# CITY OF MUSKEGON

## CITY COMMISSION MEETING

## MAY 28, 2013

### CITY COMMISSION CHAMBERS @ 5:30 P.M.

## AGENDA

- **CALL TO ORDER:**
- **PRAYER:**
- **PLEDGE OF ALLEGIANCE:**
- **ROLL CALL:**
- **HONORS AND AWARDS:**
- **INTRODUCTIONS/PRESENTATION:**
- **CONSENT AGENDA:**

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

B. **Gnarley Varley's Righteous Cuisine-Mobile Vending Business – Concession Contract for City of Muskegon Parks.** PUBLIC WORKS

C. **Fatty Lumpkins Sandwich Shack-Mobile Vending Business – Concession Contract for City of Muskegon Parks.** PUBLIC WORKS

D. **Consumers Energy Rate Case – Municipal Coalition Participation.** PUBLIC WORKS

E. **CDBG Program Administration Agreement – City of Muskegon/City of Norton Shores.** PLANNING & ECONOMIC DEVELOPMENT

F. **Cemetery Utility Cart.** PUBLIC WORKS

G. **Grant Agreement Addendum – Grand Trunk Boating Access.** PUBLIC WORKS

H. **Grant Agreement with the Department of Natural Resources for Dredging Cottage Grove Launch Ramp and Hartshorn Marina.** PUBLIC WORKS

I. **Sale of Parcel in Seaway Industrial Park.** PLANNING & ECONOMIC DEVELOPMENT

J. **Approval of Extension for Realtor and Title Company Procurement Contracts for CNS.** COMMUNITY & NEIGHBORHOOD SERVICES

K. **HOME Consortia Application.** COMMUNITY & NEIGHBORHOOD SERVICES

L. **2013/14 Water Treatment Chemical Bids.** PUBLIC WORKS

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

A. **Permanent Traffic Control Order – Install "No Parking" Signs on the South Side of Forest Avenue between Peck and Clinton.** PUBLIC WORKS

B. **Pere Marquette Improvement Fund.** PLANNING & ECONOMIC DEVELOPMENT

C. **Transmittal of 2013-14 Proposed Budget.** CITY MANAGER

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

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

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

ADA POLICY: The City of Muskegon will provide necessary auxiliary aids and services to individuals who want to attend the meeting upon twenty four hour notice to the City of Muskegon. Please contact Ann Marie Cummings, City Clerk, 933 Terrace Street, Muskegon, MI 49440 or by calling (231) 724-6705 or TTY/TDD dial 7-1-1 to request a representative to dial (231) 724-6705.

Date: May 28, 2013

To: Honorable Mayor and City Commissioners

From: Ann Marie Cummings, City Clerk

RE: Approval of Minutes

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SUMMARY OF REQUEST: To approve minutes of the May 13th Commission Worksession Meeting, and the May 14th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

City of Muskegon
City Commission Worksession
May 13, 2013
City Commission Chambers
5:30 PM

# MINUTES

2013-40
Present: Commissioners Gawron, Spataro, German, Markowski, Hood, Turnquist, and Wierengo.
Absent: None.

**<u>Liability Claim: 684 Harvey Street – Oakview Partners.</u>**
On March 14, 2013, a sewage backup was discovered at 684 Harvey Street. This property is a medical office building. A blockage in the City main was determined to cause the backup. The property is owned by the Oakview Partners and they have filed a liability claim against the City of Muskegon for damages and costs associated with the City main blockage. The claimants and MMRMA have agreed on a settlement of this claim for $28,216.15. Over $13,750 of this claim is for clean-up with the balance for building repairs. The dollar amount of this claim requires City Commission approval.

This claim will be paid from the City of Muskegon Retention Fund at MMRMA.

**Motion by Commissioner Hood, supported by Commissioner German to approve the claim in the amount of $28,216.15 as recommended by MMRMA.**

***ROLL CALL VOTE:***

**Ayes: Hood, Spataro, German, Wierengo, Turnquist, Markowski, and Gawron.**
**Nays: None.**

***MOTION PASSES***

**<u>Muskegon/Webster Traffic Signals.</u>**
This is a request to authorize staff to remove the current traffic signals per traffic control orders #44-8 and remove on-street parking on Muskegon Avenue between Jefferson and Terrace Streets and install permanent stop signs on the various adjoining cross-streets.

The financial impact is the cost of removal of traffic signals, pavement markings, and manpower to install signs, if approved.

Comments were received from the audience. Some suggested that the Commission wait until buffers are put into place before the traffic signals are removed.

Vice Mayor Spataro recommended adding additional on-street parking, bike lanes with solid wide lines, and elimination of turn lanes.

Commissioner Hood stated that the City should not go outside of the warrants and that traffic has already slowed with measurements that have been taken.

Commissioners German and Wierengo indicated they would like to put the traffic calming measures into place first and then re-visit the removal of the five traffic signals after seeing if the measures are effective.

**Motion by Vice Mayor Spataro, supported by Commissioner Wierengo to put traffic calming measures into place by eliminating turn lanes, extend on-street parking where possible, add bike lanes from Muskegon and Webster Avenue between 9th Street and Spring Street, prior to traffic signals being removed at Muskegon Avenue at 7th Street, Webster Avenue at 7th Street, Muskegon Avenue at Jefferson Street, Muskegon Avenue at Pine Street, and Muskegon Avenue at Spring Street.**

***ROLL CALL VOTE:***

**Ayes: Spataro, German, Wierengo, Turnquist, Gawron, and Hood.**
**Nays: Markowski.**

***MOTION PASSES***

**<u>Pere Marquette Park Restaurant Proposals.</u>**
The City received proposals for the redevelopment of the former restaurant at Pere Marquette Park. A committee reviewed the proposals and recommends that the City accept the proposal submitted by Harris Hospitality.

Financial Impact: Significant investment will occur and jobs will be created.

Staff recommends to waive the submittal deadline requirement and authorize staff to negotiate an agreement with Harris Hospitality, consistent with their proposal. Further, it is recommended to authorize the Mayor and City Clerk to enter into an agreement with Harris Hospitality once it is satisfactory to the City Attorney and City Manager.

A committee that included a City Commissioner and a neighborhood representative reviewed the proposals, interviewed the companies' representatives, and make this recommendation.

Fred Sharman, of Harris Brothers, gave an overview. The proposal includes a soft serve frozen yogurt shop within 60 days or less, add a beach rental supply store, family bar and grill, and banquet facility.

Mr. Sharman indicated he believes he will need to start over with a new building.

Commissioner Markowski inquired about the proposal for a food truck.

Mr. Sharman stated it would be a very inexpensive advertising tool that would let people know where they are located. They would be going up and down the beach offering food at a lower price.

This item has been placed on the May 14, 2013 City Commission Meeting for consideration.

**EVIP Employee Compensation Policy.**

Since the Economic Vitality Incentive Program (EVIP) was introduced in 2011, requirements that the City must meet to comply with the program have been changed several times. Some of the most important EVIP issues involve employee compensation and benefit matters. The changing EVIP requirements have created confusion and uncertainty among employees with regard to the City's intentions and employees' future retirement planning.

The EVIP program replaced the former statutory revenue sharing program. EVIP revenues currently amount to $1,033,845 annually for the City – contingent upon the City fully complying with EVIP requirements. Failure to comply with EVIP program requirements would mean loss of some or all of this funding.

This item has been placed on the May 13, 2013 City Commission meeting for consideration.

**Video Surveillance and Tasers.**

Commissioner Turnquist inquired if the Commission may be interested in video surveillance in the downtown area and tasers for police officers.

He indicated the downtown is completely wireless. There have been several incidences in the news of late of the need for cameras for safety reasons.

Tasers are currently being used in Norton Shores, Roosevelt Park, North Muskegon, and Muskegon Heights. He believes it would deter crime if City of Muskegon police officers were equipped with tasers and the City should seek a grant for purchase.

City Manager Mazade cited some incidences when tasers have caused fatalities – they might be the exception to the rule, but it should be considered.

Commissioner Hood would like to hear from Chief Lewis about the issue and his feelings.

Vice Mayor Spataro stated he can not make a decision until he has read a lot of research and make sure it's the right decision.

Mayor Gawron directed staff to study and evaluate the use of tasers and video surveillance and make a report at a future Worksession meeting.

**City Manager Candidate Profile.**

The City Commission reviewed the information proposed to be placed in the brochure advertising a City Manager.

Some concerns were given regarding the education and experience required. Mr. Mazade will work with the consultant to relay the information from the Commission and approve the brochure for print.

**Any Other Business.**

Commissioner Markowski asked why the middle lighthouse at Pere Marquette is not being promoted for people to visit.

It was explained that the lighthouse does not belong to the City and suggested she speak to the owners of the lighthouse.

Commissioner Turnquist asked if there were any updates regarding the sighting of the black bear seen by Cole's Bakery. It is swimming to North Muskegon.

Public comment was accepted.

**Adjournment.**

**Motion by Commissioner Hood, seconded by Commissioner Wierengo to adjourn at 8:11 p.m.**

***MOTION PASSES***

**Ann Marie Cummings, MMC**
**City Clerk**

# CITY OF MUSKEGON

## CITY COMMISSION MEETING

## MAY 14, 2013

### CITY COMMISSION CHAMBERS @ 5:30 P.M.

## MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, May 14, 2013.

Mayor Gawron opened the meeting with a prayer from Rev. Bill Freeman from the Harbor Unitarian Universalist Congregation after which the Commission and public recited the Pledge of Allegiance to the Flag.

**ROLL CALL FOR THE REGULAR COMMISSION MEETING:**

Present: Mayor Stephen Gawron, Vice Mayor Lawrence Spataro, Commissioners Willie German, Sue Wierengo, Byron Turnquist, Lea Markowski, and Eric Hood, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

**2013-41 CONSENT AGENDA:**

**A. <u>Approval of Minutes</u>.** CITY CLERK

SUMMARY OF REQUEST: To approve minutes of the April 23rd City Commission Meeting and the April 30th Special Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

**B. <u>EVIP Employee Compensation Policy.</u>** FINANCE

SUMMARY OF REQUEST: Since the Economic Vitality Incentive Program (EVIP) was introduced in 2011, requirements the City must meet to comply with the program have been changed several times. Some of the most important EVIP issues involve employee compensation and benefit matters. The changing EVIP requirements have created confusion and uncertainty among employees with regard to the City's intentions and employees' future retirement planning. The *EVIP Employee Compensation Policy* is intended to clarify the City's approach to achieving EVIP compliance.

FINANCIAL IMPACT: The EVIP program replaced the former statutory revenue sharing program. EVIP revenues currently amount to $1,033,845 annually for the City – contingent upon the City fully complying with EVIP requirements. Failure to comply with EVIP program requirements would mean loss of some or all of this funding.

BUDGET ACTION REQUIRED: No budget action is required.

STAFF RECOMMENDATION: Approval of the *EVIP Employee Compensation Policy.*

**C. Time Extension to Pay Outstanding Penalties on Sewer Account.** TREASURER

SUMMARY OF REQUEST: Management for the Comfort Inn is requesting additional time to pay outstanding penalties.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval recommended.

**F. Environmental Program Grass Cutting.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The contract for grass cutting of City-owned vacant property located in the south McLaughlin neighborhood.

FINANCIAL IMPACT: None – funds budgeted for this activity.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve a two-year contract with Community Encompass/YEP program and to authorize the Mayor and City Clerk to sign the agreements, for the grass mowing of City-owned vacant property in the south McLaughlin Neighborhood.

**H. Emergency Response Plan.** PUBLIC SAFETY

SUMMARY OF REQUEST: The City of Muskegon has elected to be incorporated into the Muskegon County Emergency Management Program. By becoming part of the county emergency management program, the City of Muskegon and the County of Muskegon have certain responsibilities to each other. This Support Emergency Operations Plan has been developed to identify the responsibilities between the City of Muskegon and the County of Muskegon in regards to pre-disaster emergency management activities.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution as presented.

**Motion by Vice Mayor Spataro, second by Commissioner Hood to approve the Consent Agenda with the exception of items D, E, and G.**

**ROLL VOTE: Ayes: Wierengo, Turnquist, Markowski, Gawron, Hood, Spataro, and German**

**Nays: None**

***MOTION PASSES***

**2013-42 ITEMS REMOVED FROM THE CONSENT AGENDA:**

**D. <u>Concession Contract for Concession Building at Pere Marquette Park.</u>** PUBLIC WORKS

SUMMARY OF REQUEST: Staff is asking permission to enter into a three-year contractual agreement for 2013, 2014 and 2015 with Kenneth L. Huston II of Amazing Gifts Direct, LLC for operating a Concession ("The Island" Concession) at Pere Marquette Park.

FINANCIAL IMPACT: Contract revenue was $2,118 for the 2009 operating season, $3,625 in 2010, $1,830 in 2011 and $1,296 in 2012.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize DPW Staff to enter into a three-year Concession Agreement with Kenneth L. Huston II of Amazing Gifts Direct, LLC for a Concession in the Concession (restroom/lifeguard) Building at Pere Marquette Park for 2013, 2014 and 2015.

**Motion by Commissioner Turnquist, second by Commissioner Wierengo to approve a three-year concession agreement with Kenneth L. Huston II for the concession building at Pere Marquette Park for 2013-2015.**

**ROLL VOTE: Ayes: Turnquist, Markowski, Gawron, Hood, Spataro, German, and Wierengo**

**Nays: None**

***MOTION PASSES***

**E. <u>Dog Beach Wear/Dog Beach Surf Shop – Mobile Vending Business/Concession Contract for City of Muskegon Parks.</u>** PUBLIC WORKS

SUMMARY OF REQUEST: Staff is asking permission to enter into a one-year contractual agreement with Dan Bailey of Dog Beach Wear/Dog Beach Surf Shop at Pere Marquette Park, located within the City of Muskegon, to sell towels, shirts, lotion, boards, pails, inflatables and other various items as outlined in the proposal, from a mobile van.

FINANCIAL IMPACT: Contract revenue will be 10% of gross receipts, per Mobile Vending Business/Concession Contract.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize DPW staff to enter into a one-year Mobile

Vending Business/Concession Contract with Dan Bailey of Dog Beach Wear/Dog Beach Surf Shop.

**Motion by Commissioner Turnquist, second by Commissioner Wierengo to approve a one-year contractual agreement with Dan Bailey of Dog Beach Wear/Dog Beach Surf Shop at Pere Marquette Park.**

**ROLL VOTE: Ayes: Markowski, Gawron, Hood, Spataro, German, Wierengo, and Turnquist**

**Nays: None**

***MOTION PASSES***

**G. <u>Ordinance to Add Electronic Reporting (Safe Reporting) for Resale Licenses.</u>** PUBLIC SAFETY

SUMMARY OF REQUEST: Chapter 50, Licenses, Code of Ordinances of the City of Muskegon is amended to include the following new Article VI concerning electronic reporting for pawn brokers, second hand or junk dealers and precious metal/gem dealers.

The purpose of this article is to improve the system of reporting to law enforcement officials all items collected by pawn brokers, second hand dealers and precious metal/gem dealers for the purpose of aiding law enforcement in locating and retrieving stolen property.

Chapter 2, Section 2-204 of the Code of Ordinances, Schedule of Civil Fines, will also be amended to reflect a violation of Sec. 50-203 shall result in a fine of $100 for the first offense, $250 for the first repeat offense and $500 for the second repeat offense.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve both of the ordinances as presented.

**Motion by Commissioner Markowski, second by Vice Mayor Spataro to approve the two ordinance changes to add electronic reporting (Safe Reporting) for resale licenses.**

**ROLL VOTE: Ayes: Gawron, Hood, Spataro, German, Wierengo, Turnquist, and Markowski**

**Nays: None**

***MOTION PASSES***

**2013-43 PUBLIC HEARINGS:**

**A. <u>2013 – 2014 Action Plan.</u>** COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To conduct a public hearing of the 2013 – 2014 Action

Plan for public comments.

FINANCIAL IMPACT: Action Plan establishes the 2013-2014 Community Development Block Grant and HOME budgets.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To receive comments about the proposed 2013 – 2014 Action Plan at the public Commission Meeting.

The public hearing opened to hear and consider any comments from the public. No comments were made.

**Motion by Commissioner German, second by Vice Mayor Spataro to close the public hearing.**

**ROLL VOTE: Ayes: Hood, Spataro, German, Wierengo, Turnquist, Markowski, and Gawron**

**Nays: None**

***MOTION PASSES***

**B. <u>Amendments to Downtown Development Plan – Terrace Point Landing, LLC.</u>** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To hold a public hearing and approve the resolution approving and adopting amendments for the Downtown Development Authority (DDA) Plan. The amendments are for the inclusion of property owned by Terrace Point Landing, LLC in the DDA Plan.

FINANCIAL IMPACT: There is no direct financial impact in approving the Brownfield Plan amendments, although the redevelopment of the property into a residential/commercial project will add to the future tax base of the City of Muskegon.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To hold the public hearing and approve the resolution and authorize the Mayor and Clerk to sign the resolution.

COMMITTEE RECOMMENDATION: A notice of the public hearing has been sent to taxing jurisdictions, the MDEQ, MEDC, and the Michigan Strategic Fund, as well as being published twice in MLIVE, mailed to all property owners within the DDA and posted in 20 "conspicuous and public places" within the DDA. In addition, the DDA Board approved the Plan amendment on April 9, 2013, and further recommends that the Muskegon City Commission approve the Plan amendment.

The Public Hearing opened to hear and consider any comments from the public. No comments were made.

**Motion by Commissioner Hood, second by Commissioner Turnquist to close the**

**public hearing and approve the resolution for the Downtown Development Authority Plan for the inclusion of property owned by Terrace Point Landing, LLC in the DDA Plan.**

**ROLL VOTE: Ayes: Spataro, German, Wierengo, Turnquist, Markowski, Gawron, and Hood**

**Nays: None**

***MOTION PASSES***

C. **Amendment to Brownfield Plan – Terrace Point Landing, LLC.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To hold a public hearing and approve the resolution approving and adopting the amendment for the Brownfield Plan. The amendments are for the inclusion of property owned by Terrace Point Landing, LLC in the Brownfield Plan.

FINANCIAL IMPACT: Brownfield Tax Increment Financing will be used to reimburse the developer for "eligible expenses" incurred in association with development of the Terrace Point Landing project. Terrace Point Landing, LLC cost for the development of the property is approximately $12 million in private investment, resulting in a substantial increase in the local and school taxes generated by the property.

"Eligible Expenses" would be reimbursed starting in 2012, including the payment of 5% interest annually. The estimated tax capture and payment schedule is included as Attachment U-3 in the proposed Brownfield Plan Amendment.

After all eligible costs incurred by the various parties are reimbursed (estimated to be in 2024), the BRA is authorized to continue to capture local taxes for five more years for deposit into a Local Site Remediation Revolving Fund.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To hold the public hearing and approve the resolution and authorize the Mayor and Clerk to sign the resolution.

COMMITTEE RECOMMENDATION: The Muskegon City Commission set the public hearing for May 14, 2013 at their April 9, 2013, meeting. Since that time, a notice of the public hearing has been sent to taxing jurisdictions. In addition, the Brownfield Redevelopment Authority approved the Plan amendment on April 9, 2013, and further recommends that the Muskegon City Commission approve the Plan amendment.

The public hearing opened to hear and consider any comments from the public. No comments were made.

**Motion by Vice Mayor Spataro, second by Commissioner Wierengo to close the public hearing and adopt the resolution making the described amendments to**

**the Brownfield Plan and authorize the Mayor and Clerk to sign the resolution.**

**ROLL VOTE: Ayes: German, Wierengo, Turnquist, Markowski, Gawron, Hood, and Spataro**

**Nays: None**

***MOTION PASSES***

**2013-44 NEW BUSINESS:**

A. **Agreement for Transportation Services with Wakefield Corporation to Provide Senior Transit Services.** PUBLIC WORKS

SUMMARY OF REQUEST: Authorize the Mayor and City Clerk to sign the agreement for transportation services for senior transit services with Wakefield Corporation out of Muskegon. The proposed agreement is for a one-year term starting the first of July, 2013 and ending at the end of June 2014.

FINANCIAL IMPACT: The estimated cost for the proposed agreement is $44,000; $40,000 of which to subsidize up to 8,000 rides for the City's senior citizens and the remaining amount is to cover staff's cost of administering the program.

BUDGET ACTION REQUIRED: Should this request be approved, it will have to be a part of the proposed 2013/2014 budget.

STAFF RECOMMENDATION: Authorize the Mayor and Clerk to sign the agreement and direct staff to incorporate into the 2013/2014 budget.

**Motion by Commissioner Markowski, second by Commissioner Wierengo to approve the agreement for transportation services with Wakefield Corporation to provide senior transit services.**

**ROLL VOTE: Ayes: Wierengo, Turnquist, Markowski, Gawron, Hood, Spataro, and German**

**Nays: None**

***MOTION PASSES***

B. **Reclassification of Water Filtration Plant Supervisor Position.** PUBLIC WORKS

SUMMARY OF REQUEST: Change the classification of the Filtration Plant Supervisor Position from Range IIIB Range IIIA. The requested change, if approved, we feel will enhance the City's ability to attract more qualified candidates to fill the soon to be vacant position as a result of the resignation of current supervisor.

FINANCIAL IMPACT: An increase of $5,485 per year which is the difference between Range IIIB ($55,998 - $74,664) and IIIA ($60,234 - $80,149).

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Approve the reclassification of the Filtration Plant Supervisor Position from Range IIIB to Range IIIA.

**Motion by Vice Mayor Spataro, second by Commissioner German to approve the reclassification of the Filtration Plant Supervisor position from Range IIIB to Range IIIA.**

**ROLL VOTE: Ayes: Turnquist, Markowski, Gawron, Hood, Spataro, German, and Wierengo**

**Nays: None**

***MOTION PASSES***

C. **Special Event Request Coast West Music Festival.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The Festival Group of Muskegon County has filed a special event application for the first "Coast West Music Festival" to be held at Heritage Landing, July 1-6, 2013. There is one request on their application that requires City Commission approval, and that is to keep one of the beer tents open until midnight, rather than 11:00. They will still turn the music off at 11:00 to comply with the noise ordinance. The later closing time will allow time for people to leave gradually, rather than a mass of people at once, when the music ends.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: None.

**Motion by Vice Mayor Spataro, second by Commissioner Wierengo to authorize the request to keep one of the beer tents open until midnight with the proviso that the music be turned off at 11:00 and that Coast West complies with the noise ordinance.**

**ROLL VOTE: Ayes: None**

**Nays: Gawron, Hood, Spataro, German, Wierengo, Turnquist, and Markowski**

***MOTION FAILS***

D. **New Neighborhood Enterprise Zone District.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To establish a new Neighborhood Enterprise Zone (NEZ) district within the City limits. The new location is at the Terrace Point Condominium project site. Properties located in NEZ districts are eligible to apply for NEZ certificates, which will lower the property taxes with new construction.

FINANCIAL IMPACT: For those properties that are approved for a Neighborhood Enterprise Zone Certificate, taxation will be 50% of the State average for up to 12 years, depending on investment levels.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the new NEZ district.

**Motion by Vice Mayor Spataro, second by Commissioner Wierengo to approve the new Neighborhood Enterprise Zone district as described.**

**ROLL VOTE: Ayes: Hood, Spataro, German, Wierengo, Turnquist, Markowski, and Gawron**

**Nays: None**

***MOTION PASSES***

**E. <u>Pere Marquette Park Restaurant Proposals.</u>** CITY MANAGER

SUMMARY OF REQUEST: The City received proposals for the redevelopment of the former restaurant at Pere Marquette Park. A committee reviewed the proposals and recommends that the City accept the proposal submitted by Harris Hospitality.

FINANCIAL IMPACT: Significant investment will occur and jobs will be created.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To waive the submittal deadline requirement and authorize staff to negotiate an agreement with Harris Hospitality, consistent with their proposal. Further, authorize the Mayor and City Clerk to enter into an agreement with Harris Hospitality once it is satisfactory to the City Attorney and City Manager.

COMMITTEE RECOMMENDATION: A committee that included a City Commissioner and a Neighborhood Representative reviewed the proposals, interviewed the companies' representatives, and makes this recommendation.

**Motion by Commissioner Markowski, second by Commissioner Wierengo to waive the deadline for submittal of proposals and award to Harris Hospitality Group and authorize City Manager and City Attorney to negotiate an agreement and authorize Mayor and City Clerk to execute it.**

**ROLL VOTE: Ayes: Spataro, German, Wierengo, Turnquist, Markowski, Gawron, and Hood**

**Nays: None**

***MOTION PASSES***

**2013-45 ANY OTHER BUSINESS:**

A. <u>Consultant for City Manager Recruitment.</u>

**Motion by Vice Mayor Spataro, second by Commissioner German to designate City Attorney to be contact person between City and Consultant for the remainder of the recruitment process.**

**ROLL VOTE: Ayes: German, Wierengo, Turnquist, Markowski, Gawron, Hood, and Spataro**

**Nays: None**

***MOTION PASSES***

**PUBLIC PARTICIPATION:** Public comments were received.

**ADJOURNMENT:** The City Commission Meeting adjourned at 7:13 p.m.

Respectfully submitted,

Ann Marie Cummings, MMC
City Clerk

**AGENDA ITEM NO._____________**

**CITY COMMISSION MEETING ____________________**

TO: Honorable Mayor and City Commission

FROM: Department of Public Works

DATE: May 28, 2013

SUBJECT: Gnarley Varley's Righteous Cuisine-Mobile Vending Business/Concession Contract for City of Muskegon Parks.

**SUMMARY OF REQUEST:**
Staff is asking permission to enter into 1-year contractual agreement with Nicolas Mika of Gnarley Varley's Righteous Cuisine at Pere Marquette Park, located within the City of Muskegon, to sell various food items as outlined in their proposal, from a mobile food truck.

**FINANCIAL IMPACT:**
Contract revenue will be 10% of gross receipts, per Mobile Vending Business/Concession Contract.

**BUDGET ACTION REQUIRED:**
None

**STAFF RECOMMENDATION:**
Authorize DPW staff to enter into a 1-year Mobile Vending Business/Concession Contract with Nicolas Mika of Gnarley Varley's Righteous Cuisine.

**COMMITTEE RECOMMENDATION:**

THE
COFFEE HOUSE
mobile
CAFE

Currently D/B/A Gnarley Varley's Righteous Cuisine.

# Muskegon, Pere Marquette Beach Proposal

The Coffee House Mobile Cafe is a State of Michigan licensed STFU gourmet food truck that is licensed through Kent County Health Department.

The business partnership of Nicolas Mika, owner of The Coffee House and Cafe and Matt Varley, owner of Gnarley Varley's Righteous Cuisine, wishes to vend the following menu on the days and times specified at Pere Marquette, and possibly the surrounding beaches, Summer 2013.

## food menu

Pork Taco $3
cocoa smoked pork shoulder, pineapple relish, guajillo sauce, queso, cilantro.

Chicken Taco $3
cocoa chicken, tomatillo relish, queso, cilantro.

Kale & Quinoa Taco $3
caramelized cebollita onions, braised black beans, coconut crema, cilantro, pumpkin seeds.

Gourmet Nachos $5
Choice of meat, queso quesadilla, tomatilla relish, salsa roja & verde, cilantro onion

## drink menu

All Natural Fruit Smoothies $4

Coffee Frappuccinos $5

## Location

The Parking Lot off Beach Street (or directly on a parking space on Beach Street if parking lot is full or occupied by another vendor(s).

Hours: 11am-6pm, Saturdays & Sundays.
June 2013 - Sept 1, 2013.

**AGENDA ITEM NO._____________**

**CITY COMMISSION MEETING ____________________**

TO: Honorable Mayor and City Commission

FROM: Department of Public Works

DATE: May 28, 2013

SUBJECT: Fatty Lumpkins Sandwich Shack-Mobile Vending Business/Concession Contract for City of Muskegon Parks.

**SUMMARY OF REQUEST:**
Staff is asking permission to enter into 1-year contractual agreement with Brett Gilbert of Fatty Lumpkins at Pere Marquette Park, located within the City of Muskegon, to sell various food items as outlined in their proposal, from a mobile "Special Transitory Food Unit".

**FINANCIAL IMPACT:**
Contract revenue will be 10% of gross receipts, per Mobile Vending Business/Concession Contract.

**BUDGET ACTION REQUIRED:**
None

**STAFF RECOMMENDATION:**
Authorize DPW staff to enter into a 1-year Mobile Vending Business/Concession Contract with Brett Gilbert of Fatty Lumpkins.

**COMMITTEE RECOMMENDATION:**

## SIDES

We feature a varying selection of delicious deli salads and other homemade edibles. Stop in to check out what's in our case today!

DIRTY Potato Chips - Assorted Flavors
SUNCHIPS - Assorted Flavors
DELI-CIOUS DILLS - Awesome Dill Pickles

MEAT & CHEESE BY THE POUND SLICED FRESH TO ORDER!

## BEVERAGES

Fountain Sodas
Pepsi, Diet Pepsi, Mountain Dew, Dr. Pepper, Orange & Sierra Mist. Free Refills.

Old School Bottles & Cans
We offer a variety of unique bottled and canned beverages. Ask about today's selections!

Fresh Brewed Iced Tea
Ask about our daily flavors!

Lemonade
Ask about our daily flavors!

Bottled Water

Fresh Brewed Coffee
Regular or Decaf.

## TOP QUALITY CATERING

Let Fatty Lumpkins bring our delicious edibles to you for your next family function, office party or event!

For more information about catering options, Business Boxed Lunches and event planning please call or stop by!

Fatty Lumpkins Sandwich Shack

FIND US ON FACEBOOK

FATTY LUMPKINS est. FL 2010 SANDWICH SHACK

971 Washington Avenue
Muskegon, MI 49441
(231) 760-4382
(231) 760-4392

HOURS

Mon - Sat 11am - 3pm

# ITALIAN HOAGIES

Our original Italian Hoagies are served on delicious fresh baked rolls. Try one and you'll be hooked!

All hoagies are served on your choice of white or wheat rolls. We recommend provolone cheese but offer a wide array of delicious cheese selections.
Topping choices include: Lettuce, Tomato, Onion, Pickle, Sweet Pepper Blend, Hot Pepper Blend, Oil & Vinegar, Salt & Pepper and Oregano.

| | Small | Large |
|---|---|---|
| Gennaro's Italian Stallion "THE ORIGINAL" Salami, Ham, Garlic Bologna & Cheese | $6.99 | $8.99 |
| Top Round Roast Beef & Cheese | $6.99 | $8.99 |
| Salami & Cheese | $6.99 | $8.99 |
| The "FATTY".....It's a BIG ONE! Roast Beef, Ham, Turkey & Cheese | $7.29 | $9.79 |
| Turkey & Cheese | $6.59 | $8.79 |
| Salami, Turkey & Cheese | $6.99 | $8.99 |
| Ham & Cheese | $5.99 | $7.99 |
| Veggies & Cheese | $4.99 | $6.99 |

# FATTY'S CLASSICS & GOURMET SPECIALTIES

HOW NOW BROWN COW $6.79
top round roast beef, creamy horshradish sauce, horseradish cheddar, tomato, onion and arugula on a fresh bakery roll

SKY HIGH PASTRAMI ON RYE $6.79
hot, thin sliced pastrami, choice of brown or yellow mustard on light rye
substitute corned beef
add baby swiss $.99

WHAM BAM THANK YOU HAM $6.29
thin sliced tavern ham, red onion, granny smith apple, baby swiss, arugula, mayo, honey-dijon mustard on multigrain

K. C.'S KICKIN' CHICKEN $6.29
shaved blazin' buffalo chicken breast, provolone cheese, lettuce, red onion and hot peppers with bleu cheese or ranch dressing on a hoagie roll

CLUCKY YOU $6.29
ovengold chicken breast, dill havarti, lettuce, tomato, cucumber, sprouts, mayo and honey mustard on multigrain

TAMI O'S TENACIOUS TLC $5.99
pepperjack, lettuce, tomato, red onion, cucumber, sprouts, herb mayo and mustard on multigrain

HAMMY SOME SALAMI $6.29
salami, ham, provolone, pepperoncinis, red onion, lettuce, tomato and italian dressing on italian sourdough

E.L.T...PHONE HOME $5.99
our delicious homemade egg salad with fresh lettuce and tomato on a toasted bakery bun

CHIX LOVE SALAD $6.29
our homemade chicken salad with granny smith apples, pecans and scallions on toasted multigrain

THE "INSERT YOUR NAME HERE" SPECIAL $MKT
any bread, any meat, any cheese, any toppings, any time! Just ask us & we will be happy to make your sandwich special to order!

## THE REUBEN FAMILY TREE

OL' GILLY'S CLASSIC $6.79
shaved corned beef, baby swiss, saurkraut, and 1000 island or russian dressing on toasted light rye

DIRTY D'S RUSSIAN $6.79
top round roast beef, baby swiss, homemade coleslaw and 1000 island or russian dressing on toasted light rye

BERT'S BEACH $6.79
shaved turkey breast, baby swiss, homemade coleslaw and 1000 island or russian dressing on toasted light rye

# SALADS

CAESAR $5.99
fresh romaine and arugula, parmesan, cherry tomatoes, homemade croutons and cracked black pepper served with our caesar dressing
add shaved chicken breast or turkey $1.59

BUFFALO CHICKEN $6.99
romaine, blazin' buffalo chicken breast, celery, tomato, red onion, buffalo hot sauce drizzle served with bleu cheese dressing

FATTY'S CHEF $6.99
romaine, tomato, hard-boiled egg, cucumber, crumbled bacon, shredded cheddar, shaved ham and turkey with choice of dressing

CAPRESE $6.99
sliced vine ripened tomato, fresh mozzarella, red onion, pesto, balsamic vinegar & olive oil drizzle, shaved parmesan and cracked black pepper over dressed arugula

TL'S GREEK ISLAND $6.99
romaine, feta, tomato, red onion, kalamata olives, cucumber, pepperoncini, homemade croutons, fresh cracked pepper served with greek vinaigrette

TURKEY WALDORF $6.99
romaine, shaved turkey breast, granny smith apples, seedless grapes, pecans and crumbled bleu cheese served with balsamic vinaigrette

APPLE PECAN CHICKEN $6.99
homemade chicken salad over a bed of mixed greens with a side of fresh fruit

Date: May 28, 2013

To: Honorable Mayor and City Commission

From: DPW – Water Filtration

RE: Consumers Energy Rate Case – Municipal Coalition Participation

---

## SUMMARY OF REQUEST:

Authorize participation in the Consumers Energy Rate Case Municipal Coalition coordinated by the Michigan Municipal League.

## FINANCIAL IMPACT:

$833.25 Contribution

## BUDGET ACTION REQUIRED:

None.

## STAFF RECOMMENDATION:

Authorize staff to make the financial contribution of $833.25 to the legal defense arguing against the most recent request for a rate increase by Consumer.

Municipal Participants in the Consumers Energy Rate Cases

This letter is to convey to you some good news, and to request that your community again contribute to the payment of the fees incurred by the MML Legal Defense Fund for the most recent CE rate case intervention.

**Background**: Through numerous interventions at the Michigan Public Service Commission in Consumers Energy (CE) rate cases the municipal coalition has made considerable progress. We have certainly slowed the increases to municipal uses, especially for pumping. We have advocated, at the MPSC, as well as in discussions with the Governor's staff to move municipal rates to the actual cost of service. When this is achieved, the traditional subsidy by municipalities to some other rate classes should be alleviated. Much has been accomplished.

Last fall, CE filed for another rate increase, U-17087, for approximately $145 million, with a self-implementation of $110 million of that amount on March 19th of this year, and then another $83 million in 2014. It was anticipated that rates for municipal uses would have increased 6% over the two years.

**Request for Financial Participation**: Understandably, there has been some fatigue among our coalition given the number of cases and the cost of intervention. For the most recent case, it was determined that we would undertake a much more limited intervention, with a much reduced budget. To date, the League's Legal Defense Fund has received and paid invoices for the bulk of the budgeted amount for this case. With the leadership of several communities, as well as the MML Legal Defense Fund and the Michigan Townships Association, we have commitments for much of the amount needed. Nonetheless, it is my hope that other of our traditional participants will again join, so that we will meet our budget and so that those who have already committed to participate will have some proportional reduction in their pledged amounts.

As you know, in an earlier case the coalition determined that $37 per $10,000 of a community's most recent year's bill for electric use for its facilities is appropriate. Last year, for Case U-16794, it was also determined by the group that it is more efficient to just request that communities contribute the same amount as they most recently contributed. Based on this amount and reflecting the reduced budget for the current case, attached is an invoice for 1/3 of the amount your community most recently contributed. This 2/3 reduction formula will work provided the communities receiving this letter participate. Amounts committed by the League and Townships Association are not being reduced by 2/3. Also, if the funds that become available are in excess of the not-to-exceed budget amount allocated for this case, we may be able to return the excess to you proportionately.

**The Good News**: With the most recent case, the progress we've made has intensified significantly. Rick Coy at Clark Hill has been our outside counsel on each of the cases and has done an excellent job for the coalition. Attached is his memo recapping the result of the settlement re the most recent case. Please read the memo for the details, but what stands out to me is that there will be a *decrease* in the rate applied to large municipal pumping operations, along with lower than average increases in rates for small municipal pumping and street lights, and that overall CE-requested increases were reduced by 40% and the automatic 2014 increase was not approved. Finally, Rick expects that CE will not file for another rate increase in the near term – and that would certainly be welcome. All things considered, I believe that this is the most tangible progress that we have made to date.

**Questions; Need for a Meeting?** Please let me know if you have any questions regarding the outcome of the case or the requested financial participation. Also, last year at the conclusion of the case, we held a meeting at Rick's office in Grand Rapids. If you would like to have such a meeting this year – to get additional details on this case and what to expect from CE going forward, please let me know and I will make arrangements to schedule one in either Grand Rapids or Lansing.

Again, thank you for your participation.

Sincerely,

William C. Mathewson
General Counsel
Legal Defense Fund Administrator

michigan municipal league
Better Communities. Better Michigan.

# INVOICE

| | | | |
|---|---|---|---|
| Bill To | Mr. Mohammed Al-Shatel<br>City Of Muskegon<br>933 Terrace St.<br>PO Box 536<br>Muskegon, MI 49443-0536 | Sold To | Muskegon<br>933 Terrace St.<br>PO Box 536<br>Muskegon, MI 49443-0536 |

| | |
|---|---|
| Invoice # | 8486 |
| Invoice Date | 5/10/2013 |
| Due Date | Net 30 Days |
| Customer ID | 347 |

| Description | Quantity | Unit Price | Total |
|---|---|---|---|
| LDF Case Contributions | 1 | 833.25 | 833.25 |
| Consumers Energy Case 2012-07 | | | |

| | |
|---|---|
| Total | 833.25 |
| Amount Paid<br>Ck #: | |
| **BALANCE DUE** | 833.25 |

01-01-00-2009-0000

**For questions regarding payment, please call Finance at 734-669-6371.**
**For questions regarding the service, please call 734-662-3246.**

Invoice #: 8486

**Payment Info:**

☐ Credit Card Exp. Date ____________________

Master Card/Visa/American Express # ________________________________________

Name on Card (Please Print) ______________________________ CSC# ______________

Signature for Credit Card Payment ________________________________________

**Please remit payment to:**
**Michigan Municipal League**
**PO Box 7409**
**Ann Arbor, MI 48107-7409**
**Fax: 734-669-4223**

**Commission Meeting Date: May 28, 2013**

| | |
|---|---|
| **Date:** | **May 20, 2013** |
| **To:** | **Honorable Mayor & City Commission** |
| **From:** | **Planning & Economic Development Department** CBC |
| **RE:** | **CDBG Program Administration Agreement- City of Muskegon/City of Norton Shores** |

---

SUMMARY OF REQUEST: The City of Muskegon has contracted with the City of Norton Shores to administer their Community Development Block Grant (CDBG) program since 2006. The current Agreement concludes on June 30, 2013. The new Agreement extends for two years (through June 30, 2015).

FINANCIAL IMPACT: The City of Norton Shores will pay the maximum allowable CDBG costs per program year to the City of Muskegon, minus $1,000 to administer their CDBG program.

BUDGET ACTION REQUIRED: None.

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

CDBG Program Administration Agreement
Between the
City of Norton Shores
And
City of Muskegon

An agreement made and entered into this _________ day of _________, 2013, by and between the City of Muskegon; a Michigan municipal corporation ("Muskegon"), and the City of Norton Shores, a Michigan municipal corporation ("Norton Shores"), with reference to the following facts;

**Background**

Norton Shores desires that Muskegon assume responsibilities for the administration of the Norton Shores' Community Development Block Grant ("CDBG") Program.

Therefore, the parties agree as follows:

1. **Administration of CDBG Program**. Muskegon agrees to assume responsibility for the preparation and submission of the following CDBG documents on behalf of Norton Shores:
    a. Federal Application 424, narratives, project tables, certifications, Environmental Summary, Combined Notice of no Significant Findings and Intent to Release Funds.
    b. Five-Year Consolidated Plan, Annual Plans, Consolidated Annual Performance and Evaluation Report, publish hearing notice narratives, reports including performance measures criteria (using CPMP format).
    c. Semi-Annual Labor Standard Enforcement Report (form 4710).
    d. Contract and Subcontract Activity Report (form 2516).
    e. CDBG liens for projects, in accordance with HUD guidelines and regulations, as well as any other applicable Norton Shores requirements.
    f. Preparation of quarterly reports to comply with CAPER, maintaining sub-recipient contract format for the City of Norton Shores' contract with the American Red Cross and CALL 211.
    g. IDIS reporting will be done by the City of Muskegon. Norton Shores will continue to do its own draw-downs.
    h. Compliance with NEPA and Part 58, and the Environmental Certification compliance included in HUD Form 7015.15.
    i. Recording of CDBG liens with the County will be completed by Norton Shores.

Muskegon shall provide a copy of the above reports to Norton Shores upon completion. Norton Shores will continue to publish its own public notices.

2. **Terms of CDBG Fund Payments**. Muskegon shall submit payment requests for release of CDBG funds to Norton Shores' Finance Department, and Norton Shores shall remit payment within 10 days of a payment request by Muskegon.

3. **Administration Fee**. Norton Shores shall pay Muskegon the maximum CDBG allowable costs minus $1,000 (for legal work, etc) per program year for administration of the CDBG program. Payment shall be made by way of quarterly payments beginning on July 1, 2013.
4. **Terms of the Contract**. The parties agree that this contract shall be effective July 1, 2013 through June 30, 2015. In addition, either party may terminate this Agreement at any time, and for any reason, upon 45 days written notice to the other party. Upon termination of the contract, Muskegon shall owe Norton Shores a pro rata return of the unearned Administration Fee paid to date.
5. **Building Inspection**. Norton Shores' Building Inspection Department will perform all inspections for CDBG projects and submit the inspection reports to Muskegon for inclusion in the relevant project file.
6. **Purchasing Guidelines**. Muskegon and Norton Shores agree to evaluate the current CDBG program purchasing guidelines used by Norton Shores and establish a written quotation and sealed project bid system acceptable to both parties.
7. **General Provision**.
    a. **Non-Waiver**. No waiver by any party of any provision of this Agreement shall constitute a waiver by such party of such provision on any other occasion or a waiver by such party of any other provision of this Agreement.
    b. **Severability**. Should any provision of this Agreement be determined to be invalid, unlawful, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be impaired or affected.
    c. **Assignment or Delegation**. Neither party may assign all or any portion of its rights and obligations in this Agreement without the express prior written approval of the other party which approval may be withheld for any reason.

City of Muskegon

By ____________________________
Stephen J. Gawron, Mayor

By ____________________________
Ann-Marie Becker, Clerk

City of Norton Shores

By ____________________________
Gary Nelund, Mayor

By ____________________________
Lynne A. Fuller, Clerk

Date: 5/28/13

To: Honorable Mayor and City Commissioners

From: DPW/Equipment

RE: Cemetery Utility Cart

---

SUMMARY OF REQUEST:

Authorize staff to purchase one (1) Kioti Mechron utility cart from J&J Farms, the lowest qualified Bidder. This machine will replace the 1995 model currently being used.

FINANCIAL IMPACT:

$9,000 minus $500 trade in for old model for a total of $8,500

BUDGET ACTION REQUIRED:

None. Amount is what was budgeted.

STAFF RECOMMENDATION:

Authorize staff to purchase one (1) Kioti Mechron utility cart From J&J Farms.

# QUOTATION



J & J FARM SALES
4241 HOLTON RD.
MUSKEGON, MI 49445
Phone #: (231)744-7140
Fax #: (231)744-7147

PHONE #: 724-6912
ALT. #:
P.O.#:
TERMS: Net 30
SALES ORDER #: 14757
SALES TYPE #: Quote

DATE: 5/20/2013
INVOICE #:
CUSTOMER#: 1014
CP: SCOTT
LOCATION: 1
STATUS: Pending

**BILL TO** 1014

City of Muskegon
1350 E Keating ave
Muskegon, MI U.S.A.

**SHIP TO**

City of Muskegon
1350 E Keating ave
Muskegon, MI U.S.A.

| MFR | PRODUCT NUMBER | DESCRIPTION | QTY SOLD | QTY BO | PRICE | NET | TOTAL |
|---|---|---|---|---|---|---|---|
| **** | MISC | Kioti mechron UTV 4x4 Diesel | 1 | 0 | $9,000.00 | $9,000.00 | $9,000.00 |
| **** | TRADE-IN | Trade-In Allowance on pug | 1 | 0 | $0.00 | ($500.00) | ($500.00) |

Prices reflected on this quote are valid for 30 days.

| | |
|---|---|
| SUBTOTAL: | $8,500.00 |
| TAX: | $0.00 |
| ORDER TOTAL: | $8,500.00 |

76.235.167.76

RTV900XTGT2 WEB QUOTE
Date: 4/16/2013 4:58:14 AM

– Standard Features –

Kubota.

V Series RTV900XTG-T2

*** EQUIPMENT IN STANDARD MACHINE ***

**DIESEL ENGINE**
Model Kubota D902
3 Cyl. 54.8 cu in
21.6 Gross Eng HP
60 Amp Alternator

**TRANSMISSION**
VHT Plus 2
Variable Hydro Transmission
Forward Speeds:
Low 0 - 10 mph
Medium 0 - 18 mph
High 0 - 25 mph
Reverse 0 - 12 mph
Rear differential lock

**HYDRAULICS**
Hydrostatic Power Steering

**FLUID CAPACITY**
Fuel Tank 7.4 gal
Cooling 4.2 qts
Crankcase 3.1 qts
Transmission 2.6 gal
Brake Fluid 0.42 qts

**SAFETY EQUIPMENT**
OSHA 1928.52 ROPS and seat belt
Rear Wheel Hand Parking Brake
Spark Arrestor Muffler

**DIMENSIONS**
Width 59.8 in
Height 79.3 in
Length 116.7 in
Wheelbase 77.4 in
Tow Capacity 1300 lbs

**CARGO BOX**
Width 52 in
Length 46.7 in
Depth 11.4 in
Load Capacity 1102 lbs
Vol. Capacity 16 cu ft

**OPERATING FEATURES**
Hydrostatic Power Steering
Front Independent Suspension
Rear Semi-independent Suspension
Brakes - Front/Rear Wet Disc
Rear Brake Lights / Front Headlights
2" Hitch Receiver, Front and Rear
Dark gray deluxe vinyl bench seats

**TIRES AND WHEELS**
Turf Tire 25 x 12 - 12, 4 ply

– Custom Options –

RTV900XTGT2 Base Price: $12,896.00
Suggested List Price w/ Options: $12,896.00

Price 12896.00

Govt Discount - 2396.00

10,500.00

Freight 200.00
In Bound

Set up 100

$10,700.00

Your Price $10,600.00

*Taxes, shipping & handling, surcharges, assembly charges, destination, freight and/or delivery charges are not included.
This MSRP configuration program is for informational purposes only. In all instances, the user of this program must consult with an authorized Kubota Dealer for complete purchase, warranty and safety information. Special pricing and promotions may be available on certain models. See your Kubota Dealer for details and individuals Dealer product pricing. All prices are shown in U.S. Dollars. Quotes are for products sold in the United States only.

JOHN DEERE

THE POWER SHOP

Quote Id: 7935933 **Customer Name:** CITY OF MUSKEGON

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**
John Deere Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580;
DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**
THE POWER SHOP
7441 WEST 48TH ST
FREMONT, MI 49412
231-924-3540

**Prepared For:**

# CITY OF MUSKEGON

THE POWER SHOP™

**Proposal For:**

**Delivering Dealer:**
John W Wolfsen
THE POWER SHOP
7441 WEST 48TH ST
FREMONT, MI 49412

**Quote Prepared By:**
John W Wolfsen
xt63450@sbcglobal.net

Date: April 16, 2013 Offer Expires: May 16, 2013

JOHN DEERE

THE POWER SHOP

Quote Id: 7935933 **Customer Name:** CITY OF MUSKEGON

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**
John Deere Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580;
DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**
THE POWER SHOP
7441 WEST 48TH ST
FREMONT, MI 49412
231-924-3540

## Quote Summary

**Prepared For:**
CITY OF MUSKEGON
1350 E KEATING AVE
MUSKEGON, MI 49442

**Delivering Dealer:**
**THE POWER SHOP**
John W Wolfsen
7441 WEST 48TH ST
FREMONT, MI 49412
Phone: 231-924-3540
xt63450@sbcglobal.net

**Quote ID:** 7935933
**Created On:** April 16, 2013
**Last Modified On:** April 16, 2013
**Expiration Date:** May 16, 2013

| Equipment Summary | Selling Price | | Qty | | Extended |
|---|---|---|---|---|---|
| JOHN DEERE GATOR,HPX DSL | $ 9,410.12 | X | 1 | = | $ 9,410.12 |

**Contract:** 071B0200317_Agricultural, Grounds, and Roadside Equipment
**Price Effective Date:** July 1, 2011

**Equipment Total** **$ 9,410.12**

* Includes Fees and Non-contract items

| **Quote Summary** | |
|---|---|
| Equipment Total | $ 9,410.12 |
| Trade In | |
| SubTotal | **$ 9,410.12** |
| Total | $ 9,410.12 |
| Down Payment | (0.00) |
| Rental Applied | (0.00) |
| **Balance Due** | $ 9,410.12 |

Salesperson : X ____________ Accepted By : X ____________

*CONFIDENTIAL*

JOHN DEERE THE POWER SHOP

# Selling Equipment

**Quote Id:** 7935933 **Customer Name:** CITY OF MUSKEGON

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):
John Deere Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580;
DUNS#: 60-7690989

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:
THE POWER SHOP
7441 WEST 48TH ST
FREMONT, MI 49412
231-924-3540

## JOHN DEERE GATOR,HPX DSL

Hours:
**Stock Number:**
**Contract:** 071B0200317_Agricultural, Grounds, and Roadside Equipment
**Price Effective Date:** July 1, 2011

**Selling Price** *
$ 9,410.12

* Price per item - includes Fees and Non-contract items

| Code | Description | Qty | List Price | Discount% | Discount Amount | Contract Price | Extended Contract Price |
|---|---|---|---|---|---|---|---|
| 9906M | HPX Diesel Green & Yellow | 1 | $ 10,799.00 | 14.00 | $ 1,511.86 | $ 9,287.14 | $ 9,287.14 |
| | **Standard Options - Per Unit** | | | | | | |
| 0202 | US/CANADA | 1 | $ 0.00 | 14.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 1002 | Turf Tires - Yellow | 1 | $ 143.00 | 14.00 | $ 20.02 | $ 122.98 | $ 122.98 |
| 2001 | Bench Seat Yellow | 1 | $ 0.00 | 14.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 4000 | OPS | 1 | $ 0.00 | 14.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 5002 | Manual Lift | 1 | $ 0.00 | 14.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| | **Standard Options Total** | | **$ 143.00** | | **$ 20.02** | **$ 122.98** | **$ 122.98** |
| | **Suggested Price** | | | | | | $ 9,410.12 |
| **Total Selling Price** | | | **$ 10,942.00** | | **$ 1,531.88** | **$ 9,410.12** | **$ 9,410.12** |

Date: May 28, 2013

To: Honorable Mayor and City Commission

From: Dept. of Public Works

RE: Grant agreement Addendum – Grand Trunk Boating Access

---

## SUMMARY OF REQUEST:

Adopt the attached resolution and authorize the mayor and clerk to sign the agreement amendment between the City and MDNR reflecting the acceptance of the grant based on actual costs; the dredging was completed earlier this month.

## FINANCIAL IMPACT:

$89,623.44.

## BUDGET ACTION REQUIRED:

None

## STAFF RECOMMENDATION:

Adopt the resolution and authorize the mayor and clerk to sign the agreement.

## COMMITTEE RECOMMENDATION:

# AGREEMENT ADDENDUM

***(Supplemental Funding, Scope of Work Change, or Time Extension)***

**THIS AGREEMENT ADDENDUM**, made this ___________ day of __________, 2013, by and between the CITY OF MUSKEGON, MICHIGAN, a municipal corporation, hereinafter referred to as the "City", and the MICHIGAN DEPARTMENT OF NATURAL RESOURCES, an agency of the State of Michigan, hereinafter referred to as the "Department."

**WHEREAS**, on ______________, 2013 an agreement was entered into between the Department and City, to assist the City in the Emergency Dredging at the City of Muskegon, Grand Trunk Boating Access Site facility, under provisions of the State's Waterways Grant-in-Aid Program.

**NOW, THEREFORE**, in consideration of the mutual promises and conditions contained herein, it is mutually agreed as follows:

1. The Department agrees:

(a) To grant to the City funds for emergency dredging of Grand Trunk Boating Access Site (the facilities). Said total grant-in-aid for the project shall not exceed Eighty-nine Thousand Six Hundred Twenty-three dollars and Forty-four cents ($89,623.44). These monies shall be used only for the project work outlined in the Agreement and this Addendum and related engineering costs.

(b) To release State funds according to the following:

Completion of Department approved plans and cost estimated by the community's engineer.

Twenty-five (25) percent of the total grant upon execution of this Agreement. These advance funds may be used toward the plans, specifications and permits acceptable to the Department and City. The State's ability to advance funds will be dependent on approval of the Emergency Dredge Plan Supplemental, and approval from the Department of Treasury. If the plan is not acceptable to the regulatory agencies and permits are denied, remaining funds will be returned to the State of Michigan.

The remaining seventy-five (75) percent shall be released as a reimbursement. The final ten (10) percent shall be paid upon completion of work and receipt of progress payment requests from the contractor that are approved for payment by the designated project manager. The final ten (10) percent of State funds shall be paid upon completion of the project and 60 days after receipt of project cost documentation to the Department by the City or completion of an audit of the expenditures for the facilities by the Department, whichever occurs first.

2. The City agrees:

(a) Said total grant-in-aid for the project shall not exceed Eighty-nine Thousand Six Hundred Twenty-three dollars and Forty-four cents ($89,623.44). These monies shall be used for the project work outlined in the Agreement and this Addendum and related engineering costs. This sum represents 100 percent of the total cost of the project work. Any additional funds needed to complete the project work shall be provided by the City. The City must have the prior written approval of the Department for any change orders to the contract(s) in cost, plans or specifications.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seal the day and date first above written.

**IN WITNESS WHEREOF**, the parties execute this Agreement by the signatures of their duly authorized representatives.

**WITNESSES:**

______________________________

______________________________

______________________________

______________________________

**CITY OF MUSKEGON**

By: ______________________________

Title: ______________________________

**MICHIGAN DEPARTMENT OF NATURAL RESOURCES**

By: ______________________________
Ronald A. Olson, Chief
Parks and Recreation Division

# RESOLUTION

Upon Motion made by ______________________, seconded by _________________, the following Resolution was adopted:

"RESOLVED, that the City of Muskegon, MUSKEGON County, Michigan does hereby accept the terms of the Agreement Addendum as received from the Michigan Department of Natural Resources, and the City does hereby specifically agree, but not by way of limitation, as follows:

1. To maintain satisfactory financial accounts, documents, and records, and to make them available to the Department for auditing at reasonable times.

2. To dredge the facility and provide such funds, services, and materials as may be necessary to satisfy the terms of the said Agreement Addendum.

3. To comply with any and all terms of the said Agreement Addendum including all terms not specifically set forth in the foregoing portions of the Resolution."

The following aye votes were recorded: ______

The following nay votes were recorded: ______

STATE OF MICHIGAN )<br>
)<br>
COUNTY OF MUSKEGON )

I, ____________________________, Clerk of the City of Muskegon, Muskegon County, Michigan, do hereby certify that the above is a true and correct copy of the Resolution relative to the Agreement with the Michigan Department of Natural Resources, which Resolution was adopted by the City Council at a meeting held ______________________________, 2013.

Dated:_____________________________ ___________________________________________

City Clerk

Date: May 28, 2013

To: Honorable Mayor and City Commission

From: Dept. of Public Works

RE: Grant agreement with the Dept. of Natural Resources for dredging Cottage Grove Launch Ramp and Hartshorn Marina

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## SUMMARY OF REQUEST:

Adopt the attached resolution and authorize the mayor and clerk to sign the attached grant agreement with the Dept. of Natural Resources for the dredging work necessary at the large and small boat basins of Hartshorn Marina, and at Cottage Grove launch ramp.

## FINANCIAL IMPACT:

$175,000 dollars.

## BUDGET ACTION REQUIRED:

None at this time, project will be incorporated into the 2013/2014 budget.

## STAFF RECOMMENDATION:

Authorize the mayor and clerk to sign the agreement.

## COMMITTEE RECOMMENDATION:

RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING

KEITH CREAGH
DIRECTOR

May 17, 2013

Mr. Mohammed Al-Shatel, P.E.
Director of Public Works
City of Muskegon
350 Keating
Muskegon, Michigan 49442

Dear Mr. Al-Shatel:

The Department of Natural Resources (DNR), Parks and Recreation Division (PRD), is pleased to inform your community that Governor Rick Snyder has just signed the bill that establishes a budget for $20,961,020 to implement the 2013 Emergency Dredging Plan.

As we previously announced, your community boating facility is included in the plan, based upon your estimate of dredge needs. The agreement will use a reimbursement approach with no local match required, unless the community is able to contribute. Therefore the actual amount to be disbursed will be determined by the approval of the actual engineered requirements and the contracted amount to accomplish the dredging work, and not the estimated amount. This approach is consistent with our Waterways grant program.

Your community was fortunate to qualify for the Hurricane Sandy federal relief funding. The purpose of the Hurricane Sandy funds is to quickly and efficiently meet your community's critical dredging needs that resulted from that hurricane event. The DNR cannot allocate additional funds for the same project area being addressed by these federal funds. Therefore, we will work closely with the US Army Corps of Engineers and your community to quickly identify the boundaries of the Hurricane Sandy dredging program. Any areas that fall outside of those Hurricane Sandy fund boundaries, that comply with Michigan's 2013 Emergency Dredging Plan criteria, can still be addressed using these state funds.

Enclosed are two copies of each Waterways Grant Agreement (Agreement) the City of Muskegon and the Michigan Department of Natural Resources (DNR), as well as two copies of a Resolution for adoption by the City authorizing execution of the Agreement.

Please have both copies of the Agreement (do not date the first page) and the Resolution signed as appropriate. All copies should be returned to my attention. The Agreement will be signed and dated by the DNR, and a fully executed copy will be returned for your files.

Should you have any questions, please contact Paul Petersen (517-335-3033) or Bill Boik (517-335-4828), who are managing the Waterways Grant program.

Sincerely,

Ronald A. Olson

Ronald A. Olson, Chief
DNR Parks and Recreation

Enclosure
cc: Michigan State Waterways Commission
Director Keith Creagh, DNR
Dr. William E. Moritz, Natural Resources Deputy, DNR

# WATERWAYS GRANT AGREEMENT

## Harbors and Docks – Emergency Dredging

**THIS WATERWAYS GRANT AGREEMENT** (the "Agreement") is made as of ________________________, 2013, between the City of Muskegon, MUSKEGON COUNTY, MICHIGAN (the "City") and the MICHIGAN DEPARTMENT OF NATURAL RESOURCES, a principal department of the State of Michigan (the "Department").

**WHEREAS,** the City is an important center of recreational boating activity and serves as a refuge point for shallow-draft recreational vessels;

**WHEREAS**, the City has asked that the Department assist the City in the emergency dredging of Muskegon Hartshorn Marina (the facilities);

**WHEREAS**, the City and Department jointly participated in the engineering study for the preparation of plans and specifications for the facilities; and

**WHEREAS**, the Department is willing to assist the City to dredge the facilities, with the Department agreeing to pay one hundred percent (100%) of the cost.

**NOW, THEREFORE**, in consideration of the Agreement's mutual promises and undertakings, the parties agree as follows:

1. The Department shall:

(a) grant to the City a sum of money equal to one hundred percent (100%) of the cost of emergency dredging of the facilities called for by the plans and specifications, including engineering costs. The State's payments must be supported by the City's submittal of documentation of actual costs, including an engineer's report on dredge volume, and actual payments made to the contractor. The words "plans and specifications" shall mean the plans and specifications developed for the City for the facilities prepared by a consulting firm duly licensed to perform professional services within the State of Michigan (the "State").

(b) release State funds according to the following:

Completion of Department approved plans and cost estimated by the community's engineer.

Twenty-five (25) percent of the total grant upon complete execution of this Agreement. These advance funds may be used toward the plans, specifications and permits acceptable to the Department and City. The State's ability to advance funds will be dependent on approval of the Emergency Dredge Plan supplemental, and approval from the Department of Treasury. If the plan is not acceptable to the regulatory agencies and permits are denied, remaining funds will be returned to the State of Michigan.

The remaining seventy-five (75) percent shall be released as a reimbursement. The final ten (10) percent shall be paid upon completion of work and receipt of progress payment requests from the contractor that are approved for payment by the designated project manager. The final ten (10) percent of State funds shall be paid upon completion of the project and 60 days after receipt of project cost documentation to the Department by the City or completion of an audit of the expenditures for the facilities by the Department, whichever occurs first.

(c) make the resources of the Department, and the experience gained by the Department operating similar boating projects, available to the City.

(d) ~~provide for the routine inspection of the facilities.~~

2. The City shall:

(a) provide any additional funds needed to complete this work, beyond the terms of this Agreement.

(b) construct the facilities to the satisfaction of the Department, and to provide the funds, services, and materials necessary to satisfy this Agreement. The City will submit and obtain the State's approval of plans and specifications. Once the Department has approved the City's plans and specification, this grant agreement will be amended to reflect the approved value. There shall be no deviation from the plans and specifications without the express written consent of Chief of the Parks and Recreation Division. Proceeding with unauthorized changes shall result in excluding the work from State fund eligibility. Upon completion of the project, a final set of "as built" plans with pre-bathymetric and post-bathymetric surveys shall be submitted to the Department on a CD in an appropriate format.

(c) expend all funds granted by the Department in this Agreement solely for the conduct and completion of the project work within one (1) year from the date of this Agreement. The City shall maintain satisfactory financial accounts, documents and records, and shall make them available to the Department for auditing at reasonable times. The City shall retain all accounts, documents, and records for the facilities for not less than five (5) years following completion of construction. Any excess funds shall be returned to the Waterways Emergency Dredging fund.

(d) permit Department review and approval of all professional services agreements, project contracts, bidding documents, specifications and final engineering plans before being sent out to bid. The final engineering plans shall provide, or conduct, soil boring data for any projects below the waterline. The Department must approve all change orders before the work is initiated. The Department reserves the option to have a representative on the selection panel for all contracts.

~~(e) ensure that all premises, buildings, and equipment-related procedures comply with all applicable State and Federal regulations for employee and public safety and with all applicable construction codes. All facilities shall comply with the barrier free design requirements of the Utilization of Public Facilities by Physically Handicapped Act, MCL 125.1351 *et seq.* The City shall submit a written report to the Department annually in which~~

~~any safety issues, identified through Department inspections, are listed and compliance procedures are outlined. If the Department determines the City has failed to correct any safety issues, the Department will have the necessary work completed and the City shall pay 105% of the cost of the work.~~

(f) construct the facilities authorized under this Agreement, and the land and water access ways to those facilities, only in accordance with the plans and specifications approved by the Department.

(g) certify to the best of its knowledge and belief that the City and any principal, agent, contractor, and subcontractor of the City:

(1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any State or Federal agency.

(2) have not been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction, as defined in 45 CFR 1185; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property within a three-year period preceding this Agreement.

(3) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses.

(4) have not had one or more public transactions (Federal, State, or local) terminated for cause or default within three years preceding this Agreement.

(5) will comply with all applicable requirements of all Federal and State laws, rules, executive orders, regulations, and policies governing this program.

3. Dredge volumes will be designed to meet the needs of recreational boating.

4. Prior to the dredging implementation, after plans and permits have been approved, post temporary signage that announces the Emergency Dredging Plan project. A template will be provided by the State.

5. After the facilities are constructed, the City shall:

(a) establish or assign a competent and proper agency of the City to operate the facilities, to regulate the use of the facilities, and to provide for maintenance for the facilities to the satisfaction of the Department.

~~(b) provide to the Department for approval, a complete tariff schedule containing all charges to be assessed against watercraft utilizing the facilities and to provide any amendment to the schedule to the Department for approval before becoming effective. Any fee~~

~~schedule adopted by the City shall provide for sufficient income to defray operating and maintenance expenses of the project exclusive of depreciation. The City shall not impose fees for the use of the facilities unless they have been specifically approved by the Department in writing. Any net revenues accruing from the operation of the facilities shall be separately accounted for and reserved in a restricted fund by the City for the future maintenance or expansion of the facility or, with the Department's approval, for the construction of other recreational boating facilities.~~

(c) enforce all State statutes and local ordinances pertaining to marine safety, licensing of watercraft, and the dispensing of marine fuel within the City.

~~(d) furnish the Department, upon request, detailed statements covering the annual operation of the facilities, including boat traffic, income, and expenses for the 12 months ending December 31 of each year.~~

(e) hold the State of Michigan and the Department harmless from damages or any suits brought against the City due to construction, maintenance or operation of the facilities.

~~(f) maintain throughout the life of this Agreement suitable signs for both land and water approaches designating this project as having been constructed by the City and the Department – Michigan State Waterways Fund. The size, color, and design of these signs shall be approved by the Department before being constructed.~~

(g) adopt the ordinances or resolutions as required to effectuate this Agreement. The City shall forward certified copies of all the ordinances and resolutions to the Department before their effective date.

~~(h) participate in the State Harbor Reservation System for the life of facilities.~~

~~(i) provide, upon the Department's request, one seasonal boat slip at no cost for Department-owned vessels.~~

~~6. Facility improvements are held in perpetuity. Perpetuity is defined as life of facilities. Life of facilities is defined as a minimum of 20 years from latest grant award. The City may request release from grant obligations after 20 years from date of last executed grant agreement.~~

~~7. The City shall comply with all State statutes applicable to the facilities, including wage rates.~~

8. The City must submit all reports, documents, or actions required by this Agreement to the Chief of the Parks and Recreation Division, Department of Natural Resources, P.O. Box 30257, Lansing, Michigan 48909. The City must submit invoices for reimbursement within ninety (90) days of invoice date.

9. Nothing in this Agreement shall be in any way construed to impose any obligation of whatsoever nature, financial or otherwise, upon the Department for the operation or maintenance of any recreational boating facilities.

~~10. All of the facilities constructed pursuant to this Agreement, or pursuant to any amendments or extensions of this Agreement, shall be reserved in perpetuity by the City for the exclusive use and/or rental, on a daily basis, by the operations of transient recreational watercraft, unless otherwise authorized in writing by the Department.~~

~~11. Commercial operations of any type shall not be permitted to regularly use any of the facilities or to be located on the facilities without the prior written approval of both the City and the Department.~~

12. The facilities and the land and water access ways to the facilities shall be open to the public at all times on equal and reasonable terms, and that no individual shall be denied access to, or the use of, the facilities on the basis of race, color, religion, national origin, or ancestry contrary to the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101 *et seq.* or the Persons with Disabilities Civil Rights Act 1976 PA 220, MCL 37.1101 *et seq.*, and any violation of this requirement shall be a material breach of contract, subject to penalties as provided in this Agreement.

13. In connection with this Agreement, the City shall:

(a) comply with the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101 *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101 *et seq.,* and all other Federal, State and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or physical or mental disability that is unrelated to the individual's ability to perform the duties of a particular job or position. The City agrees to include this covenant, not to discriminate in employment, in every subcontract entered into for the performance of this contract. A breach of this covenant is a material breach of this Agreement.

~~(b) send, or its collective bargaining representative shall send, to each labor union representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative its commitments under this Agreement.~~

14. The City represents that it possesses good and clear title to all lands, or has acquired authorization from the United States Army Corps of Engineers for federal channels, involved in this project and that it will defend any suit brought against either party which involves

title, ownership, or specific rights, including appurtenant riparian rights of any lands connected with or affected by this project.

~~15. The facilities constructed under this Agreement shall not be wholly or partially conveyed, either in fee or otherwise, or leased for a term of years or for any other period, nor shall there be any whole or partial transfer of the title, ownership, or right of maintenance or control by the City without the Department's prior written approval.~~

16. Any failure by the City to abide by any of the conditions, promises, or undertakings contained in this Agreement shall constitute a material breach of this Agreement. A material breach of this Agreement could result in an "ineligibility" status with all Department-administered grant programs until the breach is corrected. Further, a material breach of this Agreement by the City shall entitle the Department to the following options:

(a) To purchase the facilities and the right of access over City property to the facilities at the existing value of the facilities, less any financial contribution made by the Department. The value of the facilities shall be determined by three competent appraisers; one to be selected by the City, one to be selected by the Department, and the third to be selected by the first two appraisers. The Department and the City shall equally share the total fees of these appraisers, including expenses. The appraisal shall be limited to the value of the facilities for the construction, repair, or rehabilitation in which the facilities are located. No value shall be assigned to the right of access to the facilities over City property. The Department shall have ninety (90) days from the date of receipt of the appraisals within which to exercise its option. If the Department does not exercise the option within that period, the City shall pay to the Department a sum equal to the total financial contribution made by the Department towards the construction or maintenance of the facilities.

(b) To accept from the City a sum equal to the total financial contribution made by the Department for the construction or maintenance of the facilities.

17. This Agreement shall not be effective until the Michigan Legislature appropriates the State funds for the facilities and the State Administrative Board approves their release. Grant cannot pay for any services performed prior to the Michigan Legislature's approval of the State funds.

~~18. The Department's rights under this Agreement shall continue in perpetuity.~~

19. Failure of either party to insist on the strict performance of this Agreement shall not constitute waiver of any breach of the Agreement.

20. This Agreement represents the entire agreement between the parties and supersedes all proposals or other prior agreements, oral or written, and all other communications between the parties.

21. No amendment to the Agreement shall be binding upon the parties unless it is in writing and signed by a duly authorized representative of both parties.

**IN WITNESS WHEREOF**, the parties execute this Agreement by the signatures of their duly authorized representatives.

**WITNESSES:** **CITY OF MUSKEGON**

_______________________ By: _______________________

_______________________ Title: _______________________

**MICHIGAN DEPARTMENT OF NATURAL RESOURCES**

_______________________ By: _______________________
Ronald A. Olson, Chief
Parks and Recreation Division

_______________________

# RESOLUTION

Upon motion made by______________________________________________, seconded by ______________________________ the following Resolution was adopted:

"RESOLVED, that the City of Muskegon, Michigan, accepts the terms of the Agreement as received from the Michigan Department of Natural Resources, and that the City agrees, but not by way of limitation, as follows:

1. To accept the sum of money equal to one hundred (100) percent of the total cost of the emergency dredging of the facilities called for by the plans and specifications, including engineering costs, 25% advance and 75% reimbursement. The state's payments must be supported by documentation of actual costs, including an engineer's report on dredge volume, and actual payments made to the contractor.

2. To maintain satisfactory financial accounts, documents, and records, and to make them available to the Department for auditing at reasonable times.

3. To construct the facilities and provide the funds, services, and materials as may be necessary to satisfy the terms of the Agreement.

4. To ensure that all premises, buildings, and equipment related procedures comply with all applicable State and Federal regulations.

5. To establish and appoint the ______________________ to regulate the use of the use of the facilities constructed under this Agreement to assure the use thereof by the public on equal and reasonable terms.

6. To enforce all State statutes and local ordinances pertaining to marine safety and to enforce statutes of the State of Michigan within the confines of the City pertaining to the licensing of watercraft. Watercraft not fully complying with the laws of the State of Michigan relative to licensing shall not be permitted to use the facility until full compliance with those laws has been made.

7. To comply with all terms of the Agreement, including all terms not specifically set forth in the foregoing portions of this Resolution."

The following aye votes were recorded: ________________________

The following nay votes were recorded: ________________________

STATE OF MICHIGAN )
)
COUNTY OF MUSKEGON )

I, ____________________________ Clerk of the City of Muskegon, Michigan, certify that the above is a true and correct copy of the Resolution relative to the Agreement with the Michigan Department of Natural Resources, which was adopted by the City Board at a meeting held____________________________, 2013.

Dated:__________________________ ______________________________________
City Clerk

Commission Meeting Date: May 21, 2013

Date: May 23, 2013

To: Honorable Mayor and City Commissioners

From: Planning & Economic Development

RE: Sale of Parcel in Seaway Industrial Park

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SUMMARY OF REQUEST:

To approve the sale of Lot #7 in Seaway Industrial Park (see attached map) to Schultz Transport, Inc., 421 Delano Ave, Muskegon, MI 49444. The company will utilize the new land in its plans to expand its lawn care services. The lots will be combined and the new land will be used for mulch and other lawn care storage.

FINANCIAL IMPACT:

The sale of this lot, while located in a Renaissance Zone, will still generate City of Muskegon income tax.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the lot sale.

COMMITTEE RECOMMENDATION:

None

# QUIT-CLAIM DEED

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

QUIT CLAIMS TO: James Schultz, a married man, of 421 Delano Ave, Muskegon, MI 49444

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

CITY OF MUSKEGON COM AT THE SE COR OF THE NW FRL 1/4 SEC 31 T10N R16W TH N 00D 00M 00S E 644.09 FT ALG E LN OF SD NW FRL 1/4 TH S 89D 39M 32S W 672.43 FT ALG S LN OF YOUNG & WILLIAMS ADDN FOR POB TH S 00D 00M 00S E 199.24 FT ALG THE EXTND W LN OF SD YOUNG & WILLIAMS ADDN TH N 33D 25M 49SW 395.38 FT ALG NE R/W LN OF CSX RR TH N 89D 40M 00S E 217.83 FT TH S 00D 00M 00S W 132.00 FT ALG SD W LN OF YOUNG & WILLIAMS ADDN TO POB

For the sum of: $6,000
Commonly known as: Lot 7 of Seaway Industrial Park

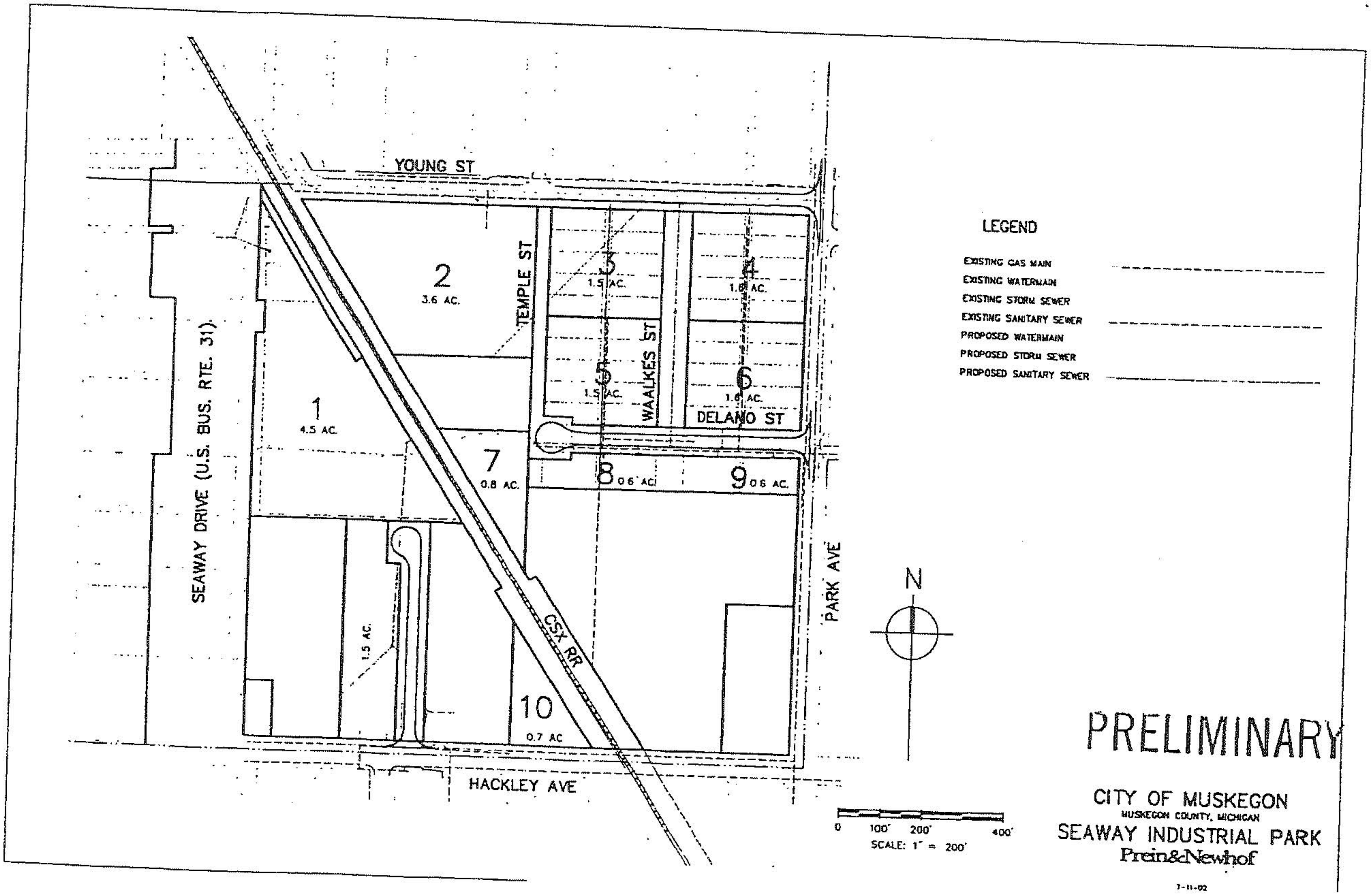
This deed is exempt from real estate transfer tax pursuant to the provisions of MCLA 207.505(h)(i) and MCLA 207.505(h)(i) and MCLA 207.526 Sec. (h)(i).

Dated this __________day of ________________, 20___.

Signed in the presence of : CITY OF MUSKEGON

____________________ By:________________________
Stephen Gawron, Its Mayor

____________________ and:________________________
Ann Cummings, City Clerk


YOUNG ST
TEMPLE ST
WAALKES ST
DELANO ST
PARK AVE
HACKLEY AVE
SEAWAY DRIVE (U.S. BUS. RTE. 31)
CSX RR
1
4.5 AC.
2
3.6 AC.
3
1.5 AC.
4
1.6 AC.
5
1.5 AC.
6
1.6 AC.
7
0.8 AC.
8
0.6 AC.
9
0.6 AC.
10
0.7 AC.
1.5 AC.
LEGEND
EXISTING GAS MAIN
EXISTING WATERMAIN
EXISTING STORM SEWER
EXISTING SANITARY SEWER
PROPOSED WATERMAIN
PROPOSED STORM SEWER
PROPOSED SANITARY SEWER
N
0
100'
200'
400'
SCALE: 1" = 200'
PRELIMINARY
CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN
SEAWAY INDUSTRIAL PARK
Prein&Newhof
7-11-02

## REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT is made MAY 28TH, 2013, by and between the **CITY OF MUSKEGON**, a municipal corporation, with offices at 933 Terrace, Muskegon, Michigan 49440 ("Seller"), and SHCULTZ TRANSPORT, INC., of 921 Delano Ave, Muskegon, MI 49444("Buyer").

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

See attached Exhibit A

Subject to the reservations, restrictions and easements of record, provided said reservations, restrictions and easements of record are acceptable to Buyer upon disclosure and review of the same.

2. **Purchase Price and Manner of Payment**. The purchase price for the Premises shall be as follows:

   a. The purchase price for the property is Six Thousand Dollars ($6,000). One Thousand Dollars ($1,000) has already been paid. At and upon closing, Buyer shall pay Seller the remaining balance, which is Five Thousand Dollars ($5,000) for the Premises.

3. **Taxes and Assessments.** Seller shall be responsible for taxes and assessments (general and special) that are due and payable at the time of Closing. Buyer shall be responsible for taxes, if any, which become due and payable after closing.

4. **Title Insurance**. Seller agrees to deliver to Buyer's attorney, within ten (10) days after the Effective Date, a commitment for title insurance, issued by Transnation Title Insurance Company, for an amount not less than the purchase price stated in this Agreement, guaranteeing title to the Premises on the conditions required herein. In the event the reservations, restrictions, easements or other matters of record disclosed by said title commitment are, in the sole discretion of Buyer, deemed unacceptable, Seller shall have fifteen (15) days from the date Seller is notified in writing of such title objections to remedy such objections to Buyer's satisfaction. If Seller resolves such title objections and remedies the title (by obtaining satisfactory title insurance or otherwise effecting curative measures acceptable to Buyer) within the time specified, Buyer agrees to complete this sale as herein provided, assuming all other contingencies are satisfied in Buyer's judgment or are waived by Buyer. If Seller fails to resolve such title objections within the time above specified to Buyer's satisfaction or, fails to obtain

satisfactory title insurance to Buyer's satisfaction, this Agreement will be terminated at Buyer's option. The premium for the owner's title policy shall be paid by Seller.

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

6. **Environmental Inspection**. At its own cost and expense, Buyer and its agents shall have the right, but not the obligation, to enter the Property to perform environmental investigations, studies, and tests which are permitted hereunder, to determine the environmental condition of the Property ("Environmental Inspection"); provided, however, that for purposes of conducting any environmental investigation, Buyer and its agents shall notify Seller, which shall have the option of accompanying Buyer or its agents during such Environmental Inspection. The Environmental Inspection shall be completed within twenty (20) days of execution of this Agreement, and Buyer shall have the right to obtain any BEA determination it deems appropriate. If Buyer is dissatisfied, in its sole discretion, with the Environmental Inspection, it may terminate this Agreement with no further obligations.

7. **Condition of Premises and Examination by Buyer**. NO IMPLIED WARRANTIES OF HABITABILITY, QUALITY, CONDITION, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER IMPLIED WARRANTIES SHALL OPERATE BETWEEN SELLER AND BUYER, AND BUYER EXPRESSLY WAIVES ANY AND ALL SUCH IMPLIED WARRANTIES. BUYER UNDERSTANDS AND AGREES THAT IF BUYER ACQUIRES THE PREMISES, THE PREMISES ARE TAKEN "AS IS," SUBJECT TO THE EXPRESS COVENANTS, CONDITIONS AND/OR EXPRESS WARRANTIES CONTAINED IN THIS PURCHASE AGREEMENT. BUYER WILL ACKNOWLEDGE AT AND UPON CLOSING THAT IT HAS PERSONALLY INSPECTED THE PREMISES AND IS SATISFIED WITH THE CONDITION OF THE LAND, AND THE BUILDINGS AND IMPROVEMENTS THEREON, AND THAT THE PROPERTY IS BEING PURCHASED AS A RESULT OF SUCH INSPECTION AND INVESTIGATION AND NOT DUE TO ANY REPRESENTATIONS MADE BY OR ON BEHALF OF SELLER. SELLER KNOWS OF NO HAZARDOUS SUBSTANCES OR CONTAMINATION_EXCEPT FOR SUCH MATTERS AS HAVE BEEN DISCLOSED IN THE ENVIRONMENTAL REPORTS ON THE FORMER SMITH PACKING PROPERTY AND THE FORMER NORDSTROM/NEILSEN PROPERTIES WHICH HAVE BEEN FURNISHED OR MADE KNOWN TO BUYER, AND BUYER WAIVES ANY CLAIM AGAINST SELLER IN THE EVENT SUCH STUBSTANCES ARE OTHERWISE FOUND AND UNLESS SELLER MISREPRESENTED ITS KNOWLEDGE.

9. **Real Estate Commission.** Buyer and Seller both acknowledge and agree that neither has dealt with any real estate agents, brokers or salespersons regarding this sale, and that no agent, broker, salesperson or other party is entitled to a real estate commission upon the closing of this sale. Buyer and Seller both agree to indemnify and hold the other harmless from any liability, including reasonable attorney fees, occasioned by reason of any person or entity asserting a claim for a real estate commission arising from actions taken by the other party.

10. **Closing.** The closing date of this sale shall be within thirty (30) days of execution of this Agreement ("Closing"), subject to Buyer's right to extend Closing for an additional thirty (30) days upon written notice to Seller. The Closing shall be conducted at Transnation Title Insurance Company, 570 Seminole Road, Ste. 102, Muskegon, MI 49444. If necessary, the parties shall execute an IRS closing report at the Closing.

11. **Delivery of Deed.** Seller shall execute and deliver a quit claim deed to Buyer at Closing for the Premises and shall pay any transfer taxes due and owing. Such conveyance shall include all splits or division rights with respect to the Premises.

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

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

14. **Costs.** Seller shall be responsible to pay all applicable transfer taxes, if any, in the amount required by law. In addition, Seller shall be responsible to pay for the recording of any instrument that must be recorded to clear title to the Premises, to the extent required by this Agreement. Buyer shall pay for the cost of recording the deed to be delivered at Closing. Buyer shall pay the Transnation Title closing fee. Each party shall pay its own attorney fees.

15. **General Provisions.**

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

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

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

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

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

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

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

h. **Authority.** Each party represents and warrants to the other that the persons executing and delivering this Agreement on their behalf are duly authorized to do so.

i. **Effective Date.** The Effective Date of this Agreement is the date that the last party hereto signs this Agreement.

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

SELLER: CITY OF MUSKEGON

______________________________
Stephen Gawron, Mayor

______________________________
Ann Cummings, Clerk

BUYER: SCHULTZ TRANSPORT INC.
JAMES Schultz
______________________________

By: ______________________ - OWNER
Officer, Title PRESIDENT

**EXHIBIT A**

CITY OF MUSKEGON COM AT THE SE COR OF THE NW FRL 1/4 SEC 31 T10N R16W TH N 00D 00M 00S E 644.09 FT ALG E LN OF SD NW FRL 1/4 TH S 89D 39M 32S W 672.43 FT ALG S LN OF YOUNG & WILLIAMS ADDN FOR POB TH S 00D 00M 00S E 199.24 FT ALG THE EXTND W LN OF SD YOUNG & WILLIAMS ADDN TH N 33D 25M 49SW 395.38 FT ALG NE R/W LN OF CSX RR TH N 89D 40M 00S E 217.83 FT TH S 00D 00M 00S W 132.00 FT ALG SD W LN OF YOUNG & WILLIAMS ADDN TO POB

**DEVELOPMENT AGREEMENT**
**CITY OF MUSKEGON RENAISSANCE ZONE**

THIS IS AN AGREEMENT between the CITY OF MUSKEGON, a municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49441 ("City") and SCHULTZ TRANSPORT, INC., of 421 Delano Ave, Muskegon, Michigan (49444) ("Company").

**Recitals:**

A. The City has established a Renaissance Zone. The Company desires to acquire property within the Renaissance Zone. The City deems this Agreement to constitute a necessary element in the City's determination regarding the location of Company in the Renaissance Zone.

B. The Company intends to acquire real property and expand its current business in a Renaissance Zone. The Company understands that the City relies upon the assurances of the Company in this Agreement as an inducement to sell certain real property.

NOW THEREFORE THE PARTIES, INCORPORATING THE ABOVE RECITALS, AGREE:

1. DOCUMENTS ATTACHED. Included in this Agreement are the following documents which have been collected and relied upon by the parties:

1.2 Real Estate Purchase Agreement.

2. COMPANY AGREEMENT. The Company agrees to the following commitments which it shall perform in a timely and reasonably acceptable manner:

2.1 Execution of the Real Estate Purchase Agreement attached as Exhibit A, simultaneously with execution of this agreement, and delivery of both to the City.

2.2 Expansion of the current business onto the new parcel subject to review and modification by the City Planning Commission and/or City Commission. The design and landscaping of the site shall be subject to the approval of the City, which shall reasonably apply its zoning, site plan and other land use requirements.

2.3 The investment in the amount of twenty thousand dollars ($20,000) (the "Investment Objective").

2.4 The creation of three jobs (the "Employment Objective") within the first three (3) years of operation. This number will include the transfer of jobs from other municipalities. Transferred jobs from another location in the City will be counted, but limited to one transferred job within the City per one new job.

2.5 The closing of the purchase of the properties described in the Real Estate Purchase Agreement (the "Properties").

2.6 Cooperation with City representatives to supply all requested and required documentation necessary in the City's reasonable judgment to determine compliance with the undertakings set forth in this Agreement and its attachments.

2.7 The Company shall take all required precautions to avoid the release of any hazardous substance in violation of any environmental law on its premises, and shall report any releases to the appropriate authority in a timely and complete manner as required by law, providing copies of said documentation to the City. Subject to its rights to contest any proposed orders and actions, the Company shall comply with all orders and actions of any governmental agency having authority.

2.8 During the entire period for which the Renaissance Zone is in effect, the Company shall maintain the improvements so as to minimize physical or functional obsolescence.

3. Governing Law. This Agreement shall be construed and enforced in accordance with the Laws of the State of Michigan applicable to contracts made and to be performed within the State of Michigan, and in particular the Renaissance Zone Act of the State, as amended.

4. Counterparts. This Agreement may be executed in one or more counterparts. Notwithstanding such execution all such counterparts shall constitute one and the same Agreement.

5. Benefit. This Agreement shall be binding upon and inure to the benefit of the respective parties, their successors and personal representatives. The Company shall have the right to assign this Agreement subject to the consent of the City. Except as so provided, there is no third party beneficiary intended upon the execution of this Agreement.

6. Invalidity. In the event any provision of this agreement is declared invalid by a court or tribunal having competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

**CITY OF MUSKEGON,**
a municipal corporation

By
Stephen Gawron, Mayor

and
Ann Cummings, MMC, Clerk

Dated: ____________, 2013

**SCHULTZ TRANSPORT, INC.,**
a Michigan Corporation

By
James Schultz,

Dated: May 20th, 2013

Commission Meeting Date: May 28, 2013

Date: May 20, 2013

To: Honorable Mayor & City Commission

From: Community and Neighborhood Services Department

RE: Approval of Extension for Realtor and Title Company Procurement Contracts for CNS

---

**SUMMARY OF REQUEST:** To extend the Procurement Contract to December 31, 2013 for Greenridge Realty and Lighthouse Title Company to be used by the City of Muskegon Community and Neighborhood Services office. By granting the extension, the expiration dates will coincide with the other procurement contracts.

**FINANCIAL IMPACT:** The awards for the realtor or title company will be paid through the sale of homes originally established under: HOME or NSP1.

**BUDGET ACTION REQUIRED:** None

**STAFF RECOMMENDATION:** To approve the extension of the Procurement Contracts for Greenridge Realty and Lighthouse Title Company for the Community and Neighborhood Services office.

**COMMITTEE RECOMMENDATION**: None required.

Commission Meeting Date: May 28, 2013

Date: May 20, 2013

To: Honorable Mayor & City Commission

From: Community and Neighborhood Services Department

RE: HOME Consortia Application

---

SUMMARY OF REQUEST: The CNS Department is requesting authorization for the City of Muskegon to submit an application as the lead agency for a HOME Consortium as evidenced through a signed agreement with the cities of Muskegon Heights, Norton Shores, and Roosevelt Park. The application to participate as HOME Consortia will be submitted to the Department of Housing and Urban Development in June, 2013.

The City Commission is also asked to direct the Mayor to sign a resolution for the HOME Consortium to support the agreement.

FINANCIAL IMPACT: The 2014 HOME allocations will be based on HUD's decision to approve the HOME Consortia application.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To enter into an agreement between the cities of Muskegon Heights, Norton Shores, and Roosevelt Park to form a HOME Consortia from the City of Muskegon's HOME Investment Partnership Program.

COMMITTEE RECOMMENDATION: None

**MUSKEGON INTERLOCAL AGREEMENT CONCERNING HUD HOME INVESTMENT PARTNERSHIP ACT PROGRAM CONSORTIUM**

**THIS INTERLOCAL AGREEMENT** is made and entered into at Muskegon, Michigan by and between the cities of Muskegon Heights, Norton Shores, Roosevelt Park, and Muskegon, political subdivisions in the State of Michigan, here in after referred to as “Cities”. This agreement is effective beginning July 1, 2014.

**WHEREAS,** the National Affordable Housing Act of 1990 has authorized the HOME Program to provide financial Assistance through the U.S. Department of Housing and Urban Development, herein after referred to as “HUD”,  to local governments for the production of affordable housing and

**WHEREAS,** the cities of **Muskegon Heights, Norton Shores, Roosevelt Park, and Muskegon**, **Michigan Municipal Corporations**, wish to receive funds through the HOME Investment Partnership Program for the purpose of increasing the availability of affordable housing for the irrespective jurisdictions and for the mutual benefit of the areas; and

**WHEREAS,** the HOME Investment Partnerships Act authorized a consortium of geographically contiguous units of general local government for the purpose of becoming a participating jurisdiction in the HOME Program; and

**WHEREAS**, the Michigan Constitution of 1963, Article 7, § 28 and the Urban Cooperation Act of 1967, Act No. 7 of the Public Acts of 1967, Ex. Sess., being MCL 124.501 et seq. of the Michigan Compiled Laws (“Act 7”) permit a political subdivision to exercise jointly with any other political subdivision any power, privilege or authority which such political subdivisions share in common and which each might exercise separately; and

**WHEREAS**, it is the intent of the Cities to utilize the power and authority pursuant to Act 7 by the execution of this agreement; and

**WHEREAS**, the City of Muskegon and the other local units of government identified herein are geographically contiguous localities; and

**WHEREAS**, on March 1, 2013 the City of Muskegon notified HUD of its intent to form a HOME Consortium and act as "lead entity" on behalf of the participating area governments; and

**NOW THEREFORE,** in consideration of the foregoing and mutual covenants herein after contained, it is agreed between the Cities as follows;

1. To establish the Muskegon HOME Consortium for the purpose of qualifying as a participating jurisdiction for receipt of federal funds through the HOME Investment Partnership Program.

2. The Cities agree to cooperate to undertake or to assist in undertaking housing assistance activities for the HOME program.

3. The City of Muskegon shall act in the role of Lead Agency and act in a representative capacity for all member units of general local government and shall

assume overall responsibility for ensuring that the Consortium's HOME Program is carried out in compliance with federal rules, regulations and requirements of the HOME Program, including requirements for a Consolidated Plan.

4. The Cities agree to affirmatively further fair housing.

5. The Cities agree that the program year start date, pursuant forth is agreement, shall be July 1, 2014 for the qualification periods FY2014, 2015, and 2016. The parties further agree that all member units of local government are currently on the same program year for HUD formula grant programming including CDBG, HOME, and ESG, as applicable. Provided that this provision shall apply only to member units of local governments which are direct recipients, such as with the CDBG Entitlement Program, rather than sub-recipients through state administered HUD programs.

6. The Cities agree that the term of this agreement shall be that period of time necessary to expend all HOME funds on eligible activities from funds awarded for the period of three federal fiscal years commencing with the 2014 federal fiscal year. Further provided that all parties are prohibited from withdrawing from the Cooperation Agreement prior to June 30, 2017

7. The Cities agree that this Agreement will renew automatically at the end of the three- year qualification period and each subsequent three-year qualification period, unless the City of Muskegon or the participating unit of general local government provides written notice it elects not to participate in a qualification period. By the date specified in HUD's consortia designation notices or listed on HOME's Consortia web page, the City of Muskegon will notify each participating unit of general local government in writing of its right to not participate forth successive three-year qualification period. A copy of the notifications shall be sent to the HUD Field Office.

8. The Cities agree to adopt any amendment(s ) to this Agreement incorporating changes that are necessary to meet HUD requirements for consortia cooperation agreements set forth in any future consortia designation notices that apply to a subsequent three-year qualification periods ;and to submit such amendment(s) to HUD and that failure of the City of Muskegon to notify consortium members and to submit amendments to HUD shall void the automatic renewal provision for such qualification period.

9. The City of Muskegon, as Lead Agency, is authorized to amend the agreement to add new members on behalf of the entire consortium subject to the Consortium's Place Making strategies, policies, and procedures. The City of Muskegon will notify all members in the event that any new members are added, pursuant to this provision and according to the HUD CPD Notice.

## SECTION 1. PURPOSE

This Agreement is entered into for the purpose of meeting the criteria as established in 24 CFR

Part 92 allowing the Cities to function as a consortium as defined in the HUD HOME Investment Partnership Program Regulations, specifically cited as 24 CFR Part 92 101. This arrangement mutually benefits the parties to this agreement through enhancement of the quality of life for the local citizenry and advancement of the common housing goals shared by the jurisdictions. The Cities agree to cooperate to undertake or to assist in planning and implementing housing assistance activities for the H OME Program.

a. The Cities agree to assist the Lead Agency in maintaining compliance with the Act, the Regulations, and the State and Federal Program Requirements for the full compliance period, extending to and continuing beyond the expiration of this Agreement.

## SECTION 2. MEMBERS OF CONSORTIUM

The Cities of Muskegon Heights, Norton Shores, Roosevelt Park, and Muskegon, Michigan are the members of the Consortium and upon mutual execution of this Agreement by the parties, the "Muskegon HOME Consortium," herein after referred to as "Consortium", shall be formed. The members shall remain bound by the terms and conditions of this Agreement for its duration, and shall be prohibited from withdrawing from the Consortium during such period, except as provided for in Section 8 of this Agreement. The Consortium Agreement remains in effect until the HOME funds from each of the Federal fiscal years of the qualification period are expended for eligible activities. No consortium member may withdraw from the Agreement while the Agreement remains in effect.

## SECTION 3. STATUS OF CONSORTIUM

The Consortium shall be considered a unit of local government for purposes of the HOME Investment Partnerships Act upon designation by HUD.

## SECTION 4. LEAD AGENCY

The City of Muskegon shall be the member unit of government authorized to act in a representative capacity with respect to HUD on behalf of all members of the Consortium. The City of Muskegon shall only be a representative of the Consortium for the purposes established in this agreement and shall be the lead entity having overall responsibility for ensuring the Consortium's HOME Program is carried out in compliance with requirements of the HOME Program, including requirements concerning a Consolidated Plan in accordance with HUD regulations in 24 CFR Parts 92 and 91, respectively, and the requirements of 24 CFR Part 92.350. No party shall have veto power as to the implementation of the Consortium Consolidated Plan, herein after referred to as the "Consolidated Plan", and the parties agree to act in cooperation to achieve the goals established in the Consolidated Plan. The Lead Agency shall also develop policies and procedures for the implementation of the Consortium activities.

## SECTION 5.CONSOLIDATED PLAN

The Cities shall cooperate in the preparation of the Consolidated Plan, which shall apply to the

Cities and which shall meet the requirements of applicable Federal Regulations.

## SECTION 6. ALLOCATION OF FUNDING

Allocation of HOME funds allowed for administration, shall be based on the existing HOME funds percentage allocation process with respect to the annual HOME allocation provided by the U.S. Department of Housing and Urban Development for the Consortium, except that the City of Muskegon as lead entity shall be entitled up to ten (10%) of the HOME funds allowed for administration. The implementation of the Consolidated Plan and the allocation of Federal HOME funding associated with shall be established by written memoranda issued by the City of Muskegon through its authorized representative. The Cities shall be responsible for administering, respectively, the HOME Program funds distributed to each. The Consortium members reserve the right to alter the distribution of funds between the jurisdictions by mutual approval in writing and based on the consortium Place Making strategy and criteria developed in the Consortium's policies and procedures.

## SECTIONS 7. CERTIFICATIONS

The Cities certify that each will cooperate with the other to undertake or aid in undertaking housing assistance activities for the HOME Investments Partnerships Program and that each will affirmatively further fair housing. Further, the Cities will comply with the requirement of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended, implementing regulations of 49 CFR Part 24, and here requirements governing the residential anti-displacement and relocation assistance plan under section 104 (d) of the Housing and Community Development Act of 1974.

## SECTION 8.TERMOFAGREEMENT

This Agreement shall be effective for a period of three federal years (Fiscal Years 2013, 2014, and 2015). This agreement shall be automatically renewed for subsequent three year qualification periods, unless any member of the Consortium provides written notice of their decision not to participate in a new three-year qualification period.

The members hereby stipulate to adopt any amendments to the Agreement that incorporate future changes necessary to meet the requirements for consortia Agreements in subsequent qualification periods. The consortium requires the signatures of all members to approve any amendment to the Agreement.

All units of local government that are members of the consortium will be on the same program year (July1 through June 30) for Community Development Block Grant CDBG and HOME. Note, this requirement relating to the same program year does not pertain to any grants Consortium members may receive independently from the State of Michigan. The program years would be dictated by the State.

The Lead Agency shall by the date specified in HUD's Consortia Qualification Notice for subsequent qualification periods, notify the other Cities in writing of the right not to participate in the Consortium. Failure of the Lead Agency to notify consortium members and to submit amendments to HUD will void this automatic renewal provision. The automatic renewal provision will not apply when the consortium adds a new member.

## SECTION 9. LIABILITY

Subject to any claim of sovereign immunity and the financial limits of liability set forth by Michigan Statutes, each member of the Consortium shall be fully liable for the acts and omissions of its respective employees and agents in performance of this agreement. Any resulting liabilities, omissions, errors, or actions providing cause for payment from non-HOME funds or the required repayment of HOME funds to the U.S .Department of Housing and Urban Development as a result of ineligible expenditures, and all costs related there to shall not be the specific responsibility of the non-offending members.

## SECTION 10. EMPLOYEE STATUS

Persons employed by the Lead Agency who perform services or functions pursuant to this agreement shall not be deemed to be employees of the other governmental entities. The Cities shall remain obligated to provide the irrespective employees with worker's compensation protection, salary and pension benefits, civil services or other employee rights and privileges.

## SECTION 11. NOTICES

Formal notices issued under the terms of this agreement shall be sent, by U.S. Mail as follows:

**City of Muskegon**

____________(Title)

________________________________

**City of Muskegon Heights**

___________(Title)

________________________________

**City of Norton Shores**

______(Title)

________________________________

**City of Roosevelt Park**

______(Title)

________________________________

## SECTION 12. AUTHORIZING RESOLUTIONS/ATTORNEY CERTIFICATIONS

**EXHIBIT I** includes authorizing resolutions as approved by the members of the Consortium and is incorporated herein as part and parcel of this agreement. The certification of legal counsel as to the legal authority for the members to undertake activities described in this agreement is affixed to this agreement.

## SECTION 13. COMPLIANCE WITH FEDERAL REGULATIONS

The Cities agree to comply with the regulations governing the HOME program and other crosscutting federal regulations including but not limited to environmental review, lead based paint testing and abatement, Davis Bacon and labor standards. Such compliance shall be the responsibility of and coordinated by the Lead Agency.

## SECTION 14. LIMITATIONS OF AGREEMENT

It is not the intent of this agreement to alter the independent jurisdiction of the Consortium members in any manner except as specified herein. All other policies, rules, regulations, and ordinances of the respective parties shall continue to apply within the jurisdictional boundaries of each party and shall not be impacted by the execution of this agreement.

**IN WITNESS WHEREOF,** the parties have executed or have caused this Agreement to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement, effective the day and year first written above and are to be executed by their duly authorized officers.

_________________________________ _________________________________

Chairperson, City Council Date
Muskegon, MI

ATTEST:

_________________________________

City Clerk

STATEMENT OF THE CITY ATTORNEY

I do hereby, certify that the terms and provisions of the Consortium Cooperation Agreement are fully authorized under state and local law, and that the Agreement provides full legal authority for the Consortium to undertake or assist in undertaking housing assistance activities for the HOME Investment Partnership Program.

Approved:______________________
City Attorney

______________________________
Date of Approval

**<u>CONSORTIUM MEMBERS</u>**

1. **<u>City of Muskegon Heights</u>**
Michigan Municipal Corporation
By: ______________________________________

Name and Title:___________

Attest:______________________________________

Name and Title:______________________________

Date:_______________________________________

I do hereby, certify that terms and provisions of the Consortium Corporation Agreement are fully authorized under state and local law, and that the Agreement provides full legal authority for the Consortium to undertake or assist in undertaking housing assistance activities for the HOME Investment Partnership Program.

_____________________________________

______________________, City Attorney

**City of Muskegon Heights**
Michigan Municipal Corporation
By: ______________________________________

Name and Title:___________

Attest:______________________________________

Name and Title:______________________________

Date:_______________________________________

2. **City of Norton Shores**______________________
Michigan Municipal Corporation
By: ____________________________________

Name and Title:___________

Attest:____________________________________

Name and Title:_____________________________

Date:_____________________________________

I do hereby, certify that terms and provisions of the Consortium Corporation Agreement are fully authorized under state and local law, and that the Agreement provides full legal authority for the Consortium to undertake or assist in undertaking housing assistance activities for the HOME Investment Partnership Program.
______________________________________

_____________________,City Attorney

**City of Norton Shores**
Michigan Municipal Corporation

By: ____________________________________

Name and Title:___________

Attest:____________________________________

Name and Title:_____________________________

Date:_____________________________________

3. **City of Roosevelt Park**
Michigan Municipal Corporation

By: ______________________________________

Name and Title:___________

Attest:_______________________________________

Name and Title:______________________________

Date:________________________________________

I do hereby, certify that terms and provisions of the Consortium Corporation Agreement are fully authorized under state and local law, and that the Agreement provides full legal authority for the Consortium to undertake or assist in undertaking housing assistance activities for the HOME Investment Partnership Program.

______________________________________

______________________, City Attorney

**City of Roosevelt Park**
Michigan Municipal Corporation

By: ______________________________________

Name and Title:___________

Attest:_______________________________________

Name and Title:______________________________

Date:________________________________________

4. **City of Muskegon** ____________________________
Michigan Municipal Corporation
By: ______________________________________

Name and Title:___________

Attest:_____________________________________

Name and Title:____________________________

Date:______________________________________

I do hereby, certify that terms and provisions of the Consortium Corporation Agreement are fully authorized under state and local law, and that the Agreement provides full legal authority for the Consortium to undertake or assist in undertaking housing assistance activities for the HOME Investment Partnership Program.

______________________________________

_______________________,City Attorney

**City of Muskegon**
Michigan Municipal Corporation

By: ______________________________________

Name and Title:___________

Attest:_____________________________________

Name and Title:____________________________

Date:______________________________________

**MUSKEGON CITY COMMISION**
**Resolution**

**APPROVING PARTICPATION IN THE MUSKEGON HOME CONSORTIUM AND AUTHORIZING THE MAYOR STEPHEN J. GAWRON TO EXECUTE A HOME INVESTMENT PARTNERSHIP ACT CONSORTIUM AGREEMENT.**

**WHEREAS**, the National Affordable Housing Act of 1990 created the HOME Investment Partnership Program; and,

**WHEREAS**, the Act provides that units the general local government that are geographically contiguous may form a consortium the purpose of qualifying for a HOME formula grant allocation; and,

**WHEREAS**, The City of Muskegon, desires to enter into a legally binding Corporation Agreement with other contiguous local governments in the Muskegon area.

**NOW, THEREFORE, BE IT RESOLVED** that the City Commission of the City of Muskegon approves participation of the City of Muskegon in the Muskegon HOME consortium.

BE IT FURTHER RESOLVED that the City of Muskegon authorizes the Mayor Stephen J. Gawron to execute the Muskegon HOME Consortium Agreement.

Ayes: Nays: Absent: Adopted this ___ day of _________

_______________________________
Stephen J. Gawron, Mayor
City of Muskegon, Muskegon, MI

Attest

_______________________________
Ann Marie Cummings, City Clerk

**Date:** May 28, 2013

**To:** Mayor and City Commission

**From:** Dept. of Public Works-Director

**RE:** 2013/14 Water Treatment Chemicals Bids

---

**SUMMARY OF REQUEST:**

Endorse the lowest responsible bids received for a 1 year extension of the current contracts for 3 chemicals used at the water filtration plant:

USALCO - AluminumSulfate,
Key Chemical - HydrofluorisilicicAcid
Standard Carbon - Powdered Activated Carbon.

**FINANCIAL IMPACT:**

Annual cost:

Aluminum Sulfate - $74,000
Hydrofluorisilicic acid - $50,000
Powdered Carbon - $7000

**BUDGET ACTION REQUIRED:**

None

**STAFF RECOMMENDATION**:

Staff recommends endorsing the chemical bid extension for 1 more year with, USALCO, Key Chemical and Standard Carbon.

**MEMORANDUM**

**5/23/2013**

**TO:** **M. AL-SHATEL – DPW DIRECTOR**

**FROM:** **KEVIN HERBERT- FILTRATION PLANT**

**RE:** **CHEMICAL BIDS – WATER FILTRATION**

---

**BACKGROUND**

In 1996 the Water Filtration Plant began the process of competitively bidding water treatment chemicals jointly with the cities of Grand Haven, Grand Rapids, Wyoming, Muskegon Heights and Holland. The groups' bids are commonly addressed as the "West Michigan Cooperative Purchasing Group". Four water treatment chemicals are bid through the cooperative:

Sodium Hypochlorite
Hydrofluorisilicic Acid (Fluoride)
Aluminum Sulfate
Powdered Activated Carbon

**CHEMICAL BIDDING FOR 2013/14**

The bidding process is performed by the City of Grand Rapids (aluminum sulfate, powdered activated carbon and fluoride) and the City of Holland (sodium hypochlorite). The Sodium Hypochlorite had been approved at the April 9th meeting, Item #2013-30E. The remaining three chemical bid contracts expire in June 2013, all have a one year renewal option. I am requesting renewing the following contacts through June 2014:

Aluminum Sulfate: Same price as last year, $362.18/ton or $74,000/yr.
Hydrofluorisilicic Acid: Reduction in price from last year $515.00/ton or $50,000/yr.
Powdered Activated Carbon: Same price as last $.51/lb. or $7000.00/yr.

The cooperative will bid on a 3 year cycle with a renewal year once again in April 2014.

# BID TAB

| BID REF #885-77-12<br>BID OPENING DATE: April 26, 2011<br>FOR: Bulk Chemicals, Aluminum Sulfate<br># BIDDERS SOLICITED: 29<br>BUYER: TW<br>DEPT: Lake Filtration | ITEM 1<br>Purchase and Delivery, Bulk Aluminum Sulfate Acid<br>$/Dry Ton | |
|---|---|---|
| Year 1 | | |
| Year 2 | | |
| Year 3 | | |
| USALCO | $328.51 | Year 1 |
| | $344.93 | Year 2 |
| | $362.18 | Year 3 |
| General Chemical | $497.00 | |
| | NB | |
| | NB | |
| PVS Nolwood | $428.00 | |
| | $428.00 | |
| | $428.00 | |
| | | |
| | | |
| | | |

# BID TAB



| BID REF #885-66-07<br>BID OPENING DATE: April 25, 2011<br>FOR: Bulk Chemicals, Hydrofluorisilicic Acid<br># BIDDERS SOLICITED: 22<br>BUYER: TW<br>DEPT: Lake Filtration | ITEM 1<br>Purchase and Delivery, Bulk Hydrofluorisilicic Acid<br>$/Ton | |
|---|---|---|
| Year 1 | | |
| Year 2 | | |
| Year 3 | | |
| **Mosaic Crop Nutrition LLC** | $660.00 | |
| | NB | |
| | NB | |
| **Key Chemical** | $588.00 | Year 1 |
| | $608.00 | Year 2 |
| | $628.00 | Year 3 |
| **Pennco** | $662.50 | |
| | NB | |
| | NB | |
| **PVS Nolwood** | $726.50 | |
| | $726.50 | |
| | $726.50 | |
| | | |
| | | |
| | | |

# BID TAB



| BID REF #885-08-13<br>BID OPENING DATE: April 27, 2011<br>FOR: Chemicals, Powder Activated Carbon<br># BIDDERS SOLICITED: 25<br>BUYER: TW<br>DEPT: Lake Filtration | ITEM 1 Powdered Activated Carbon, 50# Bag $/lb | |
|---|---|---|
| Year 1 | | |
| Year 2 | | |
| Year 3 | | |
| **Standard Carbon** | $0.502 | Year 1 |
| | $0.51 | Year 2 |
| | $0.51 | Year 3 |
| **Norit Americas Inc** | $0.72 | |
| | $0.78 | |
| | $0.86 | |
| | | |
| | | |
| | | |

Date: May 28, 2013

To: Honorable Mayor and City Commissioners

From: DPW

RE: Permanent Traffic Control Order – Install “No Parking” signs on the south side of Forest Avenue between Peck and Clinton

---

## SUMMARY OF REQUEST:

Authorize staff to install “No Parking” signs on the south side of Forest Avenue between Peck and Clinton.

## FINANCIAL IMPACT:

Cost of signs and man-power to install, if approved.

## BUDGET ACTION REQUIRED:

None.

## STAFF RECOMMENDATION:

Authorize staff to install “”No Parking” signs on the south side of Forest Avenue between Peck and Clinton.

## COMMITTEE RECOMMENDATION:

Mary Anne and Phyllis VanderLaan – 1624 Peck Street
Nancy Dingler – 65 Forest
Shawn Jones – 1604 Peck Street
Muskegon, Michigan 49441

THANK YOU, DOUG! MA

Doug Sayles
City of Muskegon
1350 E. Keating
Muskegon, MI 49442

May 12, 2013

Re: No Parking Signs on Forest Avenue between Peck Street and Clinton

Dear Mr. Sayles:
We are requesting "No Parking" signs to be installed on the south side of Forest Street between Peck and Clinton. We are the only three houses on that block. Parking on Sunday for the church is fine, but the rest creates an unintentional disturbance by those who are parking on the street rather than in their lot.

Our request is for a number of reasons. The following list is a start:

1. The vast majority of parked cars are those of Hackley employees. For the most part, the same employees park there every day rather than in their lot. We named them "the parkers."
2. The car doors opening and closing, and conversations on cell phones or with others awaken us at all times of the day and night, and cause the dogs to bark incessantly. All three of our houses have bedrooms facing Forest and, during summer months, have windows open. (If you count another house over, the total is 9 dogs barking.)
3. The south side of Forest cannot be cleaned due to "the parkers."
4. The parkers, when trying to parallel park, are jumping the curb and destroying sprinkler heads. Further, if they want to exit via Peck Street or Sanford, they actually pull in to our driveways to turn their cars around. We named them "the turners." Barking ensues.
5. The human traffic generates litter and, again, sets off the dogs, thus interfering with our "quiet enjoyment" of our neighborhood.
6. Cigarette butts. During the winter months, "the smokers" park next to our houses and visit their cars routinely to smoke.
7. There is no street parking on the other side of Peck Street on Forest.

We have considered requesting two hour parking, but we are concerned that the noise and human traffic would increase.

As neighbors, we are all friends, and make every effort to keep the exterior of our homes attractive. It is our feeling that by eliminating parking as requested will result in very little inconvenience for those who will have to park elsewhere, yet will create a more pleasant environment for those of us who live here and spend time in our yards with our animals.

We sincerely appreciate your presenting this to the City Council at your earliest convenience, and hope we have been able to paint a clear picture of our dilemma!

Sincerely,

Mary Anne and Phyllis VanderLaan — Mary Anne VanderLaan, Phyllis J VanderLaan
Nancy Dingler — Nancy Dingler
Shawn Jones — Shawn Jones

# City of Muskegon
# Traffic Control Order
# No. 9-(2013)

The following regulatory sign(s) shall be Installed/Removed at/from the location(s) specified below under location in accordance with the Michigan Manual of Uniform Traffic Control.

**Device/Regulatory Sign(s) to be Installed/Removed:** *Install "No Parking" signs on the south side of Forest Avenue between Peck and Clinton.*

**Location:** *Forest Avenue between Peck and Clinton (south side of Forest Avenue)*

**Recommendation:**

Mohammed Al-Shatel Date: 5 / 16 / 2013
Director of Public Works

Date: 5 / 16 / 2013
Police Chief

B Mazade Date: 5 / 22 / 2013
City Manager

**Commission Approval (required for Permanent TCO only):**

________________ Date: ___/___/___
Commission Action #

**Installation/removal**

Date assigned: ___/___/___ By: ________________
Traffic Supervisor

Date completed: ___/___/___ By: ________________
Traffic Department Employee

☐ **Temporary**; does not require Commission Action, good for 90-days from Installation/Removal Date.

☒ **Permanent**; requires Commission Action

Commission Meeting Date: May 28, 2013

Date: May 22, 2013

To: Honorable Mayor & City Commission

From: Planning & Economic Development Department

RE: Pere Marquette Improvement Fund

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SUMMARY OF REQUEST: The City of Muskegon established a Pere Marquette Improvement Fund (Fund) through the Community Foundation of Muskegon County (Foundation) to receive deposits from Festival Unified Network (FUN), Inc. to be used for improvements and events at the beach. FUN, Inc. is no longer functioning. The Advisory Committee of FUN, Inc. has authorized different oversight and expansion of the Fund (see "Community Foundation for Muskegon County Advised Fund Agreement" attached).

FINANCIAL IMPACT: Allows for broader use of funds.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the attached Resolution and authorize the Mayor and Clerk's signatures.

COMMITTEE RECOMMENDATION: The FUN, Inc. Advisory Committee, the Foundation and City of Muskegon staff met to discuss the future of the Fund and they recommend approval of transfer of funds to the Community Foundation for Muskegon County Pere Marquette and Margaret Drake Elliott Park Fund.

# COMMUNITY FOUNDATION *for* MUSKEGON COUNTY
## ADVISED FUND AGREEMENT

## PERE MARQUETTE AND MARGARET DRAKE ELLIOT PARK FUND - AMENDMENT

AGREEMENT made February 22, 2013, between Festival Unified Network (FUN) Inc. (hereinafter called "Donor") and the COMMUNITY FOUNDATION *for* MUSKEGON COUNTY, a Michigan non-profit corporation (hereinafter called "Foundation").

**This Agreement supersedes entirely all prior Fund Agreements entered into between FUN Inc. and the Foundation, including specifically the Fund Agreement dated February 2, 1993. This Amendment is the result of a decision by the FUN Inc. Advisory Committee to describe different oversight of this Fund and to broaden the scope of the use of the Fund by including the Margaret Drake Elliot Park.**

To establish the Fund the Donor originally transferred $5,000.00 to be held by Foundation, or its Agent, to establish an Advised Fund known as the **Pere Marquette Improvement Fund.**

Donor and the Foundation create this Fund subject to the following terms and conditions:

1. Donor and others at any time may make contributions of any amount to the Foundation designated for addition to the Fund.

2. **Spending Statement**

   The Fund shall be an Advised Fund and the Donor may make written recommendations as to the distributions from the Fund in accordance with policies established from time to time by the Foundation. This Fund is intended to be used to improve Pere Marquette Park or the Margaret Drake Elliot Park in Muskegon, Michigan. The Fund is not intended to be used to support ongoing maintenance of either Park.

   Generally, Donor desires that the annual net income from the Fund be available for distribution in accordance with charitable purposes as set forth by the Internal Revenue Service in IRC 170(c)(2)B) and/or Reg. Sec. 1.501(c)(3)-1(d)(2). Net income shall be defined as an amount that shall be computed annually based upon the current spending policy of the Foundation. However, the Donor stipulates that distributions up to 50% of the balance of the Fund may be made for special capital projects for either, or both, of the Pere Marquette Park or the Margaret Drake Elliot Park, or their successors, and that up to 20% of this distribution may be used for future maintenance of this capital improvement.

The Fund will be advised by a committee comprised of representation as follows: one representative from the Beachwood/Bluffton neighborhood area; one representative from the City of Muskegon staff; and one City Commissioner who represents the ward serving the Beachwood/Bluffton neighborhood. Advisors shall serve in an advisory capacity only and may make recommendations as to the distributions from the Fund in accordance with policies established by the Foundation from time to time. It is the intent of the Donor that the Fund be held in perpetuity.

3. **Fee Schedule**

Foundation may charge to the Fund expenses and fees which it customarily charges to other Advised Funds. Foundation also may charge an extra-ordinary fee, reasonable in amount, for services to the Fund which are requested by the donor and are a significant and unusual administrative or economic burden to the Foundation. During any quarter that the Fund balance is less than $10,000 a $50 service fee may be charged. The Donor further understands the fee schedule is subject to modification and may be increased or decreased at the sole discretion of the Foundation's Board of Trustees.

It is understood and agreed the Fund shall be owned by the Foundation held by it in its normal corporate capacity. It shall not be deemed a trust fund held by the Foundation in a trustee capacity. In addition, the Foundation retains the power to modify any restrictions or conditions on the distribution if it determines that such restrictions have become unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the area served by the Foundation.

Foundation accepts the property transferred to it by the Donor and agrees to hold, administer and distribute it as provided in this document.

PERE MARQUETTE AND MARGARET DRAKE ELLIOT PARK FUND

By: Christie E Jensen
Chris Jensen, FUN, Inc. President

By: Joe Doyle
Joe Doyle, FUN, Inc. Board Member

COMMUNITY FOUNDATION *for* MUSKEGON COUNTY

By: Chris A McGuigan
Chris A. McGuigan, President/CEO

**City of Muskegon**
**County of Muskegon, State of Michigan**

**RESOLUTION #**

WHEREAS, the City of Muskegon's Pere Marquette Improvement fund was established in 1994; and

WHEREAS, the purpose of the fund was to deposit contributions from FUN, Inc. to be used for events and improvements to the beach; and

WHEREAS, the Fun, Inc. Board is no longer functioning; and

WHEREAS, the members of the Fun, Inc. Executive Committee have recommended that the current funds in the Pere Marquette Improvement fund be transferred to the Community Foundation for Muskegon County; and

WHEREAS, the funds will continue to be used for improvements to the beach.

NOW, THEREFORE, BE IT RESOLVED, THAT the current funds in the City of Muskegon Pere Marquette Improvement fund be transferred to the Community Foundation for Muskegon County Pere Marquette and Margaret Drake Elliott Park Fund and a new Advisory Committee be formed to provide recommendations for use of the funds at Pere Marquette and Margaret Drake Elliott Park, with committee members consisting of:

1. A representative appointed by the Beachwood/Bluffton Neighborhood Organization.
2. A representative from the Muskegon City staff .
3. A representative from the City Commission representing the ward serving the Beachwood/Bluffton neighborhood.

NOW, THEREFORE BE IT FURTHER RESOLVED, THAT the distribution of up to 50% of the balance of the Fund may be made for special capital projects, and up to 20% may be used for distribution for general maintenance of the Parks.

Adopted this _____ of ________________________, 2013.

AYES:

NAYS:

ABSTAIN:

______________________________________
Stephen J. Gawron, Mayor

______________________________________
Ann Marie Cummings, City Clerk

**Date:** May 28, 2013

**To:** Honorable Mayor and City Commissioners

**From:** City Manager

**RE:** Transmittal of 2013-14 Proposed Budget

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SUMMARY OF REQUEST: At this time staff is transmitting to the City Commission the proposed budget for fiscal year 2013-14 which starts July 1, 2013. Both hardcopy and electronic versions of the budget have been distributed to Commissioners. Additionally, the budget is available for public inspection on the City's website and at the City Clerk's office or Hackley Public Library.

The proposed budget will be reviewed in detail with staff at the June 10th work session. A public hearing on the budget will be held at the regular Commission meeting the following evening. City ordinance requires that the budget be adopted by the Commission on or before the second Commission meeting in June.

FINANCIAL IMPACT: The budget is the City's financial plan for the coming fiscal year.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: None

COMMITTEE RECOMMENDATION: None