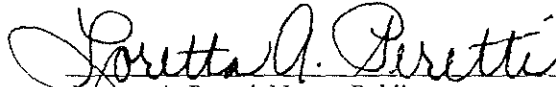
State of Michigan }  
County of Kent } ss:

On **August 2, 2005**, before me, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared **Julie Mroz**

known to me to be Attorney-in-Fact of **Hartford Fire Insurance Company**  
the corporation described in and that executed the within and foregoing instrument, and known to me to be the person who executed the said instrument in behalf of the said corporation, and he duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in this certificate above.

My Commission Expires August 19, 2007

  
Loretta A. Peretti, Notary Public

**Date:** July 12, 2005

**To:** Honorable Mayor and City Commissioners

**From:** Finance Director

**RE:** Fire Truck Lease Purchase

---

**SUMMARY OF REQUEST:** One of the commitments made in the 1993 income tax campaign was to set aside \$150,000 each year to replace major fire equipment on a "pay-as-you-go" basis. This commitment has been met each year. As of 12/31/04, there was \$470,086 held in this account with an additional \$150,000 to be contributed in 2005. Public Safety staff has determined there is serious need to replace two trucks at this time at a total projected cost of \$1,031,390. Staff is proposing to pay cash for the less expensive truck (\$425,566) and to finance the larger truck (\$605,824) via an Act 99 installment purchase contract. Staff is currently soliciting installment purchase quotes from various banks and other lending sources. A summary of bids received will be available at the work session on July 11<sup>th</sup>.

**FINANCIAL IMPACT:** Quotes are being taken for two repayment terms: 7-year and 10-year. Depending on which term is selected (and on quoted interest rates), annual installments are estimated to be \$70,000 - \$100,000.

**BUDGET ACTION REQUIRED:** None. Each year's budget includes \$150,000 allocation for fire equipment replacement. Funding for the installment purchase contract will come from this allocation.

**STAFF RECOMMENDATION:** To be determined.

**COMMITTEE RECOMMENDATION:** No committee action was taken.

**City of Muskegon, Michigan**  
**Tax Exempt Installment Purchase Agreement**  
**Acquisition of Fire Equipment**  
**Summary of Bids**  
**July 6, 2005**

| <b>Financial<br/>Institution</b> | <b>7-year</b> | <b>10-year</b> |
|----------------------------------|---------------|----------------|
| National City Bank               | 3.71%         | 3.83%          |
| LaSalle Bank                     | 3.80%         | 4.10%          |
| Ashford Capital Corp.            | 3.95%         | 4.177%         |
| Fifth Third Bank                 | 3.99%         | 4.39%          |
| Comerica Bank                    | 4.10%         | 4.25%          |
| Capital Advantage Leasing        | 5.35%         | 5.45%          |

**CITY OF MUSKEGON**

**RESOLUTION # 2005-64(c)**

**RESOLUTION TO APPROVE INSTALLMENT PURCHASE AGREEMENT  
REGARDING PURCHASE OF FIRE TRUCKS**

**WHEREAS**, the City of Muskegon, County of Muskegon, State of Michigan (the "City") determines it to be necessary for the public health, safety, and welfare of the city and its residents to acquire a pumper fire truck and a pumper fire truck with aerial ("Property") for the sum of One Million Thirty One Thousand Three Hundred Ninety Dollars (\$1,031,390.00) ("Purchase Price"), of which the City will pay Vendor Four Hundred Twenty Five Thousand Five Hundred Sixty Six Dollars (\$425,566) at or prior to delivery of the trucks and promise to pay an additional Six Hundred Five Thousand Eight Hundred Twenty Four Dollars (\$605,824) ("Financed Amount").

**WHEREAS**, under the provisions of Act No. 99, Public Acts of Michigan, 1933, as amended ("Act"), the City is or will be authorized to enter into any contract or agreement for the purchase of Property to be paid for in installments over a period not to exceed 15 years and not to exceed the useful life of the Property acquired as determined by resolution of the City;

**WHEREAS**, the outstanding balance of all purchases by the City under Act 99, exclusive of interest, shall not exceed one and one-quarter percent (1 ¼%) of the taxable value of the real and personal property in the City at the date of such contract or agreement;

**WHEREAS**, purchase of the Property pursuant to an installment purchase agreement will not result in the outstanding balance of all such purchases in excess of the limitation contained within Act 99 as set forth above;

**WHEREAS**, the City has requested and received proposals from various financial institutions with respect to the financing of the Property;

**WHEREAS**, the City has received an offer of funding for the purchase of the Property from National City Bank of the Midwest ("Bank"); and

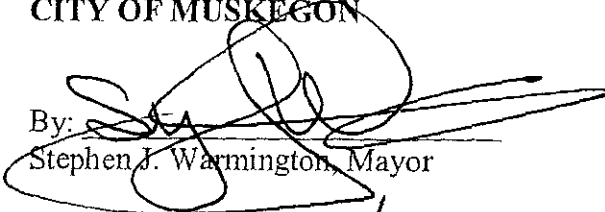
**WHEREAS**, the City Commission has reviewed a form of Installment Purchase Agreement ("Agreement") setting forth the terms and provisions of the sale of the Property to the City and the payment by the City thereof, and it is the desire of the City Commission to approve the purchase of the Property and to approve the general terms of the financing thereof as set forth in the Agreement and the execution thereof, subject to the completion of negotiations with the Bank on the timing of the sale and purchase.

**NOW, THEREFORE, BE IT RESOLVED**, that:

1. The Agreement is hereby approved substantially in the form attached as Appendix A, with such additions, changes, and modifications as shall be approved by the City Commission. The Mayor and Clerk of the City are hereby authorized and directed to execute the Agreement, when in final form, and deliver it to the Bank.
2. The useful life of the Property is hereby determined to be not less than ten (10) years.
3. The Mayor and Clerk are directed and authorized to execute such additional documentation as shall be necessary to effectuate the closing contemplated by the Agreement.
4. The City hereby agrees to include in its budget for each year, commencing with the present fiscal year, a sum which will be sufficient to pay the principal of and the interest due under the Agreement during such fiscal year.
5. The City hereby designates its obligations under the Agreement as "qualified tax exempt obligations" for purchase of deduction of interest expense by financial institutions pursuant to the Internal Revenue Code of 1986, as amended ("Code").
6. The City covenants that, to the extent permitted by law, it shall take all actions within its control necessary to maintain the exclusion of the interest component of the payments due under the Agreement from adjusted gross income for general federal income tax purposes under the Code including, but not limited to, actions relating to the rebate of arbitrage earnings, if applicable.
7. The acquisition of the Property and the approval of the Agreement hereby are found and declared to be for a valid public purpose and in the best interest of the health and welfare of the residents of the City.
8. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are rescinded to the extent of such conflict.

Effective this 12<sup>th</sup> day of July, 2005

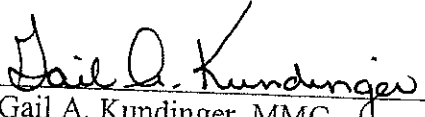
**CITY OF MUSKEGON**

By:   
Stephen J. Warmington, Mayor

And:   
Gail A. Kunderger, MMC, Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution authorized by the City Commission of the City of Muskegon, County of Muskegon, Michigan, at a regular meeting held on July 12, 2005

  
Gail A. Kunding, MMC  
Clerk, City of Muskegon

PREPARED BY:  
**John C. Schrier, Esq.**  
Parmenter O'Toole  
175 W. Apple Avenue  
P.O. Box 786  
Muskegon, MI 49443-0786  
Phone: (231) 722-1621

**City of Muskegon**  
*2005 Crimson Fire IPC--10 year scenario*  
*Dated: July 26, 2005*  
*National City Bid*

**Debt Service Schedule**

Part 1 of 2

| Date         | Principal           | Coupon   | Interest            | Total P+I           | Fiscal Total |
|--------------|---------------------|----------|---------------------|---------------------|--------------|
| 07/26/2005   | -                   | -        | -                   | -                   | -            |
| 10/01/2005   | -                   | -        | 4,189.44            | 4,189.44            | -            |
| 12/31/2005   | -                   | -        | -                   | -                   | 4,189.44     |
| 04/01/2006   | 49,785.00           | 3.830%   | 11,601.53           | 61,386.53           | -            |
| 10/01/2006   | -                   | -        | 10,648.15           | 10,648.15           | -            |
| 12/31/2006   | -                   | -        | -                   | -                   | 72,034.68    |
| 04/01/2007   | 51,921.00           | 3.830%   | 10,648.15           | 62,569.15           | -            |
| 10/01/2007   | -                   | -        | 9,653.86            | 9,653.86            | -            |
| 12/31/2007   | -                   | -        | -                   | -                   | 72,223.01    |
| 04/01/2008   | 54,148.00           | 3.830%   | 9,653.86            | 63,801.86           | -            |
| 10/01/2008   | -                   | -        | 8,616.93            | 8,616.93            | -            |
| 12/31/2008   | -                   | -        | -                   | -                   | 72,418.79    |
| 04/01/2009   | 56,471.00           | 3.830%   | 8,616.93            | 65,087.93           | -            |
| 10/01/2009   | -                   | -        | 7,535.51            | 7,535.51            | -            |
| 12/31/2009   | -                   | -        | -                   | -                   | 72,623.44    |
| 04/01/2010   | 58,894.00           | 3.830%   | 7,535.51            | 66,429.51           | -            |
| 10/01/2010   | -                   | -        | 6,407.69            | 6,407.69            | -            |
| 12/31/2010   | -                   | -        | -                   | -                   | 72,837.20    |
| 04/01/2011   | 61,420.00           | 3.830%   | 6,407.69            | 67,827.69           | -            |
| 10/01/2011   | -                   | -        | 5,231.49            | 5,231.49            | -            |
| 12/31/2011   | -                   | -        | -                   | -                   | 73,059.18    |
| 04/01/2012   | 64,055.00           | 3.830%   | 5,231.49            | 69,286.49           | -            |
| 10/01/2012   | -                   | -        | 4,004.84            | 4,004.84            | -            |
| 12/31/2012   | -                   | -        | -                   | -                   | 73,291.33    |
| 04/01/2013   | 66,803.00           | 3.830%   | 4,004.84            | 70,807.84           | -            |
| 10/01/2013   | -                   | -        | 2,725.56            | 2,725.56            | -            |
| 12/31/2013   | -                   | -        | -                   | -                   | 73,533.40    |
| 04/01/2014   | 69,669.00           | 3.830%   | 2,725.56            | 72,394.56           | -            |
| 10/01/2014   | -                   | -        | 1,391.40            | 1,391.40            | -            |
| 12/31/2014   | -                   | -        | -                   | -                   | 73,785.96    |
| 04/01/2015   | 72,658.00           | 3.830%   | 1,391.40            | 74,049.40           | -            |
| 12/31/2015   | -                   | -        | -                   | -                   | 74,049.40    |
| <b>Total</b> | <b>\$605,824.00</b> | <b>-</b> | <b>\$128,221.83</b> | <b>\$734,045.83</b> | <b>-</b>     |

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**City of Muskegon**  
*2005 Crimson Fire IPC-- 10 year scenario*  
*Dated: July 26, 2005*  
*National City Bid*

**Debt Service Schedule**

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Part 2 of 2

**Yield Statistics**

|                                        |             |
|----------------------------------------|-------------|
| Bond Year Dollars.....                 | \$3,347.83  |
| Average Life.....                      | 5.526 Years |
| Average Coupon.....                    | 3.8300007%  |
| Net Interest Cost (NIC).....           | 3.8300007%  |
| True Interest Cost (TIC).....          | 3.8308649%  |
| Bond Yield for Arbitrage Purposes..... | 3.8308649%  |
| All Inclusive Cost (AIC).....          | 3.8308649%  |
| <b>IRS Form 8038</b>                   |             |
| Net Interest Cost.....                 | 3.8300007%  |
| Weighted Average Maturity.....         | 5.526 Years |

NON-LITIGATION AND  
SIGNATURE-IDENTIFICATION CERTIFICATE

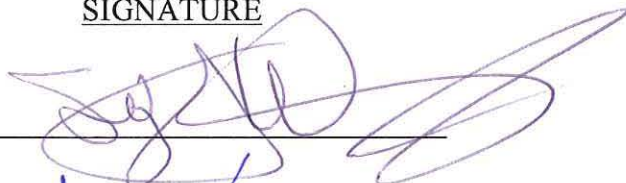
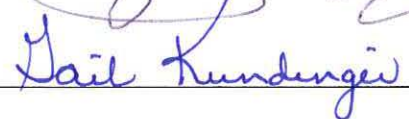
STATE OF MICHIGAN  
COUNTY OF MUSKEGON

We hereby certify that we are the duly elected or appointed, qualified and acting officers of the City of Muskegon in the County and State aforesaid (the "Issuer"), as herein indicated; that the undersigned Mayor and City Clerk did officially sign, by facsimile signature, the Installment Purchase Agreement involving the City of Muskegon, National City Commercial Capital and Crimson Fire, dated July 26, 2005, delivered herewith; that the undersigned Mayor and City Clerk are on the date hereof the officers having authority to execute and deliver the Installment Purchase Agreement; that the seal affixed below is the official seal of the Issuer; that there is no litigation of any nature either pending or threatened for the purpose of restraining or enjoining the issuance of the Installment Purchase Agreement or the levy and collection of taxes sufficient to pay the interest and principal thereof, nor directly affecting the proceedings or authority by which the Installment Purchase Agreement is issued, the legality of the purpose for which the Installment Purchase Agreement is issued or the validity of the Installment Purchase Agreement, and that neither the corporate existence nor the boundaries of the Issuer nor the title of its present officers to their respective offices is being contested; that to the best of our knowledge there is no litigation pending or threatened indirectly or collaterally affecting any of the foregoing, and that none of the proceedings heretofore taken to authorize the Installment Purchase Agreement and to provide security therefor have been repealed, revoked or rescinded.

Dated: July 21, 2005

SIGNATURE

TITLE

  
\_\_\_\_\_  
  
\_\_\_\_\_

Stephen Warmington, Mayor

Gail Kunderger, City Clerk

(City's Seal)

STATE OF MICHIGAN     )  
                                  ) ss.  
COUNTY OF MUSKEGON

On July 21, 2005, before me, a Notary Public in and for said County, appeared the Mayor and the City Clerk of the City of Muskegon, County of Muskegon, State of Michigan, personally known to me to be the persons named herein and who executed this Certificate, and I

## INSTALLMENT PURCHASE AGREEMENT

THIS AGREEMENT, dated as of July 26, 2005, by and between the **CITY OF MUSKEGON** a municipal corporation, with offices located at 933 Terrace Street, Muskegon, Michigan 49440, ("City"), Crimson Fire ("Vendor"), and National City Commercial Capital, as assignee of the Vendor ("Bank"), is as follows:

1. Purchase Price. The City agrees to purchase and Vendor agrees to sell, provide and deliver a pumper fire truck and a pumper fire truck with aerial ("Property") as set forth in the City's Purchase Order dated 7-26-05 ("Specifications") for the sum of One Million Thirty One Thousand Three Hundred Ninety Dollars (\$1,031,390.00) ("Purchase Price"). At or prior to delivery of the trucks, Bank shall disburse to City Six Hundred Five Thousand Eight Hundred Twenty Four Dollars (\$605,824) ("Financed Amount"). The Financed Amount will be payable by City to Vendor in ten (10) annual installments beginning April 1, 2006, in the amounts set forth on the attached Exhibit A. The payments of the Financed Amount shall not be subject to prepayment without the prior written consent of the Bank.

The City shall pay interest on the unpaid balance of the Purchase Price to the Bank, as the assignee of this Agreement, at a rate of interest equal to 3.830% per annum from the date funds are delivered by the Bank, as set forth in Paragraph 4, computed on the basis of a 360 day year which interest shall be payable beginning October 1, 2005 and semi-annually thereafter through the final date of payment of this Agreement, as set forth on Exhibit A. In the event any portion of the interest on the outstanding balance of the Purchase Price becomes included for tax purposes in the gross income of the Bank, then such interest rate shall be recalculated, at the Bank's sole discretion, at a taxable level from the date of such inclusion until the outstanding Purchase Price is paid in full.

2. Title and Useful Life. Upon delivery and acceptance by the City, title to the Property shall vest in the City. The City agrees that the useful life of the Property is at least equal to or longer than the date of the final payment hereunder.

3. Assignment to Bank. Except as provided in this Paragraph 3 and in Paragraph 5, the Vendor hereby irrevocably assigns this Agreement immediately to the Bank in consideration for a payment from Bank to the City in the amount of the Financed Amount. The City hereby consents to said assignment, except with respect to the warranties and other obligations of the Vendor set forth in Paragraphs 4 through 7, inclusive, of this Agreement, all of which shall, except as provided in Paragraph 7, remain the sole responsibility of the Vendor and shall not be assignable. With respect to the Bank, the City hereby waives any defenses based upon warranty, failure or inability of the Vendor to perform its non-assignable obligations or the failure of the Property to perform their intended function. The City's obligation to the Bank is absolute and unconditional and shall remain in full force and effect until the amount of the Purchase Price together with interest thereon shall have been paid by the City to the Bank, and such obligation shall not be affected, modified or impaired upon the happening from time to time of any event, including without limitation any of the following:

- (a) Any failure of title with respect to the Vendor's or the City's interest in the Property specified herein or the invalidity, enforceability or termination of this Agreement;
- (b) The modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in this Agreement;
- (c) The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors or readjustment or other similar proceedings affecting the Vendor or any of its assets or any allocation or contest of the validity of this Agreement, or the disaffirmance of this Agreement in any such proceeding;
- (d) To the extent permitted by law, any event or action which would, in the absence of this clause, result in release or discharge by operation of law of the Vendor from the performance or observation of any obligation, covenant or agreement contained in this Agreement; or
- (e) The default or failure of the Vendor to fully perform any of its obligations set forth in this Agreement.

It is expressly agreed between the Vendor, the City and the Bank, by acceptance of the assignment of this Agreement, that the City shall make all payments of principal and/or interest relating to the Financed Amount directly to the Bank.

The Vendor represents and warrants that the assignment to the Bank of this Agreement does not violate any agreement, contract or loan agreement to which it is a party, and that the Agreement has been duly executed and delivered by the Vendor.

4. Warranty. Vendor warrants its Property, as set forth in the Specifications and pursuant to the manufacturer's warranties, and warrants its assembly of the Property. Any warranties with respect to the Property shall not be assigned, but shall remain enforceable by the City. The Bank makes no warranty as to the manufacture or assembly of the Property.

5. Entire Agreement. This Agreement and the documents expressly incorporated by reference herein constitute the entire agreement of the parties. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are hereby terminated.

6. Amendments. Any attempt to modify the terms of this Agreement or of any supporting document shall be ineffectual unless in writing, signed by all parties necessary pursuant to this Paragraph 7. The City agrees to secure the consent of Bank to any such modifications, although the consent of the Vendor to the modification of any of the terms of payment by the City to the Bank shall not be required.

7. Security and Tax Covenant. The obligation of the City to pay principal and interest under this Agreement is a limited tax general obligation of the City. The City shall include in its budget and pay each year, until this Agreement is paid in full, such sum as may be necessary each year to make all payments hereunder, when due. The City covenants that it shall comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to delivery of this Agreement in order that interest thereon be (or continue to be) excluded from gross income for federal income tax purposes. The City designates the obligations under this Agreement as "qualified tax exempt obligations" for purpose of deduction of interest expense by financial institutions.

8. Indemnity. To the extent permitted by law, the City covenants and agrees, at its sole cost and expense, to indemnify, protect and save Bank harmless against and from any and all damages, losses, liabilities, settlements, obligations, penalties, fines, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind or of any nature whatsoever, including without limitation, attorney fees, expert fees and disbursements, whether or not any lawsuit or administrative proceeding is commenced, which may at any time be imposed upon, incurred by or asserted or awarded against Bank and arising from or out of (a) the operation of the Property, damage that may occur to the Property or any third party in connection with use of the Property, or (b) the enforcement of this Agreement or the assertion of any defense to any obligations hereunder, whether any such matters arise before or after the delivery of the Property to the City. The City's obligations to indemnify the Bank hereunder shall exist for so long as the Purchase Price plus interest remains outstanding.

9. Legislative Authorization. This Agreement is made in accordance with and pursuant to Act 99, Public Acts of Michigan, 1933, as amended.

**[Signatures appear on next page]**

**WITNESSES:**

\_\_\_\_\_

Linda Potter  
Linda Potter

**CITY OF MUSKEGON**

By: [Signature]  
Stephen J. Warmington, Mayor  
Date: \_\_\_\_\_

And Gail A. Kunding  
Gail A. Kunding, MMC, Clerk  
Date: 7-21-05

**BANK – NATIONAL CITY  
COMMERCIAL CAPITAL**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Its \_\_\_\_\_  
Date: \_\_\_\_\_

**VENDOR - CRIMSON FIRE**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Its \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT A**  
**PRINCIPAL AND INTEREST PAYMENT SCHEDULE**

## CERTIFICATION

Attached is a true copy of page 4 and 5 of the July 12, 2005, City of Muskegon City Commission Meeting Minutes approving the purchase of two fire engines and the fire truck lease purchase. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

933 Terrace, Muskegon, MI 49440

By



Gail A. Kunderger, MMC  
City Clerk

and reasonable.

FINANCIAL IMPACT:

|         | <u>Professional Staff</u> | <u>% Increase</u> | <u>Manager &amp; Partner</u> | <u>% Increase</u> |
|---------|---------------------------|-------------------|------------------------------|-------------------|
| Current | \$42.00                   |                   | \$50.00                      |                   |
| 2006    | \$43.00                   | 2.4%              | \$51.00                      | 2.0%              |
| 2007    | \$44.00                   | 2.3%              | \$52.00                      | 2.0%              |
| 2008    | \$45.00                   | 2.3%              | \$53.00                      | 1.9%              |

BUDGET ACTION REQUIRED: The 2005 budget includes adequate funding for these services. Future budgets will incorporate the proposed rates.

STAFF RECOMMENDATION: Approval of a three-year contract extension with Hoffman, Steensma & Plamondon, PLC for accounting services.

**Motion by Vice Mayor Larson, second by Commissioner Gawron to approve a three-year contract extension with Hoffman, Steensma & Plamondon, PLC for accounting services.**

**ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis**

**Nays: None**

**MOTION PASSES**

**B. Request to Purchase Two Fire Engines. PUBLIC SAFETY**

SUMMARY OF REQUEST: Fire Department staff is requesting approval by the Commission to allow for the procurement of two fire engines. The first engine would be a standard front-line engine, which would be purchased. The second would be an engine to include a 75' aerial ladder with a water delivery system which would be leased over a period of ten years. These two engines would replace two engines that are currently in service. The low bid, which meets all stated specifications, was submitted by Crimson Fire, 907 7<sup>th</sup> Ave., Brandon, South Dakota. Crimson is a subsidiary of Spartan Motors of Charlotte, Michigan. The bid price submitted by Crimson is \$1,031,390.

FINANCIAL IMPACT: Funds for this purchase and lease would originate in the City's Public Improvement Fund. The current balance would provide for the purchase of the first engine. Part of the future funds would provide the lease payments for the engine/aerial.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the purchase and lease agreement.

**Motion by Commissioner Spataro, second by Commissioner Davis to approve the request to purchase two fire engines.**

**ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and**

**Gawron**

**Nays: None**

**MOTION PASSES**

**C. Fire Truck Lease Purchase. FINANCE**

SUMMARY OF REQUEST: One of the commitments made in the 1993 income tax campaign was to set aside \$150,000 each year to replace major fire equipment on a "pay-as-you-go" basis. This commitment has been met each year. As of 12/31/04, there was \$470,086 held in this account with an additional \$150,000 to be contributed in 2005. Public Safety staff has determined there is serious need to replace two trucks at this time at a total projected cost of \$1,031,390. Staff is proposing to pay cash for the less expensive truck (\$425,566) and to finance the larger truck (\$605,824) via an Act 99 installment purchase contract. Staff is currently soliciting installment purchase quotes from various banks and other lending sources.

FINANCIAL IMPACT: Quotes are being taken for two repayment terms: 7-year and 10-year. Depending on which term is selected (and on quoted interest rates), annual installments are estimated to be \$70,000 - \$100,000.

BUDGET ACTION REQUIRED: None. Each year's budget includes \$150,000 allocation for fire equipment replacement. Funding for the installment purchase contract will come from this allocation.

STAFF RECOMMENDATION: To be determined.

**Motion by Commissioner Carter, second by Commissioner Shepherd to approve the fire truck lease purchase through National City Bank.**

**ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson**

**Nays: None**

**MOTION PASSES**

**D. Resolution to Acquire 280 Iona. COMMUNITY AND NEIGHBORHOOD SERVICES**

SUMMARY OF REQUEST: To approve the resolution that instructs the Community and Neighborhood Services office to obtain 280 Iona from the State of Michigan, which is currently a vacant abandoned home. The structure is located next door to 284 Iona, a recently completed infill home under the "Operation: At Long Last" project. The department's objective is to obtain 280 Iona for the minimum price of \$300, rehabilitate it and sell the property to a qualified family. The obtaining of this property and the total rehabilitation is one additional piece to the City's continuous neighborhood revitalization efforts.

FINANCIAL IMPACT: CNS Office will supply \$300 from the HOME program



## Commercial Capital

August 2, 2005

Tim Paul  
City of Muskegon  
933 Terrace Street  
Muskegon, MI 49440

RE: Installment Purchase Agreement 61035000

Dear Mr. Paul:

Thank you for choosing National City Commercial Capital Corporation for your Installment Purchase Agreement financing. We appreciate your business and welcome the opportunity to work with you.

Enclosed for your records are two of the original three sets of Installment Purchase documents.

Also enclosed is an Invoicing Survey to insure that we have all of the information needed to correctly prepare your invoices. Please complete and return in the envelope provided or fax to me at 800-678-0602.

This letter is intended to serve as a confirmation and does not modify or amend our agreement. If we can be of assistance, please call me at 614-463-6575.

Sincerely,

A handwritten signature in cursive script that reads "Rosemarie Konrath".

Rosemarie Konrath  
National City Commercial Capital Corporation

Encl

C: IPA file

## INSTALLMENT PURCHASE AGREEMENT

THIS AGREEMENT, dated as of July 26, 2005, by and between the **CITY OF MUSKEGON** a municipal corporation, with offices located at 933 Terrace Street, Muskegon, Michigan 49440, ("City"), Crimson Fire ("Vendor"), and National City Commercial Capital, as assignee of the Vendor ("Bank"), is as follows:

1. Purchase Price. The City agrees to purchase and Vendor agrees to sell, provide and deliver a pumper fire truck and a pumper fire truck with aerial ("Property") as set forth in the City's Purchase Order dated 7-26-05 ("Specifications") for the sum of One Million Thirty One Thousand Three Hundred Ninety Dollars (\$1,031,390.00) ("Purchase Price"). At or prior to delivery of the trucks, Bank shall disburse to City Six Hundred Five Thousand Eight Hundred Twenty Four Dollars (\$605,824) ("Financed Amount"). The Financed Amount will be payable by City to Vendor in ten (10) annual installments beginning April 1, 2006, in the amounts set forth on the attached Exhibit A. The payments of the Financed Amount shall not be subject to prepayment without the prior written consent of the Bank.

The City shall pay interest on the unpaid balance of the Purchase Price to the Bank, as the assignee of this Agreement, at a rate of interest equal to 3.830% per annum from the date funds are delivered by the Bank, as set forth in Paragraph 4, computed on the basis of a 360 day year which interest shall be payable beginning October 1, 2005 and semi-annually thereafter through the final date of payment of this Agreement, as set forth on Exhibit A. In the event any portion of the interest on the outstanding balance of the Purchase Price becomes included for tax purposes in the gross income of the Bank, then such interest rate shall be recalculated, at the Bank's sole discretion, at a taxable level from the date of such inclusion until the outstanding Purchase Price is paid in full.

2. Title and Useful Life. Upon delivery and acceptance by the City, title to the Property shall vest in the City. The City agrees that the useful life of the Property is at least equal to or longer than the date of the final payment hereunder.

3. Assignment to Bank. Except as provided in this Paragraph 3 and in Paragraph 5, the Vendor hereby irrevocably assigns this Agreement immediately to the Bank in consideration for a payment from Bank to the City in the amount of the Financed Amount. The City hereby consents to said assignment, except with respect to the warranties and other obligations of the Vendor set forth in Paragraphs 4 through 7, inclusive, of this Agreement, all of which shall, except as provided in Paragraph 7, remain the sole responsibility of the Vendor and shall not be assignable. With respect to the Bank, the City hereby waives any defenses based upon warranty, failure or inability of the Vendor to perform its non-assignable obligations or the failure of the Property to perform their intended function. The City's obligation to the Bank is absolute and unconditional and shall remain in full force and effect until the amount of the Purchase Price together with interest thereon shall have been paid by the City to the Bank, and such obligation shall not be affected, modified or impaired upon the happening from time to time of any event, including without limitation any of the following:

- (a) Any failure of title with respect to the Vendor's or the City's interest in the Property specified herein or the invalidity, enforceability or termination of this Agreement;
- (b) The modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in this Agreement;
- (c) The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors or readjustment or other similar proceedings affecting the Vendor or any of its assets or any allocation or contest of the validity of this Agreement, or the disaffirmance of this Agreement in any such proceeding;
- (d) To the extent permitted by law, any event or action which would, in the absence of this clause, result in release or discharge by operation of law of the Vendor from the performance or observation of any obligation, covenant or agreement contained in this Agreement; or
- (e) The default or failure of the Vendor to fully perform any of its obligations set forth in this Agreement.

It is expressly agreed between the Vendor, the City and the Bank, by acceptance of the assignment of this Agreement, that the City shall make all payments of principal and/or interest relating to the Financed Amount directly to the Bank.

The Vendor represents and warrants that the assignment to the Bank of this Agreement does not violate any agreement, contract or loan agreement to which it is a party, and that the Agreement has been duly executed and delivered by the Vendor.

4. Warranty. Vendor warrants its Property, as set forth in the Specifications and pursuant to the manufacturer's warranties, and warrants its assembly of the Property. Any warranties with respect to the Property shall not be assigned, but shall remain enforceable by the City. The Bank makes no warranty as to the manufacture or assembly of the Property.

5. Entire Agreement. This Agreement and the documents expressly incorporated by reference herein constitute the entire agreement of the parties. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are hereby terminated.

6. Amendments. Any attempt to modify the terms of this Agreement or of any supporting document shall be ineffectual unless in writing, signed by all parties necessary pursuant to this Paragraph 7. The City agrees to secure the consent of Bank to any such modifications, although the consent of the Vendor to the modification of any of the terms of payment by the City to the Bank shall not be required.

7. Security and Tax Covenant. The obligation of the City to pay principal and interest under this Agreement is a limited tax general obligation of the City. The City shall include in its budget and pay each year, until this Agreement is paid in full, such sum as may be necessary each year to make all payments hereunder, when due. The City covenants that it shall comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to delivery of this Agreement in order that interest thereon be (or continue to be) excluded from gross income for federal income tax purposes. The City designates the obligations under this Agreement as "qualified tax exempt obligations" for purpose of deduction of interest expense by financial institutions.

8. Indemnity. To the extent permitted by law, the City covenants and agrees, at its sole cost and expense, to indemnify, protect and save Bank harmless against and from any and all damages, losses, liabilities, settlements, obligations, penalties, fines, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind or of any nature whatsoever, including without limitation, attorney fees, expert fees and disbursements, whether or not any lawsuit or administrative proceeding is commenced, which may at any time be imposed upon, incurred by or asserted or awarded against Bank and arising from or out of (a) the operation of the Property, damage that may occur to the Property or any third party in connection with use of the Property, or (b) the enforcement of this Agreement or the assertion of any defense to any obligations hereunder, whether any such matters arise before or after the delivery of the Property to the City. The City's obligations to indemnify the Bank hereunder shall exist for so long as the Purchase Price plus interest remains outstanding.

9. Legislative Authorization. This Agreement is made in accordance with and pursuant to Act 99, Public Acts of Michigan, 1933, as amended.

[Signatures appear on next page]

**WITNESSES:**

Irene Dempsey  
Irene Dempsey

Linda Potter  
Linda Potter

**CITY OF MUSKEGON**

By: [Signature]  
Stephen J. Warrington, Mayor  
Date: 7-21-05

And Gail A. Kunderger  
Gail A. Kunderger, MMC, Clerk  
Date: \_\_\_\_\_

**BANK - NATIONAL CITY  
COMMERCIAL CAPITAL**

By: [Signature]  
Name: Sean D. McAllister  
Its Vice President  
Date: 7-26-05

**VENDOR - CRIMSON FIRE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its \_\_\_\_\_  
Date: \_\_\_\_\_

**WITNESSES:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Paul E. Linn*

\_\_\_\_\_

**CITY OF MUSKEGON**

By: \_\_\_\_\_  
Stephen J. Warmington, Mayor  
Date: \_\_\_\_\_

And \_\_\_\_\_  
Gail A. Kunding, MMC, Clerk  
Date: \_\_\_\_\_

**BANK – NATIONAL CITY  
COMMERCIAL CAPITAL**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Its \_\_\_\_\_  
Date: \_\_\_\_\_

**VENDOR - CRIMSON FIRE**

By *Kelly Grovier*  
Name: *KELLY GROVIER*  
Its \_\_\_\_\_  
Date: *7/21/05*

**EXHIBIT A**  
**PRINCIPAL AND INTEREST PAYMENT SCHEDULE**

Exhibit A  
Principal and Interest Payment Schedule

| Payment      | Date      | Payment    | Interest   | Principal  |
|--------------|-----------|------------|------------|------------|
| Loan         | 7/26/2005 |            |            |            |
| 1            | 10/1/2005 | 4,318.35   | 4,318.35   | 0.00       |
| 2            | 4/1/2006  | 61,386.53  | 11,601.53  | 49,785.00  |
| 3            | 10/1/2006 | 10,648.15  | 10,648.15  | 0.00       |
| 4            | 4/1/2007  | 62,569.15  | 10,648.15  | 51,921.00  |
| 5            | 10/1/2007 | 9,653.86   | 9,653.86   | 0.00       |
| 6            | 4/1/2008  | 63,801.86  | 9,653.86   | 54,148.00  |
| 7            | 10/1/2008 | 8,616.93   | 8,616.93   | 0.00       |
| 8            | 4/1/2009  | 65,087.93  | 8,616.93   | 56,471.00  |
| 9            | 10/1/2009 | 7,535.51   | 7,535.51   | 0.00       |
| 10           | 4/1/2010  | 66,429.51  | 7,535.51   | 58,894.00  |
| 11           | 10/1/2010 | 6,407.69   | 6,407.69   | 0.00       |
| 12           | 4/1/2011  | 67,827.69  | 6,407.69   | 61,420.00  |
| 13           | 10/1/2011 | 5,231.49   | 5,231.49   | 0.00       |
| 14           | 4/1/2012  | 69,286.49  | 5,231.49   | 64,055.00  |
| 15           | 10/1/2012 | 4,004.84   | 4,004.84   | 0.00       |
| 16           | 4/1/2013  | 70,807.84  | 4,004.84   | 66,803.00  |
| 17           | 10/1/2013 | 2,725.56   | 2,725.56   | 0.00       |
| 18           | 4/1/2014  | 72,394.56  | 2,725.56   | 69,669.00  |
| 19           | 10/1/2014 | 1,391.40   | 1,391.40   | 0.00       |
| 20           | 4/1/2015  | 74,049.40  | 1,391.40   | 72,658.00  |
| Grand Totals |           | 734,174.74 | 128,350.74 | 605,824.00 |

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

Assessor  
(231)724-6708  
FAX (231)726-5181

Cemetery  
(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

Comm. & Neigh.  
Services  
(231)724-6717  
FAX (231)726-2501

Engineering  
(231)724-6707  
FAX (231)727-6904

Finance  
(231)724-6713  
FAX (231)724-6768

Fire Department  
(231)724-6792  
FAX (231)724-6985

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

Info. Technology  
(231)724-4126  
FAX (231)722-4301

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

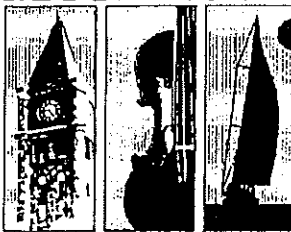
Public Works  
(231)724-4100  
FAX (231)722-4188

Treasurer  
(231)724-6720  
FAX (231)724-6768

Water Billing  
(231)724-6718  
FAX (231)724-6768

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

# MUSKEGON



West Michigan's Shoreline City  
[www.shorelinecity.com](http://www.shorelinecity.com)

Ms Rose Konrath  
National City Commercial Capital  
Two Miranova Place  
Suite 1000  
Columbus, OH 43215

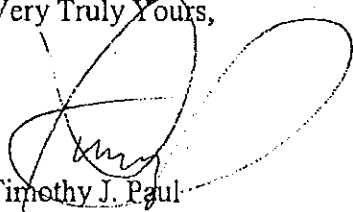
Dear Ms Konrath:

As discussed, a clerical misunderstanding resulted in the approving resolution (#2005-64c) for installment purchase of fire trucks referring to "National City Bank of the Midwest" instead of "National City Commercial Capital." This letter is to clarify that the City of Muskegon understands and agrees that the funding institution is National City Commercial Capital.

Please let me know if there is anything else needed.

Thanks you.

Very Truly Yours,

  
Timothy J. Paul  
Director of Finance



**CITY OF MUSKEGON**

**RESOLUTION # 2005-64(c)**

**RESOLUTION TO APPROVE INSTALLMENT PURCHASE AGREEMENT  
REGARDING PURCHASE OF FIRE TRUCKS**

**WHEREAS**, the City of Muskegon, County of Muskegon, State of Michigan (the "City") determines it to be necessary for the public health, safety, and welfare of the city and its residents to acquire a pumper fire truck and a pumper fire truck with aerial ("Property") for the sum of One Million Thirty One Thousand Three Hundred Ninety Dollars (\$1,031,390.00) ("Purchase Price"), of which the City will pay Vendor Four Hundred Twenty Five Thousand Five Hundred Sixty Six Dollars (\$425,566) at or prior to delivery of the trucks and promise to pay an additional Six Hundred Five Thousand Eight Hundred Twenty Four Dollars (\$605,824) ("Financed Amount").

**WHEREAS**, under the provisions of Act No. 99, Public Acts of Michigan, 1933, as amended ("Act"), the City is or will be authorized to enter into any contract or agreement for the purchase of Property to be paid for in installments over a period not to exceed 15 years and not to exceed the useful life of the Property acquired as determined by resolution of the City;

**WHEREAS**, the outstanding balance of all purchases by the City under Act 99, exclusive of interest, shall not exceed one and one-quarter percent (1 ¼%) of the taxable value of the real and personal property in the City at the date of such contract or agreement;

**WHEREAS**, purchase of the Property pursuant to an installment purchase agreement will not result in the outstanding balance of all such purchases in excess of the limitation contained within Act 99 as set forth above;

**WHEREAS**, the City has requested and received proposals from various financial institutions with respect to the financing of the Property;

**WHEREAS**, the City has received an offer of funding for the purchase of the Property from National City Bank of the Midwest ("Bank"); and

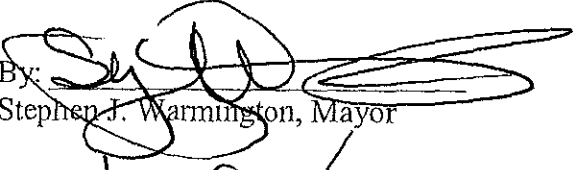
**WHEREAS**, the City Commission has reviewed a form of Installment Purchase Agreement ("Agreement") setting forth the terms and provisions of the sale of the Property to the City and the payment by the City thereof, and it is the desire of the City Commission to approve the purchase of the Property and to approve the general terms of the financing thereof as set forth in the Agreement and the execution thereof, subject to the completion of negotiations with the Bank on the timing of the sale and purchase.

**NOW, THEREFORE, BE IT RESOLVED**, that:

1. The Agreement is hereby approved substantially in the form attached as Appendix A, with such additions, changes, and modifications as shall be approved by the City Commission. The Mayor and Clerk of the City are hereby authorized and directed to execute the Agreement, when in final form, and deliver it to the Bank.
2. The useful life of the Property is hereby determined to be not less than ten (10) years.
3. The Mayor and Clerk are directed and authorized to execute such additional documentation as shall be necessary to effectuate the closing contemplated by the Agreement.
4. The City hereby agrees to include in its budget for each year, commencing with the present fiscal year, a sum which will be sufficient to pay the principal of and the interest due under the Agreement during such fiscal year.
5. The City hereby designates its obligations under the Agreement as "qualified tax exempt obligations" for purchase of deduction of interest expense by financial institutions pursuant to the Internal Revenue Code of 1986, as amended ("Code").
6. The City covenants that, to the extent permitted by law, it shall take all actions within its control necessary to maintain the exclusion of the interest component of the payments due under the Agreement from adjusted gross income for general federal income tax purposes under the Code including, but not limited to, actions relating to the rebate of arbitrage earnings, if applicable.
7. The acquisition of the Property and the approval of the Agreement hereby are found and declared to be for a valid public purpose and in the best interest of the health and welfare of the residents of the City.
8. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are rescinded to the extent of such conflict.

Effective this 12<sup>th</sup> day of July, 2005

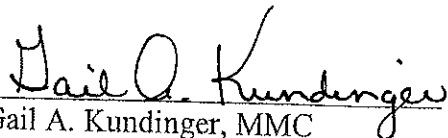
**CITY OF MUSKEGON**

By:   
Stephen J. Warmington, Mayor

And:   
Gail A. Kundinger, MMC, Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution authorized by the City Commission of the City of Muskegon, County of Muskegon, Michigan, at a regular meeting held on July 12, 2005.

  
Gail A. Kunderger, MMC  
Clerk, City of Muskegon

PREPARED BY:

***John C. Schrier, Esq.***

Parmenter O'Toole

175 W. Apple Avenue

P.O. Box 786

Muskegon, MI 49443-0786

Phone: (231) 722-1621

## CERTIFICATION

Attached is a true copy of page 4 and 5 of the July 12, 2005, City of Muskegon City Commission Meeting Minutes approving the purchase of two fire engines and the fire truck lease purchase. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

933 Terrace, Muskegon, MI 49440

By

  
Gail A. Kunding, MMQ  
City Clerk

and reasonable.

**FINANCIAL IMPACT:**

|         | <u>Professional Staff</u> | <u>% Increase</u> | <u>Manager &amp; Partner</u> | <u>% Increase</u> |
|---------|---------------------------|-------------------|------------------------------|-------------------|
| Current | \$42.00                   |                   | \$50.00                      |                   |
| 2006    | \$43.00                   | 2.4%              | \$51.00                      | 2.0%              |
| 2007    | \$44.00                   | 2.3%              | \$52.00                      | 2.0%              |
| 2008    | \$45.00                   | 2.3%              | \$53.00                      | 1.9%              |

**BUDGET ACTION REQUIRED:** The 2005 budget includes adequate funding for these services. Future budgets will incorporate the proposed rates.

**STAFF RECOMMENDATION:** Approval of a three-year contract extension with Hoffman, Steensma & Plamondon, PLC for accounting services.

**Motion by Vice Mayor Larson, second by Commissioner Gawron to approve a three-year contract extension with Hoffman, Steensma & Plamondon, PLC for accounting services.**

**ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis**

**Nays: None**

**MOTION PASSES**

**B. Request to Purchase Two Fire Engines. PUBLIC SAFETY**

**SUMMARY OF REQUEST:** Fire Department staff is requesting approval by the Commission to allow for the procurement of two fire engines. The first engine would be a standard front-line engine, which would be purchased. The second would be an engine to include a 75' aerial ladder with a water delivery system which would be leased over a period of ten years. These two engines would replace two engines that are currently in service. The low bid, which meets all stated specifications, was submitted by Crimson Fire, 907 7<sup>th</sup> Ave., Brandon, South Dakota. Crimson is a subsidiary of Spartan Motors of Charlotte, Michigan. The bid price submitted by Crimson is \$1,031,390.

**FINANCIAL IMPACT:** Funds for this purchase and lease would originate in the City's Public Improvement Fund. The current balance would provide for the purchase of the first engine. Part of the future funds would provide the lease payments for the engine/aerial.

**BUDGET ACTION REQUIRED:** None

**STAFF RECOMMENDATION:** Approval of the purchase and lease agreement.

**Motion by Commissioner Spataro, second by Commissioner Davis to approve the request to purchase two fire engines.**

**ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and**

**Gawron**

**Nays: None**

**MOTION PASSES**

**C. Fire Truck Lease Purchase. FINANCE**

SUMMARY OF REQUEST: One of the commitments made in the 1993 income tax campaign was to set aside \$150,000 each year to replace major fire equipment on a "pay-as-you-go" basis. This commitment has been met each year. As of 12/31/04, there was \$470,086 held in this account with an additional \$150,000 to be contributed in 2005. Public Safety staff has determined there is serious need to replace two trucks at this time at a total projected cost of \$1,031,390. Staff is proposing to pay cash for the less expensive truck (\$425,566) and to finance the larger truck (\$605,824) via an Act 99 installment purchase contract. Staff is currently soliciting installment purchase quotes from various banks and other lending sources.

FINANCIAL IMPACT: Quotes are being taken for two repayment terms: 7-year and 10-year. Depending on which term is selected (and on quoted interest rates), annual installments are estimated to be \$70,000 - \$100,000.

BUDGET ACTION REQUIRED: None. Each year's budget includes \$150,000 allocation for fire equipment replacement. Funding for the installment purchase contract will come from this allocation.

STAFF RECOMMENDATION: To be determined.

**Motion by Commissioner Carter, second by Commissioner Shepherd to approve the fire truck lease purchase through National City Bank.**

**ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson**

**Nays: None**

**MOTION PASSES**

**D. Resolution to Acquire 280 Iona. COMMUNITY AND NEIGHBORHOOD SERVICES**

SUMMARY OF REQUEST: To approve the resolution that instructs the Community and Neighborhood Services office to obtain 280 Iona from the State of Michigan, which is currently a vacant abandoned home. The structure is located next door to 284 Iona, a recently completed infill home under the "Operation: At Long Last" project. The department's objective is to obtain 280 Iona for the minimum price of \$300, rehabilitate it and sell the property to a qualified family. The obtaining of this property and the total rehabilitation is one additional piece to the City's continuous neighborhood revitalization efforts.

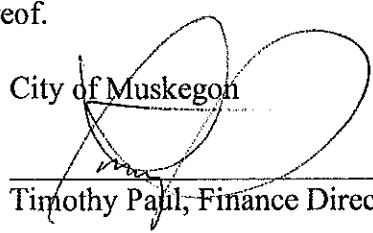
FINANCIAL IMPACT: CNS Office will supply \$300 from the HOME program

ACT 99 CERTIFICATE

The undersigned, the duly authorized and qualified Finance Director of the City of Muskegon, County of Muskegon, State of Michigan (the "Issuer"), in connection with the execution by the Issuer of a certain Installment Purchase Contract (the "Contract"), by and between the Issuer and Crimson Fire, hereby certifies as follows:

1. The outstanding balance of all purchases of lands, property or equipment for public purposes, to be paid for in installments, including purchases made pursuant to the Contract, exclusive of interest, is \$605,824.
2. The State equalized value of the real and personal property of the Issuer as of the date of the Contract is \$756,635,300.
3. The amount set forth in paragraph 1 hereof does not exceed one and one-quarter percent (1-1/4%) of the amount set forth in paragraph 2 hereof.

City of Muskegon

  
\_\_\_\_\_  
Timothy Paul, Finance Director

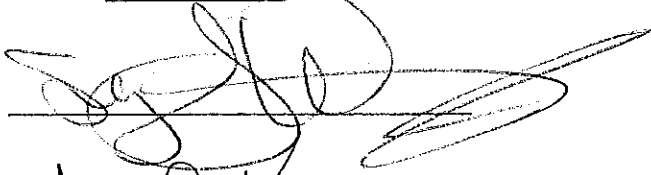
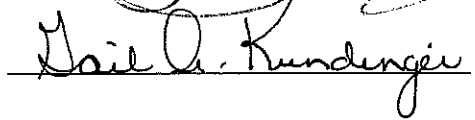
NON-LITIGATION AND  
SIGNATURE-IDENTIFICATION CERTIFICATE

STATE OF MICHIGAN  
COUNTY OF MUSKEGON

We hereby certify that we are the duly elected or appointed, qualified and acting officers of the City of Muskegon in the County and State aforesaid (the "Issuer"), as herein indicated; that the undersigned Mayor and City Clerk did officially sign, by facsimile signature, the Installment Purchase Agreement involving the City of Muskegon, National City Commercial Capital and Crimson Fire, dated July 26, 2005, delivered herewith; that the undersigned Mayor and City Clerk are on the date hereof the officers having authority to execute and deliver the Installment Purchase Agreement; that the seal affixed below is the official seal of the Issuer; that there is no litigation of any nature either pending or threatened for the purpose of restraining or enjoining the issuance of the Installment Purchase Agreement or the levy and collection of taxes sufficient to pay the interest and principal thereof, nor directly affecting the proceedings or authority by which the Installment Purchase Agreement is issued, the legality of the purpose for which the Installment Purchase Agreement is issued or the validity of the Installment Purchase Agreement, and that neither the corporate existence nor the boundaries of the Issuer nor the title of its present officers to their respective offices is being contested; that to the best of our knowledge there is no litigation pending or threatened indirectly or collaterally affecting any of the foregoing, and that none of the proceedings heretofore taken to authorize the Installment Purchase Agreement and to provide security therefor have been repealed, revoked or rescinded.

Dated: July 21, 2005

SIGNATURE

TITLE

Stephen Warmington, Mayor

Gail Kunding, City Clerk

(City's Seal)

STATE OF MICHIGAN     )  
                                  ) ss.  
COUNTY OF MUSKEGON

On July 21, 2005, before me, a Notary Public in and for said County, appeared the Mayor and the City Clerk of the City of Muskegon, County of Muskegon, State of Michigan, personally known to me to be the persons named herein and who executed this Certificate, and I

\$605,824  
CITY OF MUSKEGON  
COUNTY OF MUSKEGON, STATE OF MICHIGAN

NON-ARBITRAGE AND TAX COMPLIANCE CERTIFICATE

WHEREAS, the City of Muskegon, County of Muskegon, State of Michigan (the "City"), pursuant to the provisions of Act 99, Public Acts of Michigan, 1933, as amended, and action taken by the City on July 12, 2005 (the "Resolution"), has authorized an Installment Purchase Agreement dated July 26, 2005. The Installment Purchase Agreement is being delivered on the date hereof to provide funds to pay a portion of the cost of the purchase of two fire trucks, together with all necessary and related appurtenances and attachments therefor (the "Project") and to pay costs incidental to the Installment Purchase Agreement.

NOW, THEREFORE, I, the undersigned, being the Treasurer of the City and being in general charge of and one of the officers responsible for the issuance of the Installment Purchase Agreement, do hereby certify that I have made due inquiry with respect to and am fully informed as to the matters set out in this Certificate, and that the following are the reasonable expectations of the City with respect to the Installment Purchase Agreement as of the date hereof made in good faith pursuant to Treas. Reg. § 1.148-2(b)(2):

1. The City expects to receive from the original purchaser of the Installment Purchase Agreement on this date the sum of \$605,824.
2. The total amount received by the City from the Installment Purchase Agreement, including all investment earnings thereon, will be used for the purposes set forth above and below and are not in excess of the amount needed for such purposes.
3. The proceeds to be derived by the City from the Installment Purchase Agreement, i.e., the sum of \$605,824 will be deposited into the 2005 Installment Purchase Agreement Fund established pursuant to the Resolution and will be used, together with investment earnings, to pay the costs of the Project within three years from the date hereof. Such amount may be invested at an unrestricted yield until expended for a period of up to three (3) years from the date hereof.

Any proceeds remaining in the Fund at the completion of the Project or the end of three years, whichever is earlier, will not be invested at a yield in excess of the yield on the Installment Purchase Agreement (computed with regard to yield reduction payments as provided in Treas. Reg. § 1.148-5(c)).

Costs of the Project paid from the Installment Purchase Agreement proceeds will consist only of land, building, improvements thereon, equipment or other items of a capital nature and to the extent are in reimbursement for costs paid before the date hereof, will be reimbursed in conformity with the rules in Treas. Reg. § 1.150-2.

(a) any amounts received by the City from the original Installment Purchase Agreement not held to pay the costs of the Project (including engineering fees, contingencies therefor), or to pay the costs of issuing the Installment Purchase Agreement; and

(b) any amounts accumulated in the Debt Retirement Funds, or any similar fund for the payment of the Installment Purchase Agreement to the extent that the City reasonably expects to use such amounts to pay principal of and interest on the Installment Purchase Agreement, held for longer than thirteen months after the receipt thereof; and

(c) any amounts held for longer than one year after the receipt by the City as interest, dividends or other earnings from the investment of any amount described in subparagraphs (a), (b) and (c) of this paragraph 10.

11. The proceeds of the Installment Purchase Agreement will not replace any moneys of the City invested at a yield in excess of the yield on the Installment Purchase Agreement, since no funds other than those described above are pledged for, or required to be used to pay, debt service on the Installment Purchase Agreement, and no other funds are restricted to use solely for the purposes of paying the costs of the Project which will not be so used and have taken into account in determining the size of the Installment Purchase Agreement.

12. It is not anticipated that the City, all entities which issue obligations on behalf of the City, and subordinate governmental units thereto will issue more than \$5,000,000 of obligations, the interest on which is exempt from Federal income taxation under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and which are not private activity bonds as defined in Code § 141 during calendar year 2005. For this purpose, tax-exempt obligations issued for the benefit of the City by another entity are also taken into account in determining whether the \$5,000,000 limitation will be exceeded. The Installment Purchase Agreement is not private activity bonds. Ninety-five percent (95%) or more of the net proceeds of the Installment Purchase Agreement will be used for local governmental activities of the City.

13. The City has designated the Installment Purchase Agreement as "qualified tax-exempt obligations" for purposes of the deduction of interest expense by financial institutions. It is not anticipated that the City, all entities which issue obligations on behalf of the City, and subordinate governmental units thereto will issue more than \$10,000,000 of obligations, the interest on which is exempt from Federal income taxation under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and which are not private activity bonds as defined in Code § 141 during calendar year 2005. For this purpose, tax-exempt obligations issued for the benefit of the City by another entity are also taken into account in determining whether the \$10,000,000 limitation will be exceeded. The City has not issued, and it is not anticipated that it will issue, tax-exempt obligations on behalf of any other entity, during 2005.

14. Attached hereto as Exhibit A is a Tax Certificate executed by the undersigned detailing certain representations and compliance with certain other provisions relating to the Installment Purchase Agreement. Execution by the City of this Non-Arbitrage and

## EXHIBIT A

### TAX CERTIFICATE

The undersigned, the Treasure of the City of Muskegon, County of Muskegon, State of Michigan (the "City"), hereby makes the certification specified below with respect to the Installment Purchase Agreement for the purpose of enabling National City Commercial Capital, to render its opinion that interest is excluded from gross income for Federal income tax purposes and is exempt from State of Michigan income taxation. The proceeds of the Installment Purchase Agreement will be used as described in the Non-Arbitrage and Tax Compliance Certificate of the City and all definitions and terms therein are hereby incorporated by reference.

A. The undersigned, on behalf of the City, hereby certifies as of the date hereof:

(1) All the proceeds from the Installment Purchase Agreement, including investment earnings thereon, will be expended on the Project (as defined in the Resolution) except for accrued and capitalized interest and proceeds used for the payment of costs of entering into the Installment Purchase Agreement which will be spent within 30 days of the date hereof, all as described in the Non-Arbitrage and Tax Compliance Certificate.

(2) Internal Revenue Service Form 8038-G is true, accurate and complete.

(3) With respect to the Installment Purchase Agreement, the City reasonably expects that:

(a) 85% of the spendable proceeds of the issue will be used to carry out the governmental purposes of the issue within the 3-year period beginning on the date the Installment Purchase Agreement was executed; and

(b) Not more than 50% of the proceeds of the Installment Purchase Agreement will be invested in nonpurpose investments having a substantially guaranteed yield for four years or more.

(4) There were and are no other obligations sold or to be sold within 15 days of the date of sale of the Installment Purchase Agreement which (i) were or are to be sold pursuant to a common plan of financing and (ii) are reasonably expected to be paid from substantially the same source of funds.

(5) Except as is permitted by Code § 149(b), the Installment Purchase Agreement is not federally guaranteed within these provisions; specifically the payment of principal or interest with respect to the Installment Purchase Agreement is not guaranteed in whole or in part by the United States or any agency or instrumentality thereof; the Installment Purchase Agreement is not issued as part of an issue and five percent (5%) or more of the proceeds of which is to be used in making loans the payment of principal or interest with respect to which is to be guaranteed in whole or in part by the United States or any agency or instrumentality thereof, or

business use tests or the private loan financing test (as described in paragraph B(1) above) to be met for the entire term of the Installment Purchase Agreement except if:

(i) the rules of Treas. Reg. § 1.141-12 (as such may be clarified, modified or superseded by Revenue Procedure, Revenue Ruling, Treasury Regulation or statute) are met as follows: (a) the City meets the following conditions to taking remedial action described in Treas. Reg. § 1.141-12(a)(1)-(5): (1) the City reasonably expects that the Installment Purchase Agreement will not meet the private business tests or the private loan financing test (as those terms are used in Code § 141) for the term of the Installment Purchase Agreement, (2) the weighted average maturity of the Installment Purchase Agreement is not greater than 120 percent of the average reasonably expected economic life of the property financed with the proceeds of the Installment Purchase Agreement as of the date hereof, (3) the terms of any arrangement that results in satisfaction of either the private business tests or the private loan financing test are bona fide and arm's-length, and the new user pays fair market value for the use of the financed property, (4) the City must treat any disposition proceeds as gross proceeds for purposes of Code § 148 and (5) all the sale or investment proceeds of the Installment Purchase Agreement must have been expended on a governmental purpose before the date of the deliberate action (except with respect to such deliberate actions meeting the remedial action of redemption of Installment Purchase Agreement described in (b)(1) hereof), and (b) the City takes a remedial action described in (1) Treas. Reg. § 1.141-12(d) (redemption or defeasance of nonqualified bonds), (2) Treas. Reg. § 1.141-12(e) (alternative use of disposition proceeds), or (3) Treas. Reg. § 1.141-12(f) (alternative use of facilities), or

(ii) the rules of Rev. Proc. 97-15 (as such may be clarified, modified or superseded by revenue Procedure, Revenue Ruling, Treasury Regulation or statute) are met which require that the City make a payment to the Internal Revenue Service of an amount in lieu of taxability of the Installment Purchase Agreement pursuant to the terms of a closing agreement, or

(iii) the City obtains a written opinion of nationally recognized bond counsel, to the effect that any such deliberate action will not adversely affect the validity of the Installment Purchase Agreement or any exemption from federal income taxation to which the interest on the Installment Purchase Agreement would otherwise be entitled.

For purposes of (i) above, any redemption of the Installment Purchase Agreement within Treas. Reg. § 1.141-12(d) must occur within 90 days of the deliberate action, or a defeasance escrow must be established for the Installment Purchase Agreement within 90 days of the deliberate action. In such cases, the City must provide written notice to the Internal Revenue Service as to the establishment of such escrow within 90 days of the date the defeasance escrow is established. A defeasance escrow is an irrevocable escrow established to pay the Installment Purchase Agreement on their earliest call date in an amount that, together with investment earnings, is sufficient to pay all the principal of, and interest and call premium on, Installment Purchase Agreement from the date the escrow is established to the earliest call date, and may not be invested in higher yielding investments or in any investment under which the obligor is a user of the proceeds of the Installment Purchase Agreement. In addition, dispositions of personal

# PARMENTER O'TOOLE

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George A. Parmenter, 1903-1993

July 26, 2005

National City Commercial Capital Corporation  
Attention: Rose Konrath  
Two Miranova Place  
Suite 1000  
Columbus, Ohio 43215

## COUNSEL OPINION (LOCAL)

Re: Installment Purchase Contract  
City of Muskegon/Crimson Fire  
Assignee: National City Commercial Capital

Gentlemen:

We are the City attorneys for the City of Muskegon, Muskegon County, Michigan. We have examined the Installment Purchase Contract (the "Contract") dated July 26, 2005 between the City of Muskegon, a municipal corporation (the "Buyer"), and Crimson Fire, (Seller) pursuant to which the City is purchasing the property described in the Contract (the "Property").

In addition, we have examined a certified copy of a Minutes of the City Commission dated July 12, 2005 authorizing the purchase of the Property under the terms of the Contract and such other certificates as we have deemed necessary and appropriate under the circumstances.

Based upon the foregoing examination, we are of the opinion that (1) the Contract has been duly authorized, executed and delivered, is a valid and binding obligation of the City of Muskegon and is enforceable against the City of Muskegon in accordance with its terms; (2) the payment obligation of the City of Muskegon under the Contract is a limited tax general obligation of the City of Muskegon and the City is obligated to make an appropriation of a sufficient amount of moneys from its general fund each year to pay principal and interest due that year on the Contract and has pledged the general fund moneys from its general fund each year to pay principal and interest due that year on the Contract and has pledged the general fund moneys of the City of Muskegon for the payment of the Contract, subject to applicable constitutional and statutory tax rate limitations; (3) upon the assignment of the Contract by the Seller to the Bank, the Bank (and any assignee of the Bank) shall have a valid and enforceable right to receive and

collect from the City of Muskegon all of the payments of principal and interest according to the terms of the Contract.

We are aware of the necessary certifications by the City in connection with the requirement of the Installment contract that it is to be designated as a "qualified tax-exempt obligation" for the purpose of deduction of interest expense by financial institutions under the provisions of the Internal Revenue Code of 1986, as amended. These include but are not limited to the representation that the City reasonably anticipates that the amount of "qualified tax-exempt obligations" (other than private activity bonds as described in Section 141 of the Internal Revenue Code of 1986, as amended) which will be issued during the current calendar year by the Obligor and any entities which issue obligations on behalf of the Obligor, will not exceed \$10,000,000. However, it appears that tax-exempt obligations will be issued on behalf of the Obligor during this calendar year which, when aggregated with the amount of the Contract, are reasonably expected to exceed \$8,000,000.

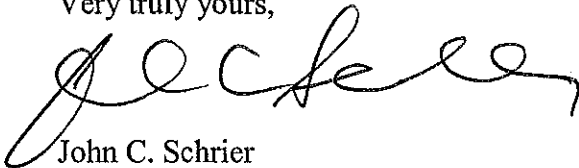
The undersigned is further familiar with the City's certification that it is not expected that the proceeds of the note would be used in a manner that would cause the note to be an "arbitrage bond", under Section 148 of the Code and the regulations prescribed thereunder.

In our opinion the City is capable of and authorized to make said certifications in support of the qualified tax-exempt nature of the obligation represented by the Installment Purchase Contract. However, this letter does not constitute an opinion concerning the tax-exempt status of the obligation or the continued effect of the certifications made by the City.

We express no opinion regarding the perfection of any security interest or other lien created under the Contract or the enforceability of such security interest or other lien in the absence of such perfection.

The enforceability of the Contract may be subject to the bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and its enforcement may be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,



John C. Schrier

Direct: 231.722.5401

Fax: 231.728.2206

E-Mail Address: [jcs@parmenterlaw.com](mailto:jcs@parmenterlaw.com)

CityForm **8038-****G**

(Rev. November 2000)

Department of the Treasury  
Internal Revenue Service**Information Return for Tax-Exempt Governmental Obligations**

Under Internal Revenue Code section 149(e)

See separate instructions

Caution: If the issue price is under \$100,000, use Form 8038-GC.

**DUPLICATE**

OMB NO. 1545-0720

**Part I Reporting Authority**If Amended Return, check here ☐

|                                                                                                                   |  |                                                                               |                             |
|-------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------|-----------------------------|
| 1 Issuer's name<br><b>City of Muskegon</b>                                                                        |  | 2 Issuer's employer identification number<br><b>38 6004522</b>                |                             |
| 3 Number and street (or P.O. box if mail is not delivered to street address)<br><b>933 Terrace Street</b>         |  | Room/suite                                                                    | 4 Report number<br><b>3</b> |
| 5 City, town, or post office, state and ZIP code<br><b>Muskegon, MI 49440</b>                                     |  | 6 Date of Issue<br><b>July 26, 2005</b>                                       |                             |
| 7 Name of issue<br><b>Installment Purchase Agreement dated July 26, 2005</b>                                      |  | 8 CUSIP number                                                                |                             |
| 9 Name and title of officer or legal representative whom the IRS may call for more information<br><b>Tim Paul</b> |  | 10 Telephone number of officer or legal representative<br><b>231-724-6709</b> |                             |

**Part II Type of Issue (check applicable box(es) and enter the issue price)** See instructions and attach schedule

|                                                                                                                                    |                 |
|------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| 11 <input type="checkbox"/> Education                                                                                              | 11 N/A          |
| 12 <input type="checkbox"/> Health and hospital                                                                                    | 12 N/A          |
| 13 <input type="checkbox"/> Transportation                                                                                         | 13 N/A          |
| 14 <input checked="" type="checkbox"/> Public safety                                                                               | 14 \$605,824.00 |
| 15 <input type="checkbox"/> Environment (including sewage bonds)                                                                   | 15 N/A          |
| 16 <input type="checkbox"/> Housing                                                                                                | 16 N/A          |
| 17 <input type="checkbox"/> Utilities                                                                                              | 17 N/A          |
| 18 <input type="checkbox"/> Other Describe                                                                                         | 18 N/A          |
| 19 If obligations are TANs or RANs, check box <input type="checkbox"/> If obligations are BANs, check box <input type="checkbox"/> |                 |
| 20 If obligations are in the form of a lease or installment sale, check box <input checked="" type="checkbox"/>                    |                 |

**Part III Descriptions of Obligations.** Complete for the entire issue for which this form is being filed.

|    | (a) Final maturity date | (b) Issue price | (c) Stated redemption price at maturity | (d) Weighted average maturity | (e) Yield |
|----|-------------------------|-----------------|-----------------------------------------|-------------------------------|-----------|
| 21 | April 1, 2015           | \$ 605,824.00   | \$ 605,824.00                           | 9.75 years                    | 3.83 %    |

**Part IV Uses of Proceeds of Bond Issue (Including underwriters' discount)**

|                                                                                             |                 |
|---------------------------------------------------------------------------------------------|-----------------|
| 22 Proceeds used for accrued interest                                                       | 22 N/A          |
| 23 Issue price of entire issue (enter amount from line 21, column (b))                      | 23 \$605,824.00 |
| 24 Proceeds used for bond issuance costs (including underwriters' discount)                 | 24 N/A          |
| 25 Proceeds used for credit enhancement                                                     | 25 N/A          |
| 26 Proceeds allocated to reasonably required reserve or replacement fund                    | 26 N/A          |
| 27 Proceeds used to currently refund prior issues                                           | 27 N/A          |
| 28 Proceeds used to advance refund prior issues                                             | 28 N/A          |
| 29 Total (add line 24 through 28)                                                           | 29 0.00         |
| 30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) | 30 \$605,824.00 |

**Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)**

|                                                                                        |           |
|----------------------------------------------------------------------------------------|-----------|
| 31 Enter the remaining weighted average maturity of the bonds to be currently refunded | N/A years |
| 32 Enter the remaining weighted average maturity of the bonds to be advance refunded   | N/A years |
| 33 Enter the last date on which the refunded bonds will be called                      | N/A       |
| 34 Enter the date(s) the refunded bonds were issued                                    | N/A       |

**Part VI Miscellaneous**

|                                                                                                                                                                             |         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)                                                                                  | 35 N/A  |
| 36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)                                                    | 36a N/A |
| b Enter the final maturity date of the guaranteed investment contract                                                                                                       | N/A     |
| 37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units                                                                | 37a N/A |
| b If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the name of the issuer and the date of the issue |         |
| 38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box <input checked="" type="checkbox"/>                        |         |
| 39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box <input type="checkbox"/>                                                               |         |
| 40 If the issuer has identified a hedge, check box <input type="checkbox"/>                                                                                                 |         |

**Sign Here**

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of issuer's authorized representative

Date

Type or print name and title

**Commission Meeting Date: July 12, 2005**

**Date: July 5, 2005**

**To: Honorable Mayor & City Commission**

**From: Community and Neighborhood Services  
Department**

**RE: Approval resolution to the State of Michigan**

---

SUMMARY OF REQUEST: To approve the attached resolution that instructs the Community and Neighborhood Services office to obtain 280 Iona from the State of Michigan, which is currently a vacant abandoned home. The structure is located next door to 284 Iona, a recently completed infill home under the "Operation: At Long Last" project.

The department's objective is to obtain 280 Iona for the minimum price of \$300.00, rehabilitate it and sale the property to a qualified family. The obtaining of this property and the total rehabilitation is one additional piece to the City's continuous neighborhood revitalization efforts.

FINANCIAL IMPACT: CNS office will supply \$300.00 from the HOME program income fund.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution and instruct the CNS office to send the document to the state of Michigan

COMMITTEE RECOMMENDATION: The Commission approved this transaction during the December 7, 2004 meeting.

2005-64(d)  
MUSKEGON CITY COMMISSION

RESOLUTION TO APPROVE THE PURCHASE OF  
CURRENTLY STATE OWNED PROPERTY AT 280 IONA

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;

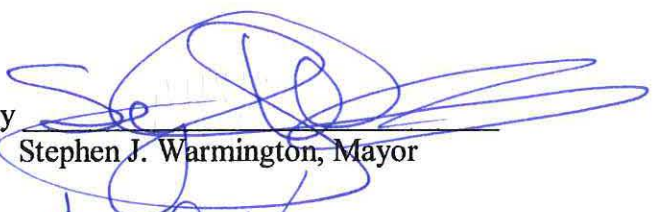
WHEREAS, the City of Muskegon is dedicated to promoting homeownership throughout its neighborhoods;

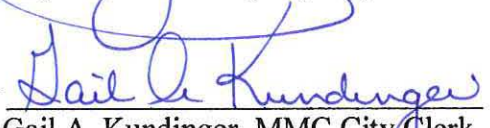
NOW THEREFORE, BE IT RESOLVED that the City Commission hereby approves the purchase of the currently state owned for \$300, which is located at 280 Iona. After obtained the structure will be rehabilitated and sold to a qualified buyer, to be used as a single family owner-occupied home.

Adopted this 12<sup>th</sup> day of July, 2005

Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson,  
and Shepherd

Nays: None

By   
Stephen J. Warmington, Mayor

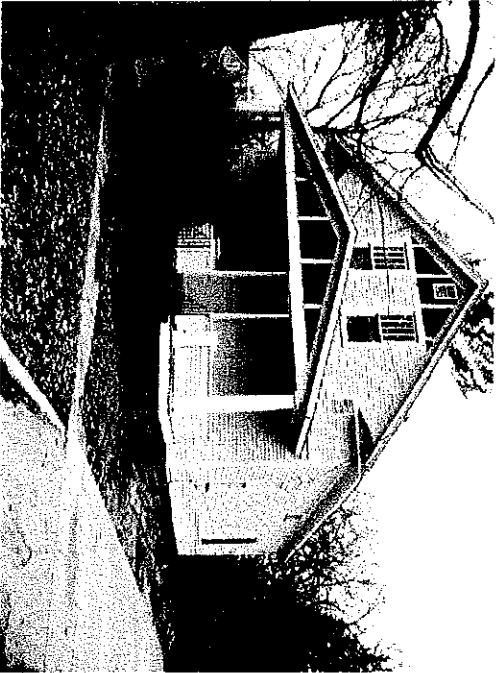
By   
Gail A. Kunderinger, MMC City Clerk

CERTIFICATION  
2005-64(d)

This resolution was adopted at a regular meeting of the City Commission, held on July 12, 2005. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By: Gail A. Kunderger  
Gail A. Kunderger, MMC  
City Clerk



**Date: July 12, 2005**  
**To: Honorable Mayor and City Commissioners**  
**From: Engineering**  
**RE: City – MDNR Memorandum of Understanding  
( MOU) for Bike Trail Along Laketon**

---

**SUMMARY OF REQUEST:**

Approve the attached MOU between the City & MDNR for the construction of a 10' asphalt trail starting at Getty and moving east to the extent the available funds of \$50,000 permits. The project will use City man power for the work while the state will pay for the material and the rental of any other equipment necessary to do the work. It is expected that the \$50,000 from MDNR will be enough to construct a bike path between Getty & Roberts.

**FINANCIAL IMPACT:**

The salaries of those individuals that will be involved in the work which is estimated at about \$10,000 and the use of City owned equipment.

**BUDGET ACTION REQUIRED:**

None.

**STAFF RECOMMENDATION:**

Approve the attached MOU

**COMMITTEE RECOMMENDATION:**



## MEMORANDUM OF UNDERSTANDING AND AGREEMENT FOR THE RECREATION TRAILS PROGRAM

Grant Agreement Number:  
**NRT 2004-21-02**

*This information is required by authority of Part 711 of Act 451 of 1994, as amended to qualify for reimbursement.*

|                                                              |       |       |          |
|--------------------------------------------------------------|-------|-------|----------|
| Grantee:<br>City of Muskegon                                 |       |       |          |
| Attn:<br>Bryon L. Mazade                                     |       |       |          |
| Address<br>933 Terrace                                       |       |       |          |
| City<br>Muskegon, MI                                         | 49443 | State | ZIP Code |
| Federal Employer Identification Number (FEIN):<br>38-6004522 |       |       |          |

(It is expressly understood by and between the parties hereto that the proposal bears the above Grant Agreement Number and associated documents including all attachments, are by this reference made part of this understanding. All materials bearing this number constitute the entire understanding between the parties.)

An agreement is made between the MICHIGAN DEPARTMENT OF NATURAL RESOURCES (hereafter called the Department; State Trails Coordinator, contracting officer) and the above grantee for funding recreation trail surface and corridor improvements that will extend the Lakeshore Trail along Laketon Avenue beginning at the west line of Getty Street in Section 28 T10N, R16W extending to Creston. Reimbursement of materials and equipment rental necessary to complete trail improvement items including paved surface improvements, site restoration, and properly designated road crossings.

Conditions: Plans and specifications are to be submitted to the Department of Natural Resources for review and approval prior to construction.

The project period shall be from Date State Trails Coordinator signs to 09/30/2005. This understanding shall convey a sum of money for eligible costs, but which shall not in any event exceed Fifty Thousand \$50,000 dollars.

All projects will comply with the Americans Disabilities Act of 1990.

All work must comply with State and Federal guidelines rules, regulations and laws.

Additional guidelines and specifications for agreement:

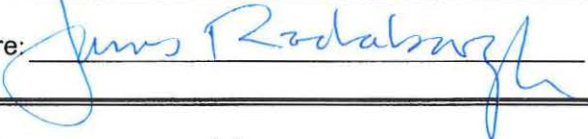
- **Project Coordination:** The Department contact for this project is Annamarie Bauer, Michigan Department of Natural Resources, hereafter referred to as the Coordinator. The Grantee will confer regularly with the Coordinator on the progress of this project.
- **Payment:** Where applicable, the Department agrees to reimburse the Grantee for authorized expenditures upon verification of actual expenditures up to 90% of the grant amount. The Department will pay the final 10% upon project completion and final audit. Total payment under this grant is not to exceed the actual costs or \$50,000, whichever is less. Initial request for payment shall be on the form attached (additional forms are available from the address at the end of this agreement). All requests for payment must be submitted quarterly and received in the DNR office by the 15<sup>th</sup> of the month following the quarters end. A final request must be made by October 15<sup>th</sup>, 2005. Requests for payment will include copies of invoices and cancelled checks for all expenditures.
- **Fiscal Control and Accounting Procedures:** In addition to the summary documentation submitted to the Department, the Grantee will keep complete financial records. Basic documents required to be maintained for audit include purchase orders, vouchers, authorized payments, and time records for individual employees' charged to this program. All financial records for this grant will be retained by the Grantee until audited, or for a minimum of three (3) years, whichever is less. Records under audit will be retained until the audit is closed.
- **Procurement:** The grantee will use their own procurement procedures provided they reflect applicable State and local laws and regulations, to include low bidder competition bid process as applicable.
- **Prevailing Wage and Fringe Benefits:** Any sub-contractor performing work under this agreement must comply with the requirements of 1965 State of Michigan Public Act 166.

- **Insurance:** The Grantee will add the State of Michigan, Department of Natural Resources as an additional insured party on their liability insurance policy. Proof of this must be supplied to the State Trails Coordinator prior to the Department releasing any reimbursements for this grant.
- **Changes:** From time to time, changes may be needed in the scope of the project and the grant. All changes must be submitted in writing to the Coordinator and approved by the Department prior to being implemented. Changes implemented prior to approval by the Department will not be eligible for reimbursement.
- **Audits:** The project and related reports are subject to audit by the Department. This may include both financial audits and site visits.
- **Hold Harmless:** Each party to this agreement will be responsible for its own negligent acts, including the acts of its officers, agents, and employees.
- **Right of Cancellation:** This grant agreement may be cancelled by either party upon giving 30 days written notice to that effect to the other party.

The individuals or officers signing on behalf of the parties to this Agreement certify by their signatures that they have read, understand and agree to comply with this Agreement and have the authority to enter into this Agreement on behalf of the Grantee.

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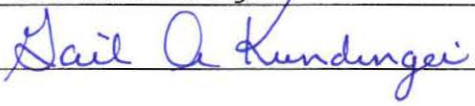
**COORDINATOR:**

Printed Name: JAMES RADABAUGH Title: STATE TRAILS COORDINATOR  
 Signature:  Date: 8/2/05

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**GRANTEE'S REPRESENTATIVE(S):**

Printed Name: Stephen J. Warmington Title: Mayor  
 Signature:  Date: 7-21-05

Printed Name: Gail A. Kunderger Title: City Clerk  
 Signature:  Date: 7-21-05

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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Please sign and return both copies of this sub agreement to:

**ATTN: Grants COORDINATOR**  
**Program Services Section**  
**FOREST, MINERAL AND FIRE MANAGEMENT**  
**MICHIGAN DEPARTMENT OF NATURAL RESOURCES**  
**PO BOX 30452**  
**LANSING MI 48909-7952**

(a fully executed copy will be returned for your files)

**Date: July 12, 2005**  
**To: Honorable Mayor and City Commissioners**  
**From: Gail A. Kunding, City Clerk**  
**RE: Fireworks Display Request for the Big Fat Greek Festival**

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SUMMARY OF REQUEST: At the June 28<sup>th</sup> Commission Meeting you approved the request from Summit Pyrotechnics for a fireworks display permit for the Big Fat Greek Festival on July 30<sup>th</sup>. They are now requesting to set the fireworks off from land instead of the Barge at Heritage Landing. Fire Marshall Metcalf will inspect the fireworks on the day of the events.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval contingent on site plan inspection and inspection of the fireworks.

2005-64(f)

**PERMIT**  
**FOR FIREWORKS DISPLAY**

Act 358, P.A. 1968

This permit is not transferable. Possession of this permit by the herein named person will authorize him to possess, transport and display fireworks in the amounts, for the purpose, and at the place listed below only.

TYPE OF DISPLAY: (X) PUBLIC DISPLAY ( ) AGRICULTURAL PEST CONTROL

ISSUED TO: Steve Franklin

NAME Summit Pyrotechnics

ADDRESS 3500 S. Getty, Muskegon, MI AGE

REPRESENTING The Big Fat Greek Festival

NAME OF ORGANIZATION, GROUP, FIRM OR CORPORATION

ADDRESS

NUMBER & TYPES OF FIREWORKS:

9 - 2.5" cakes 100 - 4" shells

30 - 6" shells 400 - 3" shells

30 - 5" shells 2 - 8" shells

DISPLAY: Heritage Landing

EXACT LOCATION

Furthest point north at Heritage Landing

CITY, VILLAGE, TOWNSHIP

DATE (rain date - TIME

July 30, 2005 July 31, 2005) 10:25 p.m.

BOND OR INSURANCE FILED: (X) YES ( ) NO AMOUNT \$1,000,000

ISSUED BY:

Issued by action of the MUSKEGON CITY COMMISSION

(council, commission, board)

of the CITY

(city, village, township)

of

MUSKEGON

(name of city, village, township)

on the 12<sup>th</sup> day of July, 2005

Stephen J. Warmington, Mayor

(signature & position of council, commission or board representative)

cc: Major

FM-32 (12-68)

RECEIVED

JUL 06 2005

City Clerks Office

# APPLICATION

FOR FIREWORKS DISPLAY PERMIT  
Act 358, P.A. 1968

DATE OF APPLICATION

6-3-05

1. TYPE OF DISPLAY:



Public Display



Agricultural Pest Control

## 2. APPLICANT

NAME OF PERSON

Steve Franklin

ADDRESS

3500 S. Getty

AGE: Must be 21 or over

IF A CORPORATION: Name of President

ADDRESS

For Big Fat Greek Festival

## 3. PYROTECHNIC OPERATOR

NAME

Summit Pyrotechnics

ADDRESS

3500 S. Getty

AGE: Must be 21 or over

EXPERIENCE:

NUMBER OF YEARS

15

NUMBER OF DISPLAYS

500+

WHERE

ME, IL, WI, FL, DC, N.H. MA, SD, ND, AZ.

NAMES OF ASSISTANTS:

NAME

ADDRESS

AGE

NAME

ADDRESS

AGE

## 4. NON-RESIDENT APPLICANT

NAME

ADDRESS

Name of Michigan Attorney or Resident Agent

ADDRESS

TELEPHONE NUMBER

## 5. EXACT LOCATION OF PROPOSED DISPLAY

Heritage Landing (Furthest point north at Heritage Landing)

DATE

July 30th. rain date July 31st

TIME

10:25

## 6. NUMBER AND KINDS OF FIREWORKS TO BE DISPLAYED

9 2.5" cakes

30-6" shells 2-8" shells

30-5" "

100-4" "

400-3" "

MANNER & PLACE OF STORAGE PRIOR TO DISPLAY

ATF approved Storage Shipped to site by truck  
day of Show

(Subject to Approval of Local Fire Authorities)

## 7. FINANCIAL RESPONSIBILITY

A. AMOUNT OF BOND OR INSURANCE

(to be set by municipality)

\$

B. BONDING CORPORATION OF INSURANCE COMPANY: NAME

ADDRESS