

CITY OF MUSKEGON

CITY COMMISSION MEETING

MAY 28, 2002

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ CALL TO ORDER:
- ❑ PRAYER:
- ❑ PLEDGE OF ALLEGIANCE:
- ❑ ROLL CALL:
- ❑ HONORS AND AWARDS:
- ❑ PRESENTATIONS:
- ❑ CONSENT AGENDA:
 - a. Approval of Minutes. CITY CLERK
 - b. Michigan Municipal League – Annual Membership Dues (7/1/02 – 6/30/03). CITY MANAGER
 - c. Plow Truck Purchase. DEPARTMENT OF PUBLIC WORKS
 - d. Comprehensive Economic Development Strategy. PLANNING & ECONOMIC DEVELOPMENT
 - e. Consideration of Bids – Wilson Avenue, Dowd to Henry. ENGINEERING
 - f. City – MDOT Agreement for Laketon Avenue, from Peck to Park. ENGINEERING
- ❑ PUBLIC HEARINGS:
- ❑ COMMUNICATIONS:
- ❑ CITY MANAGER'S REPORT:
- ❑ UNFINISHED BUSINESS:
 - a. SECOND READING: Pension Ordinance Clarification. FINANCE

❑ **NEW BUSINESS:**

- a. Zoning Ordinance Amendment to Allow Private Schools, Operated for Profit in the B-2, Convenience and Comparison Business and the B-4, General Business, Districts. PLANNING & ECONOMIC DEVELOPMENT
- b. Market and Housing Analysis of Downtown Waterfront. PLANNING & ECONOMIC DEVELOPMENT
- c. Clarification on the Special Assessment Policy Amendment of May 14, 2002. ENGINEERING
- d. Consideration of Bids – Laketon Avenue at Barclay Street Intersection. ENGINEERING

❑ **ANY OTHER BUSINESS:**

❑ **PUBLIC PARTICIPATION:**

- *Reminder: Individuals who would like to address the City Commission shall do the following:*
- Be recognized by the Chair.
- Step forward to the microphone.
- State name and address.
- Limit of 3 minutes to address the Commission.
- (Speaker representing a group may be allowed 10 minutes if previously registered with City Clerk.)

❑ **ADJOURNMENT:**

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

Date: May 28, 2002
To: Honorable Mayor and City Commissioners
From: Gail A. Kunding, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve the minutes of the City Commission and the Historic District Commission Meeting that was held on Thursday, April 18, 2002, and the Regular Commission Meeting that was held on Tuesday, May 14, 2002.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

MAY 28, 2002

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City of Muskegon was held at the City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30pm, Tuesday May 28, 2002.

Mayor Warmington opened the meeting with a prayer from Pastor Aikin of Central Assembly of God, after which members of the City Commission and members of the public joined in reciting the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington; Vice-Mayor Karen Buie; Commissioners Stephen Gawron, William Larson, Robert Schweifler, Clara Shepherd and Lawrence Spataro; City Manager Bryon Mazade, Assistant City Attorney John Schrier and City Clerk Gail Kundinger.

2002-65 CONSENT AGENDA:

a. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the City Commission and the Historic District Commission Meeting that was held on Thursday, April 18, 2002 and the Regular Commission Meeting that was held on Tuesday, May 14, 2002.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

b. Michigan Municipal League - Annual Membership Dues (7/1/02 - 6/30/03). CITY MANAGER

SUMMARY OF REQUEST: To obtain permission from the City Commission in accordance with the Purchasing Policies and Procedures, to pay the MML Annual Membership dues for July 1, 2002 through June 30, 2003.

FINANCIAL IMPACT:

MML Membership Dues: \$8,689

Environmental Affairs Assessment: \$1,043

Legal Defense Fund Membership: \$ 869

Total Dues: \$10,601

BUDGET ACTION REQUIRED: None. Cost applied to proper budget line items.

STAFF RECOMMENDATION: Approval.

COMMITTEE RECOMMENDATION: None

c. Plow Truck Purchase. DEPARTMENT OF PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase 2 cab and chassis plow trucks from Woodland International. Dump Boxes and underbody plows to bid out at a late date.

FINANCIAL IMPACT: Total Cost \$96,911.02

BUDGET ACTION REQUIRED: None. \$100,000 was budgeted for this purchase.

STAFF RECOMMENDATION: Approve purchase of budgeted replacements for a total cost of \$96,911.02 from Woodland International.

**e. Consideration of Bids – Wilson Avenue, Dowd to Henry.
ENGINEERING**

SUMMARY OF REQUEST: The contract to construct Wilson Ave. from Dowd to Henry (H-1523) be awarded to Felco Contractors out of Muskegon since they were the lowest (see bid tabulation) responsible bidder with a bid price of \$115,429.01.

FINANCIAL IMPACT: The construction cost of \$115,429.01 plus associated engineering cost which is estimated at an additional 20%.

STAFF RECOMMENDATION: Award the contract to Felco Contractors.

BUDGET ACTION REQUIRED: None

COMMITTEE REDCOMMENDATION:

**f. City – MDOT Agreement for Laketon Avenue, from Peck to Park.
ENGINEERING**

SUMMARY OF REQUEST: To approve the contract with MDOT for the milling & resurfacing and partial widening of Laketon Ave., between Peck & Park and to approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: MDOT participation is about \$374,200 but not to exceed 81.85% of eligible cost. The estimated total (including engineering) cost of the project is \$550,000.

BUDGET ACTION REQUIRED: None at this time. The City's share of the cost will come out of the Major Street Fund as was budgeted.

STAFF RECOMMENDATION: That the agreement and resolution be approved.

COMMITTEE RECOMMENDATION:

Motioned by Vice Mayor Buie, second by Commissioner Schweifler to approve the Consent Agenda except for item d.

ROLL VOTE: Ayes: Warmington Buie, Gawron, Larson, Schweifler, Shepherd, Spataro,

Nays: None

MOTION PASSES

2002-66 ITEMS REMOVED FROM CONSENT AGENDA

d. Comprehensive Economic Development Strategy. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve submittal of the CEDS project list.

COMMITTEE RECOMMENDATION: Planning Commission has approved the list.

Motion by Commissioner Schweifler, second by Vice Mayor Buie to approve submittal of potential project list for the Comprehensive Economic Development Strategy (CEDS).

ROLL VOTE: Ayes: Schweifler, Shepherd, Spataro, Warmington, Buie, Gawron, Larson

Nays: None

MOTION PASSES

2002-67 UNFINISHED BUSINESS:

a. SECOND READING: Pension Ordinance Clarification. FINANCE

SUMMARY OF REQUEST: Section 10(d) of the City's Police & Fire Retirement System ordinance provides that "a member who remains in the employ of the City but ceases to be a police officer or a firefighter shall remain a member of the retirement system for the duration of his City employment". This provision recently came into play when the former Fire Marshall assumed the position of Director of Inspections. The current ordinance does not, however, specify the benefits or contributions pertaining to an affected employee. Attached is a technical correction ordinance intended to address this matter. It provides that the contributions and benefits will be the same as if the member had not left employment with the Police or Fire Departments.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None. The position was budgeted with the pension benefits accorded to a Fire Department position.

STAFF RECOMMENDATION: Approval.

At the Legislative Policy Committee meeting held Wednesday, April 24, 2002. Legislative Policy Committee voted to adopt the ordinance as recommended by staff and legal counsel. Vote was 4 Yeas, 1 Absent, 2 Nays.

Motion by Commissioner Spataro, second by Commissioner Gawron to approve the Pension Ordinance Amendment.

ROLL VOTE: Ayes: Shepherd, Spataro, Gawron, Schweifler

Nays: Warmington, Buie, Larson

MOTION PASSES

2002-68 NEW BUSINESS:

- a. Zoning Ordinance Amendment to Allow Private Schools, Operated for Profit in the B-2, Convenience and Comparison Business and the B-4, General Business, Districts. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: Request to amend Section 1101 (Special Land Uses Permitted) of Article XI (B-2, Convenience and Comparison Business) and Section 1300 (Principal Uses Permitted) of Article XIII (General Business) of the City's Zoning Ordinance to allow private schools, operated for profit.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to add the proposed language in the articles and sections described above.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their 5/16/02 meeting. The vote was unanimous, with M. Kleaveland absent.

Motion by Commissioner Schweifler, second by Commissioner Spataro to approve the Zoning Ordinance Amendment.

ROLL VOTE: Ayes: Spataro, Warmington, Buie, Gawron, Larson, Schweifler, Shepherd

Nays: None

MOTION PASSES

- b. Market and Housing Analysis of Downtown Waterfront. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: To approve the contract with Gibbs Planning Group, 148 Pierce Street, Birmingham, MI. Under this contract Gibbs will perform a market and housing analysis of Muskegon's Downtown Waterfront.

FINANCIAL IMPACT: The contract amount is \$28,000.00 plus additional expenses not to exceed \$1,500.00. The City has already agreed to contribute \$5,000. The County and the private sector each have contributed \$5,000. In addition the City has received a \$15,000 grant for this project from the State of Michigan.

Other consultants did come in with lower bids but did not include the full scope of services and/or the services outlined did not appear to be of the same quality offered by Gibbs Planning Group.

The Chesapeake Group, 8516 Green Lane, Baltimore MD, \$25,000

Market Insite Group/McKenna Associates, 3250 West Big Beaver Rd., Troy, MI, \$36,000

Beckett & Raeder, 535 West William, Suite 101, Ann Arbor, MI, \$25,000

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the contract with Gibbs Planning Group, 148 Pierce Street, Birmingham, MI.

COMMITTEE RECOMMENDATION:

Motion by Commissioner Spataro, second by Commissioner Larson to approve the contract with Gibbs Planning Group, 148 Pierce Street, Birmingham, MI.

ROLL VOTE: Ayes: Warmington, Buie, Gawron, Larson, Schweifler, Shepherd, Spataro

Nays: None

MOTION PASSES

c. Clarification on the Special Assessment Policy Amendment of May 14, 2002. ENGINEERING

SUMMARY OF REQUEST: It is respectfully requested that the recent amendment of the special assessment policy be Vacated due to ambiguous interpretation and revert to the original table (80%) when preparing the assessable per foot cost which is based on the cost of assessable items. However, it is requested that the policy be amended to limit the total assessment on any pavement project as described in said policy to a maximum of 45% of the TOTAL COST OF THE PROJECT which would be determined at the time the roll being spreading.

FINANCIAL IMPACT: None anticipated at this time.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Amend the special assessment policy.

COMMITTEE RECOMMENDATION:

Motion by Commissioner Larson, second by Commissioner Schweifler to approve to amend the special assessment policy.

ROLL VOTE: Ayes: Buie, Gawron, Larson, Schweifler, Shepherd, Spataro, Warmington

Nays: None

MOTION PASSES

d. Consideration of Bids – Laketon Avenue at Barclay Street Intersection. ENGINEERING

SUMMARY OF REQUEST: The Whitetopping of Laketon Ave. at Barclay St. contract (H-1555) be awarded to Veneklasen Concrete Construction out of Rockford since

they were the lowest (see bid tabulation) responsible bidder with a bid price of \$116,495.00.

FINANCIAL IMPACT: The construction cost of \$116,495.00 plus associated engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Award the contract to Veneklasen Concrete Construction.

COMMITTEE RECOMMENDATION:

Motion by Commissioner Shepherd, second by Commissioner Spataro to award the contract to Veneklasen Concrete Construction.

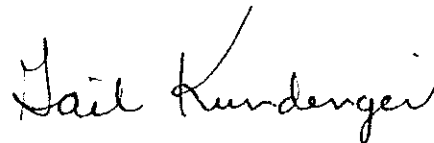
ROLL VOTE: Ayes: Gawron, Larson, Schweifler, Shepherd, Spataro, Warmington, Buie

Nays: None

MOTION PASSES

ADJOURNMENT: The Regular Commission Meeting for the City of Muskegon was adjourned at 6:05PM.

Respectfully submitted,

A handwritten signature in cursive script, reading "Gail Kunderger".

Gail Kunderger, CMC/A&E

City Clerk

AGENDA ITEM NO. _____

CITY COMMISSION MEETING 05/28/02

TO: Honorable Mayor and City Commissioners
FROM: Bryon L. Mazade, City Manager
DATE: May 13, 2002
RE: MML – Annual Membership Dues (7/1/02 – 6/30/03)

SUMMARY OF REQUEST:

To obtain permission from the City Commission, in accordance with the Purchasing Policies and Procedures, to pay the MML Annual Membership Dues for July 1, 2002, through June 30, 2003.

FINANCIAL IMPACT:

MML Membership Dues:	\$ 8,689
Environmental Affairs Assessment:	\$ 1,043
Legal Defense Fund Membership:	\$ <u>869</u>
Total Dues:	<u>\$10,601</u>

BUDGET ACTION REQUIRED:

None. Cost applied to proper budget line items.

STAFF RECOMMENDATION:

Approval.

COMMITTEE RECOMMENDATION:

None.



President
ROBERT SLATTERY, JR.
Mayor, Mount Morris

Vice President
FRANKLIN L. CAMPBELL
Mayor, Hastings

Trustees
MARGARET "PEGGI" ARNOLD
Mayor, Manistique

KENNETH BABICH
Mayor, Marlette

C. D. "AL" CAPPUCCILLI
Mayor, Monroe

SHEILA COCKREL
Councilmember, Detroit

GRETCHEN DRISKELL
Mayor, Saline

MYRON FRASIER
Council President, Southfield

PATRICIA KILLINGBECK
City Manager, Au Gres

KURT KIMBALL
City Manager, Grand Rapids

KATE LAWRENCE
Mayor, Brighton

JAMES LEIDLEIN
City Manager, Harper Woods

THOMAS MARKUS
City Manager, Birmingham

SPENCER NEBEL
City Manager, Sault Ste. Marie

CAROL SHEETS
Mayor Pro Tem, Wyoming

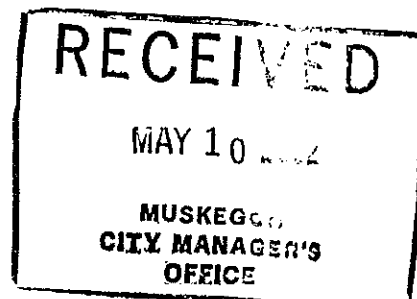
JAMES SINCLAIR
Councilmember, Rogers City

JOEL THOMPSON
Mayor, Otsego

JOSEPH YUCHASZ
Village President, Elk Rapids

Executive Director
GEORGE D. GOODMAN

May 3, 2002



Ms. Gail A. Kunderinger
Muskegon City Clerk
933 Terrace St.
PO Box 536
Muskegon, MI 49443-0536

Dear Ms. Kunderinger:

Enclosed are your Michigan Municipal League renewal invoice and membership plaque insert that recognizes your continuing membership in the MML. In preparing your invoice, the state shared revenue figures used for the dues calculation are accurate to the best of our knowledge.

On behalf of the trustees and staff I would like to thank you for your continued support of the League. It is only through the cooperation and participation of our municipal members that the League is in a position to help meet the needs of local government by providing information, education, political involvement and a host of other services tailored especially for member cities and villages.

Your participation in League meetings, conferences, training programs and our miscellaneous services is encouraged as we move into our second century of furthering and strengthening the objectives of local government.

The three League offices are always available to you, as is the MML's Web site (www.mml.org).

Please feel free to call me or any staff member should you have questions.

Sincerely,

George D. Goodman
Executive Director

Enc.

A member of the National League of Cities

Web Address
www.mml.org

Headquarters Office
1675 Green Road, P.O. Box 1487
Ann Arbor, MI 48106-1487
Phone: 734-662-3246
Fax: 734-662-8083

Lansing Office
320 N. Washington Square, Suite 110
Lansing, MI 48933-1288
Phone: 517-485-1314
Fax: 517-372-7476

Northern Field Office
200 Minneapolis Avenue
Gladstone, MI 49837-1931
Phone: 906-428-0100
Fax: 906-428-0101



**MICHIGAN MUNICIPAL LEAGUE
MEMBERSHIP RENEWAL INVOICE
2002 - 2003**

CITY OF MUSKEGON

Id: 347

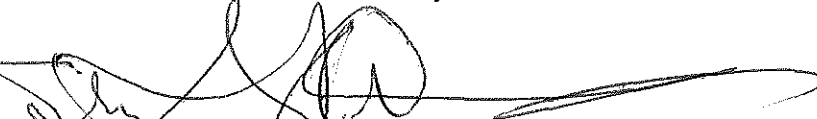
Date: May 3, 2002

Membership Period: July 1, 2002 - June 30, 2003

* 2001-2001 State Shared Revenue:	\$5,592,276
* Michigan Municipal League Dues	\$8,689
* Environment Affairs Assessment	1,043
* Legal Defense Fund	869
* Total due by July 1, 2002	<u>\$10,601</u>

Please sign, date and return one invoice copy with your payment.

Make checks payable to the Michigan Municipal League and mail to the address below. Thank you.


(Signature) Steve J. Warmington, Mayor

May 31, 2002
(Date)

* See reverse side

Michigan Municipal League
P.O. Box 7409
Ann Arbor, MI 48106-7409
800.653.2483

Date: 5/20/02
To: Honorable Mayor and City Commission
From: Brett Kraley, Equipment Supervisor DPW
RE: Plow truck Purchase

SUMMARY OF REQUEST: Approval to purchase 2 cab and chassis plow trucks from Woodland International. Dump Boxes and underbody plows to bid out at a later date.

FINANCIAL IMPACT: Total Cost \$96,911.02

BUDGET ACTION REQUIRED: None. \$100,000 was budgeted for this purchase.

STAFF RECOMMENDATION: Approve purchase of budgeted replacements for a total cost of \$96,911.02 from Woodland International.

2 Plow Truck Cab & Chassis

	<u>Bid</u>	<u>Model</u>
Woodland International	\$ 96,911.02	International 7400SFA
274 W. Sherman		
Muskegon, MI 49444		
Duthler Truck Center	\$ 100,302.00	Sterling L7501
4525 Clay SW		
Grand Rapids MI 49548		
Dermond Truck Sales	\$ 112,200.00	Peterbuilt 330
1456 28th Street, S.W.		
Grand Rapids MI 49509		
Budgeted Amount	\$ 100,000.00	

This is a budgeted replacement of existing units. The trucks that we are replacing are 1986 and 1987 model year vehicles. We currently have ten International plow trucks in our fleet and have always received excellent customer service from Woodland International. Their close proximity to the city yards also helps when we need parts or warranty work. Therefore, we are requesting commission approval to purchase two International 7400 plow truck chassis from Woodland International.

Date: May 28, 2002
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Consideration of Bids
Wilson Ave., Dowd to Henry

SUMMARY OF REQUEST:

The contract to construct Wilson Ave. from Dowd to Henry (H-1523) be awarded to Felco Contractors out of Muskegon since they were the lowest (see bid tabulation) responsible bidder with a bid price of \$115,429.01

FINANCIAL IMPACT:

The construction cost of \$115,429.01 plus associated engineering cost which is estimated at an additional 20%.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Award the contract to Felco Contractors.

COMMITTEE RECOMMENDATION:

BID TABULATION

May 21, 2002

CONTRACTOR			JACKSON-MERKEY		DIVERSIFIED		FELCO		K & R		
ADDRESS			555 E.WESTERN		6775 HARVEY		874 PULASKI AVE.		3435 BROADMOOR		
CITY/ST			MUSKEGON, MI		SPRING LAKE, MI		MUSKEGON, MI		GRAND RAPIDS, MI		
	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL COST	UNIT COST	TOTAL COST	UNIT COST	TOTAL COST	UNIT COST	TOTAL COST
1	ADJUST DRAINAGE STRUCTURE COVER	5	EACH	\$475.00	\$2,375.00	\$333.00	\$1,665.00	\$ 450.00	\$2,250.00	\$ 550.00	\$2,750.00
2	AGGREGATE BASE COURSE, 22A, 6" C.I.P.	3244	SYD	\$5.00	\$16,220.00	\$7.00	\$22,708.00	\$ 5.04	\$16,349.76	\$ 4.00	\$12,976.00
3	AGGREGATE SURFACE COURSE, 23A, AS NEEDED	39	CYD	\$27.00	\$1,053.00	\$20.00	\$780.00	\$ 19.00	\$741.00	\$ 25.00	\$975.00
4	BIT. MIXTURE 3C @ 220#/S.YD.	321	TON	\$47.35	\$15,199.35	\$49.00	\$15,729.00	\$ 45.60	\$14,637.60	\$ 43.34	\$13,912.14
5	BIT. MIXTURE 4C @ 165#/S.YD.	245	TON	\$53.35	\$13,070.75	\$55.00	\$13,475.00	\$ 52.60	\$12,887.00	\$ 49.34	\$12,088.30
6	CATCH BASIN CASTING EAST JORDAN #7045 OR EQUAL	3	EACH	\$525.00	\$1,575.00	\$500.00	\$1,500.00	\$ 505.00	\$1,515.00	\$ 750.00	\$2,250.00
7	CATCH BASIN, FLAT TOP	3	EACH	\$525.00	\$1,575.00	\$800.00	\$2,400.00	\$ 1,300.00	\$3,900.00	\$ 1,200.00	\$3,600.00
8	CONCRETE APPROACH, 6", STANDARD	205	SYD	\$26.00	\$5,330.00	\$25.00	\$5,125.00	\$ 28.00	\$5,740.00	\$ 27.50	\$5,637.50
9	CONCRETE CURB AND GUTTER, STANDARD DETAIL 1	2175	LFT	\$8.50	\$18,487.50	\$9.00	\$19,575.00	\$ 8.00	\$17,400.00	\$ 9.50	\$20,662.50
10	CONC. SIDEWALK 4"	75	SFT	\$2.50	\$187.50	\$3.25	\$243.75	\$ 4.60	\$345.00	\$ 2.65	\$198.75
11	CONC. SIDEWALK 6"	1217	SFT	\$3.00	\$3,651.00	\$3.75	\$4,563.75	\$ 4.25	\$5,172.25	\$ 3.00	\$3,651.00
12	DRAINAGE STRUCTURE TAP	1	EACH	\$425.00	\$425.00	\$500.00	\$500.00	\$ 775.00	\$775.00	\$ 275.00	\$275.00
13	EXCAVATION	888	CYD	\$14.90	\$13,231.20	\$10.00	\$8,880.00	\$ 7.05	\$6,260.40	\$ 3.50	\$3,108.00
14	MANHOLE CASTING EAST JORDAN #1000 OF EQUAL	6	EACH	\$565.00	\$3,390.00	\$400.00	\$2,400.00	\$ 520.00	\$3,120.00	\$ 350.00	\$2,100.00
15	MANHOLE FLOW LINE	5	EACH	\$795.00	\$3,975.00	\$500.00	\$2,500.00	\$ 400.00	\$2,000.00	\$ 500.00	\$2,500.00
16	MANHOLE, STANDARD, 4' I.D. 0'-10' DEEP	1	EACH	\$1,690.00	\$1,690.00	\$1,200.00	\$1,200.00	\$ 1,400.00	\$1,400.00	\$ 1,325.00	\$1,325.00
17	PREPARED TOP SOIL AND SEED, CLASS A	2500	SYD	\$2.75	\$6,875.00	\$4.25	\$10,625.00	\$ 2.90	\$7,250.00	\$ 1.50	\$3,750.00
18	RECONSTRUCTING MANHOLE	3	VFT	\$450.00	\$1,350.00	\$175.00	\$525.00	\$ 105.00	\$315.00	\$ 350.00	\$1,050.00
19	RELOCATING MAIL BOX	13	EACH	\$70.00	\$910.00	\$50.00	\$650.00	\$ 75.00	\$975.00	\$ 90.00	\$1,170.00
20	REMOVING CURB AND GUTTER	54	LFT	\$16.00	\$864.00	\$20.00	\$1,080.00	\$ 5.00	\$270.00	\$ 5.50	\$297.00
21	REMOVING PAVEMENT	143	SYD	\$19.75	\$2,824.25	\$8.00	\$1,144.00	\$ 4.00	\$572.00	\$ 9.85	\$1,408.55
22	REMOVING SIDEWALK	8	SYD	\$13.00	\$104.00	\$20.00	\$160.00	\$ 13.00	\$104.00	\$ 9.85	\$78.80
23	REMOVING TREE, 25" TO 36"	1	EACH	\$965.00	\$965.00	\$250.00	\$250.00	\$ 1,000.00	\$1,000.00	\$ 450.00	\$450.00
24	REMOVING TREE, 37" OR LARGER	1	EACH	\$1,845.00	\$1,845.00	\$400.00	\$400.00	\$ 1,300.00	\$1,300.00	\$ 1,525.00	\$1,525.00
25	SANITARY SEWER, 6", PVC, SDR 35	5	LFT	\$80.00	\$400.00	\$100.00	\$500.00	\$ 32.00	\$160.00	\$ 70.00	\$350.00
26	SANITARY SEWER, 8", PVC, SDR 35	20	LFT	\$85.00	\$1,700.00	\$40.00	\$800.00	\$ 39.00	\$780.00	\$ 75.00	\$1,500.00
27	SANITARY SEWER WYE, 8" X 6", PVC, SDR 35	1	EACH	\$150.00	\$150.00	\$250.00	\$250.00	\$ 200.00	\$200.00	\$ 250.00	\$250.00
28	STORM SEWER, 12", C76 CLASS V	26	LFT	\$29.00	\$754.00	\$25.00	\$650.00	\$ 30.00	\$780.00	\$ 35.00	\$910.00
29	STORM SEWER, 12", DUCTILE IRON, CLASS 52	110	LFT	\$36.00	\$3,960.00	\$30.00	\$3,300.00	\$ 30.00	\$3,300.00	\$ 40.00	\$4,400.00
30	SAND REFILL	300	CYD	\$8.00	\$2,400.00	\$8.00	\$2,400.00	\$ 3.10	\$930.00	\$ 5.50	\$1,650.00
31	TRAFFIC CONTROL	1	LUMP	\$8,975.00	\$8,975.00	\$3,750.00	\$3,750.00	\$ 3,000.00	\$3,000.00	\$ 33,500.00	\$33,500.00
	TOTAL				\$135,511.55		\$129,728.50		\$115,429.01		\$140,298.54

ENGINEER'S ESTIMATE H-1523 WILSON AVENUE, DOWD TO HENRY

	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL PRICE
1	ADJUST DRAINAGE STRUCTURE COVER	5	EACH	\$400.00	\$2,000.00
2	AGGREGATE BASE COURSE, 22A, 6" C.I.P.	3244	SYD	\$5.00	\$16,220.00
3	AGGREGATE SURFACE COURSE, 23A, AS NEEDED	39	CYD	\$25.00	\$975.00
4	BIT. MIXTURE 3C @ 220#/S.YD.	321	TON	\$40.00	\$12,840.00
5	BIT. MIXTURE 4C @ 165#/S.YD.	245	TON	\$45.00	\$11,025.00
6	CATCH BASIN CASTING EAST JORDAN #7045 OR EQUAL	3	EACH	\$500.00	\$1,500.00
7	CATCH BASIN, FLAT TOP	3	EACH	\$1,200.00	\$3,600.00
8	CONCRETE APPROACH, 6", STANDARD	205	SYD	\$30.00	\$6,150.00
9	CONCRETE CURB AND GUTTER, STANDARD DETAIL 1	2175	LFT	\$9.00	\$19,575.00
10	CONC. SIDEWALK 4"	75	SFT	\$3.50	\$262.50
11	CONC. SIDEWALK 6"	1217	SFT	\$3.30	\$4,016.10
12	DRAINAGE STRUCTURE TAP	1	EACH	\$150.00	\$150.00
13	EXCAVATION	888	CYD	\$10.00	\$8,880.00
14	MANHOLE CASTING EAST JORDAN #1000 OF EQUAL	6	EACH	\$450.00	\$2,700.00
15	MANHOLE, STANDARD, 4' I.D. 0'-10' DEEP	1	EACH	\$1,400.00	\$1,400.00
16	PREPARED TOP SOIL AND SEED, CLASS A	2500	SYD	\$2.70	\$6,750.00
17	RECONSTRUCTING MANHOLE	3	VFT	\$300.00	\$900.00
18	RELOCATING MAILBOX	13	EACH	\$100.00	\$1,300.00
19	REMOVING CURB AND GUTTER	54	LFT	\$20.00	\$1,080.00
20	REMOVING PAVEMENT	143	SYD	\$15.00	\$2,145.00
21	REMOVING SIDEWALK	8	SYD	\$10.00	\$80.00
22	REMOVING TREE, 25" TO 36"	1	EACH	\$1,000.00	\$1,000.00
23	REMOVING TREE, 37" OR LARGER	1	EACH	\$2,000.00	\$2,000.00
24	STORM SEWER, 12", C76 CLASS V	26	LFT	\$30.00	\$780.00
25	STORM SEWER, 12", DUCTILE IRON, CLASS 52	110	LFT	\$35.00	\$3,850.00
26	SAND REFILL	200	CYD	\$10.00	\$2,000.00
27	TRAFFIC CONTROL	1	LUMP	\$5,000.00	\$5,000.00
SUB-TOTAL					\$118,178.60
20% ENGINEERING					\$23,635.72
TOTAL					\$141,814.32

Date: May 28, 2002
To: Honorable Mayor and City Commissioners
From: Engineering
RE: City – MDOT Agreement for:
Laketon Ave., from Peck to Park

SUMMARY OF REQUEST:

To approve the attached contract with MDOT for the milling & resurfacing and partial widening of Laketon Ave. between Peck & Park and to approve the attached resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT:

MDOT participation is about \$374,200 but not to exceed 81.85% of eligible cost. The estimated total (including engineering) cost of the project is \$550,000.

BUDGET ACTION REQUIRED:

None at this time. The City's share of the cost will come out of the Major Street Fund as was budgeted.

STAFF RECOMMENDATION:

That the attached agreement and resolution be approved.

COMMITTEE RECOMMENDATION:

RESOLUTION 2002-65(f)

RESOLUTION FOR APPROVAL OF A CONTRACT AGREEMENT BETWEEN THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND THE CITY OF MUSKEGON FOR THE MILLING & RESURFACING OF LAKETON AVE. FROM PECK TO PARK TOGETHER WITH NECESSARY RELATED WORK AND AUTHORIZATION FOR MAYOR STEPHEN J. WARMINGTON AND CITY CLERK GAIL A KUNDINGER TO EXECUTE SAID CONTRACT

Moved by Vice-Mayor Buie and supported by

Commissioner Schweifler that the following Resolution be adopted:

WHEREAS, entry by the City of Muskegon into Contract no. **02-5188** between the Michigan Department of Transportation and the City of Muskegon for the resurfacing & widening of the southbound exit ramp at US-31 and Sherman Blvd. within the City is in the best interests of the City of Muskegon.

RESOLVED, that entry by the City into Contract Agreement Number **02-5188** be and the same is hereby authorized and approved and the Mayor and Clerk are authorized to execute said contract for and on behalf of the City of Muskegon.

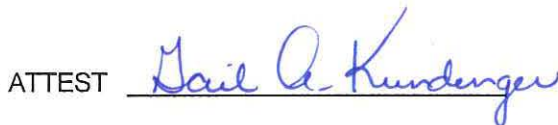
Adopted this 28th day of May, 2002.

BY

A large, stylized handwritten signature in black ink, likely belonging to Stephen J. Warmington.

Stephen J. Warmington, Mayor

ATTEST

A handwritten signature in blue ink, likely belonging to Gail A. Kunderger.

Gail A. Kunderger, City Clerk

CERTIFICATION

This resolution was adopted at a meeting of the City Commission, held on May 28, **2002**. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By

A handwritten signature in blue ink, likely belonging to Gail A. Kunderger.

Gail A. Kunderger, Clerk



JOHN ENGLER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

GREGORY J. ROSINE
DIRECTOR

August 21, 2002

Ms. Gail Kunding, Clerk
City of Muskegon
933 Terrace Street, P.O. Box 536
Muskegon, MI 49443-0536

Dear Ms. Kunding:

RE: MDOT Contract Number: 02-5188
Control Section: STUL 61407
Job Number: 56345

Enclosed is a fully executed copy of the above noted agreement.

Sincerely,

Jackie Burch
Contract Processing Specialist
Design Division

Enclosure

cc: M. Harbison, Design Division
A. Christensen, Financial Operations Division
Grand Region Engineer

STP

DIR

Project	STP 0261(331)
Job Number	56345
Control Section	STUL 61407
Fed Item #	HH 3186
Contract No.	02-5188

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of AUG 21 2002, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF MUSKEGON, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Muskegon, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated April 25, 2002, attached hereto and made a part hereof:

PART A - FEDERAL PARTICIPATION

Grading work along Laketon Avenue from Park Street easterly to Peck Street; including bituminous resurfacing, drainage structures, concrete curb and gutter, and restoration work; and all together with necessary related work.

PART B - NO FEDERAL PARTICIPATION

Watermain work along Laketon Avenue from Park Street easterly to Peck Street; and all together with necessary related work.

WITNESSETH:

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

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

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

SURFACE TRANSPORTATION PROGRAM

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

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

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

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT.

Costs for construction engineering and inspection incurred by the DEPARTMENT will be charged 100 percent to the REQUESTING PARTY. Any other costs incurred by the DEPARTMENT as a result of this contract will be at PROJECT COST.

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

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

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

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

- A. Design or cause to be designed the plans for the PROJECT.
- B. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.
- C. Perform or cause to be performed the construction engineering and inspection services necessary for the completion of the PROJECT.

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

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

PART A

Federal Surface Transportation Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST at the established Federal participation ratio equal to 81.85 percent up to an amount not to exceed \$440,000. The balance of the PART A portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART B

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.
- B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other party with jurisdiction for the roadway being constructed as the PROJECT, and their employees, for the duration of the PROJECT and to provide copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owners protective liability insurance policy.
- C. Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current standard specifications for construction and to provide copies of notices and reports prepared to those insured.

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

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

CITY OF MUSKEGON

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By

Title:

Mayor

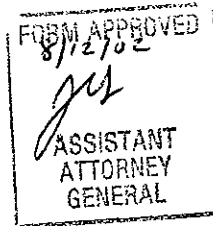
By

Department Director MDOT

By

Title:

Deputy City Clerk



April 25, 2002

EXHIBIT I

PROJECT	STP 0261(331)
JOB NUMBER	56345
CONTROL SECTION	STUL 61407

ESTIMATED COST

CONTRACTED WORK

	<u>PART A</u>	<u>PART B</u>	<u>TOTAL</u>
Estimated Cost	\$457,200	\$16,000	\$473,200

COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	\$457,200	\$16,000	\$473,200
Less Federal Funds*	<u>\$374,200</u>	<u>\$ -0-</u>	<u>\$374,200</u>
BALANCE (REQUESTING PARTY'S SHARE)	\$ 83,000	\$16,000	\$ 99,000

*Federal Funds shall be applied to the eligible items of the PROJECT COST at a participation ratio equal to 81.85 percent up to an amount not to exceed \$440,000.

NO DEPOSIT

DOT

TYPE B
BUREAU OF HIGHWAYS
03-15-93

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I COMPLIANCE WITH REGULATIONS AND DIRECTIVES

SECTION II PROJECT ADMINISTRATION AND SUPERVISION

SECTION III ACCOUNTING AND BILLING

SECTION IV MAINTENANCE AND OPERATION

SECTION V SPECIAL PROGRAM AND PROJECT CONDITIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

- A. To qualify for eligible cost, all work shall be documented in accordance with the requirements and procedures of the DEPARTMENT.
- B. All work on projects for which reimbursement with Federal funds is requested shall be performed in accordance with the requirements and guidelines set forth in the following Directives of the Federal-Aid Policy Guide (FAPG) of the FHWA, as applicable, and as referenced in pertinent sections of Title 23 and Title 49 of the Code of Federal Regulations (CFR), and all supplements and amendments thereto.
 - 1. Engineering
 - a. FAPG (6012.1): Preliminary Engineering
 - b. FAPG (23 CFR 172): Administration of Engineering and Design Related Service Contracts
 - c. FAPG (23 CFR 635A): Contract Procedures
 - d. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments—Allowable Costs
 - 2. Construction
 - a. FAPG (23 CFR 140E): Administrative Settlement Costs-Contract Claims
 - b. FAPG (23 CFR 140B): Construction Engineering Costs
 - c. FAPG (23 CFR 17): Recordkeeping and Retention Requirements for Federal-Aid Highway Records of State Highway Agencies
 - d. FAPG (23 CFR 635A): Contract Procedures
 - e. FAPG (23 CFR 635B): Force Account Construction
 - f. FAPG (23 CFR 645A): Utility Relocations, Adjustments and Reimbursement
 - g. FAPG (23 CFR 645B): Accommodation of Utilities (PPM 30-4.1)

- h. FAPG (23 CFR 655F): Traffic Control Devices on Federal-Aid and other Streets and Highways
 - i. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments—Allowable Costs
 - 3. Modification Or Construction Of Railroad Facilities
 - a. FAPG (23 CFR 140I): Reimbursement for Railroad Work
 - b. FAPG (23 CFR 646B): Railroad Highway Projects
- C. In conformance with FAPG (23 CFR 630C) Project Agreements, the political subdivisions party to this contract, on those Federally funded projects which exceed a total cost of \$100,000.00 stipulate the following with respect to their specific jurisdictions:
 - 1. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.
 - 2. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.
 - 3. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.
- D. Ensure that the PROJECT is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless modified or deleted by approval of the FHWA.
- E. All the requirements, guidelines, conditions and restrictions noted in all other pertinent Directives and Instructional Memoranda of the FHWA will apply to this contract and will be adhered to, as applicable, by the parties hereto.

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

- A. The DEPARTMENT shall provide such administrative guidance as it determines is required by the PROJECT in order to facilitate the obtaining of available federal and/or state funds.
- B. The DEPARTMENT will advertise and award all contracted portions of the PROJECT work. Prior to advertising of the PROJECT for receipt of bids, the REQUESTING PARTY may delete any portion or all of the PROJECT work. After receipt of bids for the PROJECT, the REQUESTING PARTY shall have the right to reject the amount bid for the PROJECT prior to the award of the contract for the PROJECT only if such amount exceeds by twenty percent (20%) the final engineer's estimate therefor. If such rejection of the bids is not received in writing within two (2) weeks after letting, the DEPARTMENT will assume concurrence. The DEPARTMENT may, upon request, readvertise the PROJECT. Should the REQUESTING PARTY so request in writing within the aforesaid two (2) week period after letting, the PROJECT will be cancelled and the DEPARTMENT will refund the unused balance of the deposit less all costs incurred by the DEPARTMENT.
- C. The DEPARTMENT will perform such inspection services on PROJECT work performed by the REQUESTING PARTY with its own forces as is required to ensure compliance with the approved plans & specifications.
- D. On those projects funded with Federal monies, the DEPARTMENT shall as may be required secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.
- E. All work in connection with the PROJECT shall be performed in conformance with the Michigan Department of Transportation Standard Specifications for Construction, and the supplemental specifications, Special Provisions and plans pertaining to the PROJECT and all materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. No extra work shall be performed nor changes in plans and specifications made until said work or changes are approved by the project engineer and authorized by the DEPARTMENT.

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

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

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

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

- G. The REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, shall make such arrangements with railway companies, utilities, etc., as may be necessary for the performance of work required for the PROJECT but for which Federal or other reimbursement will not be requested.
- H. The REQUESTING PARTY, at no cost to the PROJECT, or the DEPARTMENT, shall secure, as necessary, all agreements and approvals of the PROJECT with railway companies, the Railroad Safety & Tariffs Division of the DEPARTMENT and other concerned governmental agencies other than the FHWA, and will forward same to the DEPARTMENT for such reviews and approvals as may be required.
- I. No PROJECT work for which reimbursement will be requested by the REQUESTING PARTY is to be subcontracted or performed until the DEPARTMENT gives written notification that such work may commence.

- J. The REQUESTING PARTY shall be responsible for the payment of all costs and expenses incurred in the performance of the work it agrees to undertake and perform.
- K. The REQUESTING PARTY shall pay directly to the party performing the work all billings for the services performed on the PROJECT which are authorized by or through the REQUESTING PARTY.
- L. The REQUESTING PARTY shall submit to the DEPARTMENT all paid billings for which reimbursement is desired in accordance with DEPARTMENT procedures.
- M. All work by a consulting firm will be performed in compliance with the applicable provisions of 1980 PA 299, Subsection 2001, MCL 339.2001; MSA 18.425(2001), as well as in accordance with the provisions of all previously cited Directives of the FHWA.
- N. The project engineer shall be subject to such administrative guidance as may be deemed necessary to ensure compliance with program requirement and, in those instances where a consultant firm is retained to provide engineering and inspection services, the personnel performing those services shall be subject to the same conditions.
- O. The DEPARTMENT, in administering the PROJECT in accordance with applicable Federal and State requirements and regulations, neither assumes nor becomes liable for any obligations undertaken or arising between the REQUESTING PARTY and any other party with respect to the PROJECT.
- P. In the event it is determined by the DEPARTMENT that there will be either insufficient Federal funds or insufficient time to properly administer such funds for the entire PROJECT or portions thereof, the DEPARTMENT, prior to advertising or issuing authorization for work performance, may cancel the PROJECT, or any portion thereof, and upon written notice to the parties this contract shall be void and of no effect with respect to that cancelled portion of the PROJECT. Any PROJECT deposits previously made by the parties on the cancelled portions of the PROJECT will be promptly refunded.
- Q. Those projects funded with Federal monies will be subject to inspection at all times by the DEPARTMENT and the FHWA.

SECTION III

ACCOUNTING AND BILLING

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

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

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

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

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

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

Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense and, (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate arrangements to conveniently and

reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

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

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

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

- a. Agencies expending a total of \$300,000 or more in federal funds, from one or more funding sources in its fiscal year, shall comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

The agency shall submit two copies of:

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

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

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

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

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

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

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

2. Agreed Unit Prices Work - All billings for work undertaken by the REQUESTING PARTY on an agreed unit price basis will be submitted in accordance with the Michigan Department of Transportation Standard Specifications for Construction and pertinent FAPG Directives and Guidelines of the FHWA.
3. Force Account Work and Subcontracted Work - All billings submitted to the DEPARTMENT for Federal reimbursement for items of work performed on a force account basis or by any subcontract with a consulting firm, railway company, governmental agency or other party, under the terms of this contract, shall be prepared in accordance with the provisions of the pertinent FHPM Directives and the procedures of the DEPARTMENT. Progress billings may be submitted monthly during the time work is being performed provided, however, that no bill of a lesser amount than \$1,000.00 shall be submitted unless it is a final or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number _____", or "Final Billing".

4. Final billing under this contract shall be submitted in a timely manner but not later than six months after completion of the work. Billings for work submitted later than six months after completion of the work will not be paid.
5. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with Federal monies, the DEPARTMENT will act as billing agent for the REQUESTING PARTY, consolidating said billings with those for its own force account work and presenting these consolidated billings to the FHWA for payment. Upon receipt of reimbursement from the FHWA, the DEPARTMENT will promptly forward to the REQUESTING PARTY its share of said reimbursement.
6. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with non-Federal monies, the DEPARTMENT will promptly forward to the REQUESTING PARTY reimbursement of eligible costs.

B. Payment of Contracted and DEPARTMENT Costs:

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

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

C. General Conditions:

1. The DEPARTMENT, in accordance with its procedures in existence and covering the time period involved, shall make payment for interest earned on the balance of working capital deposits for all projects on account with the DEPARTMENT. The REQUESTING PARTY in accordance with DEPARTMENT procedures in existence and covering the time period involved, shall make payment for interest owed on any deficit balance of working capital deposits for all projects on account with the DEPARTMENT. This payment or billing is processed on an annual basis corresponding to the State of Michigan fiscal year. Upon receipt of billing for interest incurred, the REQUESTING PARTY promises and shall promptly pay the DEPARTMENT said amount.
2. Pursuant to the authority granted by law, the REQUESTING PARTY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its obligations as specified in PART I and PART II. If the REQUESTING PARTY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the REQUESTING PARTY and the State Treasurer of the State of Michigan or such other state officer or agency having charge and control over disbursement of the Michigan Transportation Fund, pursuant to law, of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, said State Treasurer or other state officer or agency is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the REQUESTING PARTY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the REQUESTING PARTY with payment thereof, and to notify the REQUESTING PARTY in writing of such fact.
3. Upon completion of all work under this contract and final audit by the DEPARTMENT or the FHWA, the REQUESTING PARTY promises to promptly repay the DEPARTMENT for any disallowed items of costs previously disbursed by the DEPARTMENT. The REQUESTING PARTY pledges its future receipts from the Michigan Transportation Fund for repayment of all disallowed items and, upon failure to make repayment for any disallowed items within ninety (90) days of demand made by the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold an equal amount from the REQUESTING PARTY'S share of any future distribution of Michigan Transportation Funds in settlement of said claim.

4. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT and upon completion of the PROJECT, payment of all items of PROJECT COST, receipt of all Federal Aid, if any, and completion of final audit by the DEPARTMENT and if applicable, by the FHWA, shall make final accounting to the REQUESTING PARTY. The final PROJECT accounting will not include interest earned or charged on working capital deposited for the PROJECT which will be accounted for separately at the close of the State of Michigan fiscal year and as set forth in Section C(1).
5. The costs of engineering and other services performed on those projects involving specific program funds and one hundred percent (100%) local funds will be apportioned to the respective portions of that project in the same ratio as the actual direct construction costs unless otherwise specified in PART I.

SECTION IV

MAINTENANCE AND OPERATION

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

1. All Projects:

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

2. Projects Financed in Part with Federal Monies:

- a. Sign and mark each part of the PROJECT, in accordance with the current Michigan Manual of Uniform Traffic control Devices, and will not install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the FHWA, pursuant to 23 USC 109(d).
- b. Remove, prior to completion of the PROJECT, all encroachments from the roadway right-of-way within the limits of each part of the PROJECT.

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

- c. Cause to be enacted, maintained and enforced, ordinances and regulations for proper traffic operations in accordance with the plans of the PROJECT.
- d. Make no changes to ordinances or regulations enacted, or traffic controls installed in conjunction with the PROJECT work without prior review by the DEPARTMENT and approval of the FHWA, if required.

- B. On projects for the removal of roadside obstacles, the parties, upon completion of construction of each part of the PROJECT, at no cost to the PROJECT or the DEPARTMENT, will, within their respective jurisdictions, take such action as is necessary to assure that the roadway right-of-way, cleared as the PROJECT, will be maintained free of such obstacles.
- C. On projects for the construction of bikeways, the parties will enact no ordinances or regulations prohibiting the use of bicycles on the facility hereinbefore described as the PROJECT, and will amend any existing restrictive ordinances in this regard so as to allow use of this facility by bicycles. No motorized vehicles shall be permitted on such bikeways or walkways constructed as the PROJECT except those for maintenance purposes.
- D. Failure of the parties hereto to fulfill their respective responsibilities as outlined herein may disqualify that party from future Federal-aid participation in projects on roads or streets for which it has maintenance responsibility. Federal Aid may be withheld until such time as deficiencies in regulations have been corrected, and the improvements constructed as the PROJECT are brought to a satisfactory condition of maintenance.

SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

- A. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the acquisition of right-of-way must be under construction by the close of the twentieth (20th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that right-of-way.
- B. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the performance of preliminary engineering must be under construction by the close of the tenth (10th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that preliminary engineering.
- C. On those projects funded with Federal monies, the REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, will provide such accident information as is available and such other information as may be required under the program in order to make the proper assessment of the safety benefits derived from the work performed as the PROJECT. The REQUESTING PARTY will cooperate with the DEPARTMENT in the development of reports and such analysis as may be required and will, when requested by the DEPARTMENT, forward to the DEPARTMENT, in such form as is necessary, the required information.
- D. In connection with the performance of PROJECT work under this contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.
- E. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

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

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.
6. The contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.
7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.
9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

March, 1998

APPENDIX B

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

1. **Compliance with Regulations:** The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b) Cancellation, termination, or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

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

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

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

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

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

Commission Meeting Date: May 28, 2002

Date: 5-21-2002

To: Honorable Mayor & City Commission

From: Planning & Economic Development Department *CB*

RE: Comprehensive Economic Development Strategy

SUMMARY OF REQUEST: To approve submittal of potential project list for the Comprehensive Economic Development Strategy (CEDS).

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve submittal of the CEDS project list.

COMMITTEE RECOMMENDATION: Planning Commission has approved the list.

Memorandum

To: Mayor & City Commission
From: Joel Fitzpatrick, Business Development Specialist
Date: 05/21/02
Re: 2002 Comprehensive Economic Development Strategy (CEDS) Project
Submissions – City of Muskegon

Please find the enclosed copies of the City of Muskegon projects proposed for inclusion in the 2002 Comprehensive Economic Development Strategy for the West Michigan Shoreline Region. The CEDS process is required by the U.S. Economic Development Administration as a way of identifying projects that may receive funding through the EDA. Projects that are not included in the CEDS will not be considered for Federal funding.

Each year the City is requested to provide a list of projects that require federal assistance. By placing these projects on the funding list, the City ensures that the projects are, at a minimum, considered for funding. It is important to note that the CEDS process is not an application for funds, but rather a process of getting our projects on-line for future funding.

All of the projects submitted are repeat submissions and there have been no significant changes in the projects.

The process for including City projects in the CEDS is as follows:

1. Identification of projects.
2. Planning Commission review of projects.
3. Planning Commission recommendation to City Commission for project to be included in the CEDS.
4. City Commission approval of resolution submitting projects for the CEDS.
5. Submission of projects and resolution to the West Michigan Shoreline Regional Development Commission.

**2002 CEDS
Submitted Projects**

SmartZone Business Park

Medendorp Industrial Center Expansion

Medendorp Industrial Center Rail Spur

Downtown Muskegon/Lakefront Development

Port City Industrial Park Expansion

Farmers/Seafood Market

Relocation of West Michigan Steel

Car Ferry Landing

2002 CEDS PROJECT SUBMITTAL FORM

Applicant Name: City of Muskegon Project Name: SmartZone-Business Park
(Downtown)

Contact Person: Lonna Anguilm Phone: 231-724-6702

Note: Please use a separate page for each project submitted.

Location of Project: City of Muskegon County: Muskegon

Project Description: see attached

Estimated Project Start Date: 2003 ☒ New Project ☐ Facility Expansion
(check one box)

Important: For Economic Development Infrastructure Construction Project, please remember to provide the required site location map with this form.

(Check one box per category)

Project Type

☐ New Submission ☒ Repeat Submission (20__)

Letters of Commitment (from incoming and/or expanding firm(s))

☒ Yes ☐ No ☐ NA
Not Applicable

Project Costs: (estimated or actual)

Federal: 700,000

Matching Funds

☒ Secured ☐ Lacking

State: _____

Potential Job Creation (estimated)

100+ ☐ NA
Not Applicable

Local: 300,000

Other: _____

Potential Job Retention (estimated)

100+ ☐ NA
Not Applicable

TOTAL: \$1,000,000

Preliminary Engineering

☒ Complete ☐ In Progress
☐ Lacking ☐ NA

Not Applicable

Is your project in a Comprehensive Plan, Master Plan, TIFA Plan, Financing Plan, or similar document?

☐ Yes (identify) ☒ No

Master Plan, CEDS

Do not write below this line.

Creation/Cost Ratio: _____ Distress Level: _____ Category: _____

Retention/Cost Ratio: _____ Low/Mod%: _____ TOTAL POINTS: _____

Return this form to:

2002 CEDS Projects
West Michigan Shoreline Regional Development Commission
137 Muskegon Mall, P.O. Box 387
Muskegon, MI 49443-0387

(231) 722-7878 ext. 113 Fax: (231) 722-9362
E-mail: ekuhn@wmsrdc.org

PROJECT DESCRIPTION

Smartzone- Certified Business Park (Downtown)

- A. Background - The idea of a Downtown Business Technology Park has grown from discussion held during the Master Plan process and downtown design with Michigan State University. **The concept is now becoming a reality, with the recent designation of the former Teledyne property as the Smartzone site.** The proposed site for the **Smartzone** is located along and adjacent to the route of the new Shoreline Drive. This location was selected due to its proximity to the waterfront as well as the core business district. The nearness of GTE and its technology infrastructure is also very critical.
- B. Project Scope - The acquisition and redevelopment of the project area is a priority of the City as there is a need for technology based business and availability of requisite infrastructure. The development of the **Smartzone** will not only enhance the property tax base but will also improve the image and prosperity of the downtown. **The emphasis of the Muskegon Smartzone is alternative energy sources.** The type of employment which will occur at this site is in short supply and will boost the wage and salary levels of the community. Higher paying jobs will, in turn, enhance the potential for retail, restaurant, and other commercial development.
- C. Project Cost & Timing - To complete the property acquisition, install the technology infrastructure and prepare the sites, the estimated cost is **\$2,000,000.**
- D. Funding Sources - Federal funding will be combined with funds from the City and State, as well as, private investment. The investment from the private sector may come from individuals or non-profits organizations.
- E. Project Beneficiaries - The City of Muskegon, most notably the downtown would benefit from the improvement of a major property along the waterfront. The property tax base would expand dramatically and hundreds of new employment opportunities will emerge. The technology-based businesses would greatly diversify the local economy.

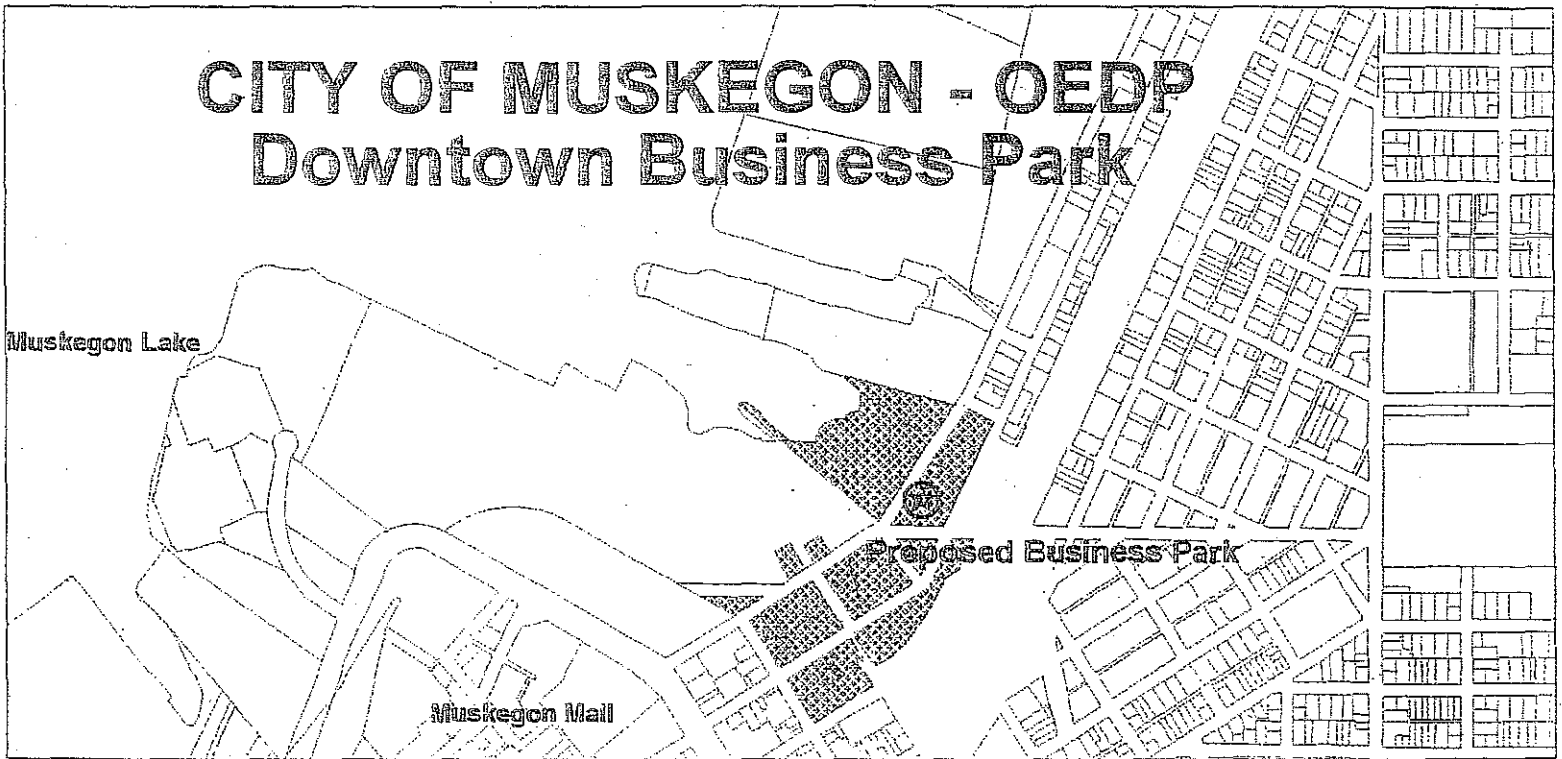
CITY OF MUSKEGON - OEDP

Downtown Business Park

Muskegon Lake

Muskegon Mall

Proposed Business Park



2002 CEDS PROJECT SUBMITTAL FORM

Applicant Name: City of Muskegon Project Name: Medendorp Industrial Center Expansion

Contact Person: Lonna Anguilm Phone: 231-724-6702

Note: Please use a separate page for each project submitted.

Location of Project: City of Muskegon County: Muskegon

Project Description: see attached

Estimated Project Start Date: 2003 ☐ New Project ☒ Facility Expansion
(check one box)

Important: For Economic Development Infrastructure Construction Project, please remember to provide the required site location map with this form.

(Check one box per category)

Project Type

☐ New Submission ☒ Repeat Submission (20__)

Project Costs: (estimated or actual)

Federal: 2,000,000

State: _____

Local: 500,000

Other: _____

TOTAL: \$2,500,000

Letters of Commitment (from incoming and/or expanding firm(s))

☒ Yes ☐ No ☐ NA
Not Applicable

Matching Funds

☒ Secured ☐ Lacking

Potential Job Creation (estimated)

100+ ☐ NA
Not Applicable

Potential Job Retention (estimated)

100+ ☐ NA
Not Applicable

Preliminary Engineering

☒ Complete ☐ In Progress
☐ Lacking ☐ NA
Not Applicable

Is your project in a Comprehensive Plan, Master Plan, TIFA Plan, Financing Plan, or similar document?

☒ Yes (identify) ☐ No
Master Plan, CEDS, LDFA Plan, CIP

Do not write below this line.

Creation/Cost Ratio: _____ Distress Level: _____ Category: _____

Retention/Cost Ratio: _____ Low/Mod%: _____ TOTAL POINTS: _____

Return this form to: 2002 CEDS Projects
West Michigan Shoreline Regional Development Commission
137 Muskegon Mall, P.O. Box 387
Muskegon, MI 49443-0387

(231) 722-7878 ext. 113 Fax: (231) 722-9362
E-mail: ekuhn@wmsrdc.org

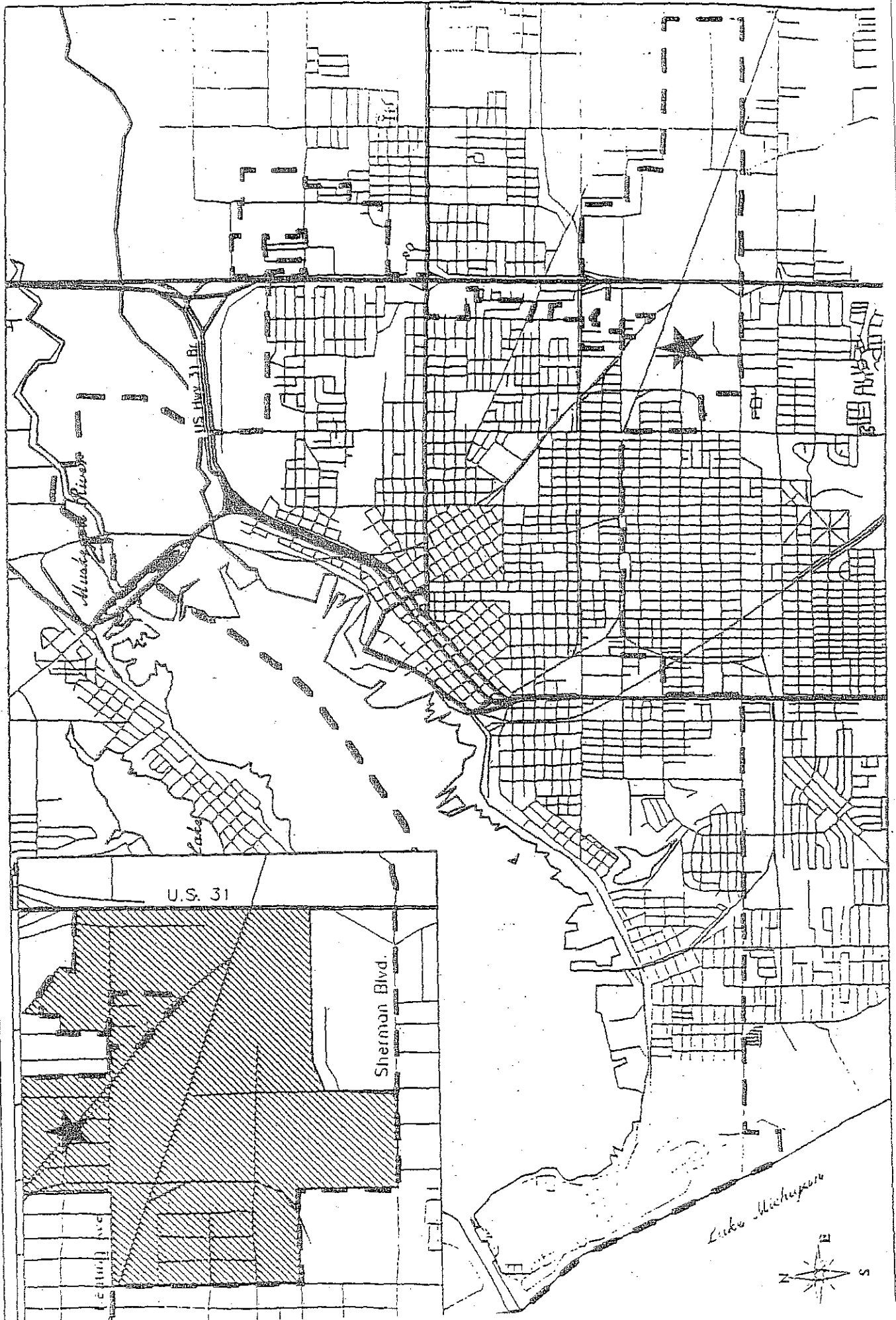
PROJECT DESCRIPTION

Medendorp Industrial Center - Property Acquisition & Site Preparation

- A. Background - The Medendorp Industrial Center is one of the fastest growing industrial districts in Muskegon County. During 1997, the City of Muskegon sold its last three industrial lots in the Center. Given the present economic climate, it is vital for the City of Muskegon to make ready additional industrial property. The current inventory of industrial property in the City of Muskegon is near exhaustion.
- B. Project Scope - The acquisition and development of the project area specified within the Medendorp Industrial Center is a priority for the City as there is a definite need for ready-to-develop industrial land. The total project area is 45 acres. The industrial lots within the project area will range between 2-8 acres, thus creating greater diversity of industrial lots.
- C. Project Cost & Timing - To complete the property acquisition and site preparation, the estimated cost is \$2.5 million. This amount includes acquisition and demolition of 24 houses, relocation and extension of utilities to the area for industrial use. Also included is the cost of paving Madison, Nims, and Brunswick Streets. If funded the project could start in **2003**.
- D. Funding Sources - Local match would be available from LDFA funds/bonds, city water and sewer funds, Major Street funds, private contributions, and State funds.
- E. Project Beneficiaries - The City of Muskegon, as a whole, will benefit from an increase in industrial land. If industries in Muskegon are to be encouraged to expand, and new industries are to locate in the City, additional industrial property is a must. With the acquisition of the property described as the project area, within the Medendorp Industrial Center, new industries will increase the tax and employment base while clearing blighted properties.

CITY OF MUSKEGON - OEDP

Medendorp Industrial Center



2002 CEDS PROJECT SUBMITTAL FORM

Applicant Name: City of Muskegon Project Name: Medendorp Industrial Center Rail Spur

Contact Person: Lonna Anguilm Phone: 231-724-6702

Note: Please use a separate page for each project submitted.

Location of Project: City of Muskegon County: Muskegon

Project Description: see attached

Estimated Project Start Date: 2003 ☒ New Project ☐ Facility Expansion
(check one box)

Important: For Economic Development Infrastructure Construction Project, please remember to provide the required site location map with this form.

(Check one box per category)

Project Type

☐ New Submission ☒ Repeat Submission (20__)

Project Costs: (estimated or actual)

Federal: 500,000

State: _____

Local: 250,000

Other: _____

TOTAL: \$750,000

Preliminary Engineering

☐ Complete ☐ In Progress

☒ Lacking ☐ NA

Not Applicable

Letters of Commitment (from incoming and/or expanding firm(s))

☒ Yes ☐ No ☐ NA
Not Applicable

Matching Funds

☒ Secured ☐ Lacking

Potential Job Creation (estimated)

100+ ☐ NA
Not Applicable

Potential Job Retention (estimated)

10-99 ☐ NA
Not Applicable

Is your project in a Comprehensive Plan, Master Plan, TIFA Plan, Financing Plan, or similar document?

☒ Yes (identify) ☐ No
CEDS, LDFA Plan

Do not write below this line.

Creation/Cost Ratio: _____ Distress Level: _____ Category: _____

Retention/Cost Ratio: _____ Low/Mod%: _____ TOTAL POINTS: _____

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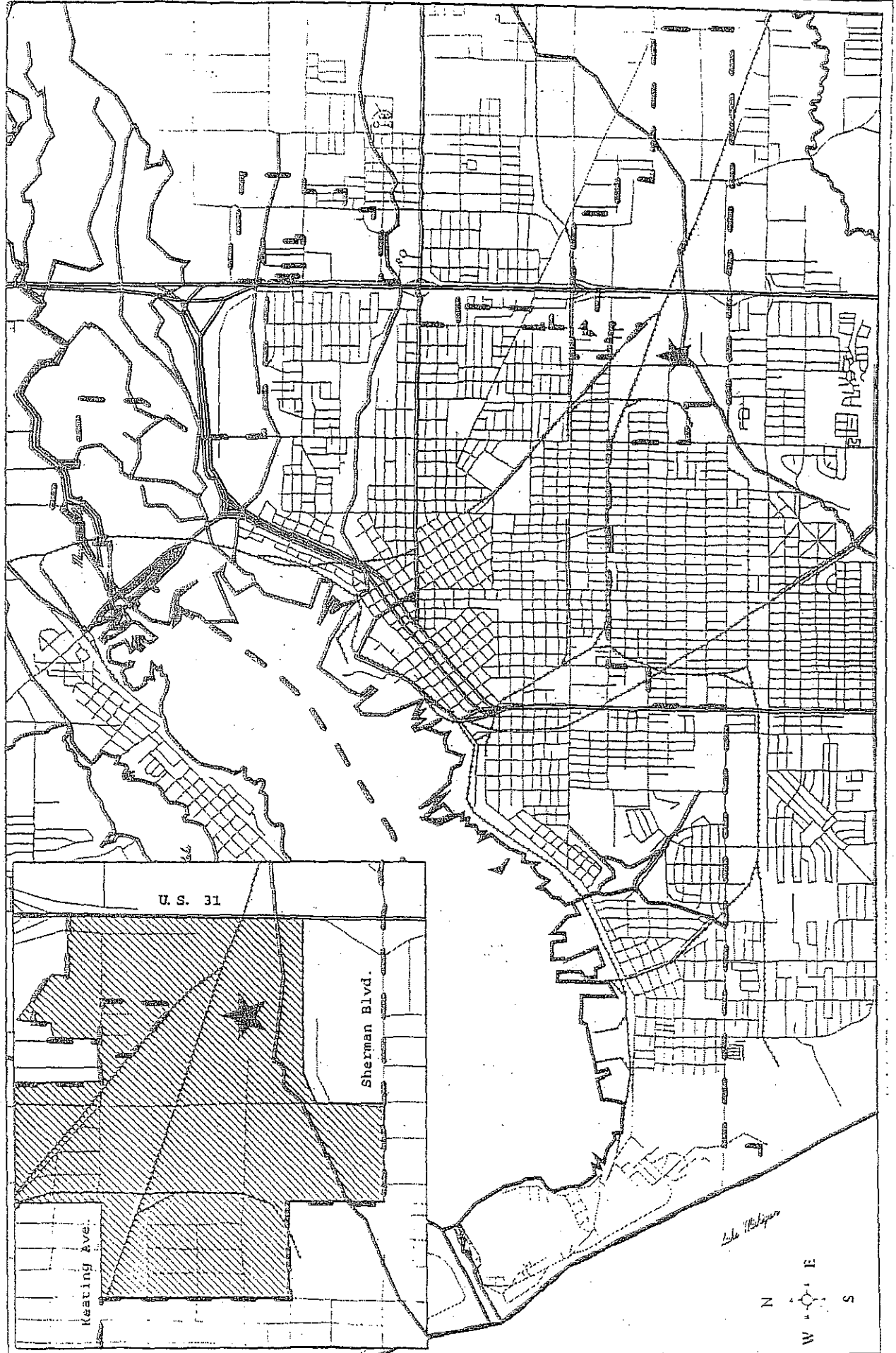
PROJECT DESCRIPTION

Medendorp Industrial Center - Rail Spur

- A. Background - Several resident industries of the Medendorp Industrial Center have expressed an interest in utilizing rail services. As part of the Center's development plan, a rail spur would expand the level of services available to both existing and future industries.
- B. Project Scope - To construct industrial grade rail service from the CSX line within the Medendorp Industrial Center. A Master Development Plan exists for the Center.
- C. Project Cost & Timing - Construction and related costs are estimated to be \$750,000. If funded, the project could begin as early as 2003.
- D. Funding Sources - If funding were approved, local match would be provided by the LDFA, the City, or private sources.
- E. Project Beneficiaries - The project will benefit resident industries and retain approximately 150 jobs and help attract new industries to the Center.

CITY OF MUSKEGON - OEDP

Medendorp Industrial Center - Rail Spur



2002 CEDS PROJECT SUBMITTAL FORM

Applicant Name: City of Muskegon Project Name: Downtown Muskegon Lakefront Development
Contact Person: Lonna Anguilm Phone: 231-724-6702

Note: Please use a separate page for each project submitted.

Location of Project: City of Muskegon County: Muskegon

Project Description: see attached

Estimated Project Start Date: 2003 ☒ New Project ☐ Facility Expansion
(check one box)

Important: For Economic Development Infrastructure Construction Project, please remember to provide the required site location map with this form.

(Check one box per category)

Project Type

☐ New Submission ☒ Repeat Submission (20__)

Project Costs: (estimated or actual)

Federal: 1,600,000

State: _____

Local: 400,000

Other: _____

TOTAL: \$2,000,000

Preliminary Engineering

☐ Complete ☐ In Progress
☒ Lacking ☐ NA
Not Applicable

Letters of Commitment (from incoming and/or expanding firm(s))

☐ Yes ☒ No ☐ NA
Not Applicable

Matching Funds

☒ Secured ☐ Lacking

Potential Job Creation (estimated)

100+ ☐ NA
Not Applicable

Potential Job Retention (estimated)

10-99 ☐ NA
Not Applicable

Is your project in a Comprehensive Plan, Master Plan, TIFA Plan, Financing Plan, or similar document?

☒ Yes (identify) ☐ No
Master Plan, CEDS, DDA Plan

Do not write below this line.

Creation/Cost Ratio: _____ Distress Level: _____ Category: _____
Retention/Cost Ratio: _____ Low/Mod%: _____ TOTAL POINTS: _____

Return this form to: 2002 CEDS Projects
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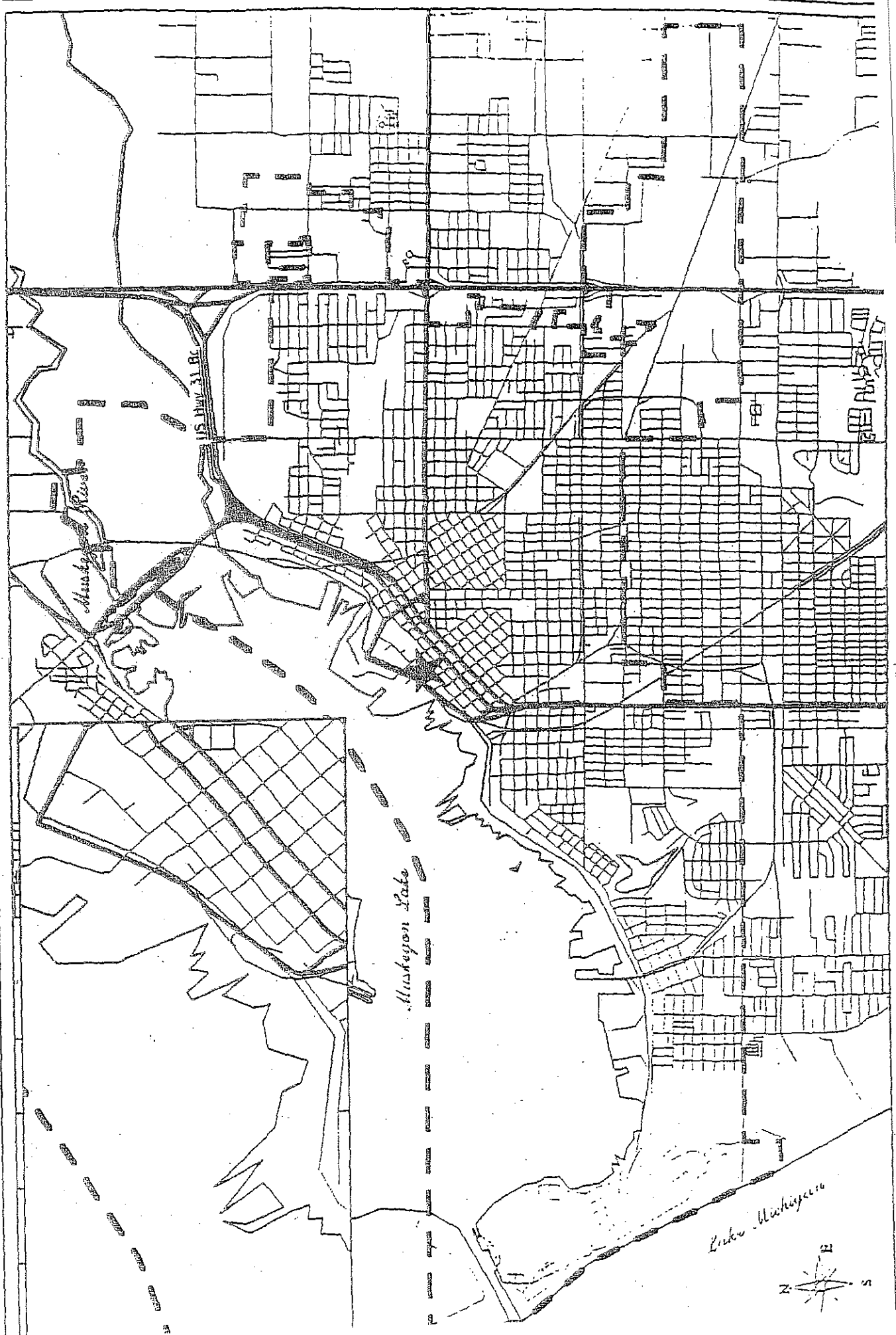
PROJECT DESCRIPTION

Downtown/Lakefront Redevelopment

- A. Background - The City has established a goal to redevelop its Muskegon Lake frontage. The City has a downtown/lakeshore Master Plan and a Waterfront Development Plan to help meet this goal. Other projects funded to implement this goal include: 1) \$1 million MDEQ Site Assessment Grant for determining the marketability of contaminated sites along the lakefront; 2) \$3 million from the federal and state government for the Enterprise Community; and 3) **\$12,500,000** from MDOT for the design of the completion of Shoreline Drive. Specific site development efforts are hampered by the typical brownfield versus greenfield scenarios. Therefore, sites for redevelopment must be prepared to a greater extent than in rural or suburban areas.
- B. Project Scope - Several sites contained within our MDEQ study area are targeted by developers. These sites will require land assembly and infrastructure improvements to make sites suitable for development upon completion of remediation of environmental concerns. Infrastructure improvements will include the relocation of existing and construction of new utilities and access drives.
- C. Project Cost & Timing - Estimated costs are \$2 million for land assembly and infrastructure improvements. If funded, the project could begin as soon as **2003**.
- D. Funding Sources - If funding were approved, local match would be provided by the City and/ or private sources.
- E. Project Beneficiaries - The project will benefit the entire community but more specifically downtown residents and property owners. It is estimated that as many as 300 employment opportunities could arise from this project.

CITY OF MUSKEGON - OEDP

Lakefront Development



2002 CEDS PROJECT SUBMITTAL FORM

Applicant Name: City of Muskegon Project Name: Port City Industrial Park Expansion
Contact Person: Lonna Anguilm Phone: 231-724-6702

Note: Please use a separate page for each project submitted.

Location of Project: City of Muskegon County: Muskegon

Project Description: see attached

Estimated Project Start Date: 2003 ☐ New Project ☒ Facility Expansion
(check one box)

Important: For Economic Development Infrastructure Construction Project, please remember to provide the required site location map with this form.

(Check one box per category)

Project Type

☐ New Submission ☒ Repeat Submission (20___)

Letters of Commitment (from incoming and/or expanding firm(s))

☒ Yes ☐ No ☐ NA
Not Applicable

Project Costs: (estimated or actual)

Federal: 1,100,000

Matching Funds

☒ Secured ☐ Lacking

State: _____

Potential Job Creation (estimated)

100+

☐ NA
Not Applicable

Local: 230,000

Other: _____

Potential Job Retention (estimated)

100+

☐ NA
Not Applicable

TOTAL: \$1,300,000

Preliminary Engineering

☒ Complete ☐ In Progress
☐ Lacking ☐ NA
Not Applicable

Is your project in a Comprehensive Plan, Master Plan, TIFA Plan, Financing Plan, or similar document?

☒ Yes (identify) ☐ No
Master Plan, LDFA, CEDS

Do not write below this line.

Creation/Cost Ratio:

Distress Level:

Category:

Retention/Cost Ratio:

Low/Mod%:

TOTAL POINTS:

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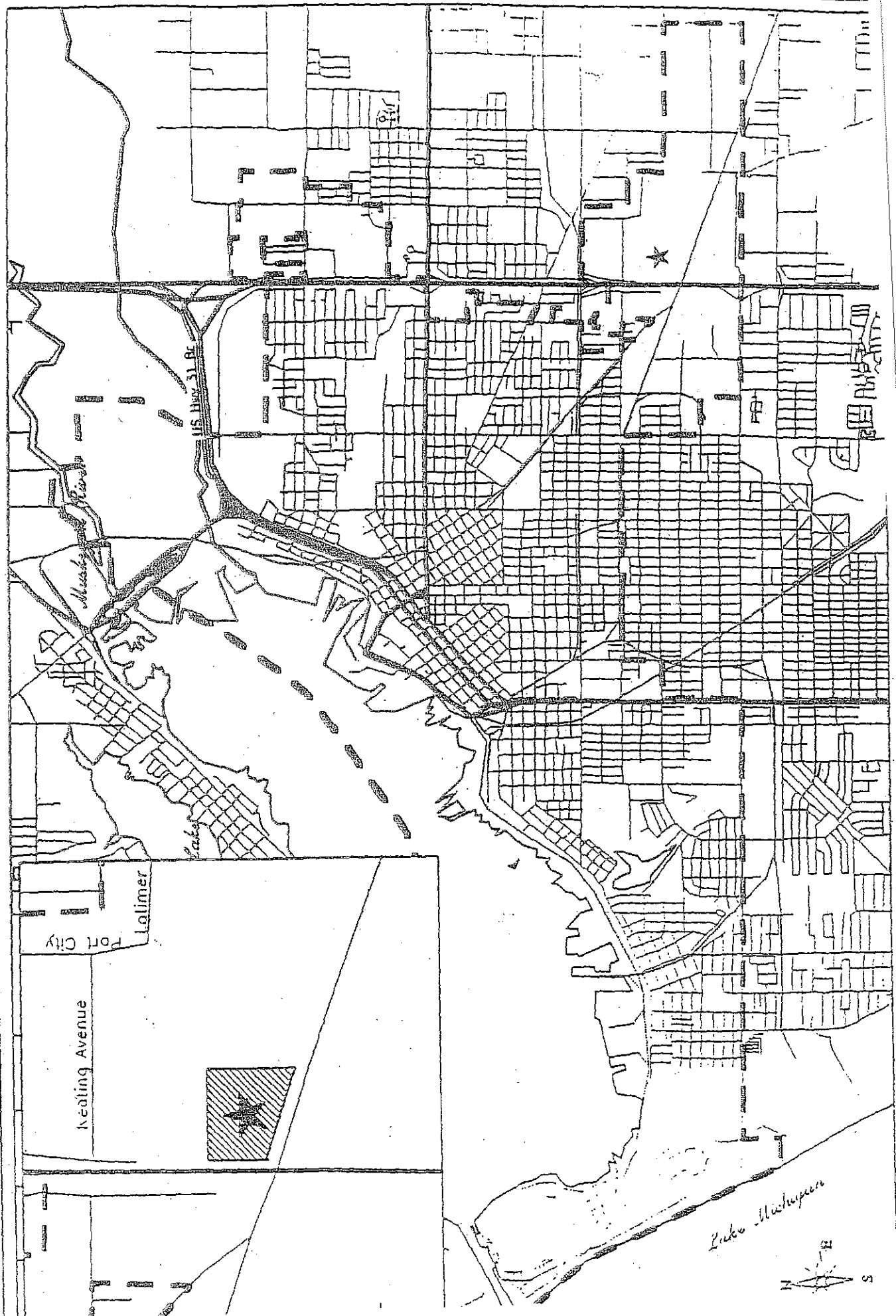
PROJECT DESCRIPTION

Port City Industrial Park - Expansion

- A. Background - The Port City Industrial Park was created in the 1960's and comprises over 400 acres. Additional land became available for development with the extension of Black Creek Drive. Developable industrial land within the park has been exhausted and the need for additional industrial land within the City is very urgent.
- B. Project Scope - The acquisition of a triangular piece of property south the of the Sunrise Memorial Gardens Cemetery, construction of utilities to the property, and the extension of Industrial Boulevard south to the property, which will provide an additional 22 acres for industrial use.
- C. Project Cost & Timing - Staff has estimated the project cost to be approximately \$1.33 million, which includes roadway extension, water and sewer services, and ³ property acquisition. If funding is secured the project could begin as soon as 2002.
- D. Funding Sources - If the City of Muskegon, were the recipient of an EDA grant, local match would be available from the Local Development Finance Authority, water and sewer funds, and State funds.
- E. Project Beneficiaries - By providing infrastructure to an unimproved area, new development will occur that will add to the tax and employment base of the community.

CITY OF MUSKEGON - 1995 OEDP

Port City Industrial Park Expansion



2002 CEDS PROJECT SUBMITTAL FORM

Applicant Name: City of Muskegon Project Name: Farmers/Seafood Market

Contact Person: Lonna Anguilm Phone: 231-724-6702

Note: Please use a separate page for each project submitted.

Location of Project: City of Muskegon County: Muskegon

Project Description: see attached

Estimated Project Start Date: 2003 ☒ New Project ☐ Facility Expansion
(check one box)

Important: For Economic Development Infrastructure Construction Project, please remember to provide the required site location map with this form.

(Check one box per category)

Project Type

☐ New Submission ☒ Repeat Submission (20__)

Project Costs: (estimated or actual)

Federal: 2,000,000

State: _____

Local: 4,000,000

Other: _____

TOTAL: \$6,000,000

Preliminary Engineering

☐ Complete ☐ In Progress

☒ Lacking ☐ NA
Not Applicable

Letters of Commitment (from incoming and/or expanding firm(s))

☐ Yes ☒ No ☐ NA
Not Applicable

Matching Funds

☐ Secured ☒ Lacking

Potential Job Creation (estimated)

10-99 ☐ NA
Not Applicable

Potential Job Retention (estimated)

10-99 ☐ NA
Not Applicable

Is your project in a Comprehensive Plan, Master Plan, TIFA Plan, Financing Plan, or similar document?

☒ Yes (identify) ☐ No

Master Plan, CEDS

Do not write below this line.

Creation/Cost Ratio: _____ Distress Level: _____ Category: _____

Retention/Cost Ratio: _____ Low/Mod%: _____ TOTAL POINTS: _____

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(231) 722-7878 ext. 113 Fax: (231) 722-9362
E-mail: ekuhn@wmsrdc.org

PROJECT DESCRIPTION

Farmer's/Seafood Market

- A. Background - The idea of a downtown Farmer's/Seafood Market first surfaced during the Master Plan process. The Muskegon Boilerworks has been identified as the primary location for the complex, **although other lakefront properties would be feasible**. The location was chosen for its proximity to the waterfront and the central business district.
- B. Project Scope - The scope of this project includes the acquisition and redevelopment of the Muskegon Boilerworks and adjacent sites. This project will enhance the image of downtown and provide a new outlet for fresh produce.
- C. Project Cost & Timing - To complete the property acquisition and rehabilitation as well as the installation of new utilities, the estimated cost is \$6 million. This amount includes the acquisition of the former Muskegon Boilerworks, as well as several adjacent sites and all requisite environmental assessments.
- D. Funding Sources - If funding were approved, local match would be provided by the City and/ or private sources.
- E. Project Beneficiaries - The project will benefit the entire community but more specifically downtown residents and property owners. Inner-city residents and employees would greatly benefit from the availability of fresh produce. An activity of this sort would also increase the amount of pedestrian activity in the downtown.

CITY OF MUSKEGON - OEDP

Farmers/Seafood Market Complex

Heritage Landing

Western Ave.

Proposed Farmer/Seafood Complex



2002 CEDS PROJECT SUBMITTAL FORM

Applicant Name: City of Muskegon Project Name: Relocation of West Michigan Steel

Contact Person: Lonna Anguilm Phone: 231-724-6702

Note: Please use a separate page for each project submitted.

Location of Project: City of Muskegon County: Muskegon

Project Description: see attached

Estimated Project Start Date: 2003 ☐ New Project ☒ Facility Expansion
(check one box)

Important: For Economic Development Infrastructure Construction Project, please remember to provide the required site location map with this form.

(Check one box per category)

Project Type

☐ New Submission ☒ Repeat Submission (20__)

Letters of Commitment (from incoming and/or expanding firm(s))

☐ Yes ☒ No ☐ NA
Not Applicable

Project Costs: (estimated or actual)

Federal: 5,000,000

Matching Funds

☐ Secured ☒ Lacking

State: 5,000,000

Potential Job Creation (estimated)

10-99

☐ NA
Not Applicable

Local: 1,000,000

Other: 4,000,000

Potential Job Retention (estimated)

100+

☐ NA
Not Applicable

TOTAL: \$15,000,000

Preliminary Engineering

☐ Complete ☐ In Progress
☒ Lacking ☐ NA

Not Applicable

Is your project in a Comprehensive Plan, Master Plan, TIFA Plan, Financing Plan, or similar document?

☒ Yes (identify) ☐ No
Master Plan, CEDS

Do not write below this line.

Creation/Cost Ratio:

Distress Level:

Category:

Retention/Cost Ratio:

Low/Mod%:

TOTAL POINTS:

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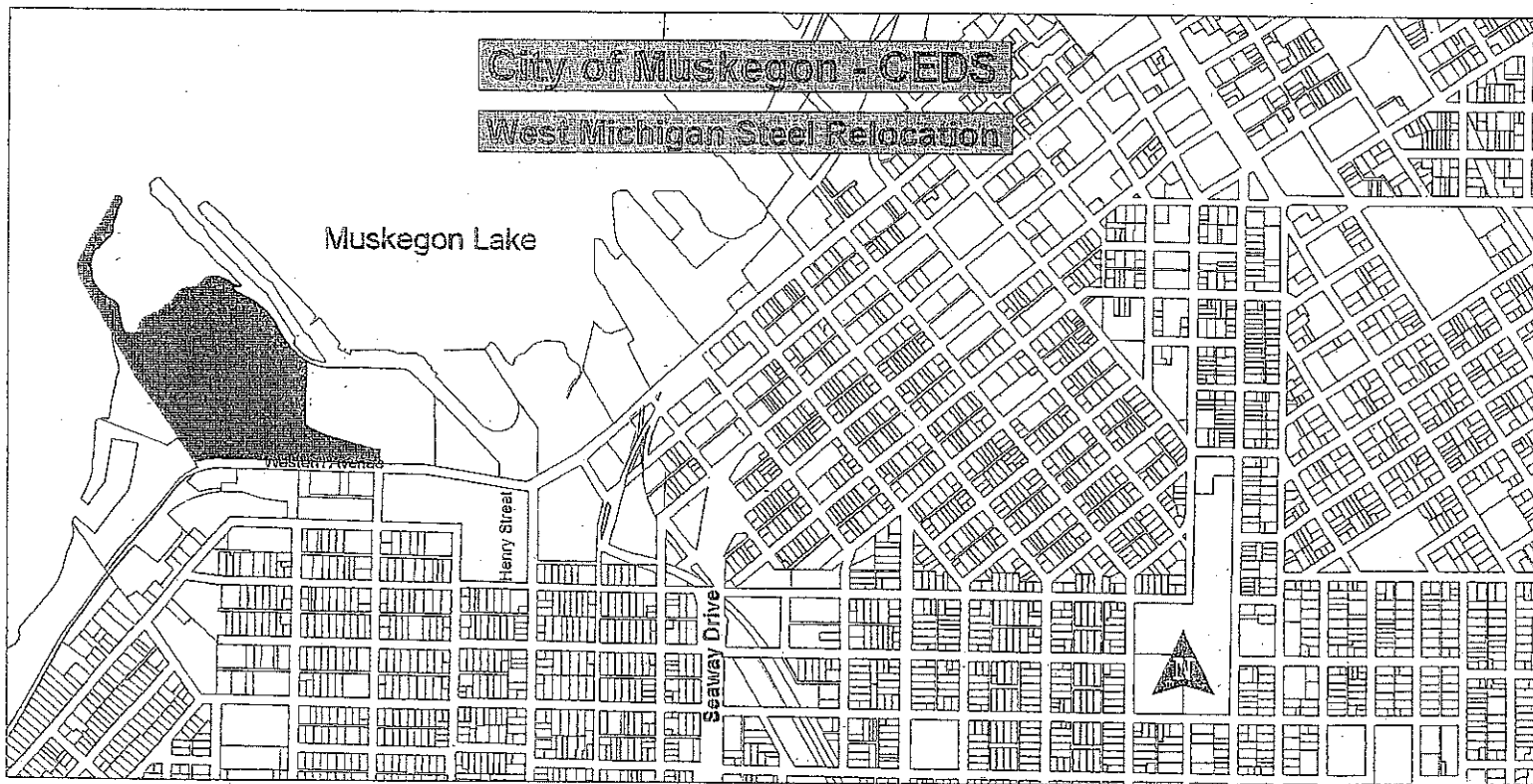
PROJECT DESCRIPTION

West Michigan Steel Relocation

- A. Background - West Michigan Steel is one of the last industrial uses located on the shoreline of Muskegon Lake. In order to completely redevelop the shoreline, West Michigan Steel should be relocated to a more proper location in one of the Industrial Centers in the City of Muskegon.
- B. Project Scope - The project scope would be first to locate a new site for the company, followed by building a new facility and installing new utilities and infrastructure. Secondly, the companies existing assets would need to be relocated to the new facility. The existing facility would then require demolition and environmental remediation to prepare it for new development. New development would be more appropriate for a lakeshore location.
- C. Project Cost & Timing - Total estimated costs are \$16 million. This includes costs for building a new facility, equipment moving costs, environmental remediation, new infrastructure and utilities. If this project were to receive funding, the project could begin in 2003.
- D. Funding Sources - If funding were approved, local match would be provide from State, City, and private sources.
- E. Project Beneficiaries - The general public would benefit from the relocation of the facility both economically and ecologically. The relocation would also benefit West Michigan Steel by placing them in a more proper location with better highway access.

City of Muskegon - CEDS

West Michigan Steel Relocation



2002 CEDS PROJECT SUBMITTAL FORM

Applicant Name: City of Muskegon Project Name: Car Ferry Landing

Contact Person: Lonna Anguilm Phone: 231-724-6702

Note: Please use a separate page for each project submitted.

Location of Project: City of Muskegon County: Muskegon

Project Description: see attached

Estimated Project Start Date: 2003 ☒ New Project ☐ Facility Expansion
(check one box)

Important: For Economic Development Infrastructure Construction Project, please remember to provide the required site location map with this form.

(Check one box per category)

Project Type

☐ New Submission ☒ Repeat Submission (20__)

Project Costs: (estimated or actual)

Federal: 750,000

State: _____

Local: 250,000

Other: _____

TOTAL: \$1,000,000

Preliminary Engineering

☒ Complete ☐ In Progress

☐ Lacking ☐ NA

Not Applicable

Letters of Commitment (from incoming and/or expanding firm(s))

☒ Yes ☐ No ☐ NA
Not Applicable

Matching Funds

☒ Secured ☐ Lacking

Potential Job Creation (estimated)

100+ ☐ NA
Not Applicable

Potential Job Retention (estimated)

100+ ☐ NA
Not Applicable

Is your project in a Comprehensive Plan, Master Plan, TIFA Plan, Financing Plan, or similar document?

☒ Yes (identify) ☐ No
Master Plan, CEDS

Do not write below this line.

Creation/Cost Ratio:

Distress Level:

Category:

Retention/Cost Ratio:

Low/Mod%:

TOTAL POINTS:

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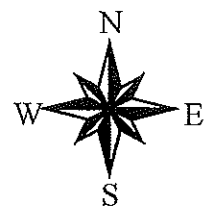
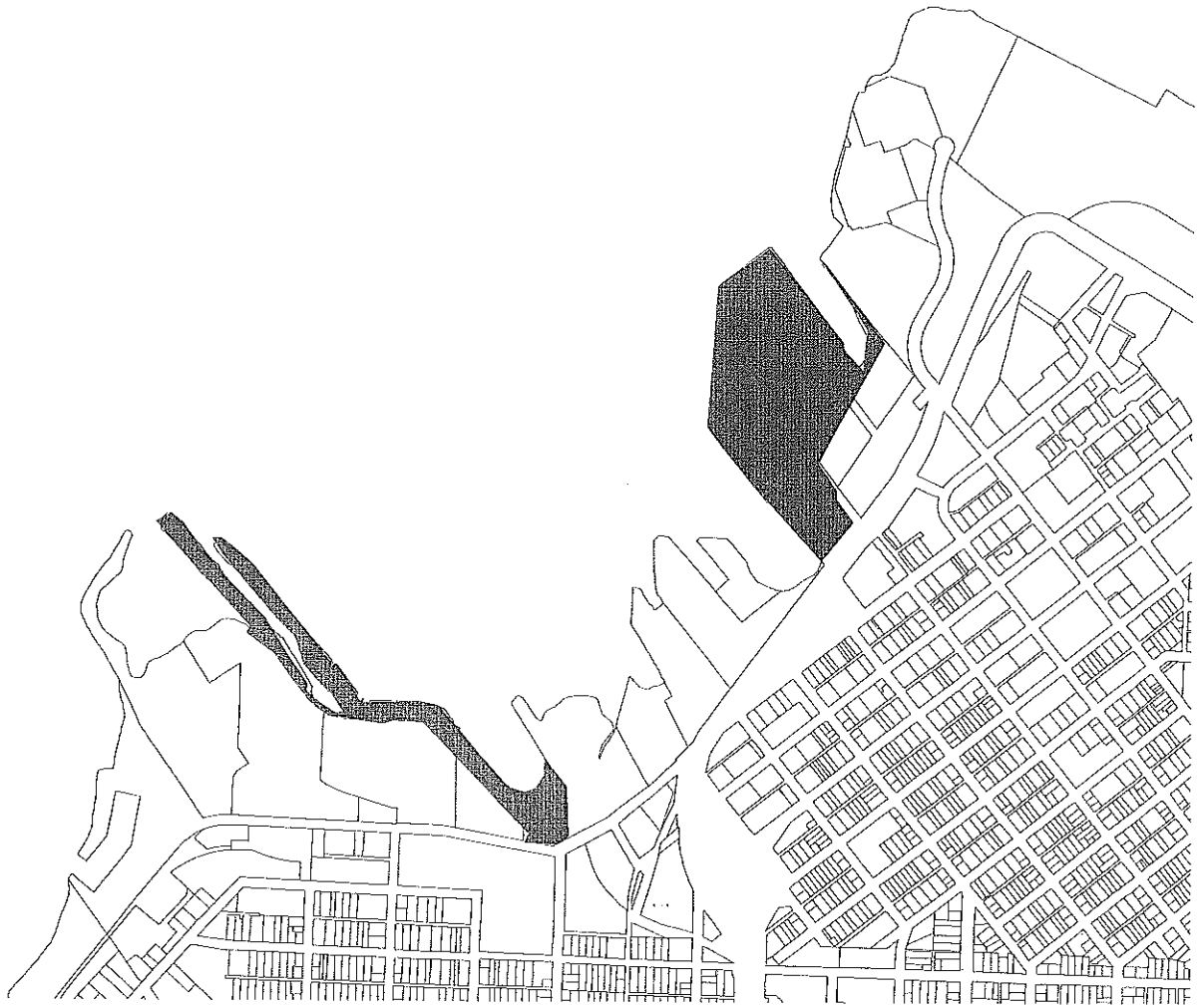
PROJECT DESCRIPTION

Car Ferry Landing

- A. Background - The proposed car ferry landing would provide high-speed ferry service from Muskegon to Milwaukee, Wisconsin. One of the requirements for designating Muskegon as the Michigan port is the siting of the requisite car ferry landing with adequate parking and access.
- B. Project Scope - The project scope will be acquiring property for the proposed landing. Associated site development will include parking and docking facilities as well as potential landing facilities such as ticket office, restaurant, and other amenities.
- C. Project Cost & Timing - Total estimated costs are **\$1.5 million**. This includes costs for property acquisition and site development. If this project were to receive funding, the project could begin in **2003**.
- D. Funding Sources - If funding were approved, local match would be provided from State, City, and private sources.
- E. Project Beneficiaries - The general public would benefit from the availability of alternative means of transportation to and from Wisconsin. The project would also provide additional potential customers to the downtown market thereby increasing the marketability of the downtown.

City of Muskegon - CEDS

Car Ferry Landing



Date: February 12, 2002

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: Pension Ordinance Clarification

SUMMARY OF REQUEST: Section 10(d) of the City's Police & Fire Retirement System ordinance provides that *"a member who remains in the employ of the city but ceases to be a police officer or a firefighter shall remain a member of the retirement system for the duration of his City employment."* This provision recently came into play when the former Fire Marshall assumed the position of Director of Inspections. The current ordinance does not, however, specify the benefits or contributions pertaining to an affected employee. Attached is a technical correction ordinance intended to address this matter. It provides that the contributions and benefits will be the same as if the member had not left employment with the Police or Fire Departments.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None. The position was budgeted with the pension benefits accorded to a Fire Department position.

STAFF RECOMMENDATION: Approval.

At the Legislative Policy Committee meeting held Wednesday, April 24, 2002

Legislative Policy Committee voted to adopt the ordinance as recommended by staff and legal counsel. Vote was 4 Yeas, 1 Absent, 2 Nays.

FIRST READING

pension ordinance

ROLL CALL/ACTION SHEETS

Present	Name	Action	Ayes	Nays	Comment
	Mayor Warmington			✓	① Krahinski stays in
	Vice Mayor Buie			✓	② Morris Shank - get his
	Commissioner Gawron		✓		pension paid time
	Commissioner Larson			✓	updated
	Commissioner Schweifler	S	✓		
	Commissioner Shepherd		✓		
	Commissioner Spataro	M	✓		

passes.

- Comments
- ① John Corrigan - opposes - PD Union + pension and opposes.
2416 Westwood
 - ② Ric Bligh - PD Union - opposes. ord amend.
2963 Daws
 - ③ Peter Sudnick - attorney - Police Union
67516 Mile Rd - office location
 - ④ David Jandenberg - Fire
3050 Sherwood Ct
 - ⑤ Gene Sebout
2200 Harwin - opposes

to approve the ordinance amendment.

(all opposed)

PARMENTER O'TOOLE

Attorneys at Law

175 West Apple Avenue ■ P.O. Box 786 ■ Muskegon, Michigan 49443-0786
Phone 231.722.1621 ■ Fax 231.722.7866 or 231.728.2206
www.Parmenterlaw.com

January 28, 2002

Tim Paul
Finance Director
City of Muskegon
P.O. Box 536
Muskegon, MI 49443-0536

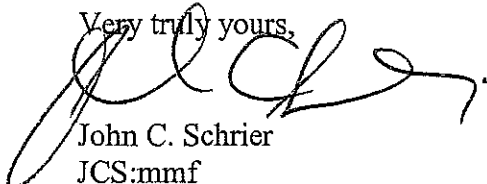
Re: Police/Fire Retirement System

Dear Mr. Paul:

Enclosed is an Ordinance Amendment providing for benefits and contributions for members who leave a police or fire bargaining unit and accept a position normally subject to the General Employee's Retirement System (Bob Grabinski), which as been revised based upon our previous discussion.

If you have any further questions or concerns, please let me know.

Very truly yours,



John C. Schrier
JCS:mmf

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. 2078

An ordinance amending Appendix A of the Code of the City of Muskegon concerning Police-Fire Retirement System Ordinance.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

The Police-Fire Retirement System Ordinance is amended as follows:

1. Section 10. **RETIREMENT SYSTEM MEMBERSHIP**

Section 10 shall be amended to read as follows:

Section 10. (a) The membership of the retirement system shall include all police officers and firefighters who are in the employ of the city and all police officers and firefighters who become employed by the city, except as provided in subsection (b) of this section.

(b) The membership of the retirement system shall not include:

- (1) Temporary or civilian employees of the police or fire departments,
- (2) Special officers or special firefighters, or
- (3) Privately employed police officers or firefighters.

(c) Except as provided in subsection (d) of this section and except for the purposes of section 11, subsection (c), should any member cease to be employed by the city as a police officer or a firefighter he shall thereupon cease to be a member.

(d) A member who remains in the employ of the city but ceases to be a police officer or a firefighter shall remain a member of the retirement system for the duration of his city employment. A member who retains membership in this retirement system pursuant to Section 10(d) shall be required to make contributions and is afforded retirement benefits as if the member had not left employment within the Police or Fire Department.

(e) In any case of doubt as to the membership status of any person the board shall decide the question within the meaning of the provisions of this ordinance.

In all other respects Appendix A of the Code of the City of Muskegon shall remain in full force and effect.

This ordinance adopted:

Ayes: Shepherd, Spataro, Gawron, Schweifler

Nays: Warmington, Buie, Larson

Adoption Date: May 28, 2002
Effective Date: June 18, 2002
First Reading: May 14, 2002
Second Reading: May 28, 2002

CITY OF MUSKEGON

By: Gail A. Kunding

Gail A. Kunding
City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 28th day of May, 2002, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted, and public notice was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: May 28, 2002

Gail A. Kunding
Gail A. Kunding, CMC/AEE
Clerk, City of Muskegon

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

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on May 28, 2002, the City Commission of the City of Muskegon adopted amendments to Appendix A of the Muskegon City Code concerning the Police and Fire Retirement System, summarized as follows:

1. Section 10 was amended to clarify the contribution rate and benefits for a member who remains an employee of the City but not working as a police officer or firefighter.

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

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

CITY OF MUSKEGON

Published June 8, 2002

By _____
Gail A. Kunding, Its Clerk

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

SUMMARY OF REQUEST: To approve the trade of a buildable vacant lot at 1472 Park Street to Habitat for Humanity in return for the unbuildable vacant lot owned by Habitat for Humanity at 404 W. Grand Avenue. This property was donated to Habitat and originally contained a small house, which needed to be demolished. Habitat invested approximately \$6,000 in demolition and other costs only to discover that the lot was not buildable. Several solutions were discussed with the Planning Department staff before the lot trade was arrived at as the best possible solution to the problem. As a result of the lot trade, Habitat for Humanity will be able to construct a home on the lot at 1472 Park Street. The City will offer the unbuildable lot to the adjacent property owner for expansion of their yard, since their present lot is 50 x 112.6 ft. and unbuildable by City policy.

FINANCIAL IMPACT: The Trade of these two lot will allow the City-owned property to be placed back on the City's tax rolls thus relieving the City of continued maintenance costs.

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

o. City – MDOT Agreement for Southbound Exit Ramp at US-31 & Sherman.
ENGINEERING

SUMMARY OF REQUEST: To approve the contract with MDOT for the resurfacing & widening of the southbound exit ramp at US-31 and Sherman Blvd., and to approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: While this is an MDOT project, we are required to participate since the project falls within the City's limits. The City's share is estimated at \$2,900 but not more than 11.25% of eligible cost. The total cost of the project is \$127,500.

BUDGET ACTION REQUIRED: None at this time. The City's share of the cost will come out of the Major Street Fund as was budgeted.

STAFF RECOMMENDATION: That the agreement and resolution be approved.

Motion by Commissioner Schweifler, second by Vice-Mayor Buie to approve the Consent Agenda except for items m and n.

ROLL VOTE: Ayes: Spataro, Wamington, Buie, Gawron, Larson, Schweifler, Shepherd

Nays: None.

MOTION PASSED

2002-15 ITEMS REMOVED FROM THE CONSENT AGENDA:

m. Pension Ordinance Clarification. FINANCE

SUMMARY OF REQUEST: Section 10(d) of the City's Police & Fire Retirement System ordinance provides that "a member who remains in the employ of the city but ceases to be a police officer or a firefighter shall remain a member of the retirement system for the duration of his City employment". This provision recently came into play when the former Fire Marshall assumed the position of Director of Inspections. The current ordinance does not, however, specify the benefits or contributions pertaining to an affected employee. The technical correction ordinance, intended to address this matter, provides that the contributions and benefits will be the same as if the member

had not left employment with the Police or Fire Departments.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None. The position was budgeted with the pension benefits accorded to a Fire Department Position

STAFF RECOMMENDATION: Approval

Motion by Commissioner Larson, second by Commissioner Shepherd to table and refer back to Pension Board.

ROLL VOTE: Ayes: Wamington, Buie, Gawron, Larson, Schweifler, Shepherd, Spataro

Nays: None.

MOTION PASSED

n. Utility Poles Relocation as Part of Shoreline Drive East. ENGINEERING

SUMMARY OF REQUEST: It is respectfully requested that staff be authorized to issue a commitment letter on behalf of the City to reimburse Consumer's Energy an amount not to exceed \$60,000 as a compensation for time, material and labor necessary to relocate three transmission poles by their sub-station near Western & Pine. The relocation is necessary for the construction of Shoreline Dr. and the compensation is due to the fact that the poles in question are not within a public right of way and therefore a compensation is due.

FINANCIAL IMPACT: A not-to-exceed figure of \$60,000 for labor, material and administration necessary to relocate three poles near sub-station.

BUDGET ACTION REQUIRED: None at this time. The cost will be eligible for the build Michigan Grant to construct Shoreline Dr. East.

STAFF RECOMMENDATION: Authorize staff to issue a commitment letter.

Motion by Commissioner Schweifler, second by Commissioner Larson to authorize staff to issue a commitment letter, subject to approval by City Attorney.

ROLL VOTE: Ayes: Buie, Gawron, Larson, Schweifler, Shepherd, Spataro, Wamington

Nays: None.

MOTION PASSED

2002-16 PUBLIC HEARINGS:

a. Create Special Assessment District - Sidewalk Replacement Program for 2002. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the proposed special assessment district of the project and to create a special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project. The district will not include those who complete the work under a permit before June 1st, 2002.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

The public hearing opened at 6:14pm to hear and consider any comments from the public. There were no public comments made.

Motion by Commissioner Spataro, second by Commissioner Gawron to close public hearing at 6:15pm and to approve the spreading of the special assessment roll and adopt the resolution confirming the special assessment roll.

**ROLL VOTE: Ayes: Gawron, Larson, Schweifler, Spataro, Warmington, Buie
Nays: None**

MOTION PASSED

2002-33 UNFINISHED BUSINESS:

a. Pension Ordinance Clarification (tabled 2-12-02). FINANCE

SUMMARY OF REQUEST: Section 10(d) of the City's Police & Fire Retirement System ordinance provides that "a member who remains in the employ of the city but ceases to be a police officer or a firefighter shall remain a member of the retirement system for the duration of his City employment". This provision recently came into play when the former Fire Marshal assumed the position of Director of Inspections. The current ordinance does not, however, specify the benefits or contributions pertaining to an affected employee. Attached is a technical correction ordinance intended to address this matter. It provides that the contributions and benefits will be the same as if the member had not left employment with the Police or Fire Departments.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None. The position was budgeted with the pension benefits accorded to a Fire Department position.

STAFF RECOMMENDATION: Approval

Motion by Commissioner Spataro, second by Commissioner Larson to table this item and refer to Legislative Policy Committee meeting and bring back with their recommendation.

**ROLL VOTE: Ayes: Larson, Schweifler, Spataro, Warmington, Buie, Gawron
Nays: None**

MOTION PASSED

b. Option to Purchase Buildable Large Vacant Lots in Jackson Hill Neighborhood for Finlay Properties, Inc. for Senior Housing Development. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve an option agreement between the City of Muskegon and Findlay Properties, Inc. for two large parcels of vacant land in Jackson Hill Neighborhood (designated as parcel numbers 24-205-020-0008-00 and 24-205-0019-0012-20) as described as:

Parcel No. 1: CITY OF MUSKEGON REVISED PLAT OF 1903 S 44 FT LOT 7 ALL LOT 8 & 9 & THAT PART OF LOT 10 LYING W OF MCLAREN ST BLK 20 ALSO LOTS 2 & 3 BLK 21 ALSO LOTS 4 & 5 BLK 22 S OF SUMNER AVE.

Commission Meeting Date: May 28, 2002

Date: May 20, 2002
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
**RE: Zoning Ordinance Amendment to allow private schools,
operated for profit in the B-2, Convenience and Comparison
Business and the B-4, General Business, Districts**

SUMMARY OF REQUEST:

Request to amend Section 1101 (Special Land Uses Permitted) of Article XI (B-2, Convenience and Comparison Business) and Section 1300 (Principal Uses Permitted) of Article XIII (General Business) of the City's Zoning Ordinance to allow private schools, operated for profit.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends amendment of the Zoning Ordinance to add the proposed language in the articles and sections described above.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the request at their 5/16/02 meeting. The vote was unanimous, with M. Kleaveland absent.

Staff Report [EXCERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

May 16, 2002

Hearing; Case 2002-19: Request to amend the zoning ordinance to allow business schools, or private schools operated for profit as permitted uses in the B-2, Convenience and Comparison Business zoning district, by the Booker Institute of Cosmetology.

BACKGROUND

The Booker Institute of Cosmetology has recently purchased the former Etterman's store on Lakeshore Blvd. The property is zoned B-2, Convenience and Comparison Business. The applicant would like to use the property as a cosmetology school, which use is defined in the zoning ordinance as a 'private school, operated for profit'. This use is only listed as being permitted in the B-3, Central Business zoning district. Any use not specifically permitted in a zoning district is by definition, prohibited. Therefore, the applicant is requesting that the ordinance be amended to allow this use in the B-2 district.

There are currently several uses of this type in businesses zones within the City, which were likely classified as service businesses but since the B-3 zone specifically references "for profit" schools, it should be consistent throughout the ordinance. So long as the business site can accommodate the use, and the use would not unduly impose upon the neighborhoods or neighboring businesses, such establishments could be logically placed in other business zones. Since the nature of private, for profit schools can vary considerably, staff would recommend they be treated as special uses in the B-2 zone. They should also be considered in the B-4 zone as a use by right. Staff's major concern with this use is that enough parking be provided on the site. The ordinance already requires one space per three students at any one time. This parking should be required to be provided on-site.

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. 2079

An ordinance to amend Section 1101 (Special Land Uses Permitted) of Article XI (B-2, Convenience and Comparison Business) and Section 1300 (Principal Uses Permitted) of Article XIII (General Business) of the City's Zoning Ordinance to allow private schools, operated for profit.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

Section 1101 (Special Land Uses Permitted) of Article XI (B-2, Convenience and Comparison Business) of the Zoning Ordinance of the City of Muskegon is hereby amended to add the following:

7. Business schools, or private schools operated for profit. Examples of private schools permitted herein include, but are not limited to, the following: dance schools, music and voice schools, and art studios.
 - a. Parking is required to be provided on the same site as the building. Shared parking will be allowed, if it is irrevocable, and if it will not consume any parking needed for a separate use.

Section 1300 (Principal Uses Permitted) of Article XIII (B-4, General Business) of the Zoning Ordinance of the City of Muskegon is hereby amended to add the following:

16. Business schools, or private schools operated for profit. Examples of private schools permitted herein include, but are not limited to, the following: dance schools, music and voice schools, and art studios.
 - a. Parking is required to be provided on the same site as the building. Shared parking will be allowed, if it is irrevocable, and if it will not consume any parking needed for a separate use.

This ordinance adopted:

Ayes: Spataro, Warmington, Buie, Gawron, Larson, Schweifler, Shepherd

Nayes: None

Adoption Date: May 28, 2002

Effective Date: June 15, 2002

First Reading: May 28, 2002

Second Reading: N/A

CITY OF MUSKEGON

By: Gail A. Kunding
Gail A. Kunding, City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 28th day of May, 2002, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: May 28, 2002.

Gail Kunding
Gail Kunding, CMC/AEE
Clerk, City of Muskegon

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

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

Please take notice that on May 28, 2002, the City Commission of the City of Muskegon adopted an ordinance to amend Section 1101 (Special Land Uses Permitted), of Article XI (B-2, Convenience and Comparison Business) and Section 1300 (Principal Uses Permitted), of Article XIII (General Business) of the City's Zoning Ordinance, to add the following:

Business schools, or private schools operated for profit. Examples of private schools permitted herein include, but are not limited to, the following: dance schools, music and voice schools, and art studios.

- a. Parking is required to be provided on the same site as the building. Shared parking will be allowed, if it is irrevocable, and if it will not consume any parking needed for a separate use.

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

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

Published June 5, 2002

CITY OF MUSKEGON

By _____
Gail A. Kunding
Its Clerk

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

Account No. 101-80400-5354

Commission Meeting Date: May 28, 2002

Date: May 22, 2002

To: Honorable Mayor & City Commission

From: Planning & Economic Development Department CBE

RE: Market and Housing Analysis of Downtown Waterfront

SUMMARY OF REQUEST: To approve the contract with Gibbs Planning Group, 148 Pierce Street, Birmingham, MI. Under this contract Gibbs will perform a market and housing analysis of Muskegon's Downtown Waterfront.

FINANCIAL IMPACT: The contract amount is \$28,000.00 plus additional expenses not to exceed \$1,500.00. The City has already agreed to contribute \$5,000. The County and the private sector each have contributed \$5,000. In addition the City has received a \$15,000 grant for this project from the State Of Michigan.

Other consultants did come in with lower bids but did not include the full scope of services and/or the services outlined did not appear to be of the same quality offered by Gibbs Planning Group.

The Chesapeake Group	\$25,000
8516 Green Lane, Baltimore MD	

Market Insite Group/McKenna Associates	\$36,000
3250 West Big Beaver Rd. , Troy, MI	

Beckett & Raeder
535 West William, Suite 101, Ann Arbor, MI

\$25,000

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the contract with Gibbs
Planning Group, 148 Pierce Street, Birmingham, MI.

COMMITTEE RECOMMENDATION:

21 May 2002

Mr. Joel Fitzpatrick
Planning and Economic Department
933 Terrace Street
P.O. Box 536
Muskegon, Michigan 49443-0536

Dear Mr. Fitzpatrick:

I am pleased to respond to your revised request for consulting services for the City of Muskegon's waterfront efforts. Our recent meeting with your redevelopment team clarified your specific goals and issues, resulting in the following modified and expanded proposal. I am more confident now that GPG's unique combination with both private and public sector clients will offer you the skills necessary for the continued successful reuse of your exciting waterfront.

Our experience and expertise allows us to formulate and refine a proven and focused approach to accomplish the tasks required to assist you with the analysis of the development potential for this waterfront property. We at GPG are dedicated to providing practical, implementable results, which reflect economic development realities and not just theoretical research.

Our experience has demonstrated that an attractive natural feature, alone, is not enough to attract new residential and commercial development. Many residential and commercial users are also seeking quality and authentic urban environments not available in the suburbs.

Understanding

Historically linked to its river and lakefronts, Muskegon's shoreline now represents a large untapped opportunity to attract new residential and commercial activity in the downtown area. It is our understanding that the City is seeking to continue its successful downtown re-development efforts. Recently completed recreational, educational and commercial projects have helped to improve the downtown area. The proposed navel museum, hotel and residential development will further contribute to the region's waterfront access.

The purpose of this study is to explore realistic development opportunities for the waterfront's remaining vacant or underutilized properties. Specifically, the city is seeking to determine alternative types of residential and commercial uses that are supportable by the private market for the study area. It is further GPG's understanding

that the City desires for the proposed waterfront development to enhance the downtown business district and to create better linkages to the waterfront area. It is anticipated that the findings of this step will assist your group in setting goals, policies and in making specific short and long-term implementation actions for the subject area.

This study will focus on Muskegon's downtown waterfront area, along the north side of Lake Shore Drive between Seventh and Terrace. Although GPG will review many segments of the region, we suggest that a specific boundary be mutually defined upon execution of a consulting contract.

Methodology

One of the more critical aspects of the mixed-use commercial redevelopment process will be an understanding of the market potential for those types of uses likely to be drawn to the downtown waterfront.

This study will be based upon a series of focus group interviews, analysis of your past planning and research studies, census data and GPG's own primary research. Based upon the collected data, GPG will complete a void analysis, based upon a supply and demand model. The findings of our analysis, will be tested with private sector brokers, developers and retailers. GPG will retain at its own expense, and at no additional fees, specialists necessary to complete any research or analysis not available by our in-house staff. Our final findings will be presented to your team in both written and oral form, as described below.

Qualifications

GPG has extensive urban research and planning experience in the Great Lakes region and across North America. GPG's clients are balanced between city, regional and state governmental, private developers and investors. Our local projects include: Bay City, Chicago, Columbus, Glenview, Grosse Pointe, Howell, Milwaukee, Normal, Oregon, St. Paul, and Suttons Bay. Additional recent GPG commissions have included: Atlanta, Baton Rouge, Charleston, Ireland, Ft. Meyers, Goshen, Indianapolis, London, Naples, Norfolk, New Zealand, South Beach, Sidney, Dublin and West Palm Beach.

Urban university redevelopment clients include: Brown, Indiana State, Johns Hopkins, Michigan State, Ohio State, University of Pennsylvania. In addition, GPG has developed a speciality in new urban retail market research and planning, resulting in our participation in almost every significant neo-traditional town plan built during the

past ten years including Seaside, The Kentlands and Lakeland's.

GPG's private sector clients include: Aikens Development, Crosswinds Communities, General Motors, Pulte, The Limited, The Taubman Company, Simon Properties, Weyerhaeuser, and Westinghouse (WCI).

Step One: Data Collection & Focus Groups (\$6,500.00)

One of the most important elements in redeveloping the waterfront is to have an accurate and realistic understanding of past research, planning and the region's perceptions of the site. This research will contribute to the baseline data for GPG's market analysis. Working with your team, GPG will collect and review your existing base data, past studies and policy regarding the waterfront area. This data will be analyzed and applied to the appropriate information into our economic models and findings. GPG will also walk and drive the study area, downtown, surrounding neighborhoods and region.

As a part of this step, GPG will conduct up to six (6) focus groups with stakeholders of your choice. The City of Muskegon shall select and coordinate the participants of each focus group. GPG shall record notes and summarize the sessions. These focus groups will include: various citizen groups (youth, families, seniors, etc.), city staff, shoppers and property owners. These interviews will assist our team in determining market conditions, perceptions and opportunities.

This Step shall contain the following items:

- a. A summary of informal (non-scientific) local opinions regarding the current conditions and future condition of the study area. Such analysis shall include input and opinions from tenants, property owners, residents, patrons, consumers, and business owners.
- b. A review of the following documents and facilities: Boating: sales, rentals, storage; Mixed use developments; Tourism/Convention Center/ Exhibit Hall; Certified Business Park; Marina: Condo, annual rental, transient, and charter boat; Residential; Retail: Farmers/Seafood/Orchard Market; Food and Beverage: Recreation facilities; The 1999 City Waterfront Redevelopment Plan.

The product of this phase will involve GPG's participation in one (1) day of focus group sessions, and 2-3 days of research of the above data, and the region. A 3-4 page written summary of the relevant findings of this step will be included in GPG's final report.

Step Two: Retail Market Analysis (\$16,500.00)

The core of this proposal's scope of services is to determine realistic residential and commercial market voids for the study area. This analysis will assist you in determining not only, what is supportable, but also, which of these markets best meets your community's values and goals.

Based upon the findings above, Step One, GPG will conduct a detailed Retail Market analysis that will include the following:

- a. GPG will define the likely short term and long-term trade area served by the study areas.
- b. GPG will estimate the different patron segments (i.e. workers, tourists, residents, Boaters, Ferry riders, visitors) to be, as serviced by the retailers of the study area.
- c. GPG will collect demographic data including: household income, consumer expenditure potential by retail category, education levels, % white-collar employment, age, projected growth, etc.
- d. GPG will prepare a map identifying the location of all major retail centers in the primary and secondary trade areas, which will better explain the effects of the gravitational model of competing retail districts on the primary and secondary trade area.
- e. GPG will define a primary and secondary trade area for the supportable retail development.
- f. GPG will factor into it's analysis of consumer expenditure the effects of pedestrian circulation, general vehicular circulation patterns, strength of existing retail competition, proposed adjacent residential and commercial construction, as well as other relevant conditions.
- g. GPG will prepare a written summary of the relevant population and demographic characteristics of the trade area.
- h. GPG will issue a letter of qualitative opinion as to whether or not additional retail development is supportable in the study area and what size of retailers would be most successful.
- i. GPG will prepare a written analysis of which retail categories (men's apparel, sporting goods, hardware, etc.) currently face excessive competition, thereby making them susceptible to store closures, as well as which retail categories show a void in competition and can therefore support additional development.

- j. GPG shall provide a list of potential retail and entertainment businesses that could be tenants in the redevelopment or new development.
- k. GPG shall provide estimations of potential sales volumes for recommended tenants.

As a part of this step, GPG will comment on the potential for residential housing within the study area. The study will project a potential range of housing types, sizes, amenities and general design guidelines. The purpose of this housing study will be to assist the team in determining general housing options, to be used for your master planning efforts. The study will also be available to assist the City in attracting new potential residential developers to consider building on the study area.

I understand that you are seeking for detailed market information regarding marina sales and rentals. The scope of services under this proposal will review existing marina market trends, sales and rental rates, but will not make forecasts regarding future observations and development potentials. GPG recommends that you retain marina specialists to meet your dockage requirements.

The deliverability of Step Two shall be a 45-50 page 8.5" x 11" report defining forecasting supportable residential and retail development for the study area. The report shall define the trade area, competition, list supportable retail categories and estimate annual sales per categories. This market analysis shall also estimate the impact of the new Milwaukee Ferry service and model it finds on a no ferry and ferry basis.

Step Three: Implementation Strategy (\$5,000.00)

Pursuant to acceptance of the findings of the Market/Void analysis by the review committee, GPG shall prepare a document suitable to begin discussions with potential developers. This document shall have the following items:

- a. A summary of this studies findings: trade area, demographics, supportable retail, plans and photographs of the study area.
- b. Identification of potential developers/investors for contemplated projects.
- c. A brochure including an illustration of the proposed use.

Recommendations regarding the physical aspects of the study area relating to potential adaptive re-use and new construction GPG will review the existing proposals for the development of the residential and commercial areas located in or adjacent to the study area.

Schedule:

Such services shall commence within 15 days of signing of this agreement and receipt of retainer as described below. The first draft of GPG's findings shall be completed within 100 days of receipt of an agreement. The final draft of the report shall be completed within 30 days of receipt of the City's comments from the first draft.

Project Staff

It is anticipated that GPG project staff will include: Project Principal, Robert Gibbs, ASLA; Senior Market Analyst, Patricia Formosa; Director, Charles E. Wilson III; Project Market Analyst and Planner, and additional GPG Market Analysts, Retail Planners & Designers as required. Staff qualifications are included in the Appendix.

Remuneration

GPG's proposed fees for the services described above in Step One, Two and Three are ***Twenty-Eight Thousand Dollars (\$28,000.)*** plus reimbursable expenses for travel, lodging, mail and reproduction (not to exceed \$1,500.00). The following rates apply for GPG staff to be available for additional services upon prior authorization by the City: Principal, *Two Thousand, Five Hundred (\$2,500.00) Dollars* per day; Director, *One Thousand, Two Hundred Fifty (\$1,250.00) Dollars* per day; Designer, *Seven Hundred Fifty (\$750.00) Dollars* per day. Additional hourly rates as follows: *Two Hundred and Fifty (\$250.00) Dollars* per hour for principal, *One Hundred Thirty Five (\$135.00) Dollars* per hour for director and *Eighty-Five (\$85.00) Dollars* per hour for staff designer.

Limits of Scope of Services

The services described in this agreement are for qualitative retail and planning analysis only, and should not be used as the sole basis of development, financing, or leasing.

Actual site, building, parking, utility, environmental, grading, civil engineering, architectural plans and construction documents are not included within the scope of work of this proposal and are to be completed by others. In addition, the following items are not included in this proposal:

- a. Environmental reviews or analysis for toxic or contaminated site conditions.

- b. Civil engineering or design of grading, storm drainage, sewers & roads.
- c. Building and structural architectural design and engineering.
- d. Detailed cost projections or estimates.
- e. Construction management and coordination.

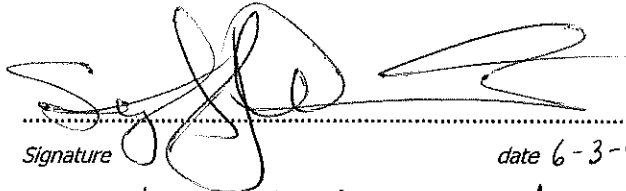
Conditions of Agreement

- a. GPG will begin services as described by this proposal upon receipt of a 25% retainer. This retainer will be deducted from the final invoice for services conducted by under this agreement. GPG will invoice you at the completion of each Step.
- b. All invoices will be paid upon receipt. A charge of 1.5% per month will be applied to invoices not received within 30 days.
- c. This proposal will be valid for 30 days from today's date.
- d. The owner will supply GPG with necessary site, topographic, boundary surveys, architectural floor plans and elevations, etc., as required.
- e. This agreement will not be enforced by either party until each party has in its possession a copy of this agreement signed by the other.
- f. In the event of termination or suspension due to the fault of others than GPG, GPG will be paid compensation for all completed work, plus other fees which may have been authorized by the Owner for expenses resulting from such termination or suspension.
- g. All claims, disputes and other matters in question arising out of, or relating to, this agreement or the branch thereof, will be decided by an arbitrator: said arbitrator will be appointed by the American Arbitration Association and arbitration shall occur in Oakland County Michigan.
- h. GPG's responsibility to any errors or omissions is limited to the fees invoiced for the services outlined by this proposal.
- i. This agreement represents the entire and integrated agreement between GPG and the signee, and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written instrument signed by both GPG and a representative of the signee.
- j. Municipal zoning and land-use variances may be needed as part of the design and submittal process.

Thank you again for the opportunity to interview with you and our entire team is looking forward to beginning our qualitative analysis as soon as possible. Please do not hesitate to call if you have any questions. If you agree with these terms, fees and conditions of this proposal, please sign below and return an original copy with a 25% retainer check (\$7,000.00) made payable to GIBBS PLANNING GROUP, INC., so that we may begin assisting you with this exciting project.

Sincerely,

GIBBS PLANNING GROUP, INC.


Signature date 6-3-02
Stephen J Warmington
Please print

Robert J. Gibbs, ASLA

President

Mayor
Title
City of Muskegon
Representing

Downtown Waterfront Market Analysis

Muskegon, Michigan

Step 1

Market Assessment

June 1-July15

Step 2

Retail Market Analysis

June 15-August 1

Step 3

Implementation Strategy

August 1-September 1

Initial Draft

1-Sep

Final Draft/Presentation

15-Oct-02

Date: May 28, 2002
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Clarification on the Special Assessment Policy Amendment
of May 14, 2002

SUMMARY OF REQUEST:

It is respectfully requested that the recent amendment of the special assessment policy be Vacated due to ambiguous interpretation and revert to the original table (80%) when preparing the assessable per foot cost which is based on the cost of assessable items. However, it is requested that the policy be amended to limit the total assessment on any pavement project as described in said policy to a maximum of 45% of the TOTAL COST OF THE PROJECT which would be determined at the time the roll being spreading.

FINANCIAL IMPACT:

None anticipated at this time.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Amend the special assessment policy.

COMMITTEE RECOMMENDATION:

*for Policy Book -
approved 5-28-02*

Date: May 28, 2002
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Clarification on the Special Assessment Policy Amendment
of May 14, 2002

SUMMARY OF REQUEST:

It is respectfully requested that the recent amendment of the special assessment policy be Vacated due to ambiguous interpretation and revert to the original table (80%) when preparing the assessable per foot cost which is based on the cost of assessable items. However, it is requested that the policy be amended to limit the total assessment on any pavement project as described in said policy to a maximum of 45% of the TOTAL COST OF THE PROJECT which would be determined at the time the roll being spreading.

FINANCIAL IMPACT:

None anticipated at this time.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Amend the special assessment policy.

COMMITTEE RECOMMENDATION:

AMENDED TABLE AS OF 05/28//02

<u>Activity/improvement</u>	<u>Share of Total**** Cost Assessable</u>	<u>Area Assessed</u>	<u>Amount to be Assessed per front foot</u>
1. Maintenance	0%	0	N/A
2. Rehabilitation	0%	0	N/A
3. Resurfacing	80%	*	\$6.40 ***
4. Milling/Resurfacing	80%	*	\$11.40 ***
5. Rehab./Resurfacing Major	80%	*	\$18.70 ***
6. Reconstruction	80%	*	\$19.70 ***
7. New Construction	80%	*	\$19.70
8. New Subdivision	100%	**	Actual
(where assessed)			

* standard residential width

** entire improvement performed by City

*** these front foot assessments included an adjustment reflecting credit for residual value of existing street per Section V (C) (9), with total assessment not to exceed benefit to abutting property.

**** total assessment shall not exceed 45% of total project cost

V Assessment Policy; Improvements Included; Allocation of Cost; Financing and Scheduling – This policy shall be implemented as follows:

- A. Design and Engineering – All streets, including subdivision streets, shall be constructed or reconstructed to engineering standards and design as established by the City, unless determined that sufficient reasons exist to provide exception/deviation from standards.
- B. New Subdivision Development – All new development requiring streets shall be the responsibility of the developer; however, when available, and deemed advisable by the City Commission, the City may utilize special assessment bonding to provide for street and public infrastructure, assessments to the properties benefiting to the extent permissible by law.
- C. Assessment Method – The method of assessment for the work determined assessable shall be as follows:
 1. Cost of the work shall include all cost directly and indirectly chargeable to the project.

Date: May 28, 2002
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Consideration of Bids
Laketon Ave. @ Barclay St. Intersection

SUMMARY OF REQUEST:

The Whitetopping of Laketon Ave. @ Barclay St. contract (H-1555) be awarded to Veneklasen Concrete Construction out of Rockford since they were the lowest (see bid tabulation) responsible bidder with a bid price of \$116,495.00.

FINANCIAL IMPACT:

The construction cost of \$116,495.00 plus associated engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Award the contract to Veneklasen Concrete Construction.

COMMITTEE RECOMMENDATION:

May 7, 2002

[illegible]

H-1555 LAKETON AVE. & BARCLAY ST.**INTERSECTION WHITETOPPING**

ENGINEER'S ESTIMATE APRIL 10, 2002

	DESCRIPTION	QUANTITY	UNIT	PRICE	PRICE
1	ADJUST MANHOLE CASTING PER DETAIL	5	EACH	\$400.00	\$2,000.00
2	ADJUST WATER VALVE CASTING PER DETAIL	2	EACH	\$400.00	\$800.00
3	COLDMILLING 4"	3280	SQ.YD.	\$6.00	\$19,680.00
4	CONCRETE PAVEMENT 4" (WHITETOPPING)	3280	SQ.YD.	\$25.00	\$82,000.00
5	MANHOLE CASTING E.J.#1000 OR EQUAL	5	EACH	\$500.00	\$2,500.00
6	PAVEMENT MARKING 4" WHITE	435	LIN.FT.	\$0.50	\$217.50
7	PAVEMENT MARKING 4" YELLOW	1130	LIN.FT.	\$0.50	\$565.00
8	PAVEMENT MARKING 6" CROSSWALK	435	LIN.FT.	\$1.00	\$435.00
9	PAVEMENT MARKING 18" STOP BAR	90	LIN.FT.	\$2.00	\$180.00
10	PAVEMENT MARKING SYMBOL (LEFT TURN ARROW)	3	EACH	\$50.00	\$150.00
11	PAVEMENT MARKING SYMBOL (ONLY)	3	EACH	\$50.00	\$150.00
12	TRAFFIC CONTROL	1	LUMP	\$20,000.00	\$20,000.00
	SUBTOTAL				\$128,677.50
	15% ENGINEERING				\$19,301.63
	TOTAL				\$147,979.13