CITY OF MUSKEGON

CITY COMMISSION MEETING

JUNE 23, 2009

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- **CALL TO ORDER:**
- **PRAYER:**
- **PLEDGE OF ALLEGIANCE:**
- **ROLL CALL:**
- **HONORS AND AWARDS:**
- **INTRODUCTIONS/PRESENTATION:**
  - A. **2009 Interns.** AFFIRMATIVE ACTION
- **CONSENT AGENDA:**
  - A. **Approval of Minutes.** CITY CLERK
  - B. **Vacant Building Registration Ordinance Amendments.** PLANNING & ECONOMIC DEVELOPMENT
  - C. **Fireworks Display Permit for Muskegon Summer Celebration.** CITY CLERK
  - D. **Liquor License Transfer Request for the Frauenthal, 413-415 W. Western.** CITY CLERK
  - E. **Award of Consulting Contracts for United States Environmental Protection Agency (USEPA) Assessment Grant.** PLANNING & ECONOMIC DEVELOPMENT
  - F. **Sale of Buildable Vacant Lot at 458 Monroe.** PLANNING & ECONOMIC DEVELOPMENT
  - G. **Contract for Excavation at 525 Orchard.** COMMUNITY & NEIGHBORHOOD SERVICES
  - H. **Memorandum of Understanding-Justice Assistance Grant.** PUBLIC SAFETY
  - I. **Federal Assistance to Firefighters Grant-Fire Station Construction.** PUBLIC SAFETY

J. **<u>Installation of Fire Alarm System at City Hall.</u>** ENGINEERING

K. **<u>Request to Purchase Tax-Reverted Properties.</u>** PLANNING & ECONOMIC DEVELOPMENT

L. **<u>City – MDOT Agreement for the Reconstruction of Laketon Avenue from Peck to Wood.</u>** ENGINEERING

M. **<u>City – MDOT Agreement for the Reconstruction of Park/Seventh from Southern to Houston.</u>** ENGINEERING

- **PUBLIC HEARINGS:**
- **COMMUNICATIONS:**
- **CITY MANAGER'S REPORT:**
- **UNFINISHED BUSINESS:**
- **NEW BUSINESS:**

A. **<u>Termination of Restrictive Covenant for 1469/1470 Lakeshore Drive.</u>** PLANNING & ECONOMIC DEVELOPMENT

B. **<u>Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following:</u>** PUBLIC SAFETY

1464 Sixth Street, (home and garage) Area 10

718 E. Isabella Avenue, (home and garage)

1201 Pine Street, (garage) Area 11b

1411 Sixth Street, Area 10

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

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

- **CLOSED SESSION:**
- **ADJOURNMENT:**

ADA POLICY: The City of Muskegon will provide necessary auxiliary aids and services to individuals who want to attend the meeting upon twenty four hour notice to the City of Muskegon. Please contact Ann Marie Becker, City Clerk, 933 Terrace Street, Muskegon, MI 49440 or by calling (231) 724-6705 or TDD: (231) 724-4172.

Date: June 23, 2009

To: Honorable Mayor and City Commissioners

From: Ann Marie Becker, City Clerk

RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes for the June 8th Commission Worksession, and the June 9th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

City of Muskegon
City Commission Worksession
June 8, 2009
City Commission Chambers
5:30 PM

MINUTES

2009-48
Present: Commissioners Warmington, Carter, Wierengo, Shepherd, Wisneski, Gawron, and Spataro.
Absent: None.

Deer Herd in Beachwood.
A petition from residents of Beachwood was presented to the City Commission by Jean Gray requesting the City develop a system to eliminate some deer in the Beachwood neighborhood.

Other residents spoke and stated the same concern.

The Commission requested the City Manager place a call to the MDNR and ask that a representative attend the next Worksession meeting in July.

Third Street Promenade.
Gary Post a representative of Baker College made a presentation requesting that the City partner with the Third Street Promenade for additional improvements. They request the City Commission consider making a contribution and donating in-kind services to the project. The project is expected to cost approximately $750,000 when all is done.

The Mayor explained the Commission will be considering budget cuts this evening and he would not feel comfortable offering assistance on the project at this time.

Other Commissioners re-iterated the same thoughts.

Charter Amendments.
Six charter amendments are being proposed to be placed on the November ballot. They are as follows:

1. Allowing City Commission to change the fiscal year.
2. Charter relating to the tax collection cycle
3. Date for submission of the budget
4. Eliminating the Charter provision relating to Board of Review sessions
5. Eliminating requirement for primaries
6. Eliminating the Civil Service System

Motion by Commissioner Spataro, seconded by Commissioner Wierengo to adopt the resolutions to move forward with the proposed charter amendments and place on the November ballot.

ROLL CALL VOTE:

Ayes: Warmington, Wierengo, Wisneski, Carter, Gawron, Shepherd, and Spataro.
Nays: None.

MOTION PASSES

Second Quarter Budget Reforecast.
Commissioners clarified some budget reforecast recommendations as proposed by administration.

Tim Paul stated the 2010 budget will be dismal.

Mayor Warmington asked that residents and employees contact their Representative and tell them not to cut the City's State Shared Revenue.

Several employees addressed the Commission.

Commissioner Carter urged the unions to gather together and suggest ways for employees to retain their jobs. Any reductions must be made across the board.

Milwaukee Clipper Relocation.
The City Manager asked if the City Commission would like to include a proposal to the Waterway Commission to move boaters from the small boat basin and requiring relocation to the large boat basin. The MDNR recommends the small boat basin be moved. There are approximately 28 boats in the small boat basin. Cost of the large boat basin is triple the cost of the small boat basin.

The Commission is not interested in moving the small boat basin and asked that the original proposal be presented to relocate the Milwaukee Clipper.

Kathy Evans Presentation.
An update from representatives of WMSRDC was given of the proposed south branch and Grand Trunk design project. Recipients of the grant will be notified by the end of June.

Any Other Business.
Public participation was accepted.

Closed Session to Discuss City Manager's Evaluation.
Moved by Commissioner Carter, seconded by Commissioner Shepherd to go into closed session to discuss the City Manager's evaluation.

ROLL CALL VOTE:

Ayes: Wierengo, Wisneski, Carter, Gawron, Shepherd, Spataro, and Warmington.
Nays: None.

MOTION PASSES

Moved by Commissioner Carter, seconded by Commissioner Spataro to go into open session.

ROLL CALL VOTE:

Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, Warmington, and Wierengo.
Nays: None.

MOTION PASSES

Adjournment

Motion by Commissioner Carter, seconded by Commissioner Spataro to adjourn at 7:55 p.m.

MOTION PASSES

Ann Marie Becker, MMC
City Clerk

CITY OF MUSKEGON

CITY COMMISSION MEETING

JUNE 9, 2009

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, June 9, 2009.

Mayor Warmington opened the meeting with a prayer from Commissioner Clara Shepherd after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

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

2009-49 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, May 26th.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Approval of a Neighborhood Enterprise Zone Certificate. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone certificate has been received from Fred Glancy for the rehabilitation of a historical home in the McLaughlin neighborhood at 1164 Terrace Street. The property is located in a Neighborhood Enterprise Zone for Rehab and New Construction. The application states that the estimated cost for construction will be $110,000 in materials. The applicant has met local and state requirements for the issuance of the NEZ certificate. Approval or denial by the City Commission is required within 60 days of the application date and must be forwarded to the State Tax Commission.

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

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve issuance of the NEZ certificate.

C. Revocation of a Neighborhood Enterprise Zone Certificate. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Ashley C. Gill is in violation of the Neighborhood Enterprise Zone certificate in that the home at 1203 4th Street is no longer owner occupied and there is a balance owing on the 2008 property taxes. The State requires that a home with a Neighborhood Enterprise Certificate be owner occupied and that the property taxes be paid. Staff sent a letter to the owner advising them of these issues on May 13, 2009 with a deadline of May 28, 2009 with no response to the letter and the 2008 property taxes remain unpaid.

FINANCIAL IMPACT: The property will no longer be able to take advantage of the certificate number 2006-0974 which allowed taxation at 50% of the State average for a stated number of years.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve revocation of the NEZ certificate and have the Mayor and City Clerk sign the resolution and submit it to the State Tax Commission.

D. Transportation Funding Resolution. CITY MANAGER

SUMMARY OF REQUEST: To adopt a resolution in support of a comprehensive transportation funding package to maintain and improve Michigan's roads.

FINANCIAL IMPACT: A comprehensive transportation funding package would provide significant increased funding to the City, as reflected by these figures provided by the Michigan Municipal League.

MDOT-MTF Forecast Scenario

AGENCY	FY 2008	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
City	Reg & Tax Only	Estimated	Estimated	Estimated	Estimated	Estimated
Muskegon	2,863,728	3,602,691	4,081,113	4,560,426	5,040,673	5,293,145

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To adopt the resolution and distribute it accordingly.

F. Addition of a Clause to the IFT Contract. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the addition of a clause to the Industrial

Facilities Tax Abatement contract that will discourage companies from appealing the valuation of any real or personal property at their facility to the Michigan Tax Tribunal or the State Tax Commission.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the new IFT contract clause (section 1.6).

G. <u>Approval of Department of Energy Grant.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the request to submit a grant application to the U.S. Department of Energy for the Energy Efficiency and Conservation Block Grant. The City of Muskegon is eligible for up to $181,600 in funding for energy efficiency upgrades. Staff is currently working on the grant and determining the best options, but there will be a major emphasis on energy efficient upgrades to the McGraft Park facility, the addition of two new fuel efficient cars, and other energy efficient upgrades that will have the most impact on eliminating greenhouse gases and cutting utility bills.

FINANCIAL IMPACT: The energy efficient upgrades should lower the City's utility bills considerably.

BUDGET ACTION REQUIRED: The City will use up to $40,000 of the $250,000 budgeted for the Capital Improvements Plan for the parks, as to leverage funds.

STAFF RECOMMENDATION: To approve the submittal of the grant application.

H. <u>Crack Sealing Machine.</u> PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to enter into a rent/purchase agreement with National Highway Maintenance.

FINANCIAL IMPACT: $25,985.

BUDGET ACTION REQUIRED: None, the cost will be offset by savings on other purchases.

STAFF RECOMMENDATION: Authorize staff to enter into a rent/purchase agreement with National Highway Maintenance.

I. <u>Special Events – Multiple Liquor License Request for Muskegon Eagles Aerie 668 Fraternal Order of Eagles During Muskegon Summer Celebration.</u> LEISURE SERVICES

SUMMARY OF REQUEST: The Muskegon Fraternal Order of Eagles (Aerie 668) is requesting an extension of their current liquor license to be able to serve non-members during the Muskegon Summer Celebration (June 26th through July 5th). The following temporary alcohol licenses have been approved for this time period: Muskegon Summer Celebration and Mike's Inn.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

COMMITTEE RECOMMENDATION: The Leisure Services Board approved this request at their May 18th meeting.

K. Special Events – Multiple Liquor License Request for The Muskegon Yacht Club. LEISURE SERVICES

SUMMARY OF REQUEST: The Muskegon Yacht Club is requesting an extension of their current liquor license to be able to host the Queens Cup Regatta on June 27, 2009. The following temporary alcohol licenses have been issued for this date: Muskegon Summer Celebration and Mike's Inn.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

COMMITTEE RECOMMENDATION: The Leisure Services staff approved this request.

L. Muskegon Bike Time Events. Inc. July 17th thru July 19th, 2009. LEISURE SERVICES

SUMMARY OF REQUEST: To approve the request from Muskegon Bike Time Events Inc., subject to the conditions outlined in the memo.

FINANCIAL IMPACT: Request that equipment rental fees be waived. In exchange they will provide a pre-negotiated amount of beverage tent wristbands. The exchange will be coordinated with the City Manager.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the request from Bike Time, with the conditions outlined in the memo from staff.

COMMITTEE RECOMMENDATION: The Leisure Services Board approved this event at their May 18th meeting, subject to staff approval of individual requests.

M. Acceptance of Fair Housing Impediment Study. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To accept the final draft of the 2009 Fair Housing Impediment Study produced by the Southeastern Michigan Fair Housing Center of Ann Arbor, Michigan. The Southeastern Michigan Fair Housing Center was contacted by the cities of Muskegon, Muskegon Heights and Norton Shores to conduct this study, mandated by the US Department of Housing and Urban Development.

FINANCIAL IMPACT: The City of Muskegon's portion of the cost will be deducted from the CNS Office CDBG Administration funds.

BUDGET ACTION REQUIRED: None required.

STAFF RECOMMENDATION: To approve the acceptance of the document and the City's final payment for our portion of the agreement.

N. Final CDBG/HOME Allocations from HUD. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: For the City Commission to make an additional allocation decision concerning the 2009-2010 Community Development Block Grant/HOME Partnership Program allocations for this coming fiscal year.

During the March 24, 2009, City Commission meeting, the Commission made their final decision on the 2009-2010 CDBG/HOME Partnership allocations. Since then, HUD has revised the total amounts for the grants. CDBG was increased from $984,207 to $999,433 and HOME was increased from $290,049 to $322,469. The City administration made the following recommendations:

CDBG
Increase the Veterans from $3,000 to $5,000 - $2,000 increase
Increase Facade from $5,000 to $8,500 - $3,500 increase
Increase Youth Recreation from $75,000 to $80,000 - $5,000 increase
Increase the American Red Cross from $3,500 to $5,000 - $1,500 increase
Increase Summer Interns from $6,250 to $8,000 - $1,750 increase
Increase Legal Aid Foreclosures from $8,500 to $9,976 - $1,476 increase
Total Increase is $15,226.

The CDC made two changes to the City's CDBG recommendations:
Increase Youth Recreation from $75,000 to $79,000 - $4,000 increase
Increase Muskegon Community Health project from $2,750 to $3,750 - $1,000 increase. Their reasoning for this increase is this program deals with uninsured diabetics and this is such a growing problem in Muskegon.

HOME
Increase HOME Admin from $22,500 to $25,742 - $3,242 increase
Increase Rental Rehab from $70,000 to $74,727 - $4,727 increase
Increase Sr. Weatherization from $125,549 to $150,000 - $24,451 increase
Total increase is $32,420.

The CDC made two changes to the City's HOME recommendation:
Increase Sr. Weatherization from $125,549 to $145,000 – increase $19,451.
Increase Habitat for Humanity from $50,000 to $55,000 – $5,000 increase.
Their reasoning for this increase is that Habitat always needs and uses any funds given them for their Muskegon projects.

After receiving the Commission's final allocation decision, the Community and Neighborhood Services office will amend the appropriate CDBG Subrecipient Agreements and HOME CHDO Agreements.

FINANCIAL IMPACT: The decision will determine how the Community Development Block Grant/HOME Partnership Program final funding will be allocated for the 2009-2010 fiscal year.

BUDGET ACTION REQUIRED: The Commission actions will establish the fiscal year's budget.

STAFF RECOMMENDATION: The Commission previously received the administration recommendations.

COMMITTEE RECOMMENDATION: The Commission also received the Citizen District Council recommendations.

It was clarified that the Commission's vote for approval was for the administration recommendations.

O. <u>Accept Resignations from Various Boards.</u> CITY CLERK

SUMMARY OF REQUEST: To accept the resignation of John Aslakson from the Planning Commission and Sue Thompson from the Historic District Committee.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To accept resignations.

Motion by Vice Mayor Gawron, second by Commissioner Wierengo to approve the Consent Agenda as presented minus items E and J.

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

Nays: None

MOTION PASSES

2009-50 ITEMS REMOVED FROM THE CONSENT AGENDA:

E. <u>Arena Management – JS Hockey Enterprises, Inc.</u> CITY MANAGER

SUMMARY OF REQUEST: To authorize the Mayor and City Manager to execute any and all documents pertaining to the transfer of the management of the L.C. Walker Arena to JS Hockey Enterprises, Inc., including documents pertaining to the Arena's liquor license.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the request.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the Arena Management request regarding the documents pertaining to the Arena's liquor license for JS Hockey Enterprises, Inc.

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

Nays: None

MOTION PASSES

K. **Special Events – Multiple Liquor License Request for Muskegon Eagles Aerie 668 Fraternal Order of Eagles During Muskegon Bike Time.** LEISURE SERVICES

SUMMARY OF REQUEST: The Muskegon Fraternal Order of Eagles (Aerie 668) is requesting an extension of their current liquor license to be able to serve non-members during the Muskegon Bike Time Event, scheduled July 17th through July 19th. The following temporary alcohol licenses have been approved for this time period: Racquets, Pop-A-Top, Muskegon Bike Time, Tipsy Toad, and Mike's Inn.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

COMMITTEE RECOMMENDATION: The Leisure Services Board has approved this request at their May 18th meeting.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to adopt the special events multiple liquor license request for Muskegon Eagles Aerie 668 Fraternal Order of Eagles during Muskegon Bike Time.

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

Nays: Warmington

MOTION PASSES

2009-51 PUBLIC HEARINGS:

A. **Request for an Industrial Facilities Exemption Certificate – ESCO Company.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, ESCO Company, 1221 E. Barney Ave., has requested the issuance of an Industrial Facilities Tax Exemption Certificate. The company plans on making investments of $1,972,260 in personal property improvements and $170,000 in real property improvements. They are requesting a 12-year abatement on both real and personal property.

FINANCIAL IMPACT: The City will capture certain additional property taxes generated by the expansion.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the resolution granting an Industrial Facilities Exemption Certificate for a term of 12 years for both personal and real property.

The Public Hearing opened to hear and consider any comments from the public. Commissioner Wisneski stated that he will be abstaining from comments due to a pre-existing business relationship. No public comments were made.

Motion by Vice Mayor Gawron, second by Commissioner Wierengo to close the Public Hearing and approve the resolution granting an Industrial Facilities Exemption Certificate for a term of 12 years for both personal and real property to ESCO Company.

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

Nays: None

Abstain: Wisneski

MOTION PASSES

2009-52 UNFINISHED BUSINESS:

A. **Concurrence with the Housing Board of Appeals Notice and Order to Demolish 254 Amity Avenue.** PUBLIC SAFETY

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structure located at 254 Amity Avenue, Area 11, is unsafe, substandard, a public nuisance and that it be demolished within 30 days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds.

BUDGET ACTION REQUIRED: None.

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

Motion by Commissioner Spataro, second by Commissioner Shepherd to concur with the Housing Board of Appeals notice and order to demolish 254 Amity Avenue.

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

Nays: None

MOTION PASSES

2009-53 NEW BUSINESS:

A. **Allocation of Community Development Block Grant-R (American Recovery Reinvestment Act of 2009).** COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To accept the Administration's recommendation for the Community Development Block Grant-R program to reconstruct White Street from Wood and Scott. White Street is one of the last streets in the City of Muskegon that has never been paved. The funds for this project, if approved, will be coming from the American Recovery and Reinvestment Act of 2009 (also known as the Stimulus Package). The City of Muskegon is proposed to receive $267,182 from the program. It is requested that residents of the City of Muskegon be given every opportunity to be hired, if and when qualified, for this project.

FINANCIAL IMPACT: All expected costs will come from the CDBG-R program.

BUDGET ACTION REQUIRED: To direct staff to budget all costs for the White Street project to the CDBG-R program.

STAFF RECOMMENDATION: To approve staff recommendation and to direct the Engineering Department to begin the designing process for the reconstruction and to solicit for bids when the project is ready.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the allocation of Community Development Block Grant-R American Recovery Reinvestment Act dollars to begin the designing process for the reconstruction of White Street.

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

Nays: None

MOTIONPASSES

B. <u>Second Quarter Budget Reforecast.</u> CITY MANAGER

SUMMARY OF REQUEST: To adopt the Second Quarter Budget Reforecast as presented.

Motion by Commissioner Carter, second by Commissioner Spataro to adopt the Second Quarter Budget Reforecast as presented.

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

Nays: None

MOTION PASSES

C. <u>Muskegon Summer Celebration.</u> LEISURE SERVICES

SUMMARY OF REQUEST: To approve the request from Muskegon Summer Celebration. 2009's request is consistent with 2008's. There are no significant changes.

FINANCIAL IMPACT: Request that rental fees be waived for any equipment used.

BUDGET ACTION REQUIRED: None.

COMMITTEE RECOMMENDATION: The Leisure Services Board approved this event at their March 16th meeting.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the request from Muskegon Summer Celebration.

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

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Various comments were made by the public.

ADJOURNMENT: The City Commission Meeting adjourned at 6:20 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk

Commission Meeting Date: June 23, 2009

Date: June 5, 2009

To: Honorable Mayor and City Commissioners

From: Planning & Economic Development

RE: Vacant Building Registration Ordinance Amendments

SUMMARY OF REQUEST:

Request to amend the Code of Ordinances Chapter 10, Section 107, Annual Registration of Vacant Buildings and Registration Fees, for the purpose of exempting legal storage uses, located in the proper zoning district, from the definition of a vacant structure.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends amendment of Chapter 10, Section 107 Annual Registration of Vacant Buildings and Registration Fees, specifically to amend the definition of Vacant found in sub-section (b) (1) (f).

COMMITTEE RECOMMENDATION:

None

City of Muskegon
Planning Department

Memo

To: Honorable Mayor and City Commission

From: Mike Cameron, Code Coordinator

CC: Bryon Mazade, City Manager

Date: June 4, 2009

Re: Vacant Building Registration revisions

Attached you will find suggested language changes to our Vacant Building Registration ordinance that will enable staff to better implement the ordinance and assist property owners with compliance.

The suggested change is to Subsection (b) (1) (f) "Vacant". The purpose of the proposed change is to change the definition of vacant to allow structures that are legally being used for the purpose of storage and are located in the proper zoning district for storage uses. With this proposed change they could be exempt from the requirements to register as a vacant building.

The suggested ordinance language would require them to be in compliance with not only the zoning district that they are located in, but also with any other applicable building codes, fire codes or other city ordinances. The proposed change is outlined below:

Current Language:

(F) *Vacant:* A building or structure shall be deemed to be vacant if no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupants, or tenant(s) on a permanent, nontransient basis.

Proposed Language:

(F) *Vacant:* A building or structure shall be deemed to be vacant if no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupants, or tenant(s) on a permanent, nontransient basis<u>, unless the structure is legally being used for storage purposes. Such storage use must be a legally allowed principal use of the zoning district where the structure is located and the use must be in compliance with all appropriate provisions of city ordinances, building and fire codes pertaining to the storage use.</u>

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _______

<u>An Ordinance amending Chapter 10, Section 107 of the Code of Ordinances concerning annual registration of vacant buildings and registration fees.</u>

THE CITY OF MUSKEGON HEREBY ORDAINS:

Chapter 10, Section 107 of the Code of Ordinances shall be adopted to read as follows:

SECTION 10-107. ANNUAL REGISTRATION OF VACANT BUILDINGS AND REGISTRATION FEES

10-107. Annual registration of vacant buildings and registration fees.

(a) *Purpose.* The purpose of this section requiring the registration of all vacant buildings, including dwellings that are subject to chapter 10 as referenced below, and the payment of registration fees is to assist the city government, particularly the Department of Public Safety (DPS) and Planning Departments in protecting the public health, safety and welfare, to monitor the number of vacant buildings in the city, to assess the effects of the condition of those buildings on nearby businesses and the neighborhoods in which they are located, particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require of the owners of such vacant buildings their registration and the payment of related fees, and to promote substantial efforts to rehabilitate such vacant buildings. The provisions of this section are applicable to the owners of such vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of this chapter, the health and sanitation code, and any other applicable provisions of the Muskegon City Code.

(b) *Definitions and applicability; registration statement and fees.*

(1) *Definitions.* For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

(A) *Boarded:* A building or structure subject to the provisions of this section shall be deemed to be "boarded" if in place of one or more exterior doors, other than a storm door, or of one or more windows, there is a sheet or sheets of plywood or similar material covering the space for such door or window.

(B) *Exterior maintenance and major systems:* The phrase "exterior maintenance and major systems" shall mean the safe and lawful maintenance of the facade, windows, doors, roof, and other parts of the exterior of the building and the maintenance of its major systems consisting of the roof, the electrical and plumbing systems, the water supply system, the sewer system, and the sidewalk, drive-way, if any, area of the lot, as applicable and as enforced by the DPS, particularly in connection with subsections 10-82 (inspection of unoccupied building) and 10-101 (abatement of dangerous buildings) of this section of this code.

(C) *Occupied:* Any building or structure shall be deemed to be occupied if one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business-occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, nontransient basis, or any combination of the same. For purposes of this section, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; a valid city business license, or the most recent, federal, state, or city income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy; or proof of pre-rental inspection.

(D) *Open:* A building or structure subject to the provisions of this section shall be deemed to be "open" if any one or more exterior doors other than a storm door is broken, open and, or closed but, without a properly functioning lock to secure it, or if one or more windows is broken or not capable of being locked and secured from intrusion, or any combination of the same.

(E) *Owner:* An owner of the freehold of the premises or any lesser estate therein, a mortgagee, a vendee-in-possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a building subject to the provisions of this section, and as set forth below.

(F) *Vacant:* A building or structure shall be deemed to be vacant if no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupants, or tenant(s) on a permanent, nontransient basis, unless the structure is legally being used for storage purposes. Such storage use must be a legally allowed principal use of the zoning district where the structure is located and the use must be in compliance with all appropriate provisions of city ordinances, building and fire codes pertaining to the storage use.

(2) *Applicability.* The requirements of this section shall be applicable to each owner of any building that is not a dwelling that shall have been vacant for more than 90 consecutive days and to each owner of residential property consisting of one or more vacant dwellings that shall have been vacant for more than 90 consecutive days. Each such owner shall cause to be filed a notarized registration statement, which shall include the street address and parcel number of each such vacant building, the names and addresses of all owners, as hereinafter described, and any other information deemed necessary by the city. The registration fee(s) as required by subsection (b)(3) of this section shall be billed by the city and shall be paid within 30 days of the invoice date. For purposes of this section, the following shall also be applicable:

(A) If the owner is a corporation or a limited liability corporation, the registration statement shall provide the names and residence addresses of all officers, directors and/or members and shall be accompanied by a copy of the most recent annual tax report filed with the State of Michigan;

(B) If an estate, the name and business address of the executor of the estate;

(C) If a trust, the name and address of all trustees, grantors, and beneficiaries;

(D) If a partnership, the names and residence addresses of all partners with an interest of ten percent or greater;

(E) If any other form of unincorporated association, the names and residence addresses of all principals with an interest of ten percent or greater;

(F) If an individual person, the name and residence address of that individual person.

(3) *Registration statement and fees; local agent*. If none of the persons listed, as above, is shown at an address within the state, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local party or agent, both for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open or vacant and boarded, and shall be required whenever any building has remained vacant for 90 consecutive days or more. In no instance shall

the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other building code or housing code requirement. The owner of the vacant property, at the time of billing, shall be responsible for the payment of the non-refundable registration fee. Said fee shall be billed by the city and based on the duration of the vacancy as determined by the master fee resolution.

(4) *Appeal rights.* The owner shall have the right to appeal the imposition of the registration fees to a committee appointed by the city manager, upon filing an application in writing with the applicable $50.00 non-refundable filing fee to the city manager's office no later than 30 calendar days after the date of the billing statement. On appeal, the owner shall bear the burden of providing satisfactory objective proof of occupancy.

(5) *One time waiver of registration fee.* A one-time waiver of the registration fee may be granted by the committee appointed by the city manager upon application of the owner if the owner:

(i.) Demonstrate with satisfactory proof that he/she is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and

(ii.) Objectively demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building; or

(iii.) Provides satisfactory proof that he/she was actively attempting to sell or lease the property during the vacancy period.

(6) *Two-year waiver.*

(i) Upon application by the owner and satisfaction of subsection (b)(5) above, the committee appointed by the city manager may grant a two-year waiver of the registration fee if the owner meets the criteria for non-profit organizations as defined by section 501(c)(3) of the Internal Revenue Code or

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(ii) Upon application by the homeowner(s) who are temporarily residing in a medical care facility, or a legal representative of the homeowner(s), the committee may grant a renewable two-year waiver of the registration fee. To be eligible for a two-year waiver of fee, satisfactory proof that the structure will only be temporarily vacant and the property and structures must remain in good repair and free of any enforcement actions by city departments. Should the structure or property not be properly maintained, or be in violation of city code, the waiver may be revoked by the appeal committee.

(7) *Delinquent registration fees as a lien.* After the owner is given notice of the amount of the registration fee due, except for those owners that have properly perfected an appeal pursuant to subsection (b)(4) above, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the city, and the city may commence a civil action to collect such the unpaid debt.

(c) *Duty to amend registration statement.* If the status of the registration information changes during the course of any calendar year, it is the responsibility of the owner, responsible party or agent for the same to contact the planning department within 30 days of the occurrence of such change and advise the department in writing of those changes.

(d) *Exceptions.* The fees imposed by this section shall not apply to any building owned by the United States, the state, the city, nor to any of their respective agencies or political subdivisions but registration is still required.

(e) *Violations; penalties.* The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to register a vacant building or to pay any fees required to be paid pursuant to the provisions of this section, within 30 days after they become due, shall constitute a violation punishable upon conviction thereof by a fine in the amount of not less than $100.00 nor more than $500.00 for each failure or refusal to register, or for each failure or refusal to pay a required vacant building fee, as applicable. In such cases, whenever the minimum fine of $100.00 is imposed, it shall not be subject to suspension or reduction for any reason.

This ordinance adopted:

Ayes: ____
Nays: ____

Adoption Date: _________________________
Effective Date: _________________________
First Reading: _________________________
Second Reading: _________________________

CITY OF MUSKEGON

By ____________________________
Ann Marie Becker
Clerk, City of Muskegon

CITY OF MUSKEGON
NOTICE OF ADOPTION

Please take notice that on June 23, 2009 the City Commission of the City of Muskegon adopted to amend the Code Of Ordinances Chapter 10, Section 107, Annual Registration Of Vacant Buildings And Registration Fees, for the purpose of making the ordinance easier for property owners to comply with and easier for staff to administer. Specifically to amend sub-section (b)(2) Applicability, sub-section (b)(3) Registration statement and fees; local agent, sub-section (b)(4) Appeal rights, sub-section (b)(6) Two-Year waiver, subsection (b)(7)(d) Exceptions.

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

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

Published ____________________, 2008.

CITY OF MUSKEGON

By

____

Ann Marie Becker, MMC
City Clerk

Date: June 23, 2009

To: Honorable Mayor and City Commissioners

From: Ann Marie Becker, City Clerk

RE: Fireworks Display Permit for Muskegon Summer Celebration

SUMMARY OF REQUEST: Summit Pyrotechnics is requesting approval of a fireworks display permit for July 4th at the Muskegon Summer Celebration. Fire Marshall Metcalf has reviewed the request and recommends approval contingent on inspection of the fireworks.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval contingent on inspection of the fireworks and approval of the insurance.

FM-32(12-68)

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

DATE OF APPLICATION: 6-4-09

1. TYPE OF DISPLAY: ☒ Public Display ☐ Agricultural Pest Control

2. APPLICANT

NAME OF PERSON	ADDRESS	AGE: Must be 21 or over
Summit Pyrotechnics	3500 S. Getty	
IF A CORPORATION: Name of President	ADDRESS	
Steven R. Franklin		

3. PYROTECHNIC OPERATOR

NAME	ADDRESS	AGE: Must be 21 or over
Steven R. Franklin	3500 S. Getty	

EXPERIENCE:

NUMBER OF YEARS	NUMBER OF DISPLAYS	WHERE
25	400+	22 states

NAMES OF ASSISTANTS:

NAME	ADDRESS	AGE

4. NON-RESIDENT APPLICANT

NAME	ADDRESS	TELEPHONE NUMBER
Name of Michigan Attorney or Resident Agent	ADDRESS	

5. EXACT LOCATION OF PROPOSED DISPLAY

Barge - Muskegon Lake 800' N of Heritage Landing

DATE	TIME
7-4-09	10:20 pm

6. NUMBER AND KINDS OF FIREWORKS TO BE DISPLAYED

12" - 20
10" - 20
8" - 60
6" - 300
5" - 300
4" - 400
3" - 600

MANNER & PLACE OF STORAGE PRIOR TO DISPLAY

ATF approved storage - driven to site day of display.
24 hr. security provided

(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

c: Major

Date: June 23, 2009

To: Honorable Mayor and City Commissioners

From: Ann Marie Becker, City Clerk

RE: Liquor License Transfer Request
Frauenthal
413-415 W. Western Avenue

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from PKT Twelve, Inc., co-licensee with Iordache Holdings, Inc. to transfer all stock in 2008 Class C-SDM Licensed Business with Dance-Entertainment Permit, Direct Connections-2, Official Permit (food), and 3 Bars located at 413-415 W. Western Avenue through transfer of one share from existing stockholder, Patricia Johnson to new stockholder, Chris McGuigan.

PKT Twelve, Inc., then requests to drop Iordache Holdings, Inc., as Co-Licensee on the previously described license and add New Official Permit (Theater Performances and Set-ups).

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.

Muskegon Police Department

Anthony L. Kleibecker
Director of Public Safety

980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

Phone: 231-724-6750
FAX: 231-722-5140

May 3, 2009

To: City Commission through the City Manager

From: Anthony L. Kleibecker, Director of Public Safety

Re: Liquor License Investigation – 413-415 W. Western
Transfer of Stocks and Drop of Co-Licensee

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation from applicant PKT Twelve, Inc. of 413 – 415 W. Western Ave. Muskegon, MI. 49440.

PKT Twelve, Inc., Co-licensee with Iordache Holdings, Inc. requests to transfer all stock in 2008 Class C-SDM licensed business with Dance-Entertainment Permit, Direct Connections-2, Official Permit (food), and 3 Bars, located at 413-415 W. Western, Muskegon, Mi. through transfer of 1 share from existing stockholder, Patricia Johnson to new stockholder, Chris McGuigan.

PKT Twelve, Inc. then request to drop Iordache Holdings, Inc. as Co-Licensee on the previously described license and add New Official Permit (Theater Performances & Set-ups).

The applicant, Chris McGuigan, has had no experience in the alcohol service industry but has been made aware of the Muskegon Police Departments position on enforcing local alcohol laws and ordinances. The applicant has also been made aware of the following two websites for additional training opportunities; the Michigan Licensed Beverage Association and the Liquor Control Commission.

A check of Muskegon Police Department records and criminal history showed no reason to deny this request.

ALK/kd

492521
4-14-09
TMH

Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

POLICE INVESTIGATION REQUEST

[Authorized by MCL 436.1201(4)]

March 31, 2009

Muskegon Police Department
Chief of Police
980 Jefferson Street
PO Box 536
Muskegon, MI 49443-0536

Request ID #492521

Applicant: REQUEST TO DROP IORDACHE HOLDINGS, INC. AS CO-LICENSEE ON 2008 CLASS C AND SDM LICENSED BUSINESS WITH DANCE-ENTERTAINMENT PERMIT, DIRECT-CONNECTION(2), OFFICIAL PERMIT (FOOD) AND 3 BARS, LOCATED AT 413-415 W WESTERN, MUSKEGON MICHIGAN, 49440, MUSKEGON COUNTY, WITH PKT TWELVE, INC. NEW OFFICIAL PERMIT - THEATER PERFORMANCES & SET-UPS.

CONTACT: ATTORNEY KEITH L MCEVOY, 601 TERRACE STREET, MUSKEGON MI, 49443
(B.P. 231-722-1621)

Please make an investigation of the application. If you do not believe that the applicants are qualified for licensing, give your reasons in detail. Complete the Police Inspection Report on Liquor License Request, LC-1800, or for Detroit police, the Detroit Police Investigation of License Request, LC-1802. If there is not enough room on the front of the form, you may use the back.

Forward your report, along with fingerprint cards (if requested) and $30.00 for each card to the Michigan Liquor Control Commission.

If you have any questions, contact the appropriate unit (On Premises, Off Premises or Manufacturers & Wholesalers) at (517) 322-1400.

jr

09-43

Michigan Department of Energy, Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

FOR MLCC USE ONLY

Request ID # 480716

Business ID # 4166

4-14-09 TLBM

Please conduct your investigation as soon as possible, complete all four sections of this report and return the completed report and fingerprint cards to the MLCC.

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

PKT TWELVE, INC., CO-LICENSEE WITH IORDACHE HOLDINGS, INC. REQUESTS TO TRANSFER ALL STOCK IN 2008 CLASS C-SDM LICENSED BUSINESS WITH DANCE-ENTERTAINMENT PERMIT, DIRECT CONNECTIONS-2, OFFICIAL PERMIT (FOOD), AND 3 BARS, LOCATED AT 413-415 W WESTERN, MUSKEGON, MI 49440, MUSKEGON COUNTY, THRU TRANSFER OF 1 SHARE FROM EXISTING STOCKHOLDER, PATRICIA JOHNSON TO NEW STOCKHOLDER, CHRIS A. MC GUIGAN.

Section 1. APPLICANT INFORMATION

APPLICANT #1:	APPLICANT #2:
CHRIS A. MC GUIGAN - STOCKHOLDER IN PKT TWELVE, INC. 610 RAY STREET NORTH MUSKEGON, MI 49445 B(231)722-4538	
DATE FINGERPRINTED**: 5-29-09	DATE FINGERPRINTED**:
DATE OF BIRTH: 11-18-56 Is the applicant a U.S. Citizen: ☐ Yes ☐ No* *Does the applicant have permanent Resident Alien status? ☐ Yes ☐ No* *Does the applicant have a Visa? Enter status:	DATE OF BIRTH: Is the applicant a U.S. Citizen: ☐ Yes ☐ No* *Does the applicant have permanent Resident Alien status? ☐ Yes ☐ No* *Does the applicant have a Visa? Enter status:

Attach the fingerprint card and $30.00 for each card and mail to the Michigan Liquor Control Commission

ARREST RECORD: ☐ **Felony** ☐ **Misdemeanor** Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)	**ARREST RECORD:** ☐ **Felony** ☐ **Misdemeanor** Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)

Section 2. INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

Does applicant intend to have dancing, entertainment, topless activity, or extended hours permit?
☐ No ☒ Yes, complete LC-1636

Are motor vehicle fuel pumps at or directly adjacent to the establishment? ☒ No ☐ Yes, explain relationship:

Section 3. LOCAL AND STATE CODES AND ORDINANCES, AND GENERAL RECOMMENDATIONS

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? ☒ Yes ☐ No **If No**, indicate which state and local ordinances the location does not meet: ☐ Building ☐ Plumbing ☐ Zoning ☐ Fire ☐ Sanitation ☐ Health

Section 4. RECOMMENDATION

1. Is this applicant qualified to conduct this business if licensed? ☒ Yes ☐ No*
2. Should the MLCC grant this request? ☒ Yes ☐ No*

*If **any** of the above questions were answered No, you must state your reasons for MLCC consideration of this recommendation on the back of this form or on an attached signed and dated sheet.

3. Is this recommendation subject to final inspection to determine that the proposed location meets all building, plumbing, zoning, fire, sanitation and health laws and ordinances? ☐ Yes ☒ No
4. Is this recommendation subject to any other conditions? ☐ Yes ☒ No

If Yes, list the conditions below or on an attached signed and dated sheet if more space is needed

x J. L. Kleibler   6-3-09

Signature (~~Sheriff or~~ Chief of Police)   Date

MUSKEGON POLICE DEPARTMENT

LC-1800 (Rev. 08/2008) Authority: MCL 436.1217 and R 436.1105; MAC Completion: Mandatory Penalty: No License	The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

FOR MLCC USE ONLY

Request ID # 492521

Business ID # 4166

4-14-09 TMA

Please conduct your investigation as soon as possible, complete all four sections of this report and return the completed report and fingerprint cards to the MLCC.

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

REQUEST TO DROP IORDACHE HOLDINGS, INC. AS CO-LICENSEE ON 2008 CLASS C AND SDM LICENSED BUSINESS WITH DANCE-ENTERTAINMENT PERMIT, DIRECT-CONNECTION(2), OFFICIAL PERMIT (FOOD) AND 3 BARS, LOCATED AT 413-415 W WESTERN, MUSKEGON MICHIGAN, 49440, MUSKEGON COUNTY, WITH PKT TWELVE, INC. NEW OFFICIAL PERMIT - THEATER PERFORMANCES AND SET-UPS.

Section 1. APPLICANT INFORMATION

APPLICANT #1:	APPLICANT #2:
DATE FINGERPRINTED: **FINGERPRINTS NOT REQUIRED**	DATE FINGERPRINTED:
DATE OF BIRTH: Is the applicant a U.S. Citizen: ☐ Yes ☐ No* *Does the applicant have permanent Resident Alien status? ☐ Yes ☐ No* *Does the applicant have a Visa? Enter status:	DATE OF BIRTH: Is the applicant a U.S. Citizen: ☐ Yes ☐ No* *Does the applicant have permanent Resident Alien status? ☐ Yes ☐ No* *Does the applicant have a Visa? Enter status:

Attach the fingerprint card and $30.00 for each card and mail to the Michigan Liquor Control Commission

ARREST RECORD: ☐ **Felony** ☐ **Misdemeanor**	**ARREST RECORD:** ☐ **Felony** ☐ **Misdemeanor**
Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)	Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)

Section 2. INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

Does applicant intend to have dancing, entertainment, topless activity, or extended hours permit?
☐ No ☒ Yes, complete LC-1636

Are motor vehicle fuel pumps at or directly adjacent to the establishment? ☒ No ☐ Yes, explain relationship:

Section 3. LOCAL AND STATE CODES AND ORDINANCES, AND GENERAL RECOMMENDATIONS

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? ☒ Yes ☐ No **If No**, indicate which state and local ordinances the location does not meet: ☐ Building ☐ Plumbing ☐ Zoning ☐ Fire ☐ Sanitation ☐ Health

Section 4. RECOMMENDATION

1. Is this applicant qualified to conduct this business if licensed? ☒ Yes ☐ No*
2. Should the MLCC grant this request? ☒ Yes ☐ No*

*If **any** of the above questions were answered No, you must state your reasons for MLCC consideration of this recommendation on the back of this form or on an attached signed and dated sheet.

3. Is this recommendation subject to final inspection to determine that the proposed location meets all building, plumbing, zoning, fire, sanitation and health laws and ordinances? ☐ Yes ☒ No
4. Is this recommendation subject to any other conditions? ☐ Yes ☒ No

If Yes, list the conditions below or on an attached signed and dated sheet if more space is needed

J. L. Kleibler 6-3-09

Signature (~~Sheriff or~~ Chief of Police) Date

MUSKEGON POLICE DEPARTMENT

LC-1800 (Rev. 08/2008)
Authority: MCL 436.1217 and R 436.1105; MAC
Completion: Mandatory
Penalty: No License

Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

FOR MLCC USE ONLY
Request ID # 492521
Business ID #
4-14-09 TAH

LAW ENFORCEMENT RECOMMENDATION

[Authorized by MCL 436.1916, R 436.1105(2)(d) and R 436.1403]

TO: MUSKEGON POLICE DEPARTMENT
980 JEFFERSON
MUSKEGON MI 49442

Re:
PKT TWELVE, INC. 413-415 W WESTERN, MUSKEGON

We have received a request from the above licensee for the type of permit indicated below. Please make an investigation and submit your report and/or recommendation, as requested below, to the offices of the Michigan Liquor Control Commission at the above address. Questions about this request should be directed to the MLCC Licensing Division at (517) 322-1400.

☒ OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR: THEATRICAL PERFORMANCES AND SET-UPS

Weekdays 5:00 A.M. to 7:00 A.M.

Sundays 5:00 A.M. to 12:00 ~~A.M~~/P.M.

☑ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

Note: If the applicant is requesting two separate extended hours permits and the permits are for **different hours** you must complete the box below. If additional space is needed please use reverse side of this form.

☒ OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR: FOOD SERVICE

Weekdays 5:00 A.M. to 7:00 A.M.

Sundays 5:00 A.M. to 12:00 ~~A.M.~~/P.M.

☑ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☒ DANCE PERMIT

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☒ ENTERTAINMENT PERMIT

☑ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ TOPLESS ACTIVITY PERMIT

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ OUTDOOR SERVICE

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ PARTICIPATION PERMIT

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☒ ADDITIONAL BAR PERMIT 3 TOTAL BARS

☑ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ OTHER

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

Signed: J. L. Kleibi Director of Public Safety

Signature and Title

Department Muskegon Police Dept.

Date: 6-3-09

LC-1636 (Rev. 05/2006) Authority: MCL 436.1916, R 436.1105(2)(d) and R436.1403 Completion: Mandatory Penalty: No License and/or Permit	The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

Request ID # 480716
4-14-09 [illegible]

RESOLUTION

At a ______________________ meeting of the ______________________
(Regular or Special) (Township Board, City or Village Council)

called to order by ______________________ on ______________________ at __________ P.M.

The following resolution was offered:

Moved by ______________________ and supported by ______________________

That the request from PKT TWELVE, INC., CO-LICENSEE WITH IORDACHE HOLDINGS, INC. TO TRANSFER ALL STOCK IN 2008 CLASS C LICENSED BUSINESS WITH DANCE-ENTERTAINMENT PERMIT, LOCATED AT 413-415 W WESTERN, MUSKEGON, MI 49440, MUSKEGON COUNTY, THRU TRANSFER OF 1 SHARE FROM EXISTING STOCKHOLDER, PATRICIA JOHNSON TO NEW STOCKHOLDER, CHRIS A. MC GUIGAN.

be considered for ____
(Approval or Disapproval)

APPROVAL		**DISAPPROVAL**	
Yeas:	______________	Yeas:	______________
Nays:	______________	Nays:	______________
Absent:	______________	Absent:	______________

It is the consensus of this legislative body that the application be:

____ for issuance
(Recommended or Not Recommended)

State of Michigan __________)

County of ______________)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the ______________________ at a ______________________
(Township Board, City or Village Council) (Regular or Special)

meeting held on ______________
(Date)

(Signed)______________________
(Township, City or Village Clerk)

SEAL

____
(Mailing address of Township, City or Village)

LC-1305 (Rev. 08/2006) Authority: MCL 436.1501 Completion: Mandatory Penalty: No License	The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

PLEASE COMPLETE ENCLOSED RESOLUTION AND RETURN
TO THE LIQUOR CONTROL COMMISSION AT ABOVE ADDRESS

Request ID #492521
4-14-09 TMA

RESOLUTION

At a ______________________ meeting of the ______________________
(Regular or Special) (Township Board, City or Village Council)

called to order by ______________________ on ______________________ at __________ P.M.

The following resolution was offered:

Moved by ______________________ and supported by ______________________

THAT THE REQUEST TO DROP IORDACHE HOLDINGS, INC. AS CO-LICENSEE ON 2008 CLASS C LICENSED BUSINESS WITH DANCE-ENTERTAINMENT PERMIT, LOCATED AT 413-415 W WESTERN, MUSKEGON MICHIGAN, 49440, MUSKEGON COUNTY, WITH PKT TWELVE, INC.

be considered for ____
(Approval or Disapproval)

APPROVAL	DISAPPROVAL
Yeas: ______________	Yeas: ______________
Nays: ______________	Nays: ______________
Absent: ______________	Absent: ______________

It is the consensus of this legislative body that the application be:

____ for issuance
(Recommended or Not Recommended)

State of Michigan __________)

County of ______________)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the ______________________ at a ______________________
(Township Board, City or Village Council) (Regular or Special)

meeting held on ______________
(Date)

(Signed)______________________
(Township, City or Village Clerk)

SEAL

____
(Mailing address of Township, City or Village)

LC-1305 (Rev. 08/2006) Authority: MCL 436.1501 Completion: Mandatory Penalty: No License	The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

Commission Meeting Date: June 23, 2009

Date: **June 9, 2009**

To: **Honorable Mayor & City Commission**

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

RE: **Award of Consulting Contracts for United States Environmental Protection Agency (USEPA) Assessment Grant**

SUMMARY OF REQUEST: The City of Muskegon has received a USEPA Assessment Grant in the amount of $200,000. We will proceed to administer this grant in a similar manner to the past Michigan Department of Environmental Quality Site Assessment Grants we have received. Since the grant amount is lower than in the past (although the maximum amount awarded through this particular USEPA Grant fund), it is recommended that only two consultants be awarded a contract. After interviewing five firms, and receiving their Qualifications, it is recommended that contracts be awarded to Envirologic Technologies Inc. (Kalamazoo) and Horizon Environmental (Grand Rapids). Both firms have extensive experience with both Brownfields and the EPA. Anne Couture will continue to work with the City as our Brownfield Staff Consultant (these services are financed through the grant, as well).

FINANCIAL IMPACT: The consultants' fees will be paid for through the EPA Grant.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To award contracts to Envirologic Technologies Inc. and Horizon Environmental for the USEPA Brownfield Assessment Grant on the condition that they use local contractors, to the extend possible, for their sub-contracted grant funded work (e.g., lab work, surveying, etc) and to authorize the Mayor to sign the actual contracts when they have been reviewed and approved by both USEPA and the City Attorney.

COMMITTEE RECOMMENDATION: None.

City of Muskegon

Memo

To: Honorable Mayor and City Commission

From: Cathy Brubaker-Clarke, Director of Community & Economic Development

CC: Bryon Mazade, City Manager

Date: 6/9/2009

Re: Award of Contract to Environmental Consultants for EPA Site Assessment Grant

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The City of Muskegon has received a United States Environmental Protection Agency (USEPA) Assessment Grant, in the amount of $200,000. I am working with Brownfield Staff Consultant, Anne Couture, to move the process for receipt of funds along as quickly as possible. At this time, we have a few possibilities for developers that could use the grant funds if we receive them in the next month. In order to achieve this, we decided to invite Request for Qualifications (RFQ) from five environmental firms that have done this type of work for us in the recent past. We received RFQ's from the following firms: Envirologic Technologies Inc (Kalamazoo), Horizon Environmental (Grand Rapids), Prein & Newhof (Norton Shores), ERM (Holland) and Westshore Consulting (Muskegon). All of these firms, with the exception of Envirologic, provided consulting services to the City for its 2005 MDEQ Site Assessment Fund grant.

On June 1 we held interviews with all five firms. They were then evaluated on the following criteria: qualifications/experience, brownfield success, report quality & deadlines, regulatory knowledge, local participation/contributions and cost competitiveness.

Since only one of the firms is actually located in Muskegon, we asked all the firms if they would be willing to work with local contractors, to the extent possible, on any sub-contracting (e.g., lab work, surveying, etc). All agreed to do this and some firms went so far as to contact local firms to discuss working with them if they are awarded the bid.

Based on our interviews and knowledge of the above firms, Anne and I are recommending that we award the contracts to Envirologic and Horizon. Both of these firms have extensive experience with the EPA (which is critical for this project to ensure timeliness in meeting the needs of our local developers and to assure opportunities for further Federal Brownfield monies). Envirologic prepared our grant submittal (along with Anne and me) this year and last year. They have done the same for other municipalities with successful grant awards. Horizon has worked extensively with EPA on Brownfield projects. Both firms have extensive experience working within EPA requirements and procedures and we believe they will assist the City in running the most cost effective and efficient EPA Brownfield Assessment program possible.

Finally, we are recommending that only two firms be chosen, due to the amount of the grant award and the requirements imposed by EPA for each consultant chosen and the related costs. (In our previous MDEQ areawide brownfield grants, we had larger grants and more money to spread between the firms). For example, EPA requires that each consulting firm submit an extensive Quality Assurance Project Plan (QAPP). Time spent to prepare the QAPP's are eligible for reimbursement through EPA, meaning that part of the grant award will be spent for this element (thus, the fewer QAPP's required, the more funds available to assist developers with Phase I, Phase II, BEA's and Due Care Plans). Another consideration is the additional project management costs incurred with multiple consultants. Most communities that receive EPA Brownfield grants select only one consultant for these reasons.

Commission Meeting Date: June 23, 2009

Date:	**June 11, 2009**
To:	**Honorable Mayor & City Commission**
From:	**Planning & Economic Development Department** CBC
RE:	**Sale of Buildable Vacant Lot at 458 Monroe.**

SUMMARY OF REQUEST:

To approve the sale of a vacant buildable lot at 458 Monroe (Parcel #24-205-371-0011-00) to Tony Rader, 1325 7th Street, Muskegon, MI. The lot is 66 x 132 ft. and is being offered to Tony Rader for $2,000 plus the fee to register the deed. Tony Rader will be combining this property with his existing property, which would be considered unbuildable should his home be destroyed over 75%. His property is 33 x 66 ft. The True Cash Value (TCV) for the property listed in the Assessor's office is $10,000, and our price is set at $2,500 which is 25% of that amount. The City has owned the property since 2004 and there have been no inquiries for potential construction. The Land Reutilization Committee is recommending approval of the sale at a lesser price due to the size of Tony Rader's current property.

FINANCIAL IMPACT:

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

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the attached resolution and 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.

Resolution No. _______

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING THE SALE OF A BUILDABLE LOT AT 458 MONROE AVENUE IN NELSON NEIGHBORHOOD FOR $2,000.

WHEREAS, Tony Rader be allowed to purchase the parcel designated as parcel number 24-205-371-0011-00, located at 458 Monroe Avenue for $2,000; and

WHEREAS, the price for parcel number 24-205-371-0011-00 is set by the City at $2,500, which is 25% of the True Cash Value (TCV) listed in the City Assessor's Office; and

WHEREAS, Tony Rader offered $2,000 for the property so this may be combined with his adjacent property; 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 located at 1325 7th Street and sold for the price of $2,000.

NOW THEREFORE BE IT RESOLVED, that parcel number 24-205-371-0011-00, located at 458 Monroe Avenue be sold to Tony Rader for $2,000.

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 11 BLOCK 371

Adopted this 23rd day of June 2009

Ayes:

Nays:

Absent

By: ____________________

Stephen J. Warmington
Mayor

Attest: ____________________

Ann Marie Becker, 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 June 23, 2009.

By: ______________________
Ann Marie Becker, MMC
City Clerk

458 Monroe

1325 7^{th} (Monroe side)

Commission Meeting Date: June 23, 2009

Date: **June 15, 2009**

To: **Honorable Mayor and City Commission**

From: **Community and Neighborhood Services Department**

Re: **Contract for Excavation at 525 Orchard**

SUMMARY OF REQUEST: To approve for Community and Neighborhood Services to execute a contract with Press's LLC, 8081 Holton Duck Lake Road, Holton, Michigan, for the demolition of the structure located at 525 Orchard. This activity is the first action under the City's Orchard Street Redevelopment Program. Press's was the only bid received, at $3,620.

FINANCIAL IMPACT: The funding will be allocated from the City's NSP Grant.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the request

COMMITTEE RECOMMENDATION: The program was reviewed by the Citizen's District Council.

CITY COMMISSION MEETING
Tuesday June 23, 2009

TO: Honorable Mayor and City Commissioners

FROM: Anthony L. Kleibecker
Director of Public Safety

DATE: June 16, 2009

SUBJECT: Memorandum of Understanding-Justice Assistance Grant

SUMMARY OF REQUEST:

The Director of Public Safety requests that the Commission authorize the Director and the City Manager to enter into an agreement with the City of Muskegon Heights and Muskegon County in regards to the disbursement of the 2009 Justice Assistance Grant. The money in this grant is shared by the three entities. The $52,970 in this grant will be utilized for the prosecution of city ordinance cases primarily dealing with neighborhood issues.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATIONS:

Approval of this request.

Edward Byrne Memorial
Justice Assistance Grant Program
CFDA #16.738

Overview of the JAG Program

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program (42 U.S.C. 3751(a)) is the primary provider of federal criminal justice funding to state and local jurisdictions. JAG funds support all components of the criminal justice system, from multijurisdictional drug and gang task forces to crime prevention and domestic violence programs, courts, corrections, treatment, and justice information sharing initiatives. JAG funded projects may address crime through the provision of services directly to individuals and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures.

Deadline: Registration

Applicants must register with the Office of Justice Programs' (OJP) Grants Management System (GMS) prior to applying.

Deadline: Applications

The due date for applying for funding under this announcement is 8:00 p.m. e.t. on July 9, 2009.

Eligibility

Applicants are limited to units of local government appearing on the FY 2009 JAG Allocations List. To view this list, go to www.ojp.usdoj.gov/BJA/grant/09jagallocations.html. For JAG program purposes, a unit of local government is: a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state; or, it may also be a federally recognized Indian tribe or Alaskan Native organization that performs law enforcement functions as determined by the Secretary of the Interior. Otherwise a unit of local government may be any law enforcement district or judicial enforcement district established under state law with authority to independently establish a budget and impose taxes. In Louisiana, a unit of local government means the office of a district attorney or a parish sheriff. In the District of Columbia or any United States Trust Territory, a unit of local government is any agency of the District of Columbia or Federal government performing law enforcement functions for the District of Columbia or Trust Territories of the United States. For a listing of eligible units of local government, go to www.ojp.usdoj.gov/BJA/grant/09jagallocations.html.

JAG Program—Specific Information

All awards are subject to the availability of appropriated funds and any modifications or additional requirements that may be imposed by law.

Established to streamline justice funding and grant administration, the JAG Program allows states, tribes, and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions. JAG blends the previous Byrne

Formula and Local Law Enforcement Block Grant (LLEBG) Programs to provide agencies with the flexibility to prioritize and place justice funds where they are needed most.

Formula
The Bureau of Justice Statistics (BJS) calculates, for each *state and territory, a* minimum base allocation which, based on the statutory JAG formula, can be enhanced by (1) the state's share of the national population and (2) the state's share of the country's Part 1 violent crime statistics. Once the state funding is calculated, 60 percent of the allocation is awarded to the state and 40 percent to eligible units of local government.

States also have a variable percentage of the allocation that is required *to* "pass through" to units of local government. This amount, also calculated by BJS, is based on each state's crime expenditures. In addition, the formula calculates direct allocations for local governments within each state, based on their share of the total violent crime reported within the state. Local governments that are entitled to at least $10,000 awards may apply directly to BJA for local JAG funds.

Purpose Areas
JAG funds may be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information systems for criminal justice, and criminal justice related research and evaluation activities that will improve or enhance:

- Law enforcement programs.
- Prosecution and court programs.
- Prevention and education programs.
- Corrections and community corrections programs.
- Drug treatment and enforcement programs.
- Planning, evaluation, and technology improvement programs.
- Crime victim and witness programs (other than compensation).

Responsibilities
The Chief Executive Officer (CEO) of an eligible unit of local government or a local agency designated by the CEO must submit the application for JAG funds. A unit of local government receiving a JAG award will be responsible for the administration of the funds including: distributing the funds; monitoring the award; submitting reports including performance measures and program assessment data; and providing ongoing oversight and assistance to any subrecipients of the funds.

Administrative Funds
A unit of local government may use up to 10 percent of the award, plus any interest accrued, for costs associated with administering JAG funds.

Disparate Certification
A disparate allocation occurs when a city or municipality is scheduled to receive one-and-one-half times (150 percent) more than the county, while the county bears more than 50 percent of the costs associated with prosecution or incarceration of the municipality's Part 1 violent crime. Multiple disparate allocations occur when multiple cities or municipalities are collectively eligible to receive four times (400 percent) more than the county.

CITY COMMISSION MEETING
Tuesday June 23, 2009

TO: Honorable Mayor and City Commissioners

FROM: Anthony L. Kleibecker
Director of Public Safety

DATE: June 16, 2009

SUBJECT: Federal Assistance to Firefighters Grant-Fire Station Construction

SUMMARY OF REQUEST:

Public Safety staff request that the Commission support our application for monies as provided by the Federal Assistance to Firefighters Grant-Fire Station construction. Our application is requesting grant money for upgrades and rehabilitation to Station 5 on Marquette Avenue. The exact monetary request has yet to be determined.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of this request.

Kleibecker, Tony

From: Mazade, Bryon
Sent: Friday, June 05, 2009 2:25 PM
To: Kleibecker, Tony
Subject: FW: Fire Station Grants
Attachments: Fire Station Construction Grant.pdf

From: Franzak, Mike
Sent: Friday, June 05, 2009 2:20 PM
To: Brubaker-Clarke, Cathy; Mazade, Bryon
Subject: Fire Station Grants

Attached is a grant from FEMA that I have found. Funding will be awarded for the construction of new fire stations or the renovation of existing stations to enhance response capacity or firefighter safety. .

Synopsis of what they are looking for:

1) To replace unsafe or uninhabitable structures regardless of whether the project calls for the construction of a new building or the rehabilitation of an existing structure. Applicants claiming unsafe or uninhabitable structures may be required to provide documentation regarding the nature of the health or safety deficiencies. Any health-code violations or orders to vacate unsafe structures must pre-date the enactment of the ARRA for consideration.

2) To fund projects expanding fire protection coverage to meet increased service demand in compliance with NFPA 1710 or 1720. In these instances, expanding fire protection coverage under a community's capital improvement plan will receive higher consideration than expansion projects not engaged in capital improvement planning.

<u>Eligible Expenses</u>

- Building construction
- Environmental assessment
- Building site preparation, including demolition, if necessary
- Design, planning, and engineering expenses incurred ***after*** award
- Expenses necessary to comply with the most current edition of NFPA1500
- Expenses necessary to comply with the locally adopted building, fire, plumbing, mechanical and electrical codes.
- Sprinklers or other life safety and fire protection systems
- Vehicle exhaust extraction systems
- Decontamination areas
- Space for training (up to 600 square feet)
- Space for gender-segregated sleeping
- Gender-segregated restrooms
- Space for exercise equipment
- Kitchens
- Kitchen appliances
- Dining/eating area

- ADA compliance
- Gear racks, storage and shelving for gear/equipment
- Internet cabling
- Energy conservation systems (Leadership in Energy and Environmental Design - LEED™)
- Renewable energy for HVAC and power systems
- Other expenses detailed in the grant guidance

<u>Funding</u>
Projects can cost up to $5 million, 100% federally funded. You can also get approval of up to 3 projects, so a grant can be eligible for up to $15 million total.
I talked to Don Labrenz about the Marquette fire station and he says that it probably has some pretty extensive deficiencies.

DHS estimates that they will approve about 100 grants with the $210 million in available funding.

Date:	**June 23, 2009**
To:	**Honorable Mayor and City Commissioners**
From:	**Engineering**
RE:	**Installation of fire alarm system at City Hall**

SUMMARY OF REQUEST:

Authorize staff to enter into a contract with Midstate Securities to install a fire alarm system to replace the aging one currently in place. Midstate is being recommended since they were the lowest responsible bidder with a base bid price of $11,540.00.

FINANCIAL IMPACT:

The total value of the contract of $11,540

BUDGET ACTION REQUIRED:

Will be added to the 2009 budget as part of the third quarter update

STAFF RECOMMENDATION:

Authorize staff to enter into a contract with Midstate to replace fire alarm system at City Hall

COMMITTEE RECOMMENDATION:

CITY HALL FIRE ALARM SYSTEM REPLACE BIDS
6/12/2009

CONTRACTOR	BASE BID	STRAIGHT TIME	EST. HRS	TOTAL STRAIGHT TIME	TIME & 1/2	EST. HRS	TOTAL TIME & 1/2	DOUBLE TIME	EST. HRS	TOTAL DOUBLE TIME	TOTAL BID AMOUNT
MIDSTATE SECURITIES 3495 VIADUCT SW GRANDVILLE MI 49418	**$ 11,540.00**	$ 65.00	24	**$ 1,560.00**	$ 90.00	18	**$ 1,620.00**	$ 90.00	12	**$ 1,080.00**	**$ 15,800.00**
COFESSCO FIRE PROTECTION 411 OTTAWA ST MUSKEGON MI 49442	**$ 14,600.00**	$ 85.00	24	**$ 2,040.00**	$ 125.00	18	**$ 2,250.00**	$ 125.00	12	**$ 1,500.00**	**$ 20,390.00**
JOHNSON CONTROLS,INC MUSKEGON MI 49442 CHARLOTTE, NC 28290	**$ 14,315.00**	$ 125.00	24	**$ 3,000.00**	$ 187.00	18	**$ 3,366.00**	$ 250.00	12	**$ 3,000.00**	**$ 23,681.00**

Commission Meeting Date: June 23, 2009

Date: June 16, 2009

To: Honorable Mayor & City Commission

From: Planning & Economic Development Department

RE: Request to Purchase Tax-Reverted Properties

SUMMARY OF REQUEST:

The County Treasurer is responsible to sell the tax reverted properties. There are eight properties that Community & Neighborhood Services would like to obtain from the tax reverted list. Local municipalities have first option to pay the past due taxes and fees prior to the first tax auction. The taxes owing on each of the boat slips are from 2006, 2007, and 2008. The application must be turned in to County Treasurer's Office by July 1, 2009.

FINANCIAL IMPACT:

Total cost of the 7 properties is $25,630.90 (taxes) plus $80 (registering of 8 deeds).

BUDGET ACTION REQUIRED:

To expend the $25,710.90 necessary to purchase the properties through the NSP funds.

STAFF RECOMMENDATION:

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

COMMITTEE RECOMMENDATION:

None.

Resolution No. _______

MUSKEGON CITY COMMISSION

RESOLUTION TO PURCHASE TAX REVERTED PROPERTY FROM THE COUNTY TREASURER.

WHEREAS, The City may make the properties available under the urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709,PA 123 of 1999, MCL 211.78M(6) or for any other lawful purpose, and;

WHEREAS, the City of Muskegon desires to acquire the properties in order to demolish, rehabilitate, green space, or possible sale(s).

NOW THEREFORE BE IT RESOLVED, that the City of Muskegon shall set up necessary procedures and controls to provide for the property distribution of funds arising from the use of the acquired property in conformity with the above mentioned acts.

Legal Descriptions Attached

Adopted this 23rd day of June, 2009

Ayes:

Nays:

Absent:

By: ______________________
Stephen J. Warmington, Mayor

Attest: ______________________
Ann Marie Becker, MMC

LEGAL DESCRIPTIONS:

CITY OF MUSKEGON REVISED PLAT OF 1903 THAT PART OF LOTS 2 14 & 15 BLK 63 DESC AS COM @ SE COR LOT 14 FOR POB TH W ALG S LN SD LOT 14 A DIST OF 43.77 FT TH N 82.68 FT TO A PNT 20 FT N OF S LN SD LOT 2 TH E & PAR TO SD S LN 43.80 FT TO W LN HOLT ST TH S ALG SD W LN 83 FT TO POB
Parcel # 24-205-063-0002-70
724 E. Isabella

CITY OF MUSKEGON REVISED PLAT OF 1903 N 132 FT OF E 66 FT LOT 1 BLK 21
Parcel # 24-205-021-0001-10
605 Jackson

CITY OF MUSKEGON REVISED PLAT OF 1903 N 2/3 LOT 7 BLK 292
Parcel # 24-205-292-0007-00
1668 Hoyt

CITY OF MUSKEGON SUB DIV OF PART OF LOT 1 BLK 1 R P EASTONS 2ND SUB DIV PART OF SEC 32 T10N R16W S 50.5 FT LOT 1 BLK 1
Parcel # 24-762-001-0001-00
1891 Wood

CITY OF MUSKEGON REVISED PLAT 1903 W 1/2 LOT 5 BLK 200
Parcel # 24-205-200-0005-00
207 E. Walton

CITY OF MUSKEGON REVISED PLAT OF 1903 S 2/3 LOT 8 BLK 292
Parcel # 24-205-292-0008-00
1680 Hoyt

CITY OF MUSKEGON REVISED PLAT OF 1903 E 1/2 LOT 12 BLK 250
Parcel # 24-205-250-0012-10
299 E. Isabella

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 7 BLK 228
Parcel # 24-205-228-0007-00
1201 Ransom

Clerk

CERTIFICATION

I hearby 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 June 10, 2008.

By: ______________________

Ann Marie Becker, MMC

Clerk

Date: **June 23, 2009**

To: **Honorable Mayor and City Commissioners**

From: **Engineering**

RE: **City – MDOT Agreement for the reconstruction of: Laketon Ave. from Peck to Wood**

SUMMARY OF REQUEST:

To approve the attached contract with MDOT for the reconstruction of Laketon Ave. between Peck & Wood, stimulus grant project, and approve the attached resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT:

MDOT's participation is limited to the federal funds of $800,000. The estimated total construction cost is $1,045,500.

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

Approve the attached contract and resolution and authorizing the mayor & clerk to sign both.

COMMITTEE RECOMMENDATION:

RESOLUTION__________

RESOLUTION FOR APPROVAL OF A CONTRACT AGREEMENT BETWEEN THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND THE CITY OF MUSKEGON FOR THE RECONSTRUCTION OF LAKETON AVENUE BETWEEN PECK STREET & WOOD TOGETHER WITH OTHER NECESSARY RELATED WORK AND AUTHORIZATION FOR MAYOR STEPHEN J. WARMINGTON AND CITY CLERK ANN BECKER TO EXECUTE SAID CONTRACT

Moved by____________________________________and supported by

Commissioner___________________________that the following Resolution be adopted:

WHEREAS, entry by the City of Muskegon into Contract no. **09-5253** between the Michigan Department of Transportation and the City of Muskegon for the **reconstruction of Laketon Ave. between Peck & Wood.** within the City is in the best interests of the City of Muskegon.

RESOLVED, that entry by the City into Contract Agreement Number **09-5253** be and the same is hereby authorized and approved and the Mayor and Clerk are authorized to execute said contract for and on behalf of the City of Muskegon.

Adopted this____________day of____________, 2009.

BY

____

Stephen J. Warmington, Mayor

ATTEST

____

Ann Becker, City Clerk

CERTIFICATION

This resolution was adopted at a meeting of the City Commission, held on ____________, **2009**. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By____________________________

Ann Becker, City Clerk

ARRA

DAB

Control Section	ARUL 61407
Job Number	106547
Project	ARRA 0961(138)
Federal Item No.	JJ 3350
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	09-5253

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of ________________________, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF MUSKEGON, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Muskegon, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated May 19, 2009, attached hereto and made a part hereof:

PART A – FEDERAL PARTICIPATION
Reconstruction work along Laketon Avenue from Peck Street to Wood Street; including pavement removal, aggregate base, storm sewer, concrete pavement, sidewalk ramps, and pavement marking work; and all together with necessary related work.

PART B – NO FEDERAL PARTICIPATION
Watermain work along Laketon Avenue from Peck Street to Wood Street; and all together with necessary related work.

WITNESSETH:

WHEREAS, pursuant to Federal law, monies have been provided for the performance of certain improvements on public roads; and

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT, or portions of the PROJECT, at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal program(s) or funding:

AMERICAN RECOVERY AND REINVESTMENT ACT

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT, including any other costs incurred by the DEPARTMENT as a result of this contract, except construction engineering and inspection.

No charges will be made by the DEPARTMENT to the PROJECT for any inspection work or construction engineering.

The costs incurred by the REQUESTING PARTY for preliminary engineering, construction engineering, construction materials testing, inspection, and right-of-way are excluded from the PROJECT COST as defined by this contract.

3. The DEPARTMENT is authorized by the REQUESTING PARTY to administer on behalf of the REQUESTING PARTY all phases of the PROJECT, including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT. Such administration shall be in accordance with PART II, Section II of this contract.

Any items of the PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

4. The REQUESTING PARTY, at no cost to the PROJECT or to the DEPARTMENT, shall:

A. Design or cause to be designed the plans for the PROJECT.

B. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.

C. Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PROJECT.

The REQUESTING PARTY will furnish the DEPARTMENT proposed timing sequences for trunkline signals that, if any, are being made part of the improvement. No timing adjustments shall be made by the REQUESTING PARTY at any trunkline intersection, without prior issuances by the DEPARTMENT of Standard Traffic Signal Timing Permits.

5. The PROJECT COST shall be met in accordance with the following:

PART A

Federal American Recovery and Reinvestment Act Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST up to the lesser of: (1) $800,000, or (2) an amount such that 100 percent, the normal Federal participation ratio for such funds, for the PART A portion of the PROJECT is not exceeded at the time of the award of the construction contract. The balance of the PART A portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART B

The PART B portion of the PROJECT COST is not eligible for Federal participation and shall be charged to and paid 100 percent by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Any items of PROJECT COST not reimbursed by Federal Funds will be the sole responsibility of the REQUESTING PARTY.

6. No working capital deposit will be required for this PROJECT.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 30 days of receipt of billings from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less Federal Funds earned as the PROJECT progresses.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

7. Upon completion of construction of the PROJECT, the REQUESTING PARTY will promptly cause to be enacted and enforced such ordinances or regulations as may be necessary to prohibit parking in the roadway right-of-way throughout the limits of the PROJECT.

8. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

Buy American Requirements (23 CFR 635.410) shall apply to the PROJECT and will be adhered to, as applicable, by the parties hereto.

9. The REQUESTING PARTY certifies that a) it is a person under 1995 PA 71 and is not aware of and has no reason to believe that the property is a facility as defined in MSA 13A.20101(1)(l); b) the REQUESTING PARTY further certifies that it has completed the tasks required by MCL 324.20126 (3)(h); MSA 13A.20126(3)(h); c) it conducted a visual inspection of property within the existing right of way on which construction is to be performed to determine if any hazardous substances were present; and at sites on which historically were located businesses that involved hazardous substances, it performed a reasonable investigation to determine whether hazardous substances exist. This reasonable investigation should include, at a minimum, contact with local, state and federal environmental agencies to determine if the site has been identified as, or potentially as, a site containing hazardous substances; d) it did not cause or contribute to the release or threat of release of any hazardous substance found within the PROJECT limits.

The REQUESTING PARTY also certifies that, in addition to reporting the presence of any hazardous substances to the Department of Environmental Quality, it has advised the DEPARTMENT of the presence of any and all hazardous substances which the REQUESTING PARTY found within the PROJECT limits, as a result of performing the investigation and visual inspection required herein. The REQUESTING PARTY also certifies that it has been unable to identify any entity who may be liable for the cost of remediation. As a result, the REQUESTING PARTY has included all estimated costs of remediation of such hazardous substances in its estimated cost of construction of the PROJECT.

10. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

11. If federal and/or state funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract

and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Department of Environmental Quality and the DEPARTMENT, shall make a diligent effort to recover such costs from all other possible entities. If recovery is made, the DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the amount paid by the FHWA and/or the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

12. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the Federal Highway Administration pursuant to Title 23 of the United States Code.

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT or its agents pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT or its agents shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT or its agents is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT or its agents does not relieve the REQUESTING PARTY and the local agencies, as applicable of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402, MSA 3.996(102).

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT or its agents is performing a governmental function, as that term is defined in MCL 691.1401; MSA 3.996(101), which is incidental to the completion of the PROJECT.

13. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402; MSA 3.996(102). Exclusive jurisdiction of such highway for the purposes of MCL 691.1402; MSA 3.996(102) rests with the REQUESTING PARTY and other local agencies having respective jurisdiction.

14. The REQUESTING PARTY shall approve all of the plans and specifications to be used on the PROJECT and shall be deemed to have approved all changes to the plans and specifications when put into effect. It is agreed that ultimate responsibility and control over the PROJECT rests with the REQUESTING PARTY and local agencies, as applicable.

15. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

16. The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the construction contract for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

17. The DEPARTMENT shall require the contractor who is awarded the contract for the construction of the PROJECT to provide insurance in the amounts specified and in accordance with the DEPARTMENT'S current Standard Specifications for Construction and to:

A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.

B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission, or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owner's protective liability insurance policy.

C. Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current standard specifications for construction and to provide, upon request, copies of notices and reports prepared to those insured.

18. In accordance with the American Recovery and Reinvestment Act of 2009 (ARRA), the following language is made a part of this contract and is to be made a part of all tier subcontracts or consultant contracts for work covered by this contract funded with funds appropriated or otherwise made available by the ARRA:

Pursuant to Section 902 of the ARRA, the United States Comptroller and any of his representatives have the authority:

(1) to examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and

(2) to interview any officer or employee of the contractor or any of its subcontractors, or any State or local government agency administering the contract, regarding the transactions.

The United States Comptroller and his representatives have the authority and rights provided under Section 902 of the ARRA with respect to this contract. As provided in Section 902 of the ARRA, nothing in Section 902 of the ARRA shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

Pursuant to Section 1515 of the ARRA, any representatives of the Inspector General have the authority:

(1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to the contract, subcontract, grant, or subgrant; and

(2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

Nothing set forth in Section 1515 of the ARRA shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

19. As a part of the ARRA, Davis-Bacon prevailing wage requirements apply to all ARRA funded construction projects regardless of location (including projects on local roads or rural minor collectors, and Transportation Enhancement projects outside the highway right-of-way) and will be adhered to, as applicable, by the parties hereto.

20. Within ten (10) days after the end of each month in which ARRA funded PROJECT work is performed, the REQUESTING PARTY shall provide the DEPARTMENT a monthly report, in a format and on forms approved by the DEPARTMENT, which shall include, for such work performed by the REQUESTING PARTY, the contractor, and all tier subcontractors and consultants in that preceding month:

* The total number of employees who performed work on this contract
* The total number of hours worked by employees who performed work on this contract
* The total wages of employees who performed work on this contract

If necessary to conform to guidance provided by the FHWA concerning the ARRA reporting requirements, the REQUESTING PARTY will revise their reporting as directed by the DEPARTMENT. Failure to comply with the reporting requirements under ARRA would jeopardize the DEPARTMENT'S continued receipt of ARRA funding. Should the REQUESTING PARTY fail to comply with the above monthly reporting, the DEPARTMENT may withhold reimbursement of federal funds for the PROJECT work until compliance is achieved.

21. In accordance with the ARRA, the following language is made a part of this contract and is to be made a part of all tier subcontracts or consultant contracts for work covered by this contract funded with funds appropriated or otherwise made available by the ARRA:

Pursuant to Section 1553 of the ARRA, all non-federal employers receiving ARRA funds, including the State of Michigan, all contractors and grantees of the State of Michigan, and all subcontractors and subgrantees, are prohibited from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of:

(1) gross mismanagement of a contract or grant relating to ARRA funds;
(2) a gross waste of ARRA funds;
(3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds;
(4) an abuse of authority related to the implementation or use of ARRA funds; or
(5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to ARRA funds.

Any employer receiving ARRA funds must post notice of the rights and remedies available to employees under Section 1553 of the ARRA.

22. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto and upon the adoption of the necessary resolutions approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CITY OF MUSKEGON

By______________________________
Title:

By______________________________
Title:

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By______________________________
Department Director MDOT

FORM APPROVED
6/11/09
ASSISTANT ATTORNEY GENERAL

REVIEWED
6-10-09
CONTRACT ADMIN

May 19, 2009

EXHIBIT I

CONTROL SECTION	ARUL 61407
JOB NUMBER	106547
PROJECT	ARRA 0961(138)

ESTIMATED COST

CONTRACTED WORK

	PART A	PART B	TOTAL
Estimated Cost	$957,300	$88,200	$1,045,500

COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	$957,300	$88,200	$1,045,500
Less Federal Funds*	$800,000	$ 0	$ 800,000
BALANCE (REQUESTING PARTY'S SHARE)	$157,300	$88,200	$ 245,500

*Federal Funds for the PART A portion of the PROJECT are limited to an amount as described in Section 5.

NO DEPOSIT

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

A. To qualify for eligible cost, all work shall be documented in accordance with the requirements and procedures of the DEPARTMENT.

B. All work on projects for which reimbursement with Federal funds is requested shall be performed in accordance with the requirements and guidelines set forth in the following Directives of the Federal-Aid Policy Guide (FAPG) of the FHWA, as applicable, and as referenced in pertinent sections of Title 23 and Title 49 of the Code of Federal Regulations (CFR), and all supplements and amendments thereto.

1. Engineering

   a. FAPG (6012.1): Preliminary Engineering

   b. FAPG (23 CFR 172): Administration of Engineering and Design Related Service Contracts

   c. FAPG (23 CFR 635A): Contract Procedures

   d. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments–Allowable Costs

2. Construction

   a. FAPG (23 CFR 140E): Administrative Settlement Costs-Contract Claims

   b. FAPG (23 CFR 140B): Construction Engineering Costs

   c. FAPG (23 CFR 17): Recordkeeping and Retention Requirements for Federal-Aid Highway Records of State Highway Agencies

   d. FAPG (23 CFR 635A): Contract Procedures

   e. FAPG (23 CFR 635B): Force Account Construction

   f. FAPG (23 CFR 645A): Utility Relocations, Adjustments and Reimbursement

   g. FAPG (23 CFR 645B): Accommodation of Utilities (PPM 30-4.1)

h. FAPG (23 CFR 655F): Traffic Control Devices on Federal-Aid and other Streets and Highways

i. FAPG (49 CFR 18.22):Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments--Allowable Costs

3. Modification Or Construction Of Railroad Facilities

a. FAPG (23 CFR 140I): Reimbursement for Railroad Work

b. FAPG (23 CFR 646B): Railroad Highway Projects

C. In conformance with FAPG (23 CFR 630C) Project Agreements, the political subdivisions party to this contract, on those Federally funded projects which exceed a total cost of $100,000.00 stipulate the following with respect to their specific jurisdictions:

1. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.

2. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.

3. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.

D. Ensure that the PROJECT is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless modified or deleted by approval of the FHWA.

E. All the requirements, guidelines, conditions and restrictions noted in all other pertinent Directives and Instructional Memoranda of the FHWA will apply to this contract and will be adhered to, as applicable, by the parties hereto.

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

A. The DEPARTMENT shall provide such administrative guidance as it determines is required by the PROJECT in order to facilitate the obtaining of available federal and/or state funds.

B. The DEPARTMENT will advertise and award all contracted portions of the PROJECT work. Prior to advertising of the PROJECT for receipt of bids, the REQUESTING PARTY may delete any portion or all of the PROJECT work. After receipt of bids for the PROJECT, the REQUESTING PARTY shall have the right to reject the amount bid for the PROJECT prior to the award of the contract for the PROJECT only if such amount exceeds by twenty percent (20%) the final engineer's estimate therefor. If such rejection of the bids is not received in writing within two (2) weeks after letting, the DEPARTMENT will assume concurrence. The DEPARTMENT may, upon request, readvertise the PROJECT. Should the REQUESTING PARTY so request in writing within the aforesaid two (2) week period after letting, the PROJECT will be cancelled and the DEPARTMENT will refund the unused balance of the deposit less all costs incurred by the DEPARTMENT.

C. The DEPARTMENT will perform such inspection services on PROJECT work performed by the REQUESTING PARTY with its own forces as is required to ensure compliance with the approved plans & specifications.

D. On those projects funded with Federal monies, the DEPARTMENT shall as may be required secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.

E. All work in connection with the PROJECT shall be performed in conformance with the Michigan Department of Transportation Standard Specifications for Construction, and the supplemental specifications, Special Provisions and plans pertaining to the PROJECT and all materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. No extra work shall be performed nor changes in plans and specifications made until said work or changes are approved by the project engineer and authorized by the DEPARTMENT.

F. Should it be necessary or desirable that portions of the work covered by this contract be accomplished by a consulting firm, a railway company, or governmental agency, firm, person, or corporation, under a subcontract with the REQUESTING PARTY at PROJECT expense, such subcontracted arrangements will be covered by formal written agreement between the REQUESTING PARTY and that party.

This formal written agreement shall: include a reference to the specific prime contract to which it pertains; include provisions which clearly set forth the maximum reimbursable and the basis of payment; provide for the maintenance of accounting records in accordance with generally accepted accounting principles, which clearly document the actual cost of the services provided; provide that costs eligible for reimbursement shall be in accordance with clearly defined cost criteria such as 49 CFR Part 18, 48 CFR Part 31, 23 CFR Part 140, OMB Circular A-87, etc. as applicable; provide for access to the department or its representatives to inspect and audit all data and records related to the agreement for a minimum of three years after the department's final payment to the local unit.

All such agreements will be submitted for approval by the DEPARTMENT and, if applicable, by the FHWA prior to execution thereof, except for agreements for amounts less than $25,000 for preliminary engineering and testing services executed under and in accordance with the provisions of the "Small Purchase Procedures" FAPG (23 CFR 172), which do not require prior approval of the DEPARTMENT or the FHWA.

Any such approval by the DEPARTMENT shall in no way be construed as a warranty of the subcontractor's qualifications, financial integrity, or ability to perform the work being subcontracted.

G. The REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, shall make such arrangements with railway companies, utilities, etc., as may be necessary for the performance of work required for the PROJECT but for which Federal or other reimbursement will not be requested.

H. The REQUESTING PARTY, at no cost to the PROJECT, or the DEPARTMENT, shall secure, as necessary, all agreements and approvals of the PROJECT with railway companies, the Railroad Safety & Tariffs Division of the DEPARTMENT and other concerned governmental agencies other than the FHWA, and will forward same to the DEPARTMENT for such reviews and approvals as may be required.

I. No PROJECT work for which reimbursement will be requested by the REQUESTING PARTY is to be subcontracted or performed until the DEPARTMENT gives written notification that such work may commence.

J. The REQUESTING PARTY shall be responsible for the payment of all costs and expenses incurred in the performance of the work it agrees to undertake and perform.

K. The REQUESTING PARTY shall pay directly to the party performing the work all billings for the services performed on the PROJECT which are authorized by or through the REQUESTING PARTY.

L. The REQUESTING PARTY shall submit to the DEPARTMENT all paid billings for which reimbursement is desired in accordance with DEPARTMENT procedures.

M. All work by a consulting firm will be performed in compliance with the applicable provisions of 1980 PA 299, Subsection 2001, MCL 339.2001; MSA 18.425(2001), as well as in accordance with the provisions of all previously cited Directives of the FHWA.

N. The project engineer shall be subject to such administrative guidance as may be deemed necessary to ensure compliance with program requirement and, in those instances where a consultant firm is retained to provide engineering and inspection services, the personnel performing those services shall be subject to the same conditions.

O. The DEPARTMENT, in administering the PROJECT in accordance with applicable Federal and State requirements and regulations, neither assumes nor becomes liable for any obligations undertaken or arising between the REQUESTING PARTY and any other party with respect to the PROJECT.

P. In the event it is determined by the DEPARTMENT that there will be either insufficient Federal funds or insufficient time to properly administer such funds for the entire PROJECT or portions thereof, the DEPARTMENT, prior to advertising or issuing authorization for work performance, may cancel the PROJECT, or any portion thereof, and upon written notice to the parties this contract shall be void and of no effect with respect to that cancelled portion of the PROJECT. Any PROJECT deposits previously made by the parties on the cancelled portions of the PROJECT will be promptly refunded.

Q. Those projects funded with Federal monies will be subject to inspection at all times by the DEPARTMENT and the FHWA.

SECTION III

ACCOUNTING AND BILLING

A. Procedures for billing for work undertaken by the REQUESTING PARTY:

1. The REQUESTING PARTY shall establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this contract, said records to be hereinafter referred to as the "RECORDS". Separate accounts shall be established and maintained for all costs incurred under this contract.

   The REQUESTING PARTY shall maintain the RECORDS for at least three (3) years from the date of final payment of Federal Aid made by the DEPARTMENT under this contract. In the event of a dispute with regard to the allowable expenses or any other issue under this contract, the REQUESTING PARTY shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

   The DEPARTMENT, or its representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.

   If any part of the work is subcontracted, the REQUESTING PARTY shall assure compliance with the above for all subcontracted work.

   In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported under this contract, or questions the allowability of an item of expense, the DEPARTMENT shall promptly submit to the REQUESTING PARTY, a Notice of Audit Results and a copy of the audit report which may supplement or modify any tentative findings verbally communicated to the REQUESTING PARTY at the completion of an audit.

   Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense and, (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate arrangements to conveniently and arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT shall make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the REQUESTING PARTY, the REQUESTING PARTY shall repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the REQUESTING PARTY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the REQUESTING PARTY agrees that the DEPARTMENT shall deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the REQUESTING PARTY under this contract or any other agreement, or payable to the REQUESTING PARTY under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The REQUESTING PARTY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT'S decision only as to any item of expense the disallowance of which was disputed by the REQUESTING PARTY in a timely filed RESPONSE.

The REQUESTING PARTY shall comply with the Single Audit Act of 1984, P.L. 98-502.

The REQUESTING PARTY shall adhere to the following requirements associated with audits of accounts and records:

a. Agencies expending a total of $500,000 or more in federal funds, from one or more funding sources in its fiscal year, shall comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

The agency shall submit two copies of:

The Reporting Package
The Data Collection Form
The management letter to the agency, if one issued by the audit firm

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

b. Agencies expending less than $300,000 in federal funds must submit a letter to the Department advising that a circular audit was not required. The letter shall indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the Department federal programs, and the CFDA grant number(s). This information must also be submitted to the address below.

c. Address: Michigan Department of Transportation
Bureau of Highways Technical Services
425 W. Ottawa, P.O. Box 30050
Lansing, MI 48909

d. Agencies must also comply with applicable State laws and regulations relative to audit requirements.

e. Agencies shall not charge audit costs to Department's federal programs which are not in accordance with the OMB Circular A-133 requirements.

f. All agencies are subject to the federally required monitoring activities, which may include limited scope reviews and other on-site monitoring.

2. Agreed Unit Prices Work - All billings for work undertaken by the REQUESTING PARTY on an agreed unit price basis will be submitted in accordance with the Michigan Department of Transportation Standard Specifications for Construction and pertinent FAPG Directives and Guidelines of the FHWA.

3. Force Account Work and Subcontracted Work - All billings submitted to the DEPARTMENT for Federal reimbursement for items of work performed on a force account basis or by any subcontract with a consulting firm, railway company, governmental agency or other party, under the terms of this contract, shall be prepared in accordance with the provisions of the pertinent FHPM Directives and the procedures of the DEPARTMENT. Progress billings may be submitted monthly during the time work is being performed provided, however, that no bill of a lesser amount than $1,000.00 shall be submitted unless it is a final or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number _______", or "Final Billing".

4. Final billing under this contract shall be submitted in a timely manner but not later than six months after completion of the work. Billings for work submitted later than six months after completion of the work will not be paid.

5. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with Federal monies, the DEPARTMENT will act as billing agent for the REQUESTING PARTY, consolidating said billings with those for its own force account work and presenting these consolidated billings to the FHWA for payment. Upon receipt of reimbursement from the FHWA, the DEPARTMENT will promptly forward to the REQUESTING PARTY its share of said reimbursement.

6. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with non-Federal monies, the DEPARTMENT will promptly forward to the REQUESTING PARTY reimbursement of eligible costs.

B. Payment of Contracted and DEPARTMENT Costs:

1. As work on the PROJECT commences, the initial payments for contracted work and/or costs incurred by the DEPARTMENT will be made from the working capital deposit. Receipt of progress payments of Federal funds, and where applicable, State Critical Bridge funds, will be used to replenish the working capital deposit. The REQUESTING PARTY shall make prompt payments of its share of the contracted and/or DEPARTMENT incurred portion of the PROJECT COST upon receipt of progress billings from the DEPARTMENT. Progress billings will be based upon the REQUESTING PARTY'S share of the actual costs incurred as work on the PROJECT progresses and will be submitted, as required, until it is determined by the DEPARTMENT that there is sufficient available working capital to meet the remaining anticipated PROJECT COSTS. All progress payments will be made within thirty (30) days of receipt of billings. No monthly billing of a lesser amount than $1,000.00 will be made unless it is a final or end of fiscal year billing. Should the DEPARTMENT determine that the available working capital exceeds the remaining anticipated PROJECT COSTS, the DEPARTMENT may reimburse the REQUESTING PARTY such excess. Upon completion of the PROJECT, payment of all PROJECT COSTS, receipt of all applicable monies from the FHWA, and completion of necessary audits, the REQUESTING PARTY will be reimbursed the balance of its deposit.

2. In the event that the bid, plus contingencies, for the contracted, and/or the DEPARTMENT incurred portion of the PROJECT work exceeds the estimated cost therefor as established by this contract, the REQUESTING PARTY may be advised and billed for the additional amount of its share.

C. General Conditions:

1. The DEPARTMENT, in accordance with its procedures in existence and covering the time period involved, shall make payment for interest earned on the balance of working capital deposits for all projects on account with the DEPARTMENT. The REQUESTING PARTY in accordance with DEPARTMENT procedures in existence and covering the time period involved, shall make payment for interest owed on any deficit balance of working capital deposits for all projects on account with the DEPARTMENT. This payment or billing is processed on an annual basis corresponding to the State of Michigan fiscal year. Upon receipt of billing for interest incurred, the REQUESTING PARTY promises and shall promptly pay the DEPARTMENT said amount.

2. Pursuant to the authority granted by law, the REQUESTING PARTY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its obligations as specified in PART I and PART II. If the REQUESTING PARTY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the REQUESTING PARTY and the State Treasurer of the State of Michigan or such other state officer or agency having charge and control over disbursement of the Michigan Transportation Fund, pursuant to law, of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, said State Treasurer or other state officer or agency is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the REQUESTING PARTY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the REQUESTING PARTY with payment thereof, and to notify the REQUESTING PARTY in writing of such fact.

3. Upon completion of all work under this contract and final audit by the DEPARTMENT or the FHWA, the REQUESTING PARTY promises to promptly repay the DEPARTMENT for any disallowed items of costs previously disbursed by the DEPARTMENT. The REQUESTING PARTY pledges its future receipts from the Michigan Transportation Fund for repayment of all disallowed items and, upon failure to make repayment for any disallowed items within ninety (90) days of demand made by the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold an equal amount from the REQUESTING PARTY'S share of any future distribution of Michigan Transportation Funds in settlement of said claim.

4. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT and upon completion of the PROJECT, payment of all items of PROJECT COST, receipt of all Federal Aid, if any, and completion of final audit by the DEPARTMENT and if applicable, by the FHWA, shall make final accounting to the REQUESTING PARTY. The final PROJECT accounting will not include interest earned or charged on working capital deposited for the PROJECT which will be accounted for separately at the close of the State of Michigan fiscal year and as set forth in Section C(1).

5. The costs of engineering and other services performed on those projects involving specific program funds and one hundred percent (100%) local funds will be apportioned to the respective portions of that project in the same ratio as the actual direct construction costs unless otherwise specified in PART I.

SECTION IV

MAINTENANCE AND OPERATION

A. Upon completion of construction of each part of the PROJECT, at no cost to the DEPARTMENT or the PROJECT, each of the parties hereto, within their respective jurisdictions, will make the following provisions for the maintenance and operation of the completed PROJECT:

1. All Projects:

   Properly maintain and operate each part of the project, making ample provisions each year for the performance of such maintenance work as may be required, except as qualified in paragraph 2b of this section.

2. Projects Financed in Part with Federal Monies:

   a. Sign and mark each part of the PROJECT, in accordance with the current Michigan Manual of Uniform Traffic control Devices, and will not install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the FHWA, pursuant to 23 USC 109(d).

   b. Remove, prior to completion of the PROJECT, all encroachments from the roadway right-of-way within the limits of each part of the PROJECT.

      With respect to new or existing utility installations within the right-of-way of Federal Aid projects and pursuant to FAPG (23 CFR 645B): Occupancy of non-limited access right-of-way may be allowed based on consideration for traffic safety and necessary preservation of roadside space and aesthetic quality. Longitudinal occupancy of non-limited access right-of-way by private lines will require a finding of significant economic hardship, the unavailability of practicable alternatives or other extenuating circumstances.

   c. Cause to be enacted, maintained and enforced, ordinances and regulations for proper traffic operations in accordance with the plans of the PROJECT.

   d. Make no changes to ordinances or regulations enacted, or traffic controls installed in conjunction with the PROJECT work without prior review by the DEPARTMENT and approval of the FHWA, if required.

B. On projects for the removal of roadside obstacles, the parties, upon completion of construction of each part of the PROJECT, at no cost to the PROJECT or the DEPARTMENT, will, within their respective jurisdictions, take such action as is necessary to assure that the roadway right-of-way, cleared as the PROJECT, will be maintained free of such obstacles.

C. On projects for the construction of bikeways, the parties will enact no ordinances or regulations prohibiting the use of bicycles on the facility hereinbefore described as the PROJECT, and will amend any existing restrictive ordinances in this regard so as to allow use of this facility by bicycles. No motorized vehicles shall be permitted on such bikeways or walkways constructed as the PROJECT except those for maintenance purposes.

D. Failure of the parties hereto to fulfill their respective responsibilities as outlined herein may disqualify that party from future Federal-aid participation in projects on roads or streets for which it has maintenance responsibility. Federal Aid may be withheld until such time as deficiencies in regulations have been corrected, and the improvements constructed as the PROJECT are brought to a satisfactory condition of maintenance.

SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

A. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the acquisition of right-of-way must be under construction by the close of the twentieth (20th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that right-of-way.

B. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the performance of preliminary engineering must be under construction by the close of the tenth (10th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that preliminary engineering.

C. On those projects funded with Federal monies, the REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, will provide such accident information as is available and such other information as may be required under the program in order to make the proper assessment of the safety benefits derived from the work performed as the PROJECT. The REQUESTING PARTY will cooperate with the DEPARTMENT in the development of reports and such analysis as may be required and will, when requested by the DEPARTMENT, forward to the DEPARTMENT, in such form as is necessary, the required information.

D. In connection with the performance of PROJECT work under this contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.

E. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.

2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.

3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.

6. The contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.

7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.

9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

March, 1998

APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or

   (b) Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

Assurance that Recipients and Contractors Must Make (Excerpts from US DOT Regulation 49 CFR 26.13)

A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:

> The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

> The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Date: June 23, 2009

To: Honorable Mayor and City Commissioners

From: Engineering

RE: City – MDOT Agreement for the reconstruction of: Park/Seventh from Southern to Houston

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SUMMARY OF REQUEST:

Approve the attached contract with MDOT for the reconstruction of Park/Seventh between Southern & Houston and approve the attached resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT:

MDOT's participation is caped at the federal funds limits of $240,000. The estimated total construction cost is $866,600 (street, water & sewer).

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

Approve the attached contract and resolution and authorizing the mayor & clerk to sign both.

COMMITTEE RECOMMENDATION:

RESOLUTION__________

RESOLUTION FOR APPROVAL OF A CONTRACT AGREEMENT BETWEEN THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND THE CITY OF MUSKEGON FOR THE RECONSTRUCTION OF PARK/SEVENTH STREET BETWEEN SOUTHERN AVENUE & HOUSTON, TOGETHER WITH OTHER NECESSARY RELATED WORK ITEMS AND AUTHORIZATION FOR MAYOR STEPHEN J. WARMINGTON AND CITY CLERK ANN BECKER TO EXECUTE SAID CONTRACT

Moved by____________________________________and supported by

Commissioner__________________________that the following Resolution be adopted:

WHEREAS, entry by the City of Muskegon into Contract no. **09-5252** between the Michigan Department of Transportation and the City of Muskegon for the **reconstruction of Park/Seventh between Southern & Houston.** within the City is in the best interests of the City of Muskegon.

RESOLVED, that entry by the City into Contract Agreement Number **09-5252** be and the same is hereby authorized and approved and the Mayor and Clerk are authorized to execute said contract for and on behalf of the City of Muskegon.

Adopted this____________day of____________, 2009.

BY

____
Stephen J. Warmington, Mayor

ATTEST

____
Ann Becker, City Clerk

CERTIFICATION

This resolution was adopted at a meeting of the City Commission, held on ____________, **2009**. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By____________________________
Ann Becker, City Clerk

STP

DAB

Control Section	STUL 61407
Job Number	104251
Project	STP 0961(137)
Federal Item No.	HH 5922
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	09-5252

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of ______________________, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF MUSKEGON, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Muskegon, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated May 20, 2009, attached hereto and made a part hereof:

PART A – FEDERAL PARTICIPATION
Reconstruction work along Park Street from Southern Street to 7th Street and along 7th Street from Park Street to Houston Street; including pavement removal, drainage structure adjustments, and hot mix asphalt paving work; and all together with necessary related work.

PART B – NO FEDERAL PARTICIPATION
Sanitary sewer and watermain work along Park Street from Southern Street to 7th Street and along 7th Street from Park Street to Houston Street; and all together with necessary related work.

WITNESSETH:

WHEREAS, pursuant to Federal law, monies have been provided for the performance of certain improvements on public roads; and

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT, or portions of the PROJECT, at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal program(s) or funding:

SURFACE TRANSPORTATION PROGRAM

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT, including any other costs incurred by the DEPARTMENT as a result of this contract, except construction engineering and inspection.

No charges will be made by the DEPARTMENT to the PROJECT for any inspection work or construction engineering.

The costs incurred by the REQUESTING PARTY for preliminary engineering, construction engineering, construction materials testing, inspection, and right-of-way are excluded from the PROJECT COST as defined by this contract.

3. The DEPARTMENT is authorized by the REQUESTING PARTY to administer on behalf of the REQUESTING PARTY all phases of the PROJECT, including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT. Such administration shall be in accordance with PART II, Section II of this contract.

Any items of the PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

4. The REQUESTING PARTY, at no cost to the PROJECT or to the DEPARTMENT, shall:

A. Design or cause to be designed the plans for the PROJECT.

B. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.

C. Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PROJECT.

The REQUESTING PARTY will furnish the DEPARTMENT proposed timing sequences for trunkline signals that, if any, are being made part of the improvement. No timing adjustments shall be made by the REQUESTING PARTY at any trunkline intersection, without prior issuances by the DEPARTMENT of Standard Traffic Signal Timing Permits.

5. The PROJECT COST shall be met in accordance with the following:

PART A
Federal Surface Transportation Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST up to the lesser of: (1) $240,000, or (2) an amount such that 81.85 percent, the normal Federal participation ratio for such funds, for the PART A portion of the PROJECT is not exceeded at the time of the award of the construction contract. The balance of the PART A portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART B
The PART B portion of the PROJECT COST is not eligible for Federal participation and shall be charged to and paid 100 percent by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Any items of PROJECT COST not reimbursed by Federal Funds will be the sole responsibility of the REQUESTING PARTY.

6. No working capital deposit will be required for this PROJECT.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 30 days of receipt of billings from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less Federal Funds earned as the PROJECT progresses.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

7. At such time as traffic volumes and safety requirements warrant, the REQUESTING PARTY will cause to be enacted and enforced such ordinances as may be necessary to prohibit parking in the traveled roadway throughout the limits of the PROJECT.

8. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

9. The REQUESTING PARTY certifies that a) it is a person under 1995 PA 71 and is not aware of and has no reason to believe that the property is a facility as defined in MSA

13A.20101(1)(l); b) the REQUESTING PARTY further certifies that it has completed the tasks required by MCL 324.20126 (3)(h); MSA 13A.20126(3)(h); c) it conducted a visual inspection of property within the existing right of way on which construction is to be performed to determine if any hazardous substances were present; and at sites on which historically were located businesses that involved hazardous substances, it performed a reasonable investigation to determine whether hazardous substances exist. This reasonable investigation should include, at a minimum, contact with local, state and federal environmental agencies to determine if the site has been identified as, or potentially as, a site containing hazardous substances; d) it did not cause or contribute to the release or threat of release of any hazardous substance found within the PROJECT limits.

The REQUESTING PARTY also certifies that, in addition to reporting the presence of any hazardous substances to the Department of Environmental Quality, it has advised the DEPARTMENT of the presence of any and all hazardous substances which the REQUESTING PARTY found within the PROJECT limits, as a result of performing the investigation and visual inspection required herein. The REQUESTING PARTY also certifies that it has been unable to identify any entity who may be liable for the cost of remediation. As a result, the REQUESTING PARTY has included all estimated costs of remediation of such hazardous substances in its estimated cost of construction of the PROJECT.

10. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

11. If federal and/or state funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Department of Environmental Quality and the DEPARTMENT, shall make a diligent effort to recover such costs from all other possible entities. If recovery is made, the DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the amount paid by the FHWA and/or the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

12. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the Federal Highway Administration pursuant to Title 23 of the United States Code.

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT or its agents pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT or its agents shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT or its agents is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT or its agents does not relieve the REQUESTING PARTY and the local agencies, as applicable of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402, MSA 3.996(102).

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT or its agents is performing a governmental function, as that term is defined in MCL 691.1401; MSA 3.996(101), which is incidental to the completion of the PROJECT.

13. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402; MSA 3.996(102). Exclusive jurisdiction of such highway for the purposes of MCL 691.1402; MSA 3.996(102) rests with the REQUESTING PARTY and other local agencies having respective jurisdiction.

14. The REQUESTING PARTY shall approve all of the plans and specifications to be used on the PROJECT and shall be deemed to have approved all changes to the plans and specifications when put into effect. It is agreed that ultimate responsibility and control over the PROJECT rests with the REQUESTING PARTY and local agencies, as applicable.

15. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

16. The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the construction contract for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

17. The DEPARTMENT shall require the contractor who is awarded the contract for the construction of the PROJECT to provide insurance in the amounts specified and in accordance with the DEPARTMENT'S current Standard Specifications for Construction and to:

A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.

B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission, or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owner's protective liability insurance policy.

C. Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current standard specifications for construction and to provide, upon request, copies of notices and reports prepared to those insured.

18. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto and upon the adoption of the necessary resolutions approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CITY OF MUSKEGON

By______________________________
Title:

By______________________________
Title:

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By______________________________
Department Director MDOT

WCS
REVIEWED
6-16-09
CONTRACT ADMIN

FORM APPROVED
6/11/09
ASSISTANT
ATTORNEY
GENERAL

May 20, 2009

EXHIBIT I

CONTROL SECTION	STUL 61407
JOB NUMBER	104251
PROJECT	STP 0961(137)

ESTIMATED COST

CONTRACTED WORK

	PART A	PART B	TOTAL
Estimated Cost	$514,500	$352,100	$866,600

COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	$514,500	$352,100	$866,600
Less Federal Funds*	$240,000	$ 0	$240,000
BALANCE (REQUESTING PARTY'S SHARE)	$274,500	$352,100	$626,600

*Federal Funds for the PART A portion of the PROJECT are limited to an amount as described in Section 5.

NO DEPOSIT

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

A. To qualify for eligible cost, all work shall be documented in accordance with the requirements and procedures of the DEPARTMENT.

B. All work on projects for which reimbursement with Federal funds is requested shall be performed in accordance with the requirements and guidelines set forth in the following Directives of the Federal-Aid Policy Guide (FAPG) of the FHWA, as applicable, and as referenced in pertinent sections of Title 23 and Title 49 of the Code of Federal Regulations (CFR), and all supplements and amendments thereto.

1. Engineering

    a. FAPG (6012.1): Preliminary Engineering

    b. FAPG (23 CFR 172): Administration of Engineering and Design Related Service Contracts

    c. FAPG (23 CFR 635A): Contract Procedures

    d. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments–Allowable Costs

2. Construction

    a. FAPG (23 CFR 140E): Administrative Settlement Costs-Contract Claims

    b. FAPG (23 CFR 140B): Construction Engineering Costs

    c. FAPG (23 CFR 17): Recordkeeping and Retention Requirements for Federal-Aid Highway Records of State Highway Agencies

    d. FAPG (23 CFR 635A): Contract Procedures

    e. FAPG (23 CFR 635B): Force Account Construction

    f. FAPG (23 CFR 645A): Utility Relocations, Adjustments and Reimbursement

    g. FAPG (23 CFR 645B): Accommodation of Utilities (PPM 30-4.1)

h. FAPG (23 CFR 655F): Traffic Control Devices on Federal-Aid and other Streets and Highways

i. FAPG (49 CFR 18.22):Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments--Allowable Costs

3. Modification Or Construction Of Railroad Facilities

a. FAPG (23 CFR 140I): Reimbursement for Railroad Work

b. FAPG (23 CFR 646B): Railroad Highway Projects

C. In conformance with FAPG (23 CFR 630C) Project Agreements, the political subdivisions party to this contract, on those Federally funded projects which exceed a total cost of $100,000.00 stipulate the following with respect to their specific jurisdictions:

1. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.

2. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.

3. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.

D. Ensure that the PROJECT is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless modified or deleted by approval of the FHWA.

E. All the requirements, guidelines, conditions and restrictions noted in all other pertinent Directives and Instructional Memoranda of the FHWA will apply to this contract and will be adhered to, as applicable, by the parties hereto.

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

A. The DEPARTMENT shall provide such administrative guidance as it determines is required by the PROJECT in order to facilitate the obtaining of available federal and/or state funds.

B. The DEPARTMENT will advertise and award all contracted portions of the PROJECT work. Prior to advertising of the PROJECT for receipt of bids, the REQUESTING PARTY may delete any portion or all of the PROJECT work. After receipt of bids for the PROJECT, the REQUESTING PARTY shall have the right to reject the amount bid for the PROJECT prior to the award of the contract for the PROJECT only if such amount exceeds by twenty percent (20%) the final engineer's estimate therefor. If such rejection of the bids is not received in writing within two (2) weeks after letting, the DEPARTMENT will assume concurrence. The DEPARTMENT may, upon request, readvertise the PROJECT. Should the REQUESTING PARTY so request in writing within the aforesaid two (2) week period after letting, the PROJECT will be cancelled and the DEPARTMENT will refund the unused balance of the deposit less all costs incurred by the DEPARTMENT.

C. The DEPARTMENT will perform such inspection services on PROJECT work performed by the REQUESTING PARTY with its own forces as is required to ensure compliance with the approved plans & specifications.

D. On those projects funded with Federal monies, the DEPARTMENT shall as may be required secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.

E. All work in connection with the PROJECT shall be performed in conformance with the Michigan Department of Transportation Standard Specifications for Construction, and the supplemental specifications, Special Provisions and plans pertaining to the PROJECT and all materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. No extra work shall be performed nor changes in plans and specifications made until said work or changes are approved by the project engineer and authorized by the DEPARTMENT.

F. Should it be necessary or desirable that portions of the work covered by this contract be accomplished by a consulting firm, a railway company, or governmental agency, firm, person, or corporation, under a subcontract with the REQUESTING PARTY at PROJECT expense, such subcontracted arrangements will be covered by formal written agreement between the REQUESTING PARTY and that party.

This formal written agreement shall: include a reference to the specific prime contract to which it pertains; include provisions which clearly set forth the maximum reimbursable and the basis of payment; provide for the maintenance of accounting records in accordance with generally accepted accounting principles, which clearly document the actual cost of the services provided; provide that costs eligible for reimbursement shall be in accordance with clearly defined cost criteria such as 49 CFR Part 18, 48 CFR Part 31, 23 CFR Part 140, OMB Circular A-87, etc. as applicable; provide for access to the department or its representatives to inspect and audit all data and records related to the agreement for a minimum of three years after the department's final payment to the local unit.

All such agreements will be submitted for approval by the DEPARTMENT and, if applicable, by the FHWA prior to execution thereof, except for agreements for amounts less than $25,000 for preliminary engineering and testing services executed under and in accordance with the provisions of the "Small Purchase Procedures" FAPG (23 CFR 172), which do not require prior approval of the DEPARTMENT or the FHWA.

Any such approval by the DEPARTMENT shall in no way be construed as a warranty of the subcontractor's qualifications, financial integrity, or ability to perform the work being subcontracted.

G. The REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, shall make such arrangements with railway companies, utilities, etc., as may be necessary for the performance of work required for the PROJECT but for which Federal or other reimbursement will not be requested.

H. The REQUESTING PARTY, at no cost to the PROJECT, or the DEPARTMENT, shall secure, as necessary, all agreements and approvals of the PROJECT with railway companies, the Railroad Safety & Tariffs Division of the DEPARTMENT and other concerned governmental agencies other than the FHWA, and will forward same to the DEPARTMENT for such reviews and approvals as may be required.

I. No PROJECT work for which reimbursement will be requested by the REQUESTING PARTY is to be subcontracted or performed until the DEPARTMENT gives written notification that such work may commence.

J. The REQUESTING PARTY shall be responsible for the payment of all costs and expenses incurred in the performance of the work it agrees to undertake and perform.

K. The REQUESTING PARTY shall pay directly to the party performing the work all billings for the services performed on the PROJECT which are authorized by or through the REQUESTING PARTY.

L. The REQUESTING PARTY shall submit to the DEPARTMENT all paid billings for which reimbursement is desired in accordance with DEPARTMENT procedures.

M. All work by a consulting firm will be performed in compliance with the applicable provisions of 1980 PA 299, Subsection 2001, MCL 339.2001; MSA 18.425(2001), as well as in accordance with the provisions of all previously cited Directives of the FHWA.

N. The project engineer shall be subject to such administrative guidance as may be deemed necessary to ensure compliance with program requirement and, in those instances where a consultant firm is retained to provide engineering and inspection services, the personnel performing those services shall be subject to the same conditions.

O. The DEPARTMENT, in administering the PROJECT in accordance with applicable Federal and State requirements and regulations, neither assumes nor becomes liable for any obligations undertaken or arising between the REQUESTING PARTY and any other party with respect to the PROJECT.

P. In the event it is determined by the DEPARTMENT that there will be either insufficient Federal funds or insufficient time to properly administer such funds for the entire PROJECT or portions thereof, the DEPARTMENT, prior to advertising or issuing authorization for work performance, may cancel the PROJECT, or any portion thereof, and upon written notice to the parties this contract shall be void and of no effect with respect to that cancelled portion of the PROJECT. Any PROJECT deposits previously made by the parties on the cancelled portions of the PROJECT will be promptly refunded.

Q. Those projects funded with Federal monies will be subject to inspection at all times by the DEPARTMENT and the FHWA.

SECTION III

ACCOUNTING AND BILLING

A. Procedures for billing for work undertaken by the REQUESTING PARTY:

1. The REQUESTING PARTY shall establish and maintain accurate records. in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this contract, said records to be hereinafter referred to as the "RECORDS". Separate accounts shall be established and maintained for all costs incurred under this contract.

The REQUESTING PARTY shall maintain the RECORDS for at least three (3) years from the date of final payment of Federal Aid made by the DEPARTMENT under this contract. In the event of a dispute with regard to the allowable expenses or any other issue under this contract, the REQUESTING PARTY shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

The DEPARTMENT, or its representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.

If any part of the work is subcontracted, the REQUESTING PARTY shall assure compliance with the above for all subcontracted work.

In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported under this contract, or questions the allowability of an item of expense, the DEPARTMENT shall promptly submit to the REQUESTING PARTY, a Notice of Audit Results and a copy of the audit report which may supplement or modify any tentative findings verbally communicated to the REQUESTING PARTY at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense and, (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate arrangements to conveniently and arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT shall make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the REQUESTING PARTY, the REQUESTING PARTY shall repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the REQUESTING PARTY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the REQUESTING PARTY agrees that the DEPARTMENT shall deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the REQUESTING PARTY under this contract or any other agreement, or payable to the REQUESTING PARTY under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The REQUESTING PARTY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT'S decision only as to any item of expense the disallowance of which was disputed by the REQUESTING PARTY in a timely filed RESPONSE.

The REQUESTING PARTY shall comply with the Single Audit Act of 1984, P.L. 98-502.

The REQUESTING PARTY shall adhere to the following requirements associated with audits of accounts and records:

a. Agencies expending a total of $500,000 or more in federal funds, from one or more funding sources in its fiscal year, shall comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

The agency shall submit two copies of:

The Reporting Package
The Data Collection Form
The management letter to the agency, if one issued by the audit firm

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

b. Agencies expending less than $300,000 in federal funds must submit a letter to the Department advising that a circular audit was not required. The letter shall indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the Department federal programs, and the CFDA grant number(s). This information must also be submitted to the address below.

c. Address: Michigan Department of Transportation
Bureau of Highways Technical Services
425 W. Ottawa, P.O. Box 30050
Lansing, MI 48909

d. Agencies must also comply with applicable State laws and regulations relative to audit requirements.

e. Agencies shall not charge audit costs to Department's federal programs which are not in accordance with the OMB Circular A-133 requirements.

f. All agencies are subject to the federally required monitoring activities, which may include limited scope reviews and other on-site monitoring.

2. Agreed Unit Prices Work - All billings for work undertaken by the REQUESTING PARTY on an agreed unit price basis will be submitted in accordance with the Michigan Department of Transportation Standard Specifications for Construction and pertinent FAPG Directives and Guidelines of the FHWA.

3. Force Account Work and Subcontracted Work - All billings submitted to the DEPARTMENT for Federal reimbursement for items of work performed on a force account basis or by any subcontract with a consulting firm, railway company, governmental agency or other party, under the terms of this contract, shall be prepared in accordance with the provisions of the pertinent FHPM Directives and the procedures of the DEPARTMENT. Progress billings may be submitted monthly during the time work is being performed provided, however, that no bill of a lesser amount than $1,000.00 shall be submitted unless it is a final or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number _______", or "Final Billing".

4. Final billing under this contract shall be submitted in a timely manner but not later than six months after completion of the work. Billings for work submitted later than six months after completion of the work will not be paid.

5. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with Federal monies, the DEPARTMENT will act as billing agent for the REQUESTING PARTY, consolidating said billings with those for its own force account work and presenting these consolidated billings to the FHWA for payment. Upon receipt of reimbursement from the FHWA, the DEPARTMENT will promptly forward to the REQUESTING PARTY its share of said reimbursement.

6. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with non-Federal monies, the DEPARTMENT will promptly forward to the REQUESTING PARTY reimbursement of eligible costs.

B. Payment of Contracted and DEPARTMENT Costs:

1. As work on the PROJECT commences, the initial payments for contracted work and/or costs incurred by the DEPARTMENT will be made from the working capital deposit. Receipt of progress payments of Federal funds, and where applicable, State Critical Bridge funds, will be used to replenish the working capital deposit. The REQUESTING PARTY shall make prompt payments of its share of the contracted and/or DEPARTMENT incurred portion of the PROJECT COST upon receipt of progress billings from the DEPARTMENT. Progress billings will be based upon the REQUESTING PARTY'S share of the actual costs incurred as work on the PROJECT progresses and will be submitted, as required, until it is determined by the DEPARTMENT that there is sufficient available working capital to meet the remaining anticipated PROJECT COSTS. All progress payments will be made within thirty (30) days of receipt of billings. No monthly billing of a lesser amount than $1,000.00 will be made unless it is a final or end of fiscal year billing. Should the DEPARTMENT determine that the available working capital exceeds the remaining anticipated PROJECT COSTS, the DEPARTMENT may reimburse the REQUESTING PARTY such excess. Upon completion of the PROJECT, payment of all PROJECT COSTS, receipt of all applicable monies from the FHWA, and completion of necessary audits, the REQUESTING PARTY will be reimbursed the balance of its deposit.

2. In the event that the bid, plus contingencies, for the contracted. and/or the DEPARTMENT incurred portion of the PROJECT work exceeds the estimated cost therefor as established by this contract, the REQUESTING PARTY may be advised and billed for the additional amount of its share.

C. General Conditions:

1. The DEPARTMENT, in accordance with its procedures in existence and covering the time period involved, shall make payment for interest earned on the balance of working capital deposits for all projects on account with the DEPARTMENT. The REQUESTING PARTY in accordance with DEPARTMENT procedures in existence and covering the time period involved, shall make payment for interest owed on any deficit balance of working capital deposits for all projects on account with the DEPARTMENT. This payment or billing is processed on an annual basis corresponding to the State of Michigan fiscal year. Upon receipt of billing for interest incurred, the REQUESTING PARTY promises and shall promptly pay the DEPARTMENT said amount.

2. Pursuant to the authority granted by law, the REQUESTING PARTY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its obligations as specified in PART I and PART II. If the REQUESTING PARTY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the REQUESTING PARTY and the State Treasurer of the State of Michigan or such other state officer or agency having charge and control over disbursement of the Michigan Transportation Fund, pursuant to law, of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, said State Treasurer or other state officer or agency is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the REQUESTING PARTY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the REQUESTING PARTY with payment thereof, and to notify the REQUESTING PARTY in writing of such fact.

3. Upon completion of all work under this contract and final audit by the DEPARTMENT or the FHWA, the REQUESTING PARTY promises to promptly repay the DEPARTMENT for any disallowed items of costs previously disbursed by the DEPARTMENT. The REQUESTING PARTY pledges its future receipts from the Michigan Transportation Fund for repayment of all disallowed items and, upon failure to make repayment for any disallowed items within ninety (90) days of demand made by the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold an equal amount from the REQUESTING PARTY'S share of any future distribution of Michigan Transportation Funds in settlement of said claim.

4. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT and upon completion of the PROJECT, payment of all items of PROJECT COST, receipt of all Federal Aid, if any, and completion of final audit by the DEPARTMENT and if applicable, by the FHWA, shall make final accounting to the REQUESTING PARTY. The final PROJECT accounting will not include interest earned or charged on working capital deposited for the PROJECT which will be accounted for separately at the close of the State of Michigan fiscal year and as set forth in Section C(1).

5. The costs of engineering and other services performed on those projects involving specific program funds and one hundred percent (100%) local funds will be apportioned to the respective portions of that project in the same ratio as the actual direct construction costs unless otherwise specified in PART I.

SECTION IV

MAINTENANCE AND OPERATION

A. Upon completion of construction of each part of the PROJECT, at no cost to the DEPARTMENT or the PROJECT, each of the parties hereto, within their respective jurisdictions, will make the following provisions for the maintenance and operation of the completed PROJECT:

1. All Projects:

   Properly maintain and operate each part of the project, making ample provisions each year for the performance of such maintenance work as may be required, except as qualified in paragraph 2b of this section.

2. Projects Financed in Part with Federal Monies:

   a. Sign and mark each part of the PROJECT, in accordance with the current Michigan Manual of Uniform Traffic control Devices, and will not install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the FHWA, pursuant to 23 USC 109(d).

   b. Remove, prior to completion of the PROJECT, all encroachments from the roadway right-of-way within the limits of each part of the PROJECT.

      With respect to new or existing utility installations within the right-of-way of Federal Aid projects and pursuant to FAPG (23 CFR 645B): Occupancy of non-limited access right-of-way may be allowed based on consideration for traffic safety and necessary preservation of roadside space and aesthetic quality. Longitudinal occupancy of non-limited access right-of-way by private lines will require a finding of significant economic hardship, the unavailability of practicable alternatives or other extenuating circumstances.

   c. Cause to be enacted, maintained and enforced, ordinances and regulations for proper traffic operations in accordance with the plans of the PROJECT.

   d. Make no changes to ordinances or regulations enacted, or traffic controls installed in conjunction with the PROJECT work without prior review by the DEPARTMENT and approval of the FHWA, if required.

B. On projects for the removal of roadside obstacles, the parties, upon completion of construction of each part of the PROJECT, at no cost to the PROJECT or the DEPARTMENT, will, within their respective jurisdictions, take such action as is necessary to assure that the roadway right-of-way, cleared as the PROJECT, will be maintained free of such obstacles.

C. On projects for the construction of bikeways, the parties will enact no ordinances or regulations prohibiting the use of bicycles on the facility hereinbefore described as the PROJECT, and will amend any existing restrictive ordinances in this regard so as to allow use of this facility by bicycles. No motorized vehicles shall be permitted on such bikeways or walkways constructed as the PROJECT except those for maintenance purposes.

D. Failure of the parties hereto to fulfill their respective responsibilities as outlined herein may disqualify that party from future Federal-aid participation in projects on roads or streets for which it has maintenance responsibility. Federal Aid may be withheld until such time as deficiencies in regulations have been corrected, and the improvements constructed as the PROJECT are brought to a satisfactory condition of maintenance.

SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

A. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the acquisition of right-of-way must be under construction by the close of the twentieth (20th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that right-of-way.

B. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the performance of preliminary engineering must be under construction by the close of the tenth (10th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that preliminary engineering.

C. On those projects funded with Federal monies, the REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, will provide such accident information as is available and such other information as may be required under the program in order to make the proper assessment of the safety benefits derived from the work performed as the PROJECT. The REQUESTING PARTY will cooperate with the DEPARTMENT in the development of reports and such analysis as may be required and will, when requested by the DEPARTMENT, forward to the DEPARTMENT, in such form as is necessary, the required information.

D. In connection with the performance of PROJECT work under this contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.

E. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.

2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.

3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.

6. The contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.

7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.

9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

March, 1998

APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or

   (b) Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

Assurance that Recipients and Contractors Must Make
(Excerpts from US DOT Regulation 49 CFR 26.13)

A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:

> **The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).**

B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

> **The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.**

Commission Meeting Date: June 23, 2009

Date:	**June 15, 2009**
To:	**Honorable Mayor & City Commission**
From:	**Planning & Economic Development Department**
RE:	**Termination of Restrictive Covenant.**

SUMMARY OF REQUEST:

To deny the request to Terminate the Restrictive Covenants for 1469/1470 Lakeshore Drive. The City did not place the covenant on the property. The current owner had placed the covenant on the property in order to preserve the view of the Lake from the home at 1469 Lakeshore Dr. The owner included the City in the enforcement of the covenant. The owner would like to have the covenant removed as both properties are for sale and the prospective purchaser does not want to purchase the properties with the covenant in place. The property at 1470 Lakeshore is a buildable lot based on the zoning ordinance.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To deny the request to terminate the restrictive covenant and to authorize both the Mayor and the Clerk to sign the documents that meet the approval of the City Attorney.

COMMITTEE RECOMMENDATION:

None

Resolution No. ______

MUSKEGON CITY COMMISSION

RESOLUTION DENYING THE TERMINATION OF THE RESTRICT COVENANTS FOR 1469/1470 LAKESHORE DRIVE.

WHEREAS, Helen J. Arntz placed a restrictive covenant on the properties at 1469 and 1470 Lakeshore Drive; and

WHEREAS, Helen J. Arntz included the City as part of the enforcement of the covenant; and

WHEREAS, the covenant has restrictions in that the property will remain unimproved and no building or structures shall be built thereon; and

NOW THEREFORE BE IT RESOLVED, that the City Commission deny the termination of the restrict covenants for 1469/1470 Lakeshore Drive.

Liber 3633 Page 117

Adopted this 23rd day of June, 2009

Ayes:

Nays:

Absent

By: ______________________
Stephen J. Warmington
Mayor

Attest: ______________________
Ann Marie Becker, MMC
City Clerk

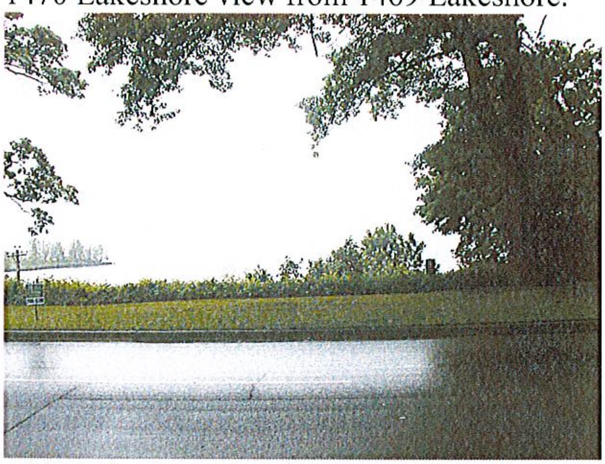
CERTIFICATION

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 June 23, 2009.

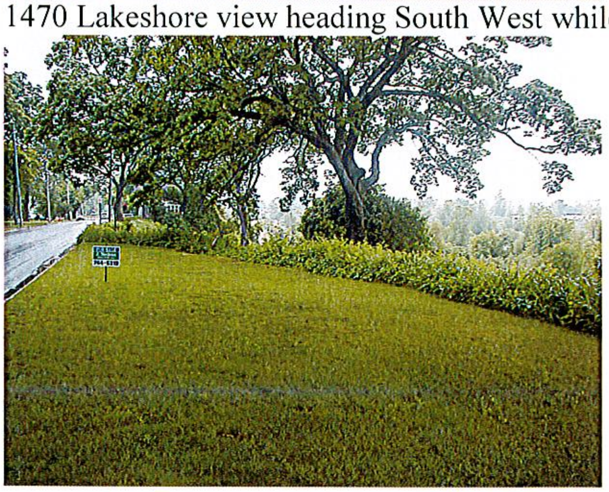
By: ______________________

Ann Marie Becker, MMC
City Clerk

1470 Lakeshore view from 1469 Lakeshore.



1470 Lakeshore view heading South West while standing on the property.



1469 Lakeshore

DECLARATION OF RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS, that HELEN JEAN ARNTZ, as Trustee of the Helen Jean Arntz Living Trust (the "Trust") under agreement dated November 22, 1994, as amended, whose address is 1469 Lakeshore Drive, Muskegon, Michigan 49441 (the "Owner"), being the owner of certain real property located in the City of Muskegon, Muskegon County, Michigan, legally described as Lot 12, Block 584, Revised Plat of the City of Muskegon, hereby makes the following declarations as to the use of the Property and certain other matters, based on the following factual recitals:

A. The Property has been owned as a single parcel for many years.

B. The Owner wishes to maintain, in so far as possible, the natural character of the Property, and desires to provide for the perpetual maintenance of the Property in a manner consistent with the highest environmental and aesthetic standards.

C. To accomplish these purposes, the Owner desires to impose certain building and use restrictions, covenants and conditions, as set forth herein, for the benefit of the Property, the surrounding property owners and the general public.

D. The Owner recognizes that the Property will eventually be sold, transferred and/or conveyed to subsequent owners, but wishes to provide that all such subsequent owners must accept the Property subject to the declarations, covenants, restrictions and conditions set forth herein.

NOW, THEREFORE, the Owner hereby agrees and covenants on behalf of the Trust, and for the successors and assigns of the Trust, that the Property, and every part thereof, shall hereinafter be used, occupied, sold and conveyed subject to the perpetual restrictive covenants hereinafter set forth, which are hereby impressed upon the Property and each and every part thereof.

1. Restrictions on Use. The Property shall remain unimproved and no buildings or structures shall be built thereon.

2. Other Forms of Conveyance or Means of Permitting Use. The restrictions set forth above in Section 1 above shall prohibit, and shall be deemed to proscribe, all other means of circumventing the intent of these restrictions, including condominiums, leaseholds, licenses, and any other arrangements which could result a building or structure being constructed on the Property, or any part thereof.

3. Prohibition Against Commercial Use. Neither the Property, nor any portion thereof, shall be used for any commercial, industrial, or business enterprise.

4. Severability. The invalidation of any of these restrictive covenants by judgment or court order shall not affect any of the other provisions, which shall remain in full force and effect.

5. Term. Each of the restrictive covenants of this Agreement shall run with the land in perpetuity, and shall be binding upon the Owner, its successors and assigns, and all persons or entities claiming under or through the Owner, or otherwise having any interest in the Property.

6. Enforcement. Enforcement of these restrictive covenants shall be by proceedings at law or in equity against any persons or entities violating, or attempting to violate, any of the restrictive covenants set forth above, either to enjoin and/or restrain any such violation, or to secure such other relief that is permitted by law. The provisions of this Agreement are for the benefit of, and may be enforced by, without limitation, (a) the Owner, or its successors or assigns, (b) HELEN JEAN ARNTZ, or her heirs, personal representatives, successors and assigns, or (c) The City of Muskegon.

7. Amendment. These restrictive covenants may only be modified or terminated by the consent of all of the interested parties identified in Section 6 above.

IN WITNESS WHEREOF, the undersigned has executed this instrument as of the date set forth above.

Witness:

Karen L. Kayes

Cindy S. Thielman

Helen Jean Arntz

Helen Jean Arntz, Trustee of the Helen Jean Arntz Living Trust u/a dated November 22, 1994, as amended

STATE OF MICHIGAN)
) ss.
COUNTY OF MUSKEGON)

On this 28 day of December, 2004, before me, a Notary Public in and for said County, personally appeared HELEN JEAN ARNTZ, Trustee of the Helen Jean Arntz Living Trust (the "Trust") under agreement dated November 22, 1994, as amended, to me known to be the same person described in and who executed the within instrument, who acknowledged the same to be her free act and deed.

Karen L. Kayes
Notary Public
In and For Muskegon County, Michigan
My Commission Expires: 11-22-05

Drafted by:
Karen L. Kayes (P-41751) of
LAGUE, NEWMAN & IRISH
300 Terrace Plaza, P.O. Box 389
Muskegon, MI 49443-0389
Telephone: (231)725-8148

RET

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Mark Fairchild, Muskegon Co ROD 044
01/04/2005 09:10A
Page: 4 of 4

TERMINATION OF RESTRICTIVE COVENANTS

Pursuant to the Declaration of Restrictive Covenants for 1469 Lakeshore Drive, Muskegon, Michigan, dated December 28, 2004, and specifically, in accordance with Paragraph Seven (7) Amendment, I, C. Douglas Meinhardi, Trustee of the Helen Jean Arntz, Living Trust dated November 22, 1994, and on her behalf, I hereby consent to the TERMINATION of the Declaration of Restrictive Covenants.

C. Douglas Meinhardi

Helen Jean Arntz, Living Trust dated November 22, 1994

C. Douglas Meinhardi, Trustee

STATE OF MICHIGAN)
) SS
COUNTY OF MUSKEGON)

I, the undersigned, a Notary Public in and for said County, in the State of aforesaid, DO HEREBY CERTIFY that **C. Douglas Meinhardi**, Trustee of the Helen Jean Arntz, Living Trust, dated November 22, 1994, appeared before me this day in person, and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act, for uses and purposes therein set forth.

Given under my hand and official seal, this 12th day of June, 2009

Connie F. Bird, My commission expires: May 15, 2010
Connie F. Bird, NOTARY PUBLIC

Pursuant to the Declaration of Restrictive Covenants for 1469 Lakeshore Drive, Muskegon, Michigan, dated December 28, 2004, and specifically, in accordance with Paragraph Seven (7) Amendment, I, **Stephen J. Warmington, Mayor** and **Ann Marie Becker, City Clerk**, on behalf of the City of Muskegon, as identified in Paragraph 6. (c) of the DECLARATION OF RESTRICTIVE COVENANTS, hereby consent to the TERMINATION of the Declaration of Restrictive Covenants.

_______________________________ _______________________________

Stephen J. Warmington, Mayor Ann Marie Becker, City Clerk

STATE OF MICHIGAN)
) SS
COUNTY OF MUSKEGON)

I, the undersigned, a Notary Public in and for said County, in the State of aforesaid, DO HEREBY CERTIFY that **Stephen J. Warmington, Mayor** and **Ann Marie Becker, City Clerk**, personally known to me to be the same persons whose names are subscribed to the foregoing TERMINATION OF RESTRICTIVE COVENANT, appeared before me this day in person, and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, for uses and purposes therein set forth.

Given under my hand and official seal, this ______ day of ____________, 2009

_______________________________, My Commission expires ______________, ________.
NOTARY PUBLIC

DATE: 06/04/2009

TO: Honorable Mayor and Commissioners

FROM: Anthony Kleibecker, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN090039

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **1464 6TH ST (Home &Garage) Area 10** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN090039 - 1464 6TH ST

Location and ownership: This structure is located on Sixth Street between Grand Ave and Washington Street and is owned by UNITED STATES OF AMERICA, 5312 Bolsa Ave.; Ste 200, Huntington Beach, CA 92649.

Staff Correspondence: A dangerous building inspection was conducted on 02/11/09. The Notice and Order to Repair was issued on 02/16/09. On 04/02/09 the HBA declared the structure substandard and dangerous.

Owner Contact: No one was present for the HBA meeting dated 04/02/09. No permits have been issued, no inspections scheduled and no owner contact.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: $24,000 (Entire property)

Estimated cost to repair: $7,000 (Exterior Only)

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

SUMMARY FOR: 1464 6TH ST

This is a single family wood frame structure. This building is currently vacant. This structure is in need of a roof and the front porch is falling apart. The chimney needs to be rebuilt and the garage is in need of repairs, to date, there has been no effort to rehabilitate this structure. This building continues to be a blighting influence on the neighborhood.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Wednesday, February 11, 2009

Enforcement # EN090039 **Property Address** 1464 6TH ST
Parcel #24-205-405-0013-00 **Owner** UNITED STATES OF AMERICA

Inspector: Henry Faltinowski

Date completed: 02/11/09

DEFICENCIES:

Uncorrected

1. **Front porch roof to decking collapsing - replace.**
2. **Replace all damaged siding, scrape and paint home.**
3. **Replace damaged roof covering.**
4. **Replace all damaged windows and doors interior.**
5. **Repair or remove chimney brick falling out.**
6. **Repair all siding on garage that is damaged.**
7. **Scrape and paint garage, repair window & doors.**

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

______________________________ ________________

Henry Faltinowski, Building Inspector Date

1464 6th

D.B. 1464 Sixty St. 2/11/2009

1464 Sixth

DATE: 06/05/2009

TO: Honorable Mayor and Commissioners

FROM: Anthony Kleibecker, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN080271

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **718 E ISABELLA AVE (Home & Garage)** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN080271 - 718 E ISABELLA AVE

Location and ownership: This structure is located on Isabella between Kenneth and Holt Streets and is owned by BENEDICT STEPHEN.

Staff Correspondence: A dangerous building inspection was conducted on 10/15/07. The Notice and Order to Repair was issued on 11/19/08. On 01/08/09 the HBA declared the structure substandard and dangerous.

Owner Contact: No one was present for the HBA meeting dated 01/08/09. No permits have been issued and no inspections scheduled.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: $22,600 (Entire property)

Estimated cost to repair: $8000 (Exterior Only)

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

SUMMARY FOR: 718 E ISABELLA AVE

This is a single family wood frame dwelling. This building is currently vacant and in a state of disrepair. The structure is currently in need of a new roof and siding as well as other exterior repairs. A permit was issued on March 11, 2008 for demolition of the interior of the structure but there has been no other contact from the owner. This house is currently a blighting influence on the neighborhood and will continue to deteriorate if left in it's current condition.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Wednesday, November 19, 2008

Enforcement # EN080271 **Property Address** 718 E ISABELLA AVE
Parcel #24-205-063-0013-00 **Owner** BENEDICT STEPHEN

Inspector: Henry Faltinowski

Date completed: 11/17/08

DEFICENCIES: HOME & GARAGE

Uncorrected

1. **Replace roof covering.**
2. **Tuck point chimney.**
3. **Rotted siding replace.**
4. **Scrape and paint siding.**
5. **Repair fascia.**
6. **Repair all doors, screens, window frames-damaged.**
7. **Repair front steps and landing**
8. **Replace roof covering on garage.**
9. **Repair garage siding and foundation**
10. **Interior inspection requested by trade inspectors.**

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

______________________________ ________________

Henry Faltinowski, Building Inspector Date

718 Isabella

718 Isabella

718 ISABELLA 1/14/2008


2007 1 30


2007 1 30

DATE: 02/13/2009

TO: Honorable Mayor and Commissioners

FROM: Anthony Kleibecker, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN080133

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **1201 PINE ST (Garage) Area 11b** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN080133 – 1201 Pine (Garage)

Location and ownership: This structure is located on Pine St. between Isabella and Iona Streets and is owned by Alma L. Childers, 1201 Pine St., Muskegon, MI 49442.

Staff Correspondence: A dangerous building inspection was conducted on 06/10/08. The Notice and Order to Repair was issued on 06/19/08. On 09/04/08 the HBA tabled case until November 6, 2008. On 11/06/08 the HBA declared the structure substandard, dangerous, and a public nuisance.

Owner Contact: Ms Childers was present for both HBA meetings stating she had plans to rehabilitate the structure but no permits have been issued. No contact since last meeting.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: $18,600 (Entire property)

Estimated cost to repair: $4,000 (Garage Only)

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

SUMMARY FOR: 1201 PINE ST

This is a single story wood frame garage. The building is currently in a state of structural failure as the roof is collapsing and the side walls appear to be damaged by wood rot. This building will continue to be a blighting influence on this neighborhood.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Thursday, June 19, 2008

Enforcement # EN080133 **Property Address** 1201 PINE ST(Garage)
Parcel #24-205-244-0008-00 **Owner** CHILDERS ALMA L

Inspector: Henry Faltinowski

Date completed: 06/10/2008

DEFICENCIES:

Uncorrected

1. Roof collapsing - sheathing, rafters, coverings, replace to MRC 2003 code.
2. Scrape and paint garage.
3. All wall and plate damage must be repaired to MRC 2003 code.

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

Henry Faltinowski, Building Inspector Date

1201 Pink D.B

DATE: 06/04/2009

TO: Honorable Mayor and Commissioners

FROM: Anthony Kleibecker, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN090033

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **1411 6TH ST Area 10** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN090033 - 1411 6TH ST

Location and ownership: This structure is located on Sixth Street between Grand Ave and Washington Streets and is owned by DEUTSCHE BANK NATIONAL TRUST CO, 7515 Irvine Center Dr., Irvine, CA 92618.

Staff Correspondence: A dangerous building inspection was conducted on 01/27/09. The Notice and Order to Repair was issued on 02/06/09. On 04/02/09 the HBA declared the structure substandard and dangerous.

Owner Contact: No one was present for the HBA meeting dated 04/02/09. No permits have been issued and no inspections scheduled. There was a possible buyer of property that called Inspections Department 04/06/09 but have not had any contact since then.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: $21,000 (Entire property)

Estimated cost to repair: $25,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

SUMMARY FOR: 1411 6TH ST

This is a single family wood frame structure that experienced a fire in June 2008. A inspection was performed on June 11, 2008. Since that time there has been attempt to rehabilitate this building. This structure is currently not habitable and will continue to be a blight to the surrounding building.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Tuesday, February 3, 2009

Enforcement # EN090033 **Property Address** 1411 6TH ST
Parcel #24-205-390-0011-20 **Owner** DEUTSCHE BANK NATIONAL TRUST CO

Inspector: Henry Faltinowski

Date completed: 01/27/2009

DEFICENCIES:

Uncorrected

1. Home had fire damage inspection over 6 months ago.
2. Structural damage to roof system rafters, ceiling joists and wall framing.
3. Re-roof after structural repairs.
4. Reside after structural repairs.
5. A tarp covering fire damage is falling off home - numerous complaints by neighbors.
6. See fire report.

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

______________________________ ________________

Henry Faltinowski, Building Inspector Date

1411 6th St. O.B.

1411 6th St