

CITY OF MUSKEGON

CITY COMMISSION MEETING

MAY 14, 2019 @ 5:30 P.M.

**MUSKEGON CITY COMMISSION CHAMBERS
933 TERRACE STREET, MUSKEGON, MI 49440**

AGENDA

- ☐ **CALL TO ORDER:**
- ☐ **PRAYER:**
- ☐ **PLEDGE OF ALLEGIANCE:**
- ☐ **ROLL CALL:**
- ☐ **HONORS AND AWARDS:**
- ☐ **INTRODUCTIONS/PRESENTATION:**
 - A. Recognition of Paul Billings Outstanding Citizen Recipient for 2018**
- ☐ **CITY MANAGER'S REPORT:**
- ☐ **CONSENT AGENDA:**
 - A. Approval of Minutes** City Clerk
 - B. 2019-2020 Michigan Municipal League Membership Dues** City Clerk
 - C. Zoning Ordinance Amendment – Planned Unit Development Section of Single Family Residential Districts – 2nd Reading** Planning & Economic Development
 - D. Zoning Ordinance Amendment – Landscaping Requirements – 2nd Reading** Planning & Economic Development
 - E. Marina Management Agreement** City Manager
 - F. Arena Management** City Manager
 - G. Purchase Agreement Extension – 1490 Lakeshore Drive** City Manager
 - H. Tug and Trailer Purchase** City Manager
 - I. Storage Garage – Marsh Field** City Manager
 - J. Purchase Agreement – 1192 Pine Street** City Manager

- K. Tuition Reimbursement City Manager
- L. Summer Evening Recreation Program City Manager
- M. Hartshorn Marina T-Dock Repairs Department of Public Works
- N. Consumers Energy LED Department of Public Works
- O. SRF – RR Sewer Crossing Department of Public Works
- P. DPW Carbon Monoxide System Upgrade and Repairs Department of Public Works
- Q. Change Order #003 – West Shore CF Demolition Department of Public Works
- R. 2019-20 Healthcare and Wellness Program Finance
- S. Delta Dental Renewal Finance
- T. Financing for Roof Replacement at LC Walker Arena Finance
- U. Financing for HVAC/Dehumidification Upgrades at LC Walker Arena Finance
- V. Notice of Intent Resolution Sanitary Sewer Revenue Bonds Finance
- **PUBLIC HEARINGS:**
 - A. Public Hearing for Amendment to the Brownfield Plan for DMDC Redevelopment Project-Former Muskegon Mall Planning & Economic Development
 - B. Public Hearing for Amendment to Brownfield Plan – City of Muskegon (Developer) Planning & Economic Development
- **COMMUNICATIONS:**
- **UNFINISHED BUSINESS:**
- **NEW BUSINESS:**
 - A. Fireworks Ordinance Update Public Safety
 - B. Prohibition of Sale and the Consumption of Marihuana in Public Places (Sec 58-4) Public Safety
 - C. 2019 CDBG/HOME Budget Recommendations Community and Neighborhood Services
 - D. Purchase Agreement – Former Farmers Market Site City Manager
- **ANY OTHER BUSINESS:**
- **PUBLIC PARTICIPATION:**
 - ▶ **Reminder: Individuals who would like to address the City Commission shall do the following:**
 - ▶ Fill out a request to speak form attached to the agenda or located in the back of the room.
 - ▶ Submit the form to the City Clerk.

- ▶ Be recognized by the Chair.
- ▶ Step forward to the microphone.
- ▶ State name and address.
- ▶ Limit of 3 minutes to address the Commission.
- ▶ (Speaker representing a group may be allowed 10 minutes if previously registered with City Clerk.)

☐ **CLOSED SESSION:**

☐ **ADJOURNMENT:**

ADA POLICY: THE CITY OF MUSKEGON WILL PROVIDE NECESSARY AUXILIARY AIDS AND SERVICES TO INDIVIDUALS WHO WANT TO ATTEND THE MEETING UPON TWENTY-FOUR HOUR NOTICE TO THE CITY OF MUSKEGON. PLEASE CONTACT ANN MARIE MEISCH, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TTY/TDD DIAL 7-1-1-22 TO REQUEST A REPRESENTATIVE TO DIAL (231) 724-6705.

Memorandum

To: Mayor and Commissioners

From: Frank Peterson

Re: City Commission Meeting

Date: May 8, 2019

Here is a quick outline of the items on our agendas:

Work Session:

THIS WILL BE A LONG AGENDA – WE WILL PROVIDE DINNER

1. 1490 Lakeshore Drive purchase Agreement. We will discuss the purchase agreement for 1490 Lakeshore Drive. This is the former Amoco Tank Farm site. There is significant environmental remediation that needs to happen to put the property back into productive use. Absent millions in cleanup expenses, the property will never be usable to residents in any capacity – including recreational. Per the attached site plan, the developer is seeking to construct a marina with a mix of housing and commercial units. Cleaning/preparing the site to accommodate this use will likely reach \$15 Million. This purchase agreement will enable the developer to begin spending significant dollars in environmental assessment activities. Staff believes that this process poses the greatest likelihood that adequate remediation will take place on the property. The group purchasing the property has significant experience in environmental remediation; they have completed many state and federal contracts to undertake similar work across the Great Lakes.
2. Arena Management Agreement. This agreement is with Arc Arena Management. We have historically used an arena management agreement in lieu of using a full-time employee to manage the arena because of cost savings and flexibility. For a short time recently, we used a city employee and will now be moving back to a management agreement. This agreement has a base monthly payment but also a series of incentives to drive community events into the facility and move the facility into a profit center.
3. Marina Management Agreement. The agreement is with F3 Marina via a subcontract with Hartshorn Marina Village. We recently lost our harbormaster and found it difficult to replace the position. This group manages a number of public marinas in the Great Lakes region and has significant experience in improving the service levels of those marinas. We are move to make significant investments in the marina by replacing docks and restrooms,

and adding amenities, the rates will undoubtedly rise. We need to be in a position to provide excellent service immediately – and we feel F3 can help us do that.

4. Suburban Nation. LeighAnn Mikesell will be starting a regular program with staff, City Commissioners and Planning Commissioners that helps educate each of us on the importance of urban-focused decision-making. At the work session, LeighAnn will provide each Commissioner a copy of the book and spend a little time talking about the first two chapters.
5. Parks and Streets Capital Improvement Plan. This item is not going to appear on the regular session. After months of compiling information, the Department of Public Works is ready to share a vision to begin redeveloping our aging infrastructure (specific to parks and streets).

Parks. A number of years ago, our residents identified certain parks that they felt should be part of the city's infrastructure system in perpetuity. This has helped lead to Muskegon being a leader in park space – with an estimated 600+ acres of parkland. Unfortunately, we have not had the resources to maintain those parks properly for many years – and some of our parks have not experienced significant investment in decades. We have restrooms that are non-functioning, parking lots and sidewalks that need new pavement, ADA issues, playground issues, flooding issues, and more. Conservatively, those costs could exceed \$16 Million . . . at our current expense rate, it would take another 50 years (or more) to complete these items.

Streets. I think we all agree that our streets need significant work. We are undertaking a major project on Lakeshore Drive this summer. Once that is complete, most of our major arteries will be in reasonable/fair shape. We have some work to do on parts of Sanford, Peck, Laketon, Sherman, and Lakeshore Drive over the next few years. With that said, we would like to focus energy on neighborhood streets, as those are in far worse shape – we have about 75 miles of such roadways. Right now, we simply do not generate enough money from gas taxes to properly maintain (or replace) the local roadways. Through a rating process, DPW staff has identified approximately 87 separate stretches of local streets that need significant work. We focused on streets that need resurfacing vs reconstruction, because our dollars would go significantly farther. Those 87 projects would cost approximately \$11 Million.

Funding. This is something that will need extensive community input. We did do some traditional funding models for the commissioners to see. All of these

options require issuance of debt. Over 15 years, the payment would be approximately \$2.37 Million.

6. Marihuana Usage. Staff is seeking approval of an ordinance that would regulate the use of marihuana in public spaces. This is similar to the way we would regulate alcohol usage.
7. Recreational Marihuana. Staff is seeking a discussion on recreational marihuana. This is different from medicinal – where we had to choose to opt-in. In the recreational marihuana law, we are assumed to have opted-in unless we officially opt-out.

Regular Session:

1. Under Presentations, we award our outstanding citizenship award to Paul Billings.
2. Under the Consent Agenda, we are asking the Commission to consider the following:
 - a. Approval of meeting minutes from the most-recent City Commission meeting.
 - b. Payment of MML Dues
 - c. Second reading of the PUD ordinance
 - d. Second reading of landscaping requirements ordinance
 - e. Approval of the marina management agreement with F3
 - f. Approval of the Arena management agreement with Arc Arena Management
 - g. Approval of purchase agreement for 1490 Lakeshore Drive
 - h. Approval of purchase of tug and trailer for downtown events
 - i. Authorization to construct storage garage at Marsh Field
 - j. Authorization to purchase the property at 1192 Pine Street
 - k. Authorize changes to the tuition reimbursement program. The change would add \$500 to the annual reimbursement threshold.
 - l. Authorization of \$13,500 additional expense for the Summer Evening Recreation Program
 - m. Authorize \$10,300 expense for repairs to the T-Dock at Hartshorn Marina.
 - n. Authorize changes to the Consumers Energy Street Lighting Contract
 - o. Authorize an agreement with CSX to cross under their tracks with a sewer line
 - p. Approve carbon monoxide monitoring and control equipment for the DPW building.
 - q. Authorize a change order in the demolition contract for the prison site to address items found underground.
 - r. Approve the healthcare program (the costs are actually down)
 - s. Approve a change to the employee delta dental plan
 - t. Approve the financing for the LC Walker Arena roof
 - u. Approve the financing for the LC Walker Arena HVAC and dehumidification improvements.

- v. Notice of Intent Resolution Sanitary Sewer Revenue Bonds. Based on recent estimates of the cost of the project we believe it is necessary to request an additional authorization for \$3 million.
- 3. Under Public Hearings:
 - a. Public hearing on the Brownfield request for The Leonard building
 - b. Public hearing on the Brownfield request for the City's scattered site Brownfield program (infill housing).
- 4. Under the New Business, we are asking the Commission to consider the following:
 - a. First reading of an ordinance prohibiting the sale and consumption of marihuana in public places.
 - b. First reading of an ordinance regulating fireworks usage. There will be fewer days allowed and larger fines for violations.
 - c. 2019 CDBG/HOME budget
 - d. Purchase Agreement – Former Farmers Market Site. We are going back to the original purchase price of \$150,000 for the site so we can get moving on the food hub while the developer contemplates activity at the Ameribank building.

Let me know if you have any questions/comments/concerns

Frank

Date: May 8, 2019
To: Honorable Mayor and City Commissioners
From: Ann Marie Meisch, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes of the April 23, 2019 Regular Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

APRIL 23, 2019 @ 5:30 P.M.

**MUSKEGON CITY COMMISSION CHAMBERS
933 TERRACE STREET, MUSKEGON, MI 49440**

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, April 23, 2019, George Monroe, Evanston Avenue Baptist Church, opened the meeting with prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen J. Gawron, Vice Mayor Eric Hood, Commissioners Ken Johnson, Byron Turnquist, Debra Warren, and Dan Rinsema-Sybenga, City Manager Frank Peterson, City Attorney John Schrier, and City Clerk Ann Meisch.

Absent: Commissioner Willie German, Jr.

INTRODUCTIONS/PRESENTATION:

A. Recognition of Women Veterans Day

In acknowledgement of the one-year anniversary of the City's creation of Women Veteran's Day. Zenata Adams from WINC – Women Injured in Combat – was present to thank the City Commission for recognizing Women Veterans. The City of Muskegon was the first in the State of Michigan to do so.

B. Mr. Football Presentation

Muskegon Big Red Football Player, Cameron Martinez, was recognized for his outstanding achievement in being named High School Football Player of the Year. Mr. Martinez was joined by some of his teammates and was recognized by the Mayor and Commissioners and presented with a certificate and street sign for him to keep.

2019-32 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve minutes of the continued Goal Setting meeting held March 26, 2019, minutes of the Worksession meeting held April 8, 2019, and minutes of the Regular meeting held April 9, 2019.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Request to Fly the Norwegian Flag City Clerk

SUMMARY OF REQUEST: Sons of Norway are requesting permission to fly the Norwegian Flag at City Hall on Friday, May 17th, in honor of Norway's Constitution Day (Independence Day).

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the request.

C. Special Event Liquor Licenses – 2019 Events City Clerk

SUMMARY OF REQUEST: The City Clerk's Office is organizing several events for 2019 and we are seeking commission approval to apply for a special liquor license for beer, wine, and spirit service for the following:

Taste of Muskegon at Hackley Park – June 14 & 15, 2019

Food Truck Rallies at the Farmer's Market – June 26, July 24, and August 21, 2019

150th Anniversary Celebration at Heritage Landing – July 11, 12, & 13, 2019

Farm-to-Table Fundraiser at the Farmer's Market – September 5, 2019

The Farmer's Market does have a liquor license but the licensed area does not extend beyond the barn.

FINANCIAL IMPACT: \$50 permit from the State for every date requested.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve a special liquor license for the events organized by the City Clerk for 2019.

D. Zoning Ordinance Amendment – Planned Unit Development Section of Single-Family Residential Districts

Planning & Economic Development

SUMMARY OF REQUEST: Staff initiated request to amend Section 403 of the zoning ordinance to revise the intent of the Planned Unit Development option by allowing limited retail options.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the zoning ordinance amendment.

COMMITTEE RECOMMENDATION: The Planning Commission unanimously recommended approval of the request 8-0 at the April 11 meeting.

SECOND READING REQUIRED

E. Zoning Ordinance Amendment – Landscaping Requirements Planning & Economic Development

SUMMARY OF REQUEST: Staff initiated request to amend Section 2331 of the zoning ordinance to allow applicants to donate trees to the City's nursery rather than to replace trees on site during development.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the zoning ordinance amendment.

COMMITTEE RECOMMENDATION: The Planning Commission unanimously recommended approval of the request 8-0 at their April 11 meeting.

SECOND READING REQUIRED

H. Permanent Traffic Control Orders #37 through #52 Department of Public Works

SUMMARY OF REQUEST: Authorize the various Traffic Control Orders #37 thru #52.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Authorize the various Traffic Control Orders.

I. Water Interconnect Contract Department of Public Works

SUMMARY OF REQUEST: Approve the Water Interconnect Contract and authorize the Mayor and Clerk to sign the contract.

The Water Interconnect Contract outlines the details for the current and any future locations where the city of Norton Shores/Fruitport Township water mains are interconnected with the Spring Lake Township water mains along their shared border. These connections serve to provide continuation of service in the event of an emergency.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve the Water Interconnect Contract and authorize the Mayor and Clerk to sign.

J. City Hall Elevator Repairs Department of Public Works

SUMMARY OF REQUEST: Award a contract for elevator repairs at City Hall to the low bidder Otis Elevator Company. The elevator is currently not functioning properly and is often times only accessible from the basement.

Two contractors submitted bids for this project as follows:

Otis Elevator Company \$69,861 (Base) + \$9,850 (Alternate)=**\$79,711 Total**

KONE, Inc. \$89,850 (Base) + \$24,470 (Alternate)=**\$114,320 Total**

The base bids include functionality repairs to the elevator including new power units, sensors, control panels, buttons, and chimes. The alternate bid provided by Otis includes rehabilitation of the cab interior with new walls, handrails, ceiling and lighting.

FINANCIAL IMPACT: \$79, 711.00

BUDGET ACTION REQUIRED: None. To be address in future reforecast.

STAFF RECOMMENDATION: Award the project including the alternate to the low bidder Otis Elevator Company.

L. Smith Ryerson Parking Lot Improvements Department of Public Works

SUMMARY OF REQUEST: To award contract (SP-240) for construction of improvements at the parking lot for Smith-Ryerson Park.

Five contractors submitted bids for this project as follows:

Accurate Excavators \$88,668.50

Terra Contractors \$89,416.00 (Local Contractor)

Stein Construction \$105,937.15

Bultsma Construction \$108,057.00

West Michigan Dirtworks \$123,396.49

The second low bidder is a local contractor with offices located within the City of Muskegon the low bidder is not located within the City of Muskegon. The bids are within 1% of each other.

FINANCIAL IMPACT: \$89,416.00

BUDGET ACTION REQUIRED: None. Project is budgeted for \$96,726 of CDBG funds in the 18-19 budget.

STAFF RECOMMENDATION: Award the project to the second low bidder, Terra Contractors, in accordance with the City of Muskegon Policy regarding Local Preference Purchasing/Contracting.

M. Purchase Agreement – 1067 Grand Avenue City Manager

SUMMARY OF REQUEST: City staff is seeking permission to enter into a purchase agreement with Jonathan and Melissa Wilson for city-owned home located at 1067 Grand. The purchase price is \$143,000.

FINANCIAL IMPACT: \$143,000 minus closing costs deposited into the City's Public Improvement Fund.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To authorize the city manager to enter into a

sales agreement to sell the property at 1067 Grand Avenue for \$143,000 with Jonathan and Melissa Wilson.

N. Approval of a Neighborhood Enterprise Zone Certificate – 324 Terrace Point Planning & Economic Development

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone (NEZ) certificate has been received from Christopher & Elizabeth Beck for the new construction of a home at 324 Terrace Point. The applicant has met local and state requirements for the issuance of the NEZ certificate.

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

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the NEZ Certificate.

O. Approval of a Neighborhood Enterprise Zone Certificate – 343 Terrace Point Planning & Economic Development

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone (NEZ) certificate has been received from Dennis Atkinson for the new construction of a home at 343 Terrace Point. The applicant has met local and state requirements of the issuance of the NEZ certificate.

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

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the NEZ certificate.

Motion by Commissioner Johnson, second by Commissioner Warren, to approve the consent agenda as presented, except items F, G, and K.

ROLL VOTE: Ayes: Turnquist, Johnson, Gawron, Hood, Warren, and Rinsema-Sybenga

Nays: None

MOTION PASSES

2019-33 ITEMS REMOVED FROM CONSENT AGENDA:

F. Set the Public Hearing for Amendment to Brownfield Plan – City of Muskegon (Developer) Planning & Economic Development

SUMMARY OF REQUEST: To approve the resolution setting a public hearing for an amendment to the Brownfield Plan, and notifying taxing jurisdictions of the Brownfield Plan amendment including the opportunity to express their views and recommendations regarding the proposed amendment at the public hearing. The amendment is for the inclusion of properties in the Nelson Neighborhood owned by the City of Muskegon.

FINANCIAL IMPACT: There is no direct financial impact in including the project in the Brownfield Plan, although the redevelopment of the site into a residential development will eventually add to the tax base in Muskegon.

BUDGET ACTION REQUIRED: None

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

COMMITTEE RECOMMENDATION: The Brownfield Redevelopment Authority met on April 9, 2019 and approved the Brownfield Plan Amendment, and recommends the approval of the Brownfield Plan Amendment to the Muskegon City Commission. In addition, the Brownfield Redevelopment Authority recommends that the Muskegon City Commission set a public hearing on the Plan Amendment for May 14, 2019.

Motion by Commissioner Johnson, second by Commissioner Warren, to approve the resolution to set a public hearing and authorize the Mayor and Clerk to sign the resolution.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Warren, Rinsema-Sybenga, and Turnquist

Nays: None

MOTION PASSES

G. Set the Public Hearing for Amendment to Brownfield Plan- Sweetwater Development, LLC Planning & Economic Development

SUMMARY OF REQUEST: To approve the resolution setting a public hearing for an amendment to the Brownfield Plan, and notifying taxing jurisdictions of the Brownfield Plan amendment including the opportunity to express their views and recommendations regarding the proposed amendment at the public hearing. The amendment is for the inclusion of property at 292 W. Western, owned by Sweetwater Development, LLC.

FINANCIAL IMPACT: There is no direct financial impact in including the project in the Brownfield Plan, although the redevelopment of the site into a residential development will eventually add to the tax base in Muskegon.

BUDGET ACTION REQUIRED: None

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

COMMITTEE RECOMMENDATION: The Brownfield Redevelopment Authority met on April 9, 2019 and approved the Brownfield Plan Amendment, and recommends the approval of the Brownfield Plan Amendment to the Muskegon City Commission. In addition, the Brownfield Redevelopment Authority recommends that the Muskegon City Commission set a public hearing on the

Plan Amendment for May 14, 2019.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to approve the resolution to set a public hearing and authorize the Mayor and Clerk to sign the resolution.

ROLL VOTE: Ayes: Gawron, Hood, Warren, Rinsema-Sybenga, Turnquist, and Johnson

Nays: None

MOTION PASSES

K. Pere Marquette Park Chalet Request Department of Public Works

SUMMARY OF REQUEST: 3rd Coast Rentals provided staff with a proposal to construct and operate a chalet at Pere Marquette Park for a three-year period to begin in 2019.

FINANCIAL IMPACT: Loss of revenue estimated at \$1,500/Year for three years.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Authorize staff to finalize an agreement with 3rd Coast Rentals to construct to construct and operate a chalet at Pere Marquette Park.

Motion by Commissioner Turnquist, second by Commissioner Rinsema-Sybenga, authorize staff to finalize an agreement with 3rd Coast Rentals to construct and operate a chalet at Pere Marquette Park.

ROLL VOTE: Ayes: Hood, Warren, Rinsema-Sybenga, Johnson, and Gawron

Nays: Turnquist

MOTION PASSES

2019-34 PUBLIC HEARINGS:

A. Public Hearing for the 2019 Action Plan Community & Neighborhood Services

SUMMARY OF REQUEST: To conduct a public hearing on April 23, 2019 to receive comments from the public concerning the 2019 Action Plan developed and proposed by the Community and Neighborhood Services department.

After the public hearing, all comments received during the 30-day comment period (April 15-May 14) will be documented and included in the plan as required.

FINANCIAL IMPACT: The City is required to submit the Annual Action Plan to receive 2019 allocations of CDBG and HOME Investment Partnership Programs

BUDGET ACTION REQUIRED: Approve a 2019 Budget at the May 14

Commission meeting at the conclusion of the comment period.

STAFF RECOMMENDATION: To direct staff to gather comments from the public for the 2019 Action Plan until May 13, 2019 – end of comment period.

PUBLIC HEARING COMMENCED: No public comments were received.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Warren, to close the public hearing and direct staff to gather comments from the public for the 2019 Action Plan until May 13, 2109 – the end of the comment period.

ROLL VOTE: Ayes: Warren, Rinsema-Sybenga, Turnquist, Johnson, Gawron, and Hood

Nays: None

MOTION PASSES

B. Public Hearing for DWRP Project Plan Department of Public Works

SUMMARY OF REQUEST: Conduct a public hearing related to the DWRP Project Plan that was posted for public comment on March 23, 2019 and approve the Resolution to adopt the plan.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Conduct public hearing and approve the resolution.

PUBLIC HEARING COMMENCED: No public comments were received.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson, to close the public hearing and approve the resolution to adopt the plan.

ROLL VOTE: Ayes: Rinsema-Sybenga, Turnquist, Johnson, Gawron, Hood, and Warren

Nays: None

MOTION PASSES

2019-35 NEW BUSINESS:

A. Concurrence with the Housing Board of Appeals Notice and Order to Demolish Public Safety

1874 Jarman Street (Escrow Funds)

1079 Holt Street (Escrow Funds)

190 Wood Street (General Funds)

1873 Franklin Street (CDBG Funds)

SUMMARY OF REQUEST: This is to request that the City Commission concur with

the findings of the Housing Board of Appeals that the structures are unsafe, substandard, a public nuisance and that they be demolished within thirty (30) days or infraction tickets may be issued. It is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute contracts for demolition with the lowest responsible bidder or staff may issue infraction tickets to the owners, agents, or responsible parties if they do not demolish the structure.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

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

Motion by Commissioner Warren, second by Commissioner Johnson, to concur with the Housing Board of Appeals decision to demolish 1873 Franklin Street, 190 Wood Street, and 1079 Holt Street.

ROLL VOTE: Ayes: Rinsema-Sybenga, Turnquist, Johnson, Gawron, Hood, and Warren

Nays: None

MOTION PASSES

Motion by Commissioner Warren, second by Commissioner Rinsema-Sybenga, to concur with the Housing Board of Appeals decision to demolish 1874 Jarman.

ROLL VOTE: Ayes: Rinsema-Sybenga, Turnquist, Johnson, and Gawron

Nays: Hood and Warren

MOTION PASSES

B. Revised Notice of Intent to Issue Capital Improvement Bonds City Manager

SUMMARY OF REQUEST: The City Commission previously issued a notice of intent to issue capital improvement bonds for the purpose of constructing a convention center. The original intent provided for the borrowing of up to \$20 Million for a period of up to 25 years. Upon further review, staff is recommending that the notice be re-issued to allow for the term to be extended up to 30 years.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the Notice of Intent to Issue Capital Improvement Bonds up to \$20 Million for a repayment term not to exceed 30 years for the purpose of constructing a convention center.

Motion by Commissioner Warren, second by Commissioner Rinsema-Sybenga,

to approve the Notice of Intent to Issue Capital Improvement Bonds up to \$20 Million for a repayment term not to exceed 30 years for the purposes of constructing a convention center.

ROLL VOTE: Ayes: Gawron, Hood, Warren, Rinsema-Sybenga, Turnquist, and Johnson

Nays: None

MOTION PASSES

C. LC Walker Arena Restaurant Proposals City Manager

SUMMARY OF REQUEST: Economic Development Staff has reviewed the proposals and made a written recommendation. Staff is requesting permission to implement the action steps of that recommendation. Staff would return to a subsequent City Commission meeting to present lease terms for the accepted proposal(s).

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To accept the staff recommendation and authorize staff to implement the action steps.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson, to accept the staff recommendation and authorize staff to implement the action steps.

ROLL VOTE: Ayes: Hood, Warren, Rinsema-Sybenga, Turnquist, Johnson, and Gawron

Nays: None

MOTION PASSES

D. Purchase Agreement Extension – 1490 Lakeshore Drive REMOVED PER STAFF REQUEST

E. Arena Management – ARC Arena Management REMOVED PER STAFF REQUEST

PUBLIC PARTICIPATION: Public comments were received.

ADJOURNMENT: The City Commission meeting adjourned at 8:20 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk

Date: May 8, 2019
To: Honorable Mayor and City Commissioners
From: Ann Meisch, City Clerk
RE: 2019-2020 Michigan Municipal League
Membership Dues

SUMMARY OF REQUEST: Approval to pay the 2019-2020 MML dues in the amount of \$10,206. This is an increase of \$239.

FINANCIAL IMPACT:

MML Dues	\$9,278
Legal Defense Fund	<u>\$ 928</u>
Total	\$10,206

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.



michigan municipal league

MICHIGAN MUNICIPAL LEAGUE
MEMBERSHIP RENEWAL INVOICE

2019 - 2020

Muskegon

ID: 347

Date: 05/01/2019

Membership Period: 07/01/2019 - 06/30/2020

Current Balance

* MML Dues	9,278.00
** Legal Defense Fund	928.00
	\$10,206.00

Total Due by July 01, 2019:
\$10,206.00

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)

(Date)

* MML dues include annual subscriptions to *The Review* for your officials at \$12.00 per subscription, which is 50% of the regular subscription rate.

** The Legal Defense Fund is an optional charge. The purpose of the Fund is to provide specialized legal assistance to member municipalities in cases that have significant statewide impact.

See what the League can do for you by visiting www.mml.org

Michigan Municipal League
P.O. Box 7409
Ann Arbor, MI 48107-7409
800-653-2483

Commission Meeting Date: May 14, 2019

Date: May 9, 2019
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Zoning Ordinance Amendment - Planned Unit Development
Section of Single Family Residential Districts - 2nd Reading

SUMMARY OF REQUEST:

Staff initiated request to amend Section 403 of the zoning ordinance to revise the intent of the Planned Unit Development option by allowing limited retail options.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the zoning ordinance amendment

COMMITTEE RECOMMENDATION:

The Planning Commission unanimously recommended approval of the request 8-0 at their April 11 meeting

Hearing, Case 2019-09: Staff initiated request to amend Section 403 of the zoning ordinance to revise the intent of the Planned Unit Development option by allowing limited retail options.

SUMMARY

1. The PUD option in single-family residential districts currently does not specify whether limited business options are allowed or not. Staff believes that limited business options, such as those allowed in B-1 districts, would be beneficial to residential PUDs.

CURRENT LANGUAGE

SECTION 403: PLANNED UNIT DEVELOPMENT OPTION [amended 12/97]

Planned unit developments (PUDs) may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the single family residential district is to allow for flexibility in the design of housing developments, including but not limited to condominium developments and cluster subdivisions, to allow for the preservation of open space; allow for economies in the provision of utilities and public services; provide recreational opportunities; and protect important natural features from the adverse impacts of development.

PROPOSED LANGUAGE (additions in bold)

Planned unit developments (PUDs) may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the single family residential district is to allow for flexibility in the design of housing developments, including but not limited to condominium developments and cluster subdivisions, to allow for the preservation of open space; allow for economies in the provision of utilities and public services; **allow for limited business options that serve the neighborhood;** provide recreational opportunities; and protect important natural features from the adverse impacts of development.

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend Section 403 of the zoning ordinance to revise the intent of the Planned Unit Development option by allowing limited retail options.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

NEW LANGUAGE

(Additions in **bold**)

Planned unit developments (PUDs) may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the single family residential district is to allow for flexibility in the design of housing developments, including but not limited to condominium developments and cluster subdivisions, to allow for the preservation of open space; allow for economies in the provision of utilities and public services; **allow for limited business options that serve the neighborhood;** provide recreational opportunities; and protect important natural features from the adverse impacts of development.

This ordinance adopted:

Ayes: _____

Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____
Ann Meisch, MMC, 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 14th day of May, 2019, 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 the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2006, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2019.

Ann Meisch, MMC
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 14, 2019, the City Commission of the City of Muskegon adopted an ordinance to amend Section 403 of the zoning ordinance to revise the intent of the Planned Unit Development option by allowing limited retail options

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 _____, 2019.

CITY OF MUSKEGON

By _____
Ann Meisch, MMC
City Clerk

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

Account No. 101-80400-5354

Commission Meeting Date: May 14, 2019

Date: May 9, 2019
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Zoning Ordinance Amendment – Landscaping Requirements
2nd Reading

SUMMARY OF REQUEST:

Staff initiated request to amend Section 2331 of the zoning ordinance to allow applicants to donate trees to the City's nursery rather than to replace trees on site during development.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the zoning ordinance amendment

COMMITTEE RECOMMENDATION:

The Planning Commission unanimously recommended approval of the request 8-0 at their April 11 meeting

Hearing, Case 2019-10: Staff initiated request to amend Section 2331 of the zoning ordinance to allow applicants to donate trees to the City's nursery rather than to replace trees on site during development.

SUMMARY

1. The ordinance requires that certain live trees on development sites must remain or be replanted elsewhere on site. However, that is not always possible due to limited space. Staff is suggesting that those trees may be donated to the City's nursery instead.

NEW LANGUAGE (additions in bold)

Preservation Required: All existing live trees in excess of twelve (12) inches in diameter and at four and one half (4 ½) feet above the ground shall be preserved as much as practical. **Those that must be removed and cannot be replaced on site may donate those trees to the City's nursery to be used elsewhere around the City.**

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend Section 2331 of the zoning ordinance to allow applicants to donate trees to the City's nursery rather than to replace trees on site during development.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

NEW LANGUAGE

(Additions in **bold**)

Preservation Required: All existing live trees in excess of twelve (12) inches in diameter and at four and one half (4 ½) feet above the ground shall be preserved as much as practical. **Those that must be removed and cannot be replaced on site may donate those trees to the City's nursery to be used elsewhere around the City.**

This ordinance adopted:

Ayes: _____

Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____
Ann Meisch, MMC, 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 7th day of May, 2019, 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 the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2006, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2019.

Ann Meisch, MMC
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 7, 2019, the City Commission of the City of Muskegon adopted an ordinance to amend Section 2331 of the zoning ordinance to allow applicants to donate trees to the City's nursery rather than to replace trees on site during development.

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 _____, 2019.

CITY OF MUSKEGON

By _____
Ann Meisch, MMC
City Clerk

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

Account No. 101-80400-5354

AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Frank Peterson, City Manager

DATE: May 7, 2019

RE: Marina Management Agreement

SUMMARY OF REQUEST:

Staff has been working with the developer of Hartshorn Marina Village to create a plan to co-manage the marina and the condominium association. The two assets will have many of the same users and will share many of the same amenities. Consistency in management is important to both organizations. Staff is recommending approval of the attached marina management agreement. It is expected the agreement will be cost-neutral compared to the city's previous years' management expenses.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

To authorize the city manager to enter into the attached agreement.

COMMITTEE RECOMMENDATION:

MARINA MANAGEMENT AGREEMENT

THIS AGREEMENT is made as of this 1st day of May, 2019 by and between The City of Muskegon ("Owner") and _____, a Michigan corporation ("Manager").

WITNESSETH:

In consideration of the mutual covenants herein contained, Owner and Manager agree as follows:

SECTION ONE: BASIC TERMS

- (a) Owner Address: 933 Terrace Street
Muskegon, MI 49440
- (b) Owner's Fed. I.D. No.:
- (c) Manager's Address:
- (d) Premises: Hartshorn Marina
920 W. Western Avenue
Muskegon, MI 49441
- (e) Original Term: 5 Years
Starts: March 1, 2019
Ends: February 28, 2025
- (f) Management Fee: One-time Startup Fee: \$6,500.00
(Due upon Agreement execution)
- Management Base Fee: \$3,700 per month
- Incentive Fee : Manager to be paid additional fee based on revenue over the Base Year actual as follows :
- | Revenue | Fee |
|----------------|-----|
| Up to \$25,000 | 25% |
| \$25,001 + | 30% |
-
- | Base Gross | |
|------------------|-----------|
| 7/1/19 – 6/30/20 | \$340,000 |
| 7/1/20 – 6/30/21 | \$350,000 |
| 7/1/21 – 6/30/22 | \$360,000 |
| 7/1/22 – 6/30/23 | \$370,000 |
| 7/1/23 – 6/30/24 | \$380,000 |

The annual base will increase by \$50,000 beginning in the first full year after completion of a pool and new clubhouse.

The annual base will increase by \$50,000 beginning in the first full year after completion of a new main pier.

(g) Operating Budget Due Date: 60 days prior to start of year

(h) Management Reports provided: 15th of each month

(l) Fiscal Year July to June

(j) Expenditure Limit: \$5,000
Further defined in section 3(d)
Repair and Maintenance

(k) Reimbursable On-Site Employees:

Costs of on-site property manager ("Manager") and/or on-site dockhands will be reimbursed by Owner, with the full cost of such included in the annual Operating Budget to be approved by Owner. Any and all such personnel so employed will be the employee of Manager and not of Owner. Manager shall fully comply with all applicable laws and regulations pertaining to such employees including, effecting and maintaining worker's compensation insurance and other required insurances, withholding and payment of employment taxes, paying wages, and unemployment compensation, filing required state and federal tax reports, paying wages and monitoring hours of labor and such other matters as the parties shall specifically agree to in writing (collectively, the "Employee Related Expenses"). Manager represents that it is and will continue to be an equal-opportunity employer and must advertise as such. Notwithstanding the foregoing, Owner hereby acknowledges and agrees that Manager shall submit for prompt payment by Owner to Manager all such Employee Related Expenses. Manager is the Employer and is responsible to comply with any and all employment laws.

(l) Advance Deposit Requirement: \$10,000.00

Upon start date of this Agreement, Owner shall deposit sufficient funds, with Manager, to cover one month's payment of Reimbursable Employee wages, all other Employee Related Expenses and Management Fees. Such account shall be established and maintained by Manager for the timely payment of all Employee Related Expenses. Advanced Deposited funds will be reimbursed to Owner upon dissolution of said Agreement and settlement of all payments due to manager including but not limited to fees, reimbursements and other payables.

(m) Minimum Funds Balance: \$5,000.00

Construction Management/General Contracting Services: Manager will provide general oversight and assistance on minor construction activities without additional charge other than as specified above for employee time. In the event Manager acts in the capacity of a construction manager at Owner's request,

Manager's fee structure for projects wherein total construction costs exceed Twenty-Five Thousand Dollars (\$25,000.00) is Eight percent (8.0%) of such costs, minus architectural and engineering fees.

(n) Operating Expense Reimbursement to Manager:

Exclusions from Labor Expense: Owner will not be charged for the labor expense of the executives, property managers, accountants or clerical personnel in Manager's Corporate Office as such expense is included in the Management Fee. Notwithstanding the foregoing, Manager reserves the right to charge such labor expense in the event the services required to be rendered on behalf of Owner are deemed extraordinary. Extraordinary expenses could include those that require additional labor and expertise over what is required for the normal day to day operation of the Premises. In such event, Manager will discuss the extraordinary nature of such service and an appropriate hourly rate with Owner for such service. Manager shall obtain Owner's prior approval before performing such services. In the event Owner instructs Manager not to render such service or Owner fails or refuses to respond to Manager's request for authorization to perform such services within five (5) business days following Owner or Owner's authorized agent's receipt of Manager's notification of such extraordinary services, Owner shall be deemed to have declined authorization to Manager to perform such extraordinary services. Accordingly, Manager shall thereby be released from any and all claims, actions, proceedings, liabilities, damages, costs and fees including, without limitation, reasonable attorneys' fees and costs, arising directly or indirectly, in connection with Manager's failure or inability to perform such extraordinary services. In the event Manager notifies Owner of a condition(s) or circumstance(s) occurring upon the Premises which, in Manager's sole discretion, constitutes an emergency, Manager shall promptly notify Owner, or Owner's authorized agent, of such emergency and, unless otherwise directed by Owner or Owner's authorized agent, shall render such service as Manager, in Manager's sole discretion, deems reasonable and necessary to address such emergency, and Owner hereby agrees to and shall compensate Manager for such services at Manager's emergency rates and reimburse Manager for all other sums, if any, which Manager advances on behalf of Owner in the course of addressing such emergency.

SECTION TWO: AGENCY

Owner and Manager hereby acknowledge and agree that Manager is an independent contractor and shall act as Owner's exclusive agent to manage, operate, maintain and service the Premises as Manager determines, in Manager's sole discretion, and as further agreed between the parties in this Agreement. Owner agrees to promptly furnish Manager with copies of all documents and records to assist Manager in the management of the Premises including, but not limited to, leases, plans, vendor agreements and correspondence pertaining thereto, account balances, name, insurance policies and endorsements thereto and organizational documents including, without limitation, Articles and amendments thereto file stamped by the state of organization to allow bank account to be opened in Owner name, and verification of the federal employer identification number as requested by Manager. The foregoing organizational documents are provided to Manager for informational purposes only, and Manager is not responsible to interpret, apply or enforce such organizational documents in the execution of Manager's responsibilities under this Agreement. Exclusivity of appointment shall not apply to construction management or general contractor activities as Owner reserves the right to contract with third parties for such services. Owner hereby agrees to and shall release Manager from any and all claim, actions, proceedings, damages, liabilities, losses, cost and fees including, without limitation, reasonable attorneys' fees and costs, arising directly or indirectly, by reason of the acts or omissions of the third party construction manager and/or general contractor retained by Owner with respect to the Premises, except to the extent such claim, actions, proceedings, damages, liabilities, losses, cost and fees arise from negligence of the Manager.

SECTION THREE: DUTIES, AUTHORITY AND POWER OF MANAGER

During the term of this Agreement, Manager shall perform the following management functions in connection with the Premises. Owner hereby grants to Manager the following authority and powers, concurrent with Owner:

(a) Standards

Manager shall exercise reasonable care and diligence in the management of the Premises and in all acts and obligations of Manager pursuant to this Agreement. Manager agrees to furnish the services of its organization for the operation, servicing and management of the Premises as further set forth in this Agreement or otherwise agreed, in writing, between the parties.

(b) Lease Administration

1. Manager shall assist the Owner in Developing, implementing and executing a slip rental agreement and administration of slip rentals, which shall be approved by Owner.
2. The Manager shall be responsible for the administration of all leases and rental agreements affecting the Premises. Manager shall, in connection with such lease administration: monitor tenant and renter compliance and enforce the Owner's rights under all such leases; upon default by any tenant and after consultation with Owner, terminate tenancies and sign and serve in the name of the Owner eviction proceedings against defaulting tenants and to recover possession of the Premises, and recover rents and other sums due; or when expedient, settle, compromise and release such disputes, actions or suits or reinstate such tenancies; provide Owner with periodic forecasts of scheduled or anticipated vacancies; advise Owner of suggested lease rental rates and terms and/or preferred tenant use mix for vacant space.

(c) Operating Statements

Manager shall render accounting of income and expenses pertaining to the operation of the Premises to Owner on a monthly basis as set forth in Section 1(h), above. Manager shall furnish reports of all transactions occurring from the first day of the prior month to the last day of the prior month. These reports shall show all matters pertaining to the management, operation, finances and maintenance of the Property during the month. In addition, the reports shall compare the actual receipts and disbursement to the budgeted receipts and disbursements. Owner shall have access to Manager's books, records and receipts at Manager's office during normal business hours.

(d) Operating Budget

Manager shall submit to Owner for Owner's approval, on or before the dates set forth in Section 1(g), above, a budget of proposed expenditures and estimated income for the upcoming fiscal year. Thereafter, Manager shall submit to Owner for Owner's approval, at least sixty (60) days prior to the commencement of each succeeding fiscal year of Owner during the term of this Agreement, a similar budget for the Premises for the coming fiscal year. The budget when approved by Owner shall be used by Manager for the actual operation of the Premises and shall be subject to revisions as Owner and Manager may mutually agree. If Owner does not approve the budget prior to the start of the new fiscal year, Manager has Owner's permission to utilize Manager's proposed Operating Budget as a guide for operations of the Premises until approved by Owner.

(e) Collection of Fees, Deposits and/or Other Income

Manager shall charge, bill and collect all fees, rents and charges due or to become due under all facilities event leases and rental agreements upon the rates and charges schedules and policies to be approved and established from time to time by the Owner. Manager shall deposit, within two business days, all receipts collected for Owner in a separate insured project saving account(s) and or checking account(s) in a responsible depository institution, separate from Manager's other accounts. In addition, Manager shall collect all security deposits from renters for deposit in the separate savings account(s) and or checking account(s) in the same manner. Interest, if any, from such savings account shall accrue to the benefit of Owner except to the extent required to be paid to any renter as a return on a security deposit.

Owner shall have the obligation to and shall, at all times, assure that the Minimum Funds Balance required under this Agreement for the purposes of assuring the timely payment of all expenses and other obligations of Owner hereunder and to avoid the imposition of penalties. Manager will work with an Owner approved collection agency for accounts that exceed 30 days past due.

Notwithstanding Owner's obligations set forth in the preceding paragraph, Manager shall notify Owner in the event any of the balances in the deposit accounts maintained by the Manager on behalf of Owner shall decline below the Minimum Funds Balance and, in that event, Owner shall immediately restore such balances to at least the Minimum Funds Balance, except as otherwise required by Manager pursuant to this Agreement. Manager shall not be required to make any expenditure for Owner if Owner's account does not have sufficient funds.

(e) Operating Expenses

Manager shall, at Owner's sole cost and expense, make payments for utility charges, water charges, premiums for insurance and other charges resulting from the operation and management of the Premises.

(f) City Purchasing Policy

Manager shall follow all established purchasing policies, as adopted by the Muskegon City Commission.

(g) Repairs and Maintenance

Manager shall, at Owner's sole cost and expense, make, or cause to be made, and supervise repairs, maintenance, replacements, alterations, and decorating of the Premises, and purchase supplies and pays all bills therefore. All fees with respect to Manager's supervision under the preceding sentence shall comport with the fee schedule set forth under Section 1(f), of this Agreement. Manager agrees to secure the prior approval of Owner for all expenditures to be paid by Owner in excess of the amount set forth in Section 1(j), above, for any one item, except recurring operating charges or other expenses approved by Owner in the Operating Budget for the Premises submitted by Manager, and emergency repairs. In the case of an emergency, Manager shall immediately attempt to mitigate any further damage and stabilize the situation before seeking additional expenditure approval.

(h) Payment of Management Expenses

Manager shall pay all expenses incurred by Manager in rendering Manager's services under this Agreement and for which Owner is responsible pursuant to this Agreement by affecting such transfers of managed funds as necessary to issue proper payment to Manager and the various other payees. Notwithstanding Owner's obligation to assure the maintenance of the Minimum Funds Balance, Owner shall always maintain adequate balances, for the purpose of timely paying all current obligations of Owner pursuant to this Agreement. Subject to Manager's election to advance funds pursuant to Section 11 of this Agreement, in the event Owner fails to establish such adequate available balances in the deposit accounts managed by Manager within seven (7), including non-business, days following notice from Manager to Owner or Owner's authorized agent, Manager shall be entitled to, and Owner hereby acknowledges that Manager may, at Manager's option, either withdraw from further management obligations under this Agreement until Owner deposits the requested balances or terminate this Agreement upon seven (7), including non-business, days advance written notice to Owner, each without incurring liability to Owner. Notwithstanding the foregoing, Owner shall remain obligated to and shall timely pay the Management Fee for all periods through the termination of this Agreement. Similarly, Owner shall remain obligated to and shall timely pay all other expenses of or associated with management of the Premises.

(i) Independent Contractors

Manager shall hire, discharge and supervise all additional labor contractors required for the operation and maintenance of the Premises, it being agreed that all such additional contractors shall be deemed independent contractors. Manager may perform any of its duties through the employment of independent contractors.

(j) Contract for Services

Manager shall, at Owner's sole cost and expense, establish accounts and enter into contracts in the name of Owner for electricity, gas, fuel, water, telephone, rubbish removal, janitorial, security and other services Manager may deem advisable upon written approval of owner.

(k) Additional Services

Manager may, at its discretion, perform any other services beyond the scope of ordinary management services of this Agreement as requested in writing by Owner (including, but not limited to, supervision of major capital repairs, replacements or additions or restoration of damage due to fire or other casualty) for such reasonable additional compensation and upon such terms and conditions as the parties may mutually agree.

(l) Signage

Manager shall have the right to display appropriate company signage in location or locations at the facility approved in advance by Owner.

(m) Collections

The Manager shall collect and, as necessary, receipt all monthly or other assessments and other charges due to the Owner for operation of the Premises and all rental or other payments from tenants and concessionaires, if any, provided that the Manager shall have no responsibility for collection of delinquent assessments (accounts over 30 days past due). However, the Manager shall refer the delinquent account to the Owner or an approved legal firm for further action. Manager shall cooperate with Owner's attorneys in collection actions, including but not limited to, preparing necessary financial records and information.

(n) Owner

The Manager shall be custodian of the records related to the operation and management of the Premises but shall not be required to keep the official corporate records of the Owner. The Owner will identify a Designated Individual who will be authorized to direct the Manager on any matter relating to the management of the Premises. The Manager is directed not to accept directions or instructions with regard to the management of the Premises from anyone other than such designated individual. In the absence of a Designated Individual by the Owner, the Designated Individual shall be the person signing this agreement representing Owner.

SECTION FOUR: OWNER'S DUTIES

The Owner agrees that in its sole discretion, it will exercise reasonable efforts to enable the Manager to operate and maintain the Premises in first class condition, including, but not limited to, providing sufficient capital and/or financing for the Premises, approving operating budgets that provide sufficient funds to adequately maintain the Premises and taking all commercially reasonable steps necessary to make reasonable use of the premises and its facilities in the manner of its intended design and usage.

SECTION FIVE: INDEMNIFICATION

(a) Manager

Manager hereby agrees to and shall indemnify and hold Owner harmless from and against any and all claims, actions, proceedings, damages, liabilities, costs, expenses and fees including, without limitation, reasonable attorneys' fees and costs, arising directly or indirectly, from any of the following: (i) the willful misconduct or negligent acts or omissions of Manager or its employees or agents, except as otherwise set forth in this Agreement; (ii) the breach of any representation or warranty of the Manager given in or pursuant to this Agreement; or (iii) the breach or default in the performance by the Manager of any of the covenants, obligations or agreements in or pursuant to this Agreement, except as otherwise specifically set forth in this Agreement. In the event of any claim which is covered by an insurance policy maintained for the benefit of Owner or Manager, Manager hereby specifically waives, for itself and for all its insurers, all claims and rights of subrogation, which it may have against Owner, its employees and agents. This indemnity does not

apply to any acts of the Owner, its directors, officers or employees involving willful misconduct, fraud or bad faith.

(b) Mutual Cooperation

Should any claims, demands, suits or other legal proceedings be made or instituted by any person against Owner which arise out of any of the matters relating to this Agreement, Manager shall give Owner all pertinent information and reasonable cooperation in the defense or to the disposition thereof. If Manager is also named in such action, Owner shall also give Manager pertinent information and reasonable cooperation in the defense or other disposition of the aforementioned action. The obligations contained in this paragraph shall be in addition to, and not in limitation of, any other obligations, contained in this Agreement

SECTION SIX: INSURANCE

The Manager will purchase and maintain, the following types and amounts of insurance:

1. Workers' Compensation Insurance— For all employees of the Manager, employed at the facility or in any way required to fulfill or connected to the fulfillment of the terms of this Agreement. The insurance required by this provision will comply fully with the Workers' Compensation Law and include Employers' Liability Insurance with limits of not less than \$500,000 per occurrence. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage. No class of employee will be excluded from the Workers' Compensation coverage. Cost of this coverage will be included in the employee costs.
2. Liability Insurance - Commercial General Liability Insurance, including coverage for operations, independent contractors, products-completed operations, broad form property damage, and personal injury on an "occurrence" basis insuring the Manager and any other interests, including but not limited to any associated or subsidiary companies involved in the performance of the Agreement. Before beginning work, a certificate issued by a licensed insurance company showing General liability Insurance and Automobile Liability providing coverage at least equivalent to a combined single limit for bodily injury and property damage of \$1,000,000.00 and Products/Completed Operations Aggregate limit of \$2,000,000.00. Automobile Liability Insurance which will insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the Manager at the Premises or in any way connected with the work which is the subject of this Agreement. The limit of liability will be a combined single limit for bodily injury and property damage of no less than \$1,000,000 per occurrence. The cost of this coverage is with Manager and not charged to the facility.
3. Employee Dishonesty Insurance - The Manager will obtain and maintain an Employee Dishonesty Insurance Policy in the principle amount of not less than \$1,000,000. The cost of this coverage is with Manager and not charged to the facility.
4. Marina Operators Legal Liability and Protection and Indemnity Insurance: coverage in the amount of not less than \$2,000,000 insuring the Owner and Manager. The cost of this coverage will be considered an expense of the marina.
5. Owner is responsible for property damage insurance for all property including structures and contents, underground storage tanks and resulting liability, docks and systems.
6. In the event of any claim which is covered by an insurance policy maintained for the benefit of Owner and Manager, Owner hereby specifically waives, for itself and for all its insurers, all claims and rights of subrogation, which it may have against Manager, its employees and agents.

Policies shall be written with an insurance carrier with an AM Best rating of "A-" or better. Policies noted above that are obtained by Owner shall list Manager as Additional Insured under the policies and on a "Primary & Noncontributory" basis with respect to liability arising out of the ongoing operations & completed work per ISO CG2010 07/04 & CG2037 7/04 (or equivalent). This insurance shall be primary over all other available insurance. Insurance must be maintained and certificates provided on workers' comp, General Liability and Automobile liability as long as the Manager is performing services on behalf of the Owner.

SECTION SEVEN: COMPENSATION

Owner hereby agrees to and shall pay to Manager, in consideration of Manager's services to be rendered under this Agreement, the Management Fee as and when the same is due. The Base Management Fee shall be made in monthly installments from the operating account of the Premises under the management of Manager as defined in 1 (f). The Incentive Fee defined in Section 1(f) shall be paid within 60 days after the end of the year and shall be equal to the gross revenue for the current year, minus the gross revenue for the Base Year and the total (if a positive number) multiplied by 25% up to \$25,000 and 30% above \$25,000.

SECTION EIGHT: TERM

The term of this Agreement shall be as set forth in Section 1(e), above, unless otherwise terminated as provided in this Agreement. Either party shall have the right to terminate this Agreement upon sixty (60) calendar days prior written notice to the other at which time Manager and Owner shall fully and completely perform their remaining obligations under this Agreement including, without limitation, the payment of the Management Fee and all other fees, expenses and charges due to Manager and third parties through the date of termination of the Agreement pursuant to such notice, and the parties shall thereafter have no further obligations to each other.

SECTION NINE: TERMINATION

(a) This Agreement may be terminated:

- (1) By either party as provided in Section 8, above; or
- (2) By either party without prior notice, in the event a petition in bankruptcy is filed by or against the other party, and such petition is not dismissed within thirty (30) days of filing or either party makes an assignment for the benefit of creditors, or invokes any insolvency act; or
- (3) By either party upon material breach of any term or condition of this Agreement by the other party and failure to cure such breach within thirty (30) days after written notice of such breach has been given to the breaching party.

(b) In the event of termination of this Agreement, Manager shall at no cost to Owner promptly deliver to Owner:

- (1) Copies of all books, records, contracts, leases, receipts for deposits, unpaid bills, and deposit accounts records pertaining to the management of the Premises;
- (2) A final accounting, reflecting the balance of income and expenses on the Property as of the date of termination, delivered within 30 days after such termination; and
- (3) Any balance of monies of Owner or tenant security deposits, or both, held by Manager with respect to the Property shall be delivered to Owner after the payment of the Management Fee and all other

fees, expenses and charges which are the responsibility of Owner to pay pursuant to this Agreement, except such security deposits shall not be offset to the extent such offset is prohibited by applicable law.

- (c) In the event of termination of this Agreement, Owner will deposit a sum equal to the average of one-months operating expenses in the property's operating account to ensure all retroactively billed expenses are satisfied by billing due dates, expediting account closeout.
- (d) Upon termination, Agent shall be paid by Owner post-termination Management Fees to assist in providing consulting services related to the operation and management of the Premises and assisting a new operator during the initial ninety (90) day transition period. The post-termination Management fees will be equal to a full month's Management Fee for the first thirty (30) days, one-half (1/2) Management Fee for the subsequent thirty (30) days.

SECTION TEN: CONFLICTS OF INTEREST

Manager represents to Owner that Manager and its officers, directors, shareholders and affiliates are active and will continue to be active in developing, marketing, managing and leasing, marinas, office, commercial and industrial facilities in the same market or region as the Premises and Owner agrees that such activities do not constitute a conflict of interest hereunder or otherwise constitute a breach of Manager's duties hereunder.

SECTION ELEVEN: WORKING CAPITAL AND ADVANCES

Upon commencement of the term of this Agreement, Owner shall deposit with Manager, to be held in the project savings account referenced under Section 3(e), above, an initial working capital deposit in the amount set forth in Section 1(m), above. Such working capital fund may be used by Manager to pay operating expenses for the Premises until sufficient revenues are generated by the Premises to pay the same. The amount retained in this account, as a working capital fund, shall be adjusted from time to time as Manager and Owner approve and the Operating Budget shall be revised accordingly. If for any reason there are not sufficient cash receipts from the Premises and/or working capital reserves to pay any and all expenses of operating and maintaining the Premises as outlined herein, Owner shall promptly deposit with Manager sufficient funds to cover such shortfall, within ten (10) days after receipt of written request from Manager. If Owner fails to make any such advance, or otherwise fails to pay any expense required to be paid by Owner hereunder, or if any emergency makes it impractical for Manager to give the Owner such prior notice, Manager shall have the right, but not the obligation and without waiving or releasing the Owner from any of the Owner's obligations hereunder, to advance sufficient funds to pay such expenses on behalf of Owner. All sums so paid by the Manager and all necessary incidental costs shall be immediately due and owing from Owner to Manager and shall accrue interest until paid at the rate of two percent (2%) above the prime rate declared under the "Money Rates" table published from time to time by The Wall Street Journal, Midwest Edition. Manager shall have the right to apply all income from the Premises (after payment of all operating and debt service expenses of the Premises and payment of the Manager's compensation due under Paragraph 7, above) toward repayment of any advance made by Manager hereunder.

SECTION TWELVE: ADDITIONAL PROVISIONS

(a) Mediation

All claims, disputes or any other matters in question between the parties arising out of or relating to this Agreement or breach thereof shall be subject to mediation as a condition precedent to the institution of any legal proceedings by either party. The parties shall attempt to resolve claims, disputes and other matters in question between them through mediation. A request for mediation shall be filed in writing with the other Party to this agreement. The mutually acceptable mediator selected by the Parties shall set the mediation

rules and procedures, including discovery, if necessary. The parties shall share equally in all mediation fees and expenses. Any agreement reached by the Parties through mediation shall have the same force and effect as settlements in any court having jurisdiction thereof.

(b) Non-Solicitation

Owner hereby acknowledges that Manager has invested significant time and expense in selecting, developing, educating and supporting Manager's employees and contractors ("Employees") and integrating Manager's Employees into Manager's business, operations and affairs. Owner further hereby acknowledges that such Employees are material to the operation and success of the business, operations and affairs of Manager. Therefore, the parties agree that Manager has a legitimate and protectable interest in maintaining a continuous employment relationship with its Employees. In view of the foregoing, Owner hereby warrants, represents and covenants to Manager that, in no event, will Owner either solicit, or assist any person or entity to solicit, any Employee for the purpose of terminating or curtailing such Employee's relationship with Manager or cause any event(s) to occur which terminates or curtails such Employee's relationship with Manager.

Owner and Manager agree that if Manager hires existing staff at the Premises, that this Non-Solicitation provision will not apply to those employees until the end of the 24th month of the term.

Owner is aware that irreparable injury may result to Manager and its business in the event that Owner breaches or violates any of the restrictions imposed under this Section for which money damages may not provide adequate relief. Owner therefore agrees that should it, or any person or entity on its behalf, engage in any act in violation of the provisions of this Section, then if the violation continues after a 10 day notice to Owner (i) Manager shall be entitled to, in addition to all other remedies and damages as may be available at law, in equity or by statute, injunctive and other forms of equitable relief preventing such violation and/or breach and to recover from Owners Manager's costs including without limitations, reasonable attorneys' fees and costs incurred in connection with enforcing the provisions of this Section.

(c) Notices

Any written notice required or permitted to be given by either party to the other pursuant to this Agreement shall be delivered in person or sent by either United States certified mail, return receipt requested, postage prepaid or by Federal Express or other nationally recognized delivery service. Notices and demands to Manager shall be addressed to the address set forth at Section 1(c) hereof or to such other place as Manager may, from time to time, designate in a written notice to Owner. Notices and demands to Owner shall be addressed to the address set forth at Section 1(a) hereof or to such other place as Owner may, from time to time, designate in a written notice to Manager.

(d) Non-assignable

This Agreement and any rights hereunder may not be assigned without the prior written consent of the other party. . Any attempt to assign this Agreement or any rights herein without the prior written consent of the other party shall be void.

(e) Binding Provisions

Subject to the provisions of Section 11, above, the covenants and agreements contained herein shall be binding upon, and inure to the benefit of the heirs, executors, administrators, personal representatives, successors and assigns of the respective parties hereto.

(f) Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

(g) Severability

Each provision of this Agreement shall be considered severable and if for any reason any provision or provisions hereof are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

(h) Headings

Section headings are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

(i) Interpretation

When the context in which words are used in this Agreement indicates that such is the intent, words in the singular shall include the plural and the masculine shall include the feminine and neuter and vice versa. The pronouns used in this Agreement referring to Manager shall be understood and construed to apply whether Manager is an individual, partnership, corporation or an individual or individuals doing business under a firm or trade name.

(j) Entire Agreement

This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. Except as otherwise herein provided, any and all amendments, additions or deletions to this Agreement shall be null and void unless approved in writing by both parties.

SECTION THIRTEEN: ENGAGEMENT

Manager hereby reserves the right to postpone any and all management and operating work until applicable parties named on Signature Page have signed and dated this Agreement in full.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and sealed as of the day, month and year first above written.

OWNER: _____

By: _____

Its: _____

Dated: _____

MANAGER: FOUNDERS 3 MANAGEMENT COMPANY D/B/A F3 MARINA

By: _____
John Matheson, President

Its: President

Dated: _____

EXHIBIT D

1. Property Management and Operations Responsibilities

(a) **Facilities Property Management**

Manager shall be responsible for the operation, care, custody, and control, including all daily and routine maintenance and repairs of all personal property and all real property and fixtures thereon within the Premises, as specified herein including:

- (1) All permanent and floating piers, docks, and other mooring facilities, on land or in water.
- (2) All buildings, facilities, and structures within the confines of the marina, including but not limited to the administration building; restroom and shower facilities; and fueling station, pump-out equipment and dock, future pool, gazebo and clubhouse, along with all fuel storage and fuel systems.
- (3) All walkways, driveways, and parking lots and/or buildings, facilities, boat launch, and structures that Manager is responsible for managing within the defined area noted in Exhibit D.
- (4) All electrical, mechanical, plumbing, heating, ventilation and air conditioning equipment in or on the facilities, including equipment made available to accommodate vessels moored at slips.

Manager shall keep in good repair and maintain all of the facilities and equipment described above in clean and orderly condition and shall continually assess and offer regular written recommendations to Owner on how to improve facilities and equipment at the Premises. The Premises and all facilities are at all times subject to entry by authorized officers, agents, and employees of Owner for purposes of inspection or water or engineering tests, or for other reasons.

(b) **Marina Administration**

Manager shall conduct in a businesslike and customer-friendly manner all the administrative aspects of operation of a first-class marina, including, but not limited to:

- (1) Accessibility and friendly attention to slip tenants, their families and guests, and prompt, courteous responsiveness to their needs and reasonable requests;
- (2) Develop and maintain clear and frequent communications with all slip tenants on matters of general concern and interest;
- (3) Operation, including regular updating, of a website that encompasses all facets of the marina operations and matters of significance to current and prospective renters, including, but not limited to, verbal and imagery description of marina facilities and the surrounding area, current weather information, seasonal and transient slip fees, and promotions and other marketing projects;
- (4) Safe, efficient, and courteous operation of the fueling and pump-out station in compliance with all applicable federal, state, and local laws and regulations;
- (5) Operation of the fueling/pump-out station shall occur during mutually agreed up-on hours;
- (6) Design and operation of retail ship store for consumer requested items to be located in the Administration Building.
- (7) Fuel prices shall be updated on the marina website reflecting any change in pricing.

- (8) Establishment and implementation of effective systems for processing, monitoring, and accounting for slip rental payments of all renters, in accordance with the terms of the applicable slip rental agreements;
- (9) Responsible for the administration of all leases on water and land. In connection with such lease administration: monitor tenant compliance and enforce Owner rights under all such leases; upon default by any tenant and after consultation with Owner, terminate tenancies and sign and serve in the name of Owner to evict tenants and to recover possession of the Premises, and recover rents and other sums due; when expedient, settle, compromise and release such disputes, actions or suits or reinstate such tenancies up to \$5,000; communicate regularly with the local Police to enforce all ordinances; provide Owner with periodic forecasts of scheduled or anticipated vacancies; suggested lease rental rates and terms and/or preferred tenant use for vacant space;
- (10) Establishment and implementation of effective financial systems for handling, safeguarding, accounting for, and regularly transferring to Owner, funds received in the course of operation and management of the marina, including, but not limited to, slip rentals and deposits; transient slip fees.
- (11) Facilitation of visits by transient boaters; boaters visiting the marina and boaters coming to assess the marina's suitability as a permanent mooring location;
- (12) Manager shall meet state requirements for dispensing of fuel including proper licenses and inspections.
- (13) Training of staff and use of marine radio including proper communication.
- (14) Training of staff for sufficient skills for providing assistance to boaters in docking and line handling.
- (15) Training of staff to be familiar with boating language and skills to perform tasks as required.
- (16) Hold staff accountable and properly train through weekly meetings by supervisors.
- (17) Manager shall maintain the Premises in high level of appearance and condition based upon its age and use:
- (18) Operation of the on-site marina office during mutually agreed upon hours:

(c) Marina Marketing

Manager shall provide marketing of Premises, including but, not limited to the following:

- (1) Create and distribute promotional materials to slip tenants and visitors in a manner that targets the boaters:
- (2) Distribution of materials related to rentals for the next season, such as price lists and notices of long or limited-term promotional offers to slip tenants and visitors, and placement of such materials in public areas of the marina and, as permitted, in other locations where they can reach the boating public;
- (3) Distribution of slip rental and deposit agreements for rentals for the next season, to slip tenants, visitors, and other interested persons; and receipt and processing of applications for slip rentals, including acceptance of slip deposits;

- (4) Providing internet access to appropriate documents, materials, and information described in the foregoing items through posting on the marina's website and/or providing links to such items;
- (5) Development and management of the official marina website;
- (6) Being available to interested persons, throughout the year, to provide information about slip rentals, etc.;
- (7) Utilization of social media and other electronic marketing;
- (8) Development of electronic or print marketing in publications as budget permits:

2. Standards of Service

- (a) Manager agrees to operate and maintain Premises as a first-class facility, providing services generally expected of first-class marinas for the region.
- (b) Manager shall, subject to annual budget limitations, provide sufficient and competent employees to adequately manage, maintain and operate the marina facilities and equipment and to meet the ongoing needs of the customers served by the marina.
- (c) Said staff shall be competent and able to understand buildings and grounds maintenance and up-keep, as well as deal effectively and courteously with the boating and general public in a recreational setting with an attention to detail, and to adequately operate the marina at all times, including the ability to respond in case of emergency after normal working hours. Manager shall further provide regular and adequate training to said staff so that they are able to perform maintenance on the marina facilities and equipment in a quality workmanlike manner.
- (d) Train in fueling and safety procedures for fuel dock
- (e) Perform weekly meetings with staff to discuss goals/performance
- (f) It is understood that Managers seasonal employees may be used for duties by Owner at other locations outside of the marina when demand for staffing at the marina allows for use of such employees as mutually agreed upon between Manager and Owner.
- (g) Manager shall enforce current rules and city ordinances pertaining to the marina. Any additional rules proposed by Manager shall be approved in writing by Owner prior to their posting. Said approval by Owner shall not be unreasonably withheld.
- (h) The Premises shall not be used for any illegal purposes, or in violation of any valid regulation of any governmental body, nor in any manner to create any nuisance or trespass, nor in any manner which may invalidate the insurance coverage of the premises or increase the rate of insurance coverage on the premises. All activities must receive written approval by Owner.
- (i) Manager shall operate the premises as a public marina, open and available to all persons regardless of race, color, creed, national origin, or physical handicap, and in compliance with all applicable federal, state and local anti-discrimination laws.
- (j) Manager shall not allow any boater to occupy a slip without payment in full for the space at the pre-authorized rental fee amount, without prior written authorization from Owner.

3. Slip Rental Fees and Other Fees and Charges

- (a) Manager shall recommend fee structure and charge slip rental fees, transient fees, slip rental deposit fees, and other fees and charges for use of the marina facilities as established by Owner and set out in the annual Operating Budget or otherwise pre-authorized. Manager shall have the right to offer discounted fees, seasonal rates, and special group rates, only with the expressed written approval of Owner.
- (b) Manager may charge such lawful fees and prices as it chooses for any goods (e.g., fuel and items sold at retail in a convenience store) or for any other services (e.g., concierge services) that it offers to the public, provided they are pre-approved in writing by Owner.

4. Daily Operation

The marina shall be operated on a seven day a week basis from at least April 1st through at least October 31st.

5. Maintenance, Repairs, Damage, Destruction and Restoration

- (a) Manager shall, throughout the term of this property management and operation agreement, keep and maintain the premises, including, but not limited to all structures and improvements of every kind which may be a part of the marina facilities, including the heating, ventilating and air conditioning systems; electrical, plumbing and sewer lines; hot water heaters and water softener systems; fire suppression and exhaust systems; building security systems; emergency lighting systems and the like.
- (b) Manager shall, at Owner's sole cost and expense, establish accounts and enter into contracts in the name of Owner, after Owner review and approval, for electricity, gas, fuel, water, steam, telephone, window cleaning, rubbish removal, janitorial, security and other services Manager may deem advisable and as provided for in the Operating Budget.
- (c) Based on the standard in commercial property management and marina management, Manager shall perform all indoor and outdoor maintenance functions needed to maintain the marina in a clean and presentable condition, including but not limited to routine sweeping and washing of walkways and piers, weed removal above and below the water in the marina, removal of cobwebs on exterior docks/breakwall/tables/chairs and regular removal of dirt and debris from all exterior faces of the marina facilities. All wood ramps and dockage shall be inspected daily and cleaned of any water fowl droppings using a method that will cause the least damage to the wood planks. Manager shall provide, or shall arrange for, interior housekeeping, including of restrooms and shower facilities. Additional duties include:
 - (1) Maintain restrooms and trash receptacles after Public Works hours
 - (2) Ensure all flags are up and inspected
 - (3) Inspect break wall for bird droppings/garbage/debris
 - (4) Painting of picnic tables/decks/buildings as time permitted
- (d) Owner may and shall without notice inspect and demand that conditions, which are in its opinion unsatisfactory, be corrected without delay.
- (e) Manager agrees to keep clean and in an orderly condition, any and all structures and improvements of the marina used by Manager. Manager shall not be allowed to store on the marina premises equipment, vehicles, materials, supplies, etc. not required for carrying out this marina management and operation agreement without expressed written permission from Owner.
- (f) Owner shall be responsible for major repairs as needed in sole discretion of Owner. Major repairs shall be defined as structural repairs, including, but not limited to such categories as building floors (excluding carpeting and tile), exterior walls and roofs, heating and air conditioning systems, water and sewer laterals, and electrical service leading to the building.

- (g) Manager shall make no major alterations, additions, major repairs, permanent decorations, restorations, or improvements of the leased premises without first submitting plans and specifications therefore to Owner for its written approval.
- (h) Manager will be authorized to identify and remediate exigent maintenance issues that arise. Manager will communicate, either directly or through the Marina Manager, with Owner representative in as contemporaneous time frame as possible given the circumstances. Manager will procure remedial goods or services and follow with written notice to Owner and the corresponding reply authorization is a condition precedent to Manager's purchases on behalf of Owner.

6. Capital Improvements

Owner has the right to make whatever capital improvements it deems necessary or desirable at any time without expense to Manager. Before making any such improvements, Owner shall meet with Manager to discuss the effect of the improvement and making of such improvement upon operation and use of the marina premises. Manager and Owner shall work together to minimize or limit any adverse effect of any such improvement or the making of such improvement upon boaters' enjoyment of the use of the marina.

Owner shall make a good faith effort to minimize or limit any adverse effect of any such improvement or the making of such improvement upon Manager's operation of the marina. The parties expressly understand and agree that Manager shall not be relieved of any of its obligations under this agreement, nor shall Owner be liable to Manager for any interruptions of, or costs or damages to, Manager's operation that may result from Owner making any capital improvements.

7. Easements

This real estate management and operation agreement is subject to all easements of record relating to the marina premises and the rights of Owner and other public utilities to go upon the marina premises for the purpose of installing, removing, inspecting or maintaining public utilities.

7. Inspection and Accounting

- (a) Owner shall have the right, at any and all reasonable hours, and upon reasonable notice, to have an accountant inspect and verify the books of Manager with reference to its handling and disposition of slip rentals, transient fees, and other fees and charges for use of the marina facilities. Owner shall have the right at Owner's expense, at any and all reasonable hours, and upon reasonable notice, to have an audit performed upon Manager's handling and disposition of slip rentals, transient fees, and other fees and charges for use of the marina facilities, as Owner may deem necessary or desirable.
- (b) Owner shall have the right of access to any and all portions of the marina premises, at any and all hours, for the purpose of inspecting, analyzing and/or gathering information relating to the premises itself.

AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners
FROM: Frank Peterson, City Manager
DATE: May 7, 2019
RE: Arena Management – Arc Arena Management

SUMMARY OF REQUEST:

Staff is seeking approval with Arc Arena Management to undertake the daily management of the LC Walker Arena. Matt Gongalski and Arc Arena Management have been managing aspects of the arena for the past year. With the departure of the previous arena manager, staff is recommending that Arc be appointed to fill that role.

FINANCIAL IMPACT:

First Year: \$57,000

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

To authorize the city manager to enter into the attached agreement with Arc Arena Management to manage the LC walker Arena.

COMMITTEE RECOMMENDATION:

**CITY OF MUSKEGON
OPERATIONS MANAGEMENT CONTRACT
L.C. WALKER ARENA AND CONFERENCE CENTER**

This is a Contract, effective April 1, 2019, for the operation, management and promotion of the L.C. Walker Arena and Conference Center (“Arena”), made between the **City of Muskegon**, 933 Terrace Street, Muskegon, Michigan 49440 (“City”) and **Arc Arena Management**, 470 West Western Ave, Muskegon, Michigan 49440 (“Manager”).

PURPOSE

This Contract is drawn to afford the management, promotion and maintenance of the Arena, in accordance and compliance with the requirements of the City, who is the owner of the Arena.

Therefore, the parties agree as follows:

1. **Facilities Covered.** City and Manager agree that the “Facilities” covered by this Contract are as follows:

- 1.1 The L.C. Walker Arena and Conference Center; and
- 1.2 The Annex Building; and
- 1.2 The City owned parking facilities adjacent to Shoreline Drive.

2. **Management; Operation; Maintenance; Improvements.** Manager agrees to perform all acts for the management, operation, maintenance and improvements of the Arena, excluding those assumed by WC Hockey LLC pursuant to its sub-lease with City. Manager responsibilities include but are not limited to all operation of the building and its systems, complete maintenance thereof, repairs, cleaning and improvements to the building and the premises necessary for the efficient, timely and full operation thereof. Manager is responsible for the use of the facilities for all events and functions, including but not limited to, public skating, shows, trade shows, exhibitions, conventions, athletic events, public performances for which the Arena is reasonably suited, banquets, food service, meetings and public gatherings. The essential functions are more fully described in attached Exhibit D.

City shall reimburse Manager on a timely basis any and all reasonable and necessary costs which are necessary or related to the complete performance of its responsibilities as the Arena.

3. **Annex Conference Center.** In the event the Annex Conference Center is sublet to another entity, the facility shall not be included in the above management, operation, maintenance, and improvement responsibilities of the Manager.

4. Manager's Level of Performance.

- 4.1 Manager performance and assumption of the responsibilities undertaken by this Contract shall be carried out and performed to the mutual satisfaction of the City and Manager. Manager shall ensure that all tenants charge reasonable prices and fees for all paid events and from all paid users, concessionaries and others, which shall be reviewed and subject to comment by the City. The City and Manager shall not perform or omit any act so as to jeopardize the Federal or State tax-exempt status of the facility.
- 4.2 Manager commits to use its best efforts to maintain a USHL junior hockey franchise, or equivalent or better hockey team at the Arena.
- 4.3 Manager commits to use its best efforts to maintain a professional indoor football franchise at the arena
- 4.4 Manager commits to use its best efforts to maintain a professional indoor soccer franchise at the arena
- 4.5 Manager commits to use its best efforts to maintain a three year-round food/drink service establishments at the arena
- 4.6 Manager commits to use its best efforts to maximize ice rental income at the arena, with a focus on youth hockey, adult hockey, and figure skating.
- 4.7 Manager commits to use its best efforts to host financially successful concerts and other similar spectator events at the arena.
- 4.8 Manager commits to use its best efforts to host high school and college graduations at the arena

5. Management Fee.

- 5.1 For its services, Manager shall be paid a fixed fee of \$4,500 per month. The fee shall be paid by the City on the last Friday of every month. Effective October 1, 2019, that fee shall increase to \$5,000 per month.
- 5.2 Manager is encouraged to host new events at the arena each year. During the period of October 1, 2019 and September 30, 2020, if manager is able to exceed the following individual and collective event counts, his monthly pay shall be increased by \$600:
 - 33 ticketed USHL hockey games

- 6 ticketed arena football events
- 6 ticketed indoor soccer events
- 6 high school and college graduation events
- 15 high school varsity hockey games
- 12 ticketed concerts
- 20 community events

5.3 Upon mutual agreement between the City and Manager, the Manager may from time-to-time oversee construction projects in excess of \$25,000 within the facility. In doing so, manager shall be entitled to a construction management fee equal to 8% of the construction costs, minus architectural and engineering costs. All construction projects shall follow the City's purchasing policies, as approved by the City Commission.

5.4 Manager shall be entitled to an annual bonus from the City. The annual bonus shall be determined as follows:

- 5.4.1 If the Arena's net profits exceeds \$50,000, the City shall pay 15% of the net profits;
- 5.4.2 If the Arena's net profits exceed \$175,000, the City shall pay 17.5% of the net profits;
- 5.4.3 If the Arena's net profits exceed \$275,000, the City shall pay 20% of the net profits; and
- 5.4.4 If the Arena's net profits exceed \$500,000, the City shall pay 25% of the net profits.

Revenues and expenses for determining "net profit" shall be based upon the period July 1 through June 30. "Net profit" shall include all monies paid to the City for the L.C. Walker Arena and Conference Center, including any monies for subleases, sponsorships, and naming rights, less all expenses incurred by the City for the L.C. Walker Arena and Conference Center, including any amounts paid to support the professional sports teams housed at the facility. Expenses shall not include capital maintenance and capital outlays.

6. **Sources of Funds; Gross Revenues.** All funds collected by the Manager from every source, including but not limited to, subleases, ticket sales (after box office account settlement with unrelated third parties), concession or event rentals or fees, parking fees, refunds, ticket surcharge, and any other kind of receipt or revenue of any type shall be remitted to the City.

8 **Possession; Termination.** The parties agree that possession during the term of this management Contract remains with the City. Manager shall act as an agent of the City, and its presence and possession in the Arena is carried entirely on behalf of the City. This Contract shall not be construed as a lease nor to give Manager any property right whatsoever in the Arena for any purpose. In the event of lawful termination either before the term of this Contract or at

the end thereof, Manager shall vacate the premises without any notice or necessity of judicial proceedings.

9. **Condition of the Premises and Property.** On termination, Manager shall deliver all the property and the premises to the City in good and useable condition, except for the effects of ordinary wear and tear. Manager shall be immediately responsible for any repairs necessary to restore any property, whether real or personal, fixtures or otherwise, to the said condition.

11. **Term.** The term of this Contract shall commence on the effective date and shall terminate on June 30, 2022. Notwithstanding the foregoing, this Contract may be terminated, at the City's option, if the USHL junior hockey franchise is moved from the Arena, unless an equivalent or better hockey franchise is moved into the Arena.

12. **Liquor License.** City and Manager intend to be co-licensee on the City's liquor license, and any renewals thereof. Manager agrees that the license is to remain in the City of Muskegon as primary licensee and that no interest in the license shall accrue to Manager except the right under Michigan Liquor Control Laws and Regulations to operate as a co-licensee.

The parties shall cooperate and take such further action as is necessary and desirable to comply with any requirements of the Liquor Control Commission. Manager shall be responsible for all actions and responsibilities under the liquor license.

13. **Concessionaires and Independent Contractors; Professional Hockey Team.** Manager shall have the right to enter into contracts with concessionaires and independent contractors providing subsidiary services to the Arena. The gross proceeds of all such contracts shall be the City's.

14. **Insurance.** Manager shall obtain insurances required by the City in at least the coverage amounts set forth below. In all the following coverages except workers compensation insurance, the City shall be named as additional insureds or loss payees, and each policy shall carry the commitment by the company that no cancellation shall be effective against the City without thirty (30) days written notice to the City:

14.1 Comprehensive general liability insurance. Manager shall obtain a comprehensive liability insurance policy through a company licensed to do business in Michigan and acceptable to the City, carrying limits of at least \$500,000, single limit.

14.2 Vehicle liability insurance. Manager shall carry vehicle liability insurance for each vehicle owned or leased by it, having liability limits of at least \$500,000.

14.3 Workers compensation insurance. Manager shall carry workers compensation insurance in the amounts required by state law.

15. **Insurance Notices.** Cancellation Notice: Workers Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Insurance, as described above, shall include an endorsement stating the following: "It is understood and agreed that, in order to be effective, thirty (30) days' Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be sent to:

**City of Muskegon
Attn: City Manager
933 Terrace Street
Muskegon, MI 49440**

16. **Assignment.** Manager may not assign this Contract. Any attempted assignment shall constitute a violation of this Contract and cause immediate termination in the City's discretion.

17. **General Provisions.**

17.1 Corporate Status. Manager warrants that it is a limited liability company in good standing and is authorized to perform this Contract.

17.2 Equal Employment Opportunity; Discrimination. Manager shall not discriminate unlawfully against any person in violation of any law or rule of the City, the County, the State of Michigan or the federal government, in employment, services or any other respect. Manager shall comply, including reporting requirements, in each and every way with the City's and County's affirmative action plans or policies, and shall never discriminate against any person based on race or any other protected status under the laws of the State or the United States.

17.3 Access. The City shall have reasonable access to the facility at all times to monitor compliance with this agreement.

18. **Defaults.** The following events shall constitute defaults by Manager and constitute cause for immediate termination of this Contract:

18.1 Violation of any of the provisions of this Contract by Manager and failure to remedy or cure such within thirty (30) days after written notice of such violation from the City;

18.2 The commission of any act or omission that endangers the Federal or State tax-exempt status of the Muskegon County Building Authority Bonds;

18.3 The making of an assignment for the benefit of creditors or the filing of a petition under any section or chapter of the Federal Bankruptcy Code or under any similar law or statute of the United States or any state thereof;

- 18.4 Adjudication of Manager as a bankrupt or insolvent in proceedings filed against Manager under any section or chapter of the Federal Bankruptcy Code or under any similar law or statute of the United States or any state thereof without further possibility of appeal or review;
- 18.5 The appointment of a receiver for all or substantially all of the assets of Manager and the failure to have such receiver discharged within thirty (30) days after appointment; and
- 18.6 The bringing of any legal action against Manager by any creditor resulting in litigation which, in the opinion of the City, creates a real and substantial risk of involvement of the Arena that will probably: (1) act to their financial detriment; or, (2) result in such creditor, or his assigns, succeeding in or to all or part of the interest of the City.

19. **Non-Waiver.** Failure to enforce any remedy for a breach or a violation of this Contract shall not constitute waiver of subsequent breaches or violations.

20. **Remedies.** In the event the City breaches this Contract in any way, or the Manager determines that a breach or failure to observe any covenant or condition by the City has occurred, the sole remedy shall be termination of this Contract. Manager shall not be entitled to any damages for breach of contract, or to any injunctive relief to enforce this Contract. In the event there are sums legally due to Manager at the time of such termination it shall be paid forthwith, but no consequential damage or damages for breach shall be awarded or available to Manager.

22. **Counterparts.** This Contract may be executed in counterparts, and each set of duly delivered identical counterparts that includes all signatories shall be deemed to be one original document.

23. **Governing Law.** This Contract shall be construed and enforced in accordance with the laws of the State of Michigan applicable to contracts made and to be performed within the State of Michigan.

24. **No Third Party Beneficiary.** This Contract shall benefit only the parties to this Contract, and not any third party.

25. **Notices.** All notices, approvals, consents and other communications required under this Contract shall be in writing and, except when receipt is required to start the running of a period of time, shall be deemed given: (i) when delivered in person; (ii) when sent by telephone facsimile or e-mail, (the sender shall also mail or send a "hard copy" following the facsimile or e-mail, however the notice shall be effective upon the transmission of the facsimile or e-mail); (iii) one (1) day after depositing in the custody of a nationally-recognized receipted overnight delivery service with delivery fees prepaid; or, (iv) two (2) days after posting in the United States Mail, first class. Notices shall be sent to the parties as follows:

MANAGER LLC
Attn: Matt Gongalski
470 West Western
Muskegon, MI 49440

CITY OF MUSKEGON
Attn: City Manager
933 Terrace Street
Muskegon, MI 49440

26. **Binding and Benefit.** Although this Operations Management Contract is not assignable, in the event assignment occurs, and at the option of the City, it shall be binding upon the parties, their successors, and assigns.

27. **Termination.** This Agreement may be terminated:

- (1) By either party upon sixty (60) calendar days prior written notice to the other at which time Manager and Owner shall fully and completely perform their remaining obligations under this Agreement including, without limitation, the payment of the Management Fee and all other fees, expenses and charges due to Manager and third parties through the date of termination of the Agreement pursuant to such notice, and the parties shall thereafter have no further obligations to each other. ; or
 - (2) By either party without prior notice, in the event a petition in bankruptcy is filed by or against the other party, and such petition is not dismissed within thirty (30) days of filing or either party makes an assignment for the benefit of creditors, or invokes any insolvency act; or
 - (3) By either party upon material breach of any term or condition of this Agreement by the other party and failure to cure such breach within thirty (30) days after written notice of such breach has been given to the breaching party.
- (b) In the event of termination of this Agreement, Manager shall at no cost to Owner promptly deliver to Owner:
- (1) Copies of all books, records, contracts, leases, receipts for deposits, unpaid bills, and deposit accounts records pertaining to the management of the Premises;
 - (2) A final accounting, reflecting the balance of income and expenses on the Property as of the date of termination, delivered within 30 days after such termination; and

- (3) Any balance of monies of Owner or tenant security deposits, or both, held by Manager with respect to the Property shall be delivered to Owner after the payment of the Management Fee and all other fees, expenses and charges which are the responsibility of Owner to pay pursuant to this Agreement, except such security deposits shall not be offset to the extent such offset is prohibited by applicable law.

ARC ARENA MANAGEMENT

By: _____
Name: Matt Gongalski
Title: Member
Dated: _____, 2019

**CITY –
City of Muskegon**

By: _____
Name: Stephen J. Gawron
Title: Mayor
Dated: _____, 2019

And

By: _____
Name: Ann Marie Meisch
Title: Clerk
Dated: _____, 2019

EXHIBIT A

SUBLEASE AGREEMENT BETWEEN THE CITY OF MUSKEGON
AND WC HOCKEY, LLC

EXHIBIT B

ESSENTIAL FUNCTIONS OF THE ARENA MANAGER

- Oversee all operational aspects of LC Walker Arena
- Responsible for operation and maintenance of all mechanical and technical systems in the Arena
- Implementation of policies and procedures as they relate to Arena operations and on-going review and addition/revisions as necessary.
- Coordination of events at the Arena
- Technical expertise to assist Arena guests with event related needs (AV, computer programs, etc.)
- Maintenance of records as they relate to events and maintenance at the Center
- Active participation in marketing efforts for Center
- In house sales
- Presentations and tours of facility
- Sales calls to potential groups/events managers
- Management of Box Office, Team Store, and Concessions Operations
- Assist with preparation of proposals for the Arena
- Assist in preparation of budget for operations of the Arena
- Event accounting and monthly reporting on the Arena
- Supervision of Arena personnel
- Coordination with facility tenants.

AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners
FROM: Frank Peterson, City Manager
DATE: April 18, 2019
RE: Purchase Agreement – 1490 Lakeshore Drive

SUMMARY OF REQUEST:

Staff is seeking permission to enter into a purchase agreement to sell the city-owned property at 1490 Lakeshore Drive. The potential developer has been working with City staff, the DEQ, and Amoco/BP to resolve the existing environmental issues on the site. The prognosis for an amicable resolution is good, but it may take a number of years. As such, staff is seeking a five-year agreement.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

To authorize the city manager to enter into the sales agreement to sell the property at 1490 Lakeshore Drive for \$420,000 to Muskegon Harbor Services, LLC. The agreement shall require a \$5,000 initial earnest deposit, plus an additional \$5,000 earnest deposit due June 1 of each year of the agreement. The earnest deposit shall be refundable only in the event the developer fails to complete the sale, and developer releases all due diligence and planning documents to the City.

COMMITTEE RECOMMENDATION:



BUY AND SELL AGREEMENT FOR VACANT LAND

Office of Core Realty Partners

_____, Broker,

_____, (city), Michigan Phone: _____

Fax: _____

Email: troywasserman@corerealty.com

Offer Date: 02-21-2019

_____, (time)

1. **Agency Disclosure.** The undersigned Buyer and Seller each acknowledge the Broker named above is acting as (choose one):

☒ Subagent of the Seller ☐ Agent of the Buyer ☐ Dual Agent (with written, informed consent of both Buyer and Seller)

☐ Other (specify): Trans Coordinator

2. **Buyer's Offer.** The undersigned Buyer hereby offers and agrees to purchase property located in the City _____ of

Muskegon

Muskegon

County, Michigan, commonly known as

1490 Lakeshore Dr.

Permanent Parcel Number 61-24-205-585-0001-00

and legally described as follows:

(the "Land"), together with all fixtures and improvements situated on the Land (the "Improvements"), all of which is collectively referred to herein as the "Premises", except the following:

3. **Purchase Price.** The purchase price for the Property is:

Four Hundred Twenty Thousand and 00/100

Dollars (\$ 420,000).

4. **Payment of Purchase Price and Financing.** Complete subparagraph "A" and subparagraph "B".

Terms of Payment. The purchase price shall be paid at the closing by Buyer to Seller as indicated by "X" below (mark one box or the other under this subparagraph "A").

☒ **Cash.** Buyer shall pay the full purchase price to Seller upon execution and delivery of warranty deed and performance by Seller of the closing obligations specified in this agreement.

☐ **Land Contract.** Buyer shall pay the full purchase price to Seller pursuant to the terms and conditions stated in the Commercial Alliance of REALTORS® Land Contract form, unless the parties mutually agree upon a different form of land contract, upon performance by Seller of the closing obligations specified in this Agreement. The Land Contract shall provide a down payment of \$ _____ and payment of the balance \$ _____ in _____ installments of \$ _____ or more, at Buyer's option, including interest at the rate of _____% per annum computed monthly, interest to start on date of closing, and first payment to become due _____ after date of closing. The entire unpaid balance will become due and payable _____ months after closing. Seller understands that consummation of the sale or transfer of the Premises shall not relieve Seller of any liability that Seller may have under the mortgage(s) to which the Premises are subject, unless otherwise agreed to by the lender or required by law or regulation.

Financing. Indicate by an "X" below which applies (mark one box or the other under this subparagraph "B").

☐ **No Financing Contingency.** Buyer's obligation to purchase the Premises is not contingent upon Buyer obtaining financing for all or any portion of the purchase price.

☐ **Financing Contingency.** Buyer's obligation to purchase the Premises is contingent upon Buyer obtaining financing for the purchase of the Premises that is acceptable to Buyer, in Buyer's sole and absolute discretion, within _____ (_____) calendar days of the Effective Date of this Agreement (the "Financing Contingency Period"). Buyer agrees to diligently pursue in good faith obtaining financing for the purchase of the Premises. If after making such diligent effort Buyer fails to obtain financing for the purchase of the Premises that is acceptable to Buyer within the Financing Contingency Period, then Buyer may terminate this Agreement without liability and receive a refund of any deposit by delivering a written notice of termination to Seller in accordance with this Agreement within the Financing Contingency Period. If Buyer does not deliver a written notice of termination to Seller within the Financing Contingency Period, then Buyer shall be deemed to have waived this financing contingency.

5. **Survey.** Seller shall provide Buyer with a copy of any existing survey of the Premises that Seller has in Seller's possession within five (5) days of the date of the Effective Date. In addition, (select one of the following):

☐ A new survey:

☐ ALTA showing all easements of record, improvements and encroachments, if any, and completed to the most current ALTA/NSPS Land Title Survey minimum requirements; or

☐ boundary survey with iron corner stakes and with all easements of record, improvements and encroachments, if any; or

☐ A recertified survey; or

☒ No new or recertified survey;

shall be ☒ obtained by Buyer at Buyer's expense; or ☐ provided by Seller to Buyer at Seller's expense, within _____ (_____) calendar days after the title insurance commitment referenced in this Agreement has been provided by Seller to Buyer under the terms of Title Insurance paragraph contained in this Agreement. If Seller is responsible to provide a new or recertified survey under this paragraph and fails to do

so within the required time, then Buyer may order the required survey at Seller's expense. If the new or recertified survey (or absent such the existing survey, if any) discloses any material and adverse encumbrance that is not acceptable to Buyer, then Buyer shall have the right to object and to terminate this Agreement under the terms and conditions set forth in the Title Insurance paragraph contained in this Agreement; otherwise Buyer's right to terminate this Agreement pursuant to this paragraph shall be deemed to have been waived. Other:
None

6. **Title Insurance.** At Seller's expense, Seller shall provide Buyer with a standard ALTA owner's policy of title insurance in the amount of the purchase price, effective as of the date of closing. A commitment to issue such policy insuring marketable title (as defined in this Agreement) vested in Buyer, including a tax status report, shall be ordered within seven (7) calendar days after the Effective Date, and shall be delivered, with copies of all title exception documents, as soon as feasible thereafter. (Note that some title commitments do not report on the status of oil, gas, or mineral rights.) If any matter disclosed by the title commitment adversely and materially affects the value of the Premises or Buyer's intended use of the Premises, Buyer shall give Seller written notice of the matter within ten (10) calendar days after copies of both the title commitment (and all exception documents identified in the title commitment) and survey referenced in this Agreement are delivered to Buyer. If Seller fails to cure the matter within ten (10) calendar days of receiving written notice (the "Title Commitment Cure Period"), Buyer shall have the right to terminate this Agreement by giving Seller written notice within ten (10) calendar days after the expiration of the Title Commitment Cure Period, otherwise Buyer's right to terminate this Agreement pursuant to this paragraph shall be deemed to have been waived. Other:
None

7. **Inspections.** By signing this Agreement, Buyer is representing that the Buyer is aware that professional services are commercially available at a fee by experts selected by Buyer. The Buyer has elected to arrange and pay for services/investigations, including, but not limited to, the following:
☐ No Inspections ☐ Soil Borings ☐ Zoning ☐ Site Plan Approval ☐ Utilities ☐ Permitting ☐ Other (specify):
 See #27

The Buyer shall have the right to terminate this Agreement if the due diligence results are not acceptable to the Buyer by giving Seller written notice within _____ (_____) calendar days after the Effective Date of this Agreement, otherwise the right to terminate shall be deemed to have been waived. Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether made intentionally or negligently) regarding any aspect of the Property or this sale transaction, except as may be expressly set forth in this Agreement, a written amendment to this Agreement, or a disclosure statement separately signed by the Seller. Accordingly, Buyer agrees to accept the Property "as is" and "with all faults" (whether obvious or concealed) except as otherwise expressly provided in the documents specified in the preceding sentence. Other:
see #27

8. **Closing Adjustments.** The following adjustments shall be made between the parties by the close of business on the closing date, with Buyer receiving a credit or assuming responsibility, as the case may be, for amounts attributable to time periods following the closing date:
 a. Prepaid rent and Additional Rent (as defined in the paragraph);
 b. Interest on any existing indebtedness assumed by Buyer;
 c. Charges for any transferable service contracts assigned to Buyer described in Exhibit D;
 d. Utility deposits;
 e. Security deposits;
 h. Additional Rent (as defined below).

If any tenant is late, delinquent or otherwise in default in the payment of rent on the closing date, Seller shall assign to Buyer the claim for and the right to collect the rent; Buyer shall pay such past due rent to Seller promptly upon receipt; but Buyer shall not be obligated to file suit to collect such rent and shall reassign the claim to Seller on demand. If any tenants are required to pay percentage rent, charges for real estate taxes, insurance, common area maintenance expenses, or other charges of a similar nature ("Additional Rent"), and any Additional Rent is collected by Buyer after closing attributable in whole or in part to any period prior to closing, Buyer shall promptly pay to Seller Seller's proportionate share of the Additional Rent. Other:
none

9. **Property Taxes.** All property taxes first billed prior to the year of closing will be paid by Seller, without proration. All property taxes billed or to be billed in the year of closing will be paid as follows (choose one):

- ☐ No Proration:
☐ Buyer ☐ Seller shall pay the taxes billed in July.
☐ Buyer ☐ Seller shall pay the taxes billed in December.

- ☒ **Calendar Year Proration.** Combined per diem tax amount representing both the July bill and the December bill shall be calculated based on a 365 day year. Seller shall be responsible for the per diem total from January 1 to, but not including, the day of closing. Buyer shall be responsible for the difference between the total of the two tax bills and the Seller's share. If the amount of either tax bill is unknown on the day of closing, such amount shall be based on the prior years' tax bill.

10. **Special Assessments**, and deferred assessments, whether due in installments or otherwise, which are due and payable on or before the closing shall be paid by the Seller. All other special assessments, including deferred assessments, for improvements, now installed, not yet installed, or in the process of being installed, that are first due and payable after the closing shall be paid by Buyer. Other:
None

11. **Conveyance**. Upon performance by Buyer of the closing obligations specified in this Agreement, Seller shall convey the marketable title to the Property to Buyer by warranty deed or agree to convey marketable title by land contract or assignment, as required by this Agreement, including oil, gas and other mineral rights owned by Seller, if any, subject only to existing zoning ordinances, and the following matters of record: building and use restrictions, easements, oil and gas leases, and reservations, if any. As used herein, "marketable title" means marketable title within the meaning of the Michigan 40-Year Marketable Title Act (Mich. Comp. Laws §§ 565.101 et seq.).

The following paragraph applies only if the Property includes unplatted land:

Seller agrees to grant Buyer at closing the right to make (insert number) All Legal _____ division(s) under Section 108 (2), (3) and (4) of the Michigan Land Division Act. (if no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or Broker do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval, on or before Closing _____ (date), of the proposed division to create the Premises. Other:

12. **Warranties of Buyer**. Except as otherwise provided or acknowledged in this Agreement, Buyer represents and warrants to Seller as follows:
- The performance of the obligations of Buyer under this Agreement will not violate any contract, indenture, statute, ordinance, judicial or administrative order or judgment applicable to Buyer.
 - There is no litigation or proceeding pending, or to Buyer's knowledge threatened, against or involving Buyer, and Buyer does not know or have reason to know of any ground for any such litigation or proceeding, which could have an adverse impact on Buyer's ability to perform, or Seller's interests, under this Agreement.
 - In entering into this Agreement, Buyer has not relied upon any written or verbal representations made by Seller or any representative of Seller, including any real estate salesperson, regarding the Property or any aspect of this transaction, which are not expressly set forth in this Agreement.
 - Other:
None

13. **Warranties of Seller**. Except as otherwise provided or acknowledged in this Agreement, Seller represents and warrants to, and agrees with Buyer as follows:
- Seller's interest in the Property shall be transferred to Buyer on the closing date, free from liens, encumbrances and claims of others.
 - The performance of the obligations of Seller under this Agreement will not violate any contract, indenture, statute, ordinance, judicial or administrative order or judgment applicable to Seller or the Property.
 - There is no litigation or proceeding pending or to Seller's knowledge threatened against or involving Seller or the Property, and Seller does not know or have reason to know of any ground for any such litigation or proceeding which could have an adverse impact on Seller's ability to perform under this Agreement or that could adversely affect Buyer's title or use of the Property.
 - Seller shall continue to operate the Property in the ordinary course of business and maintain the Property in a state of good condition and repair during the interim between the signing of this Agreement and the closing date.
 - If a statement(s) of income and expense with respect to the operation of the Property is (are) described in Exhibit B, such statement(s) is (are) accurate for the period(s) designated in the statement(s).
 - The information concerning written leases and tenancies not arising out of written leases described in Exhibit B is accurate as of the Effective Date, and there are no leases or tenancies with respect to the Premises other than those described in Exhibit B (the "Leases"). The warranties in this paragraph do not apply to oil and gas leases, if any. Except as otherwise described in the documents that will be delivered pursuant to the index of Exhibits:
 - All of the Leases are in full force and effect, no party thereto is in material default thereunder, and none of them have been modified, amended, or extended beyond what will be delivered per Exhibit B; with respect to renewal or extension options, options to purchase the Premises, advance payments in excess of one month, common area maintenance and utility fees, and security deposits, these items are set forth in the written leases described in Exhibit B.
 - The rents set forth are being collected on a current basis and there are no arrearages;
 - No real estate brokerage commission will become owing in the event of any tenant's exercise of any existing option to renew the term of any lease or purchase of the Premises.
 - With respect to underlying land contracts or mortgages, the sale will not accelerate indebtedness, increase interest rates, or impose penalties and sanctions.
 - Seller is without personal knowledge as to the presence on the Property of any toxic or hazardous substances or of any underground storage tanks.
 - Other:
None

14. **Damage to Business.** If between the Effective Date and the closing date, all or any part of the Property is damaged by fire or natural elements or other causes beyond Seller's control that cannot be repaired prior to the closing date, or any part of the Property is taken pursuant to any power of eminent domain, Seller shall immediately notify Buyer or such occurrence, and either Seller or Buyer may terminate this Agreement by written notice to the other within fifteen (15) days after the date of damage or taking. If neither elects to terminate this Agreement, there shall be no reduction in the purchase price and, at closing, Seller shall assign to Buyer whatever rights Seller may be with respect to any insurance proceeds or eminent domain award.
15. **Closing.** The closing shall be held on or before 02-21-2024 (date) and as promptly as practical after all necessary documents have been prepared. An additional period of Ten (10) days shall be allowed for closing to accommodate delays in title work or the correction of title defects and/or survey problems which can be readily correctable, delays in obtaining any required inspections, surveys or repairs, delays in completing Environmental Site Assessments, Baseline Environmental Assessment or Due Care Plan/Section 7a Compliance Analysis (if such assessments or plans were ordered in a timely manner), or if the terms of purchase require participation of a lender and the lender has issued a commitment consistent with the requirement but is unable to participate in the closing on or before the required date.
16. **Possession.** Seller shall tender to Buyer possession of the Property upon completion of the closing, subject to all existing leases and rights of tenants in possession. Other:
None
17. **Seller's Closing Obligations.** At closing, Seller shall deliver the following to Buyer:
- The warranty deed, land contract or assignment of land contract required by this Agreement.
 - A bill of sale for any Personal Property (described in Exhibit "D").
 - A written assignment by Seller of Seller's interest in all leases and a transfer to Buyer of all security deposits, accompanied by the original or a true copy of each lease.
 - An assignment of all Seller's rights under any Service Contracts described in Exhibit C which are assignable by their terms and which Buyer wishes to assume, together with an original or true copy of each Service Contract assigned.
 - A notice to any tenants advising the tenants of the sale and directing that future payments be made to Buyer.
 - An accounting of operating expenses including, but not limited to, CAM, taxes, insurance and Additional Rent, collected in advance or arrears, spent or not yet spent by Seller, showing an accurate allocation between the parties pursuant to the leases.
 - Payment of the County and State real estate transfer tax.
 - Any other documents required by this Agreement to be delivered by Seller.
18. **Buyer's Closing Obligations.** At closing, Buyer shall deliver to Seller the following:
- The cash portion of the purchase price specified in this Agreement shall be paid by cashier's check or other immediately available funds, as adjusted by the apportionments and assignments in accordance to this Agreement.
 - A written assumption by Buyer of the obligations of Seller under the leases arising after closing, including an acknowledgement of the receipt of all security deposits.
 - Any other documents required by this Agreement to be delivered by Buyer.
19. **1031 Tax Deferred Exchange.** Upon either party's request, the other party shall cooperate and reasonably assist the requesting party in structuring the purchase and sale contemplated by this Agreement as part of a tax deferred, like-kind exchange under Section 1031 of the Internal Revenue code of 1986, as amended; provided, however, that in connection therewith, the non-requesting party shall not be required to (a) incur any additional costs or expenses; (b) take legal title to additional real property (i.e. the requesting party's "replacement property" or "relinquished property"); or (c) agree to delay the closing.
20. **Notices.** Any notice required or permitted to be given hereunder shall be deemed to have been properly given, if in writing and delivered to the parties at the addresses shown below, and shall be deemed received (a) upon delivery, if delivered in person or by facsimile transmission, with receipt thereof confirmed by printed facsimile acknowledgement, (b) one (1) business day after having been deposited for next day overnight delivery with a nationally recognized overnight courier service, (c) two (2) business days after having been deposited in any U.S. post office or mail depository and sent by certified mail, postage paid, return receipt requested, or (d) upon sending, if sent by email (with a confirmation copy sent the same day by overnight delivery).
21. **Authority of the Parties.** Each of the undersigned individuals who have signed this Agreement on behalf of Seller and Buyer entities represent and warrant that he/she is authorized to sign this Agreement on behalf of such party and to bind such party to the requirements of this Agreement.
22. **Additional Acts.** Buyer and Seller agree to execute and deliver such additional documents and to perform such additional acts after the closing as may become necessary to effectuate the transfers contemplated by this Agreement.
23. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the sale of the Property. All contemporaneous or prior negotiations have been merged into this Agreement. This Agreement may be modified or amended only by written instrument signed by the parties to this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.
24. **Earnest Money.** Buyer gives Core Realty Partners, Broker, Twelve (12) days to obtain the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding agreement between Buyer and Seller. Buyer shall deposit \$ 5,000 with Transnation Title, Escrow Agent, [insert name of Broker, Title Company or other] ☐ with this offer or ☒ within Five (5) days after acceptance of this offer, evidencing Buyer's good faith, to be held by the Escrow Agent and to apply to the purchase price or the down payment portion thereof where applicable. If this offer is not accepted, or the title is not marketable, or if the purchase is contingent upon conditions specified that cannot be met, this deposit shall be promptly refunded. If the Buyer defaults, all deposits made may be forfeited as liquidated damages at Seller's election, or alternatively, Seller may retain the deposits as part payment of the purchase price and pursue Seller's legal or equitable remedies against Buyer. If the sale is not closed according to its terms, the selling Broker may notify Buyer(s) and Seller(s) of Escrow Agent's intended disposition of earnest deposit, and all parties shall be deemed to have agreed to the disposition of the earnest money deposit unless Escrow Agent is notified of a court action pending concerning this sale or disposition of earnest money within thirty (30) days after notice to the parties.

25. **Disclosure of Price and Terms.** The purchase price and the terms of this sale may be disclosed by the Commercial Alliance of REALTORS® Multiple Listing Service (CARWM) in the ordinary conduct of its business. Deletion of this paragraph shall not be considered a counter offer that would require a counter acceptance.
26. **Credit Reports.** Buyer consents that, if not otherwise prohibited, the Broker(s) may give Seller information about the Buyer contained in a credit report that may be furnished to the Broker(s) by a credit reporting agency.
27. **Advice of Counsel.** Buyer acknowledges that the Broker has recommended that the parties retain an attorney or attorneys to review the terms of this Agreement.
28. **Attorneys' Fees.** In the event of litigation arising from the failure or alleged failure of either party to perform its obligations under this Agreement, the party prevailing in that litigation (including appeals of all levels) shall be entitled to collect its court costs and reasonable attorneys' fees incurred in connection with such litigation from the other party. The provisions of this Section shall survive Closing or termination of this Agreement.

29. Environmental.

A. Notice to buyers and sellers (environmental risks).

Whenever real property is acquired or occupied, the buyer incurs some degree of risk with regard to potential environmental contamination and/or protected natural resources on the property. Various federal, state, and local laws may impose liability upon the buyer for the remediation of the contamination even though the buyer did not cause it, or may restrict the buyer's ability to fully develop or utilize the property. Such risk can be minimized through the performance of environmental due diligence. Additionally, sellers are advised that they may have an obligation to provide certain environmental information and/or disclosures to prospective buyers. The failure to provide such information or disclosures may subject a seller to potential liability or result in the loss of certain liability protections.

No real estate brokers/salespersons in this transaction possess the expertise necessary to assess the nature or extent of these environmental risks or to determine the presence of environmental contamination or protected natural resources. The real estate brokers/salespersons involved in this transaction do not make independent investigations as to environmental contamination or protected natural resources with respect to any property, and they make no representations regarding the presence or absence, now or in the past, of environmental contamination. It is therefore prudent for each party to this transaction to seek legal and technical counsel from professionals experienced in environmental matters to provide an evaluation of the environmental risks associated with the transaction.

B. Environmental reports and assessments.

- (1) Within _____ (_____) calendar days of the Effective Date, Seller shall deliver to Buyer copies of any existing reports, data, plans, permits, notices and/or information in Seller's possession relating to environmental matters pertaining to the Premises ("Seller's Environmental Documents").
- (2) Buyer shall have a period of _____ (_____) calendar days after the Effective Date to evaluate environmental matters relating to the Premises ("Environmental Due Diligence Period"). Buyer and Buyer's agents shall have the right to enter upon the Premises during the Environmental Due Diligence Period during reasonable business hours for the purpose of conducting, at Buyer's expense, any environmental assessments of the Premises that Buyer deems appropriate, which assessments may include, but shall not be limited to, a Phase I Environmental Site Assessment, Transaction Screen, and/or evaluation of other regulated conditions or matters such as wetlands, asbestos containing materials, mold, or lead based paint ("Environmental Assessments"). The Environmental Assessments may not include the collection or analysis of samples of soil, groundwater, soil gas, indoor air, surface water, building components or any other environmental medium unless Buyer obtains prior written consent from Seller, which consent shall not be unreasonably withheld, delayed or conditioned. Buyer agrees that the Environmental Assessments shall not unreasonably interfere with the rights of Seller or any tenants in possession and Seller agrees to reasonably cooperate and to request that its tenants reasonably cooperate with the Environmental Assessments.
- (3) Buyer shall have the right to terminate this Agreement if Seller's Environmental Documents or the Environmental Assessments are not acceptable to Buyer by delivering written notice to Seller prior to the expiration of the Environmental Due Diligence Period. If Buyer determines that any additional environmental due diligence activities (including, but not limited to, any additional environmental investigations, reports, approvals or permits) are warranted, then Buyer may provide Seller with a proposed amendment to this Agreement to extend the Environmental Due Diligence Period to allow Buyer to conduct such activities. If Buyer does not deliver a termination notice or proposed amendment to Seller prior to the expiration of the Environmental Due Diligence Period, then Buyer shall be deemed to have waived any objections to environmental matters relating to the Premises. If Buyer provides Seller with a proposed amendment to this Agreement, then Seller shall have a period of _____ (_____) calendar days to execute or negotiate mutually acceptable terms for such amendment, otherwise Buyer may, but shall not be obligated to, terminate this Agreement by delivering written notice to Seller with two (2) calendar days after Seller's deadline for executing or negotiating an amendment to this Agreement.
- (4) If the Environmental Assessments cause any damage to the Premises, Buyer agrees to reasonably restore the Premises to the condition that existed prior to such damage. The restoration obligation does not require the remediation of any existing environmental condition. Buyer shall indemnify, defend and hold Seller and Broker harmless from and against any damage to persons or property caused by Buyer or Buyer's agents in conducting the Environmental Assessments.

C. Nondisclosure.

- (1) If Seller's Environmental Documents or the Environmental Assessments identify the Land as a "facility" as defined in Part 201 of Michigan's Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended ("NREPA") or a "site" as defined in Part 213 of NREPA, then Buyer may conduct a Baseline Environmental Assessment ("BEA") and/or a Due Care Plan ("DCP"); provided, however, that Buyer may not submit or otherwise disclose such BEA, DCP, or similar report (e.g., a response activity plan) to the Michigan Department of Environmental Quality prior to closing unless Buyer obtains prior written consent from Seller.
- (2) If Buyer exercises its right to terminate this Agreement pursuant to subparagraph b(3) above, Buyer shall not disclose Seller's Environmental Documents or the Environmental Assessments to any third party unless required by mandatory disclosure pursuant to legal process. At Seller's request, Buyer shall provide copies of any Environmental Assessments to Seller.

D. Other:
see #27

30. **Brokerage Fee.** Seller and/or Buyer agree(s) to pay the broker(s) involved in this transaction a brokerage fee as specified in any agency agreement or other written agreement between them. In the event no such agreement exists, ☐ Buyer ☐ Seller agrees to pay a brokerage fee of Per Contract. This brokerage fee shall be paid in full promptly after it is earned, but not later than closing. Unless otherwise previously agreed, Buyer and/or Seller agree(s) that the brokerage fee may be shared by the recipient with any cooperating broker who participates in the sale, in such amount as the recipient decides, without further disclosure to or consent from Buyer and/or Seller. Seller and Buyer agree that the broker(s) involved in this transaction is/are an intended third party beneficiary entitled to enforce the obligation set forth herein to pay the brokerage fee. Other:

31. **Other Provisions:**

Contingent upon Buyer's attorney review and approval of all sale documents

This 5 year agreement is to give buyer time to secure all needed items to close on the property such as but not limited to.

* Zoning Approval

* Site Approval

* Permitting

* Remediation

* DEQ Approval

* Grants etc.

32. **Effective Date.** For purposes of this Agreement, the phrase, "Effective Date of this Agreement" ("Effective Date") shall be the date upon which this Agreement is fully executed.

33. **Index of Exhibits.** Seller to furnish within the calendar days from effective date as specified below:

Not Applicable	Attached	Exhibit #	Subject	Exhibit to be furnished within ____ number of calendar days
		A	Disclosure Regarding Real Estate Agency Relationships	
		B	Income and Expense with respect to the operation of the Premises	
		C	Written leases and any tenancies not arising out of written leases	
		D	Service Contracts	
		F	Addendum	

34. **By signing below, Buyer acknowledges having read this Agreement and authorizes delivery of this Agreement to Seller.**

Buyer: Muskegon Harbor Services, LLC

(print name of individual or entity)

Signature

Robert S. Jerson

dotloop verified
03/20/19 10:52 AM
EDT
FCV5-ZTXK-KG2V-FV18

Its: Member

(if Buyer is an entity)

Buyer's Address: _____

Buyer: _____

(print name of individual or entity)

Signature: _____

Its: _____

(if Buyer is an entity)

Bus. Phone: _____ Fax: _____

Email: _____

35. SELLER'S ACCEPTANCE

Date: _____ Time: _____

The above offer is hereby accepted ☒ as written ☐ modified as follows:

By signing below, Seller acknowledges having read and authorizes delivery of this Agreement to Buyer. If this Agreement is signed by Seller without any modifications, the date Seller signs becomes the Effective Date. If this Agreement is signed by Seller subject to any modifications, Seller gives Broker above named until _____ (time) _____ (date) to obtain Buyer's written acceptance of Seller's counter offer.

Seller: Frank Peterson
(print name of individual or entity)

Seller: _____
(print name of individual or entity)

Signature: _____

Signature: _____

Its: City Manager
(if Seller is an entity)

Its: _____
(if Seller is an entity)

Seller's Address: 933 Terrace
Muskegon, MI 49440

Bus. Phone: _____ Fax: _____
 Email: _____

36. BUYER'S RECEIPT OF ACCEPTANCE

Date: _____ Time: _____

Buyer acknowledges receipt of Seller's acceptance of Buyer's offer. If Seller's acceptance of Buyer's offer was subject to a counter offer, Buyer agrees to accept the terms of the counter offer:

☐ as written (with all other terms and conditions of Buyer's offer remaining unchanged); or ☐ modified as follows:

If Buyer is accepting a counter offer from Seller as written, the date Buyer signs below becomes the Effective Date. If Buyer is accepting Seller's counter offer subject to any modifications, Buyer gives Broker above named until _____ (time) _____ (date) to obtain Seller's written acceptance of Buyer's counter offer.

Buyer: _____
(print name of individual or entity)

Buyer: _____
(print name of individual or entity)

Signature: _____

Signature: _____

Its: _____
(if Buyer is an entity)

Its: _____
(if Buyer is an entity)

37. SELLER'S RECEIPT OF ACCEPTANCE

Date: _____ Time: _____

Seller acknowledges receipt of a copy of Buyer's acceptance of Seller's counter offer (if Seller made a counter offer), or Seller agrees to accept the terms of Buyer's counter offer as written. If Seller is accepting the terms of Buyer's counter offer as written, then the date Seller signs below becomes the Effective Date.

Seller: _____
(print name of individual or entity)

Seller: _____
(print name of individual or entity)

Signature: _____

Signature: _____

Its: _____
(if Seller is an entity)

Its: _____
(if Seller is an entity)

9 - 2050 SQ. FT. CONDO UNITS, GRADE
9 - 1700 SQ. FT. CONDO UNITS, ELEVATED
42 - 1000 SQ. FT. CONDO UNITS, ELEVATED
120 IN / OUT RACKS
FUTURE 90 IN / OUT RACKS
40 GUEST PARKING
9600 SQ. FT. MAINTENANCE



C. RICHARD
BORGESON
ARCHITECT
1050
W. WESTERN
AVENUE
MUSKEGON
MICHIGAN
49441
231 740 8661

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all rights of copyright to these drawings,
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the prior written permission of
C. Richard Borgeson Architect.

I hereby certify that this drawing was
prepared by me or under my supervision
and that I am a duly Registered Architect
under the laws of the
State of Michigan

Date: _____ Reg. No. 15352

AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Frank Peterson, City Manager

DATE: May 13, 2019

RE: Tug and Trailer Purchase

SUMMARY OF REQUEST:

Staff has been working with various downtown event organizers to identify ways to make downtown events more accessible. There is significant interest in locally acquiring and operating a low-cost people mover. Staff has identified a used tug system that can move in excess of 40 people at one time, and can accommodate wheel chairs. Staff is seeking permission to purchase the equipment. The equipment identified belongs to Creek County, Oklahoma, and is currently in storage.

FINANCIAL IMPACT:

\$44,000.00

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

To authorize the purchase of one tug and two trailers from Creek County, Oklahoma at a cost not to exceed \$44,000.

COMMITTEE RECOMMENDATION:



AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Frank Peterson, City Manager

DATE: May 7, 2019

RE: Storage Garage – Marsh Field

SUMMARY OF REQUEST:

City staff is seeking permission to collaborate with Muskegon Baseball to construct a storage garage at Marsh Field. The garage will be slightly larger than a two-stall garage. The estimated cost of the structure is \$25,000. Muskegon Baseball will reimburse the City of Muskegon 50% of the expense.

FINANCIAL IMPACT:

\$25,000

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

To authorize the construction of a storage garage at Marsh Field at a cost not to exceed \$25,000, with \$12,500 being reimbursed by Muskegon Baseball.

COMMITTEE RECOMMENDATION:

AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Frank Peterson, City Manager

DATE: May 13, 2019

RE: Purchase Agreement – 1192 Pine

SUMMARY OF REQUEST:

City staff is seeking permission to purchase the vacant home located at 1192 Pine. Earlier this year, the city acquired the adjacent property via tax foreclosure. The two homes share a yard and off-street parking. It is likely that they once were owned by the same entity in the past. The home at 1192 was offered for auction in late April. Staff put a bid on the property of \$4,500. This was the only bid received. Although it did not meet the auction's reserve price, the sellers agreed to accept the offer. Staff anticipates approximately \$2,500 in transaction-related costs.

FINANCIAL IMPACT:

\$7,000 from the Public Improvement Fund.

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

To authorize the city manager complete the purchase of 1192 Pine Street.

COMMITTEE RECOMMENDATION:

AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Frank Peterson, City Manager

DATE: May 13, 2019

RE: Tuition Reimbursement

SUMMARY OF REQUEST:

Staff is seeking an update to the existing tuition reimbursement program for active employees. Currently, the City reimburses up to \$2,000 annually for undergraduate-level courses and \$2,500 for graduate-level courses. The update program will reimburse up to \$2,500 annually for undergraduate-level courses and \$3,000 for graduate-level courses.

FINANCIAL IMPACT:

None at this time.

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

To authorize the updated Tuition Reimbursement Program.

COMMITTEE RECOMMENDATION:

City of Muskegon
Tuition Reimbursement Program

To encourage the professional and personal development of every City of Muskegon employee, the following policy establishes reimbursement for qualified educational expenses and successful completion of undergraduate, graduate and post-graduate courses in accredited colleges or universities.

All full-time employees of the City of Muskegon are eligible for educational assistance in accordance with this policy upon completion of six (6) months of continuous employment prior to the time of course enrollment, and provided that the employee is enrolled in courses which are part of a degree program.

Reimbursement Requirements

Employees interested in participating in this education assistance program must complete the Request for Employee Tuition Reimbursement Form prior to the commencement of any coursework for which the employee desires to be reimbursed.

The employee's department head must approve the reimbursement (in his or her sole discretion) and the employee may be reimbursed for only approved degree programs.

Approved coursework must be completed on the employee's own time.

If approved coursework is only available during the employee's work hours, a schedule of proportional compensatory time may be arranged (in the sole discretion of the employee's department head), provided normal services of the employing department are not disrupted or impaired.

Reimbursement is contingent upon the student earning a passing grade (as defined herein) or confirmation of satisfactory completion of the course from the school when a course is not graded.

Reimbursement Amount

The City of Muskegon will reimburse an employee for 75% of tuition, including required course fees, for all passing grades (as defined herein), with a maximum of \$2,500 per year for undergraduate studies and \$3,000 per year for graduate and post-graduate studies.

Payment may be made to the institution or reimbursed to the employee.

Failure to satisfy the minimum approved grade will result in denial of payment or reimbursement of monies to the institution for the applicable course(s).

A passing grade is defined as an "A," or "B."

If the course is a "Pass/Fail," a "Pass" is acceptable.

An employee will not be eligible for tuition reimbursement if they withdraw from an approved course or if the approved course is canceled.

The employee is required to immediately notify the Department Head and Human Resources if they withdraw from an approved course or if the course is canceled.

An employee will not receive tuition reimbursement if they terminate employment prior to completion of an approved course.

If the employee receives an incomplete in a course, the employee will have until the end of the following semester in which to complete the work and have the incomplete removed. Failure to complete the work will prohibit the employee from participating in the tuition reimbursement plan and any advance payments received must be repaid to the City of Muskegon.

Application Process

The employee should complete the Request for Tuition Reimbursement Form 14 days prior to each course the employee wants to take in conjunction with this program. The Department Head of the employee's department must approve the request. When completed, the Request for Tuition Reimbursement Form is submitted to the Human Resource Department for review and approval.

Reimbursement Process

Upon completion of the course, applicant must submit, within 45 days, legible copies of the following: (1) College/university invoice or statement indicating fees charged and the amount paid (the invoice must contain the school's name and address. Copies of canceled checks and credit card receipts will not be accepted); and (2) College/university grade card/report indicating the applicant's name, quarter/semester, course name(s) and grade(s) for the term.

AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Frank Peterson, City Manager

DATE: May 7, 2019

RE: Summer Evening Recreation Program

SUMMARY OF REQUEST:

Construction and scheduling issues at the High School caused the program to shrink to four weeks. A partnership with the Boys and Girls Club will allow the program to extend four additional weeks. Staff is seeking approval to spend an additional \$13,500 to accommodate this change to the evening recreation program.

FINANCIAL IMPACT:

\$13,500

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

To accept the attached proposal from the Boys and Girls Club of the Muskegon Lakeshore.

COMMITTEE RECOMMENDATION:



Program Design:

Boys & Girls Club of the Muskegon Lakeshore would operate a Evening Recreation Program for youth ages 6-18 Monday-Friday 6:00pm-9:00pm at our Nelson Club Site (550 W Grand). This program would be offered 36 days in the summer, beginning Monday, June 24th and ending Friday, August 16th. In addition, an Evening Recreation Program would be added to Boys & Girls Club current Summer Park Recreation Programs (9am-6pm) and Summer Nelson Site Programs (Noon-6pm).

All programs will be closed for the 4th of July and July 5th. In addition, the program will be closed on 26th and July 29th. Based on prior years operating summer programs, BGCML recognizes how taxing the long summer hours are on staff. Thus, this long weekend (July 26th - July 29th) provides designated time for staff to recharge.

BGCML will provide a variety of recreational programs each day, including, but not limited to those found below for a Evening Recreation Program :

Time Frame	Activities offered					
5:00 - 6:00 pm	Warm Dinner	Warm Dinner	Warm Dinner	Warm Dinner	Warm Dinner	Warm Dinner
6:00 - 7:00 pm	Basketball: 3 On 3	Soccer	Gamesroom Challenges	Swimming	Music Makers	Adventure Sports Rotating Schedule: Biking, Kayaking, Beach, Kitesurfing Training
7:00 - 8:00 pm	Basketball: King of the Court	Volleyball	Gamesroom Challenges	Swimming	Drama Matters	
8:00 - 9:00 pm	Basketball: 21	Flag Football	Gamesroom Challenges	Swimming	Lyricism 101	

**At least five activities will be offered to youth each program block, with youth able to choose which activity they would like to participate in. To ensure safety, BGCML will group youth by age.*

Staff-to-Member Ratio:

BGCML is committed to providing a safe environment. As such, all Club activities will be under continuous supervision by an appropriate adult at all times. Based on Boys & Girls Clubs of America recommendations and Michigan Out-of-School Time Standards of Quality, BGCML will maintain a *maximum* of 15:1 student-to-staff ratio. Additional staff will be hired as needed based on program participation, to ensure this ratio is in effect at all times.

Budget:

BGCML anticipates the cost to run a high-quality evening recreation program to be **\$50,946**. Assuming this program is operated for 108 hours each summer, this would result in a program cost of **\$472/program hour** (based on 3 hrs per day for 36 days).

See attached for complete budget overview.

(The following staff quantities are based on an anticipated average daily attendance of 250 youth. Number of Coordinators and Youth Development Professionals would be adjusted accordingly to maintain required ratio; additional hours and days are included for training and program preparation).

Salaries & Wages		
Position	Description	Total
Recreation Director	\$16.00/hr, 5 hrs/day, 36 days	\$2,880
Membership Coordinator	\$12.00/hr, 5 hrs/day, 36 days	\$2,160
Recreation Bus Driver	\$15.00/hr, 3 hrs/day, 36 days	\$1,620
Recreation Coordinators (Qty: 6)	\$12.00/hr each, 5 hrs/day, 36 days	\$12,960
Recreation Youth Development Professionals (Qty: 11)	\$10.00/hr, 4 hrs/day, 36 days	\$15,840
Total Salaries & Wages		\$35,460
Payroll Taxes (12%)		\$4,255
Grand Total Salaries & Wages		\$39,715

Other Program Expenses		
Line Item	Description	Total
Program Supplies & Equipment	Games Room Supplies, Sports & Rec Supplies, Art Supplies, Music Supplies	\$3,000
Fuel	Fuel for Beach Trips & Adventure Sports	\$1,500
Janitorial	\$60.00/day, 36 Days	\$2,160
Total Additional Program Expenses:		\$6,600

Overall Program Expenses		
Line Item	Description	Total
Total Project Expense		\$46,315
In-Direct Costs (10%)	Program Planning & Prep, Insurance, Reporting, Management & Oversight	\$4,631
Grand Total Evening Rec Program Expenses:		\$50,946

Date: May 14th, 2019
To: Honorable Mayor and City Commissioners
From: Department of Public Works
RE: Hartshorn Marina T-Dock Repairs

SUMMARY OF REQUEST:

Authorize staff to contract with T.R. Ghezzi, LLC for repairs to the T-Dock at Hartshorn Marina. After the ice thawed, the T-Dock was found to be in need of repairs prior to opening for the season.

Two contractors were solicited for bids on the project:

T.R. Ghezzi LLC	\$10,300.00
Great Lakes	Declined To Bid

FINANCIAL IMPACT:

\$10,300.00

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Authorize staff to contract with T.R. Ghezzi LLC for the dock repairs.



April 26, 2019

Mr. Doug Sayles / City of Muskegon / Hartshorn Marina
920 West Western Avenue
Muskegon, MI 49441

This proposal is for the installation of (5) new lift tanks to add additional floatation to failing sections of the end of the main pier as well as the ramp. Repair existing ramp with additional brackets and lumber as needed. This proposal is based upon access to the project from land and water.

Project Site:

T. R. Ghezzi, LLC has reviewed the site, and submits the following proposal.

Scope of Work:

- Install floats.
- Add any additional support needed.
- Re-deck any disturbed areas.

Schedule of Materials:

- 2" by 6" (actual 1.5" by 5.5") decking.
- 3" coated decking screws.
- 96' by 36" by 24" poly lift tanks.
- Miscellaneous galvanized carriage bolts with washers and nuts.
- Miscellaneous steel needed for repair.

Project Cost:

The cost for this proposal is \$10,300.00

Payment:

55% of balance is due 14 days prior to start of work.

45% of balance payment is due upon completion.

Work Schedule:

Work to begin at acceptance of contract. To be finished by 5/4/19 if the proposal is accepted on or before 4/27/19.

Access to Project Site:

The project cost is based on available access to the project site via land and water. If for any reason the project site is not accessible the project cost is subject to renegotiation.

Contingencies:

This agreement is contingent upon weather delay, accessibility, acts of god, of any other incident beyond the control of T.R. Ghezzi, LLC. Changes to this agreement shall be in writing only. A monthly service charge of 2% shall be applied to all past due accounts.

If you have any questions or concerns, please give me a call at (231) 206-9560.

Thank you.

T.R. Ghezzi, LLC

Travis Ghezzi, Owner
2055 Lakeshore Drive
Muskegon, MI 49441

Doug Sayles / City of Muskegon
920 West Western Avenue
Muskegon, MI 49441

Date: May 14th, 2019

To: Honorable Mayor and City Commissioners

From: Department of Public Works

RE: Consumers Energy LED

SUMMARY OF REQUEST:

Authorize the City Clerk to sign the lighting change contract with Consumers Energy. The agreement covers change in billing for lights upgraded to LED due to faults and or burnouts.

FINANCIAL IMPACT:

\$0

BUDGET ACTION REQUIRED:

None. Faulted or burned out lights are upgraded and replaced with LED at no cost.

STAFF RECOMMENDATION:

Authorize the City Clerk to sign the contract with Consumers Energy.



Jackson Customer Service Center

1945 W Parnall Rd, Jackson, MI 49201 • (800) 477-5050

April 5, 2019

City of Muskegon
Attn: Ann Meisch
933 Terrace
Muskegon, MI. 49440-1397

Dear Ann:

Consumers Energy recently replaced failed and inefficient streetlights with more efficient LED fixtures. Enclosed please find the following contracts for signatures which document the orders that have been recently completed within the City of Muskegon. We will continue to replace and update your accounts periodically as our replacement program progresses.

1. Standard Lighting Contract - Form 547 (GU-XL)

- a. This contract represents the installation of the new LED cobrahead fixtures. A new GUXL contract account (103030946141) has been created for this new rate.

Please sign and return both forms in the envelope provided. We will return an executed copy of this once the conversion is complete and updates have been made to your bill.

2. Authorization for Change in Standard Lighting Contract - Form 547 (GUL)

- a. This contract represents the removal of a portion of your high pressure sodium lights from GUL Account (100000337707).

Please sign and return one copy, the other is for your records.

Please review the enclosed information to assure accuracy. If you are in agreement, please sign and return these in the envelope provided.

Thank you for your time and patience in this conversion process. If you have any additional questions or concerns, please feel free to contact me.

Sincerely,

Tami A Opalek
Consumers Energy
Streetlight Department
Sr. Technical Analyst II
tami.opalek@cmsenergy.com
Enclosures



**AUTHORIZATION FOR CHANGE IN
STANDARD LIGHTING CONTRACT
(COMPANY-OWNED) FORM 547**

Contract Number: 100000337707

Consumers Energy Company is authorized as of _____, by the City of Muskegon, to make changes, as listed below, in the lighting system(s) covered by the existing Standard Lighting Contract between the Company and the City of Muskegon, dated 4/1/2012.

Lighting Type:

General Service Unmetered Lighting Rate GUL, Standard High Intensity Discharge

Notification Number(s):

1046177767

Construction Work Order Number(s):

33500302

Except for the changes in the lighting system(s) as herein authorized, all provisions of the aforesaid Standard Lighting Contract dated 4/1/2012 shall remain in full force and effect.

City of Muskegon

By:

(Signature)

(Printed)

Its

(Title)

**Sig
He**

This Agreement may be executed and delivered in counterparts, including by a facsimile or an electronic transmission thereof, each of which shall be deemed an original. Any document generated by the parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Neither party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

RESOLUTION

RESOLVED, that it is hereby deemed advisable to authorize Consumers Energy Company to make changes in the lighting service as provided in the Standard Lighting Contract between the Company and the City of Muskegon, dated 4/1/2012, in accordance with the Authorization for Change in Standard Lighting Contract dated _____,

heretofore submitted to and considered by this ☐ commission ☐ council ☐ board ;and

RESOLVED, further, that the _____ Clerk be and are authorized to execute such authorization for change on the behalf of the City.

STATE OF MICHIGAN
COUNTY OF Muskegon

I, _____, Clerk of the City of Muskegon, do hereby certify that the foregoing resolution was duly adopted by the ☐ commission ☐ council ☐ board of said municipality, at the meeting held on _____.



Dated:

Municipal Customer Type: City

GENERAL SERVICE UNMETERED LIGHTING RATE GUL, STANDARD HIGH INTENSITY DISCHARGE

<i>Number of Luminaires</i>	<i>Nominal Watts</i>	<i>Luminaire Type</i>	<i>Fixture Type</i>	<i>Fixture Style</i>	<i>Install Remove</i>	<i>Location</i>
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	1851 NEVADA MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	BROADMORE MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	937 EMERSON AVE MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	1581 EDGEWATER ST
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	3212 WINDWARD DR
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	2595 CUTLER AVE
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	FSTL-1881 MCILWRAITH MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	1900 BEACH ST NORTON SHORES
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	PETSAFE DOG PARK W MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	380 CATAWBA AVE muskegon
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	Idlewild Rd - in woods a few yards on Sherman
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	FSTL-1881 MCILWRAITH ST, MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	MANZ AND HOLBROOK, MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	Cottage Grove Public Access Lakeshore Dr. Muskegon
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	2245 Lakeshore Dr. Muskegon
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	7342 PROGRESS DR TWIN LAKE
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	639 W CLAY AVE MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	CORNER OF E GRAND AVE AND JIROCH
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	2149 KINSEY ST MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	FSTL-2355 LAKESHORE DR, MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	FAILURE STREETLIGHT
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	FSTL-JEFFERSON ST & HUSTON MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	1086 JEFFERSON ST, MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	1188 4TH ST MUSKEGON
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	1204 E PICKARD-MT.PLEASANT
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	1207 E PICKARD- MT.PLEASANT
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	1640 E GAYLORD ST, Mt Pleasant
1	<u>100</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	FSTL-847 OAK MUSKEGON
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	FSTL-240 ISABELLA MUSKEGON
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	FSTL-MAPLE ST MUSKEGON (Maple & McLaughlin - from SO)
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	845 CATHERINE AVE
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	1356 MCLAUGHLIN MUSKEGON
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	FSTL-W GRAND AVE, MUSKEGON

1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	FSTL-2596 SHERMAN BLVD NORTON SHORES
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	1284 LAKESHORE DR NORTON SHORES
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	1400 DIVISON ST MUSKEGON
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	1090 YOUNG AVE
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	895 ADA AVE MUSKEGON
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	1237 FRANCIS AVE MUSKEGON
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	1467 CRESTON ST MUSKEGON
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	STLT- 1709 MCILWRAITH ST, MUSKEGON
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	FSTL-2216 RESORT AVE, MUSKEGON
1	<u>150</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	FSTL-2991 Sherwood, MUSKEGON
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	Ionia & Ambrosia
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	FSTL-1385 W SHERMAN MUSKEGON
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	FSTL-1937 LAKESHORE DR MUSKEGON
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	FSTL-1905 LAKESHORE DR MUSKEGON
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	FSTL-2835 BEACH ST MUSKEGON
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	FSTL-1054 W SHERMAN MUSKEGON
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	FSTL-1400 W SHERMAN MUSKEGON
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	684 HARVEY ST MUSKEGON
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	2333 HENRY ST MUSKEGON
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	2208 HENRY ST MUSKEGON
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	2006 HENRY ST MUSKEGON
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	SE CORNER GETTY ST AND WESLEY ST
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	STLT-Sanford, MUSKEGON
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	STLT-63 W Dale Muskegon
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	1105 N MISSION ST MOUNT PLEASANT gm
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	1114 N MISSION ST MOUNT PLEASANT gm
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	1706 S Mission St MOUNT PLEASANT
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	1000 M-20 MOUNT PLEASANT
1	<u>400</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	FSTL-425 W WESTERN AVE MUSKEGON
1	<u>400</u>	<u>HPS</u>	<u>Cobrahead</u>	<u>Remove</u>	FAILURE STREETLIGHT



**AUTHORIZATION FOR CHANGE IN
STANDARD LIGHTING CONTRACT
(COMPANY-OWNED) FORM 547**

Contract Number: 103030946141

Consumers Energy Company is authorized as of _____, by the City of Muskegon, to make changes, as listed below, in the lighting system(s) covered by the existing Standard Lighting Contract between the Company and the City of Muskegon, dated 10/1/2017.

Lighting Type:

General Unmetered Experimental Lighting Rate GU-XL

Notification Number(s):

1046177767

Construction Work Order Number(s):

33500302

Except for the changes in the lighting system(s) as herein authorized, all provisions of the aforesaid Standard Lighting Contract dated 10/1/2017 shall remain in full force and effect.

City of Muskegon

By:

(Signature)

(Printed)

Its

(Title)

**Sign
Here**

This Agreement may be executed and delivered in counterparts, including by a facsimile or an electronic transmission thereof, each of which shall be deemed an original. Any document generated by the parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Neither party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

RESOLUTION

RESOLVED, that it is hereby deemed advisable to authorize Consumers Energy Company to make changes in the lighting service as provided in the Standard Lighting Contract between the Company and the City of Muskegon, dated 10/1/2017, in accordance with the Authorization for Change in Standard Lighting Contract dated _____,

heretofore submitted to and considered by this ☐ commission ☐ council ☐ board ;and

RESOLVED, further, that the _____ Clerk be and are authorized to execute such authorization for change on the behalf of the City.

STATE OF MICHIGAN
COUNTY OF Select...

I, _____, Clerk of the City of Muskegon, do hereby certify that the foregoing resolution was duly adopted by the ☐ commission ☐ council ☐ board of said municipality, at the meeting held on _____.

Sig
Her

Dated: _____

Municipal Customer Type: City

GENERAL UNMETERED EXPERIMENTAL LIGHTING RATE GU-XL

<i>Number of Luminaires</i>	<i>Nominal Watts</i>	<i>Luminaire Type</i>	<i>Fixture Type</i>	<i>Fixture Style</i>	<i>Install Remove</i>	<i>Location</i>
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	FSTL-240 ISABELLA MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	FSTL-MAPLE ST MUSKEGON (Maple & McLaughlin - from SO)
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	FSTL-425 W WESTERN AVE MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	1851 NEVADA MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	BROADMORE MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	937 EMERSON AVE MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	1581 EDGEWATER ST
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	3212 WINDWARD DR
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	2595 CUTLER AVE
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	FSTL-2835 BEACH ST MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	FSTL-1881 MCILWRAITH MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	1900 BEACH ST NORTON SHORES
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	Idlewild Rd - in woods a few yards on Sherman
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	FSTL-1881 MCILWRAITH ST, MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	MANZ AND HOLBROOK, MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	Cottage Grove Public Access Lakeshore Dr. Muskegon
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	2245 Lakeshore Dr. Muskegon
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	7342 PROGRESS DR TWIN LAKE
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	639 W CLAY AVE MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	CORNER OF E GRAND AVE AND JIROCH
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	2149 KINSEY ST MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	FSTL-2355 LAKESHORE DR, MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	1801 Peck St. Muskegon
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	FSTL-JEFFERSON ST & HUSTON MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	1086 JEFFERSON ST, MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	684 HARVEY ST MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	1188 4TH ST MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	1204 E PICKARD-MT.PLEASANT
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	1207 E PICKARD- MT.PLEASANT
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	FSTL-2216 RESORT AVE, MUSKEGON
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	1640 E GAYLORD ST, Mt Pleasant
1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	FSTL-847 OAK MUSKEGON

1	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	380 CATAWBA AVE muskegon
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	845 CATHERINE AVE
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	1356 MCLAUGHLIN MUSKEGON
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	FSTL-W GRAND AVE, MUSKEGON
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	FSTL-2596 SHERMAN BLVD NORTON SHORES
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	1284 LAKESHORE DR NORTON SHORES
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	1400 DIVISON ST MUSKEGON
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	1090 YOUNG AVE
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	895 ADA AVE MUSKEGON
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	PETSAFE DOG PARK W MUSKEGON
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	1237 FRANCIS AVE MUSKEGON
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	1467 CRESTON ST MUSKEGON
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	STLT- 1709 MCILWRAITH ST, MUSKEGON
1	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	FSTL-2991 Sherwood, MUSKEGON
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	Ionia & Ambrosia
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	FSTL-1385 W SHERMAN MUSKEGON
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	FSTL-1937 LAKESHORE DR MUSKEGON
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	FSTL-1905 LAKESHORE DR MUSKEGON
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	FSTL-1054 W SHERMAN MUSKEGON
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	FSTL-1400 W SHERMAN MUSKEGON
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	2333 HENRY ST MUSKEGON
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	2208 HENRY ST MUSKEGON
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	2006 HENRY ST MUSKEGON
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	SE CORNER GETTY ST AND WESLEY ST
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	STLT-Sanford, MUSKEGON
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	STLT-63 W Dale Muskegon
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	1105 N MISSION ST MOUNT PLEASANT gm
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	1114 N MISSION ST MOUNT PLEASANT gm
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	1706 S Mission St MOUNT PLEASANT
1	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	1000 M-20 MOUNT PLEASANT
1	<u>171</u>	<u>LED</u>	<u>Cobrahead</u>	<u>Install</u>	Leon & Sherman

Date: May 14th, 2019
To: Honorable Mayor and City Commissioners
From: Department of Public Works
RE: SRF – RR Sewer Crossing

SUMMARY OF REQUEST:

Authorize staff to sign the agreement with CSX for the new sanitary sewer crossing under the RR line near 8th Street. The line is being installed as a part of the 2019 SRF projects.

FINANCIAL IMPACT:

\$21,500.00

BUDGET ACTION REQUIRED:

None. Will be billed to the capital project for 9th Street sewer upgrades.

STAFF RECOMMENDATION:

Authorize staff to sign the agreement with CSX for the new sanitary sewer crossing.

FACILITY ENCROACHMENT AGREEMENT

THIS AGREEMENT, Made and effective as of March 5, 2019, by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Licensor," and CITY OF MUSKEGON, a municipal corporation, political subdivision or state agency, under the laws of the State of Michigan, whose mailing address is 933 Terrace St., Muskegon, Michigan 49440, hereinafter called "Licensee," WITNESSETH:

WHEREAS, Licensee desires to construct (unless previously constructed and designated as existing herein), use and maintain the below described facility(ies), hereinafter called "Facilities," over, under or across property owned or controlled by Licensor, at the below described location(s):

1. One (1) twenty-four inch (24") diameter sub-grade pipeline crossing, solely for the conveyance of raw/treated sewage, located at or near Muskegon, Muskegon County, Michigan, Louisville Zone Division, Fremont Subdivision, Valuation Station 2968+00, Milepost CGC-56.3, Latitude N43:13:54.00, Longitude W86:15:37.00;
2. One (1) existing eighteen inch (18") diameter pipeline crossing, solely for the conveyance of raw/treated sewage, to be abandoned per Licensor's specifications, located at or near Muskegon, Muskegon County, Michigan, Louisville Zone Division, Fremont Subdivision, Milepost CGC-56.1, N::W::;
3. One (1) existing fifteen inch (15") diameter pipeline crossing, solely for the conveyance of raw/treated sewage, to be abandoned per Licensor's specifications, located at or near Muskegon, Muskegon County, Michigan, Louisville Zone Division, Fremont Subdivision, Milepost CGC-56.0, N::W::;

hereinafter, called the "Encroachment," as shown on print(s) labeled Exhibit "A," attached hereto and made a part hereof;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, terms and agreements herein contained, the parties hereto agree and covenant as follows:

1. LICENSE:

1.1 Subject to Article 17, Licensor, insofar as it has the legal right, power and authority to do so, and its present title permits, and subject to:

(A) Licensor's present and future right to occupy, possess and use its property within the area of the Encroachment for any and all purposes;

(B) All encumbrances, conditions, covenants, easements, and limitations applicable to Licensor's title to or rights in the subject property; and

(C) Compliance by Licensee with the terms and conditions herein contained;

does hereby license and permit Licensee to construct, maintain, repair, renew, operate, use, alter or change the Facilities at the Encroachment above for the term herein stated, and to remove same upon termination.

1.2 The term Facilities, as used herein, shall include only those structures and ancillary facilities devoted exclusively to the transmission usage above within the Encroachment, and as shown on attached Exhibit A.

1.3 No additional structures or other facilities shall be placed, allowed, or maintained by Licensee in, upon or on the Encroachment except upon prior separate written consent of Licensor.

2. ENCROACHMENT FEE; TERM:

2.1 Licensee shall pay Licensor a one-time nonrefundable Encroachment Fee of FIFTEEN THOUSAND THREE HUNDRED AND 00/100 U.S. DOLLARS (\$15,300.00) upon execution of this Agreement. Licensee agrees that the Encroachment Fee applies only to the original Licensee under this Agreement. In the event of a successor (by merger, consolidation, reorganization and/or assignment) or if the original Licensee changes its name, then Licensee shall be subject to payment of Licensor's current administrative and document preparation fees for the cost incurred by Licensor in preparing and maintaining this Agreement on a current basis.

2.2 However, Licensee assumes sole responsibility for, and shall pay directly (or reimburse Licensor), any additional annual taxes and/or periodic assessments levied against Licensor or Licensor's property solely on account of said Facilities or Encroachment.

2.3 This Agreement shall terminate as herein provided, but shall also terminate upon: (a) Licensee's cessation of use of the Facilities or Encroachment for the purpose(s) above; (b) removal of the Facilities; (c) subsequent mutual consent; and/or (d) failure of Licensee to complete installation within five (5) years from the effective date of this Agreement.

2.4 In further consideration for the license or right hereby granted, Licensee hereby agrees that Licensor shall not be charged or assessed, directly or indirectly, with any part of the cost of the installation of said Facilities and appurtenances, and/or maintenance thereof, or for any public works project of which said Facilities is a part.

3. CONSTRUCTION, MAINTENANCE AND REPAIRS:

3.1 Licensee shall construct, maintain, relocate, repair, renew, alter, and/or remove the Facilities, in a prudent, workmanlike manner, using quality materials and complying with any applicable standard(s) or regulation(s) of Licensor (CSXT Specifications), or Licensee's particular industry, National Electrical Safety Code, or any governmental or regulatory body having jurisdiction over the Encroachment.

3.2 Location and construction of Facilities shall be made strictly in accordance with design(s) and specifications furnished to and approved by Licensor and of material(s) and size(s) appropriate for the purpose(s) above recited.

3.3 All of Licensee's work, and exercise of rights hereunder, shall be undertaken at time(s) satisfactory to Licensor, and so as to eliminate or minimize any impact on or interference with the safe use and operation of Licensor's property and appurtenances thereto.

3.4 In the installation, maintenance, repair and/or removal of said Facilities, Licensee shall not use explosives of any type or perform or cause any blasting without the separate express written consent of Licensor. As a condition to such consent, a representative will be assigned by Licensor to monitor blasting, and Licensee shall reimburse Licensor for the entire cost and/or expense of furnishing said monitor.

3.5 Any repairs or maintenance to the Facilities, whether resulting from acts of Licensee, or natural or weather events, which are necessary to protect or facilitate Licensor's use of its property, shall be made by Licensee promptly, but in no event later than thirty (30) days after Licensee has notice as to the need for such repairs or maintenance.

3.6 Licensor, in order to protect or safeguard its property, rail operations, equipment and/or employees from damage or injury, may request immediate repair or renewal of the Facilities, and if the same is not performed, may make or contract to make such repairs or renewals, at the sole risk, cost and expense of Licensee.

3.7 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

3.8 All work on the Encroachment shall be conducted in accordance with Licensor's safety rules and regulations.

3.9 Licensee hereby agrees to reimburse Licensor any loss, cost or expense (including losses resulting from train delays and/or inability to meet train schedules) arising from any failure of Licensee to make repairs or conduct maintenance as required by Section 3.5 above or from improper or incomplete repairs or maintenance to the Facilities or Encroachment.

3.10 In the event it becomes necessary for the Licensee to deviate from the approved Exhibit, Licensee shall seek prior approval from Licensor, or when applicable, an official field representative of Licensor permitted to approve changes, authorizing the necessary field changes and Licensee shall provide Licensor with complete As-Built Drawings of the completed work. As-Built Drawings shall be submitted to Licensor in either electronic or hard copy form upon the substantial completion of the project and upon Licensor's request.

3.11 In the event of large scale maintenance/construction work to railroad bridges Licensee is required to protect power lines with insulated covers or comparable safety devices at their costs during construction/maintenance for safety of railroad employees.

4. PERMITS, LICENSES:

4.1 Before any work hereunder is performed, or before use of the Encroachment for the contracted purpose, Licensee, at its sole cost and expense, shall obtain all necessary permit(s) (including but not limited to zoning, building, construction, health, safety or environmental matters), letter(s) or certificate(s) of approval. Licensee expressly agrees and warrants that it shall conform and limit its activities to the terms of such permit(s), approval(s) and authorization(s), and shall comply with all applicable ordinances, rules, regulations, requirements and laws of any governmental authority (State, Federal or Local) having jurisdiction over Licensee's activities, including the location, contact, excavation and protection regulations of the Occupational Safety and Health Act (OSHA) (29 CFR 1926.651(b)), et al., and State "One Call" - "Call Before You Dig" requirements.

4.2 Licensee assumes sole responsibility for failure to obtain such permit(s) or approval(s), for any violations thereof, or for costs or expenses of compliance or remedy.

5. MARKING AND SUPPORT:

5.1 With respect to any subsurface installation or maintenance upon Licensor's property, Licensee, at its sole cost and expense, shall:

- (A) support track(s) and roadbed in a manner satisfactory to Licensor;
- (B) backfill with satisfactory material and thoroughly tamp all trenches to prevent settling of surface of land and roadbed of Licensor; and
- (C) either remove any surplus earth or material from Licensor's property or cause said surplus earth or material to be placed and distributed at location(s) and in such manner Licensor may approve.

5.2 After construction or maintenance of the Facilities, Licensee shall:

- (A) Restore any track(s), roadbed and other disturbed property; and
- (B) Erect, maintain and periodically verify the accuracy of aboveground markers, in a form approved by Licensor, indicating the location, depth and ownership of any underground Facilities or related facilities.

5.3 Licensee shall be solely responsible for any subsidence or failure of lateral or subjacent support in the Encroachment area for a period of three (3) years after completion of installation.

6. TRACK CHANGES:

6.1 In the event that rail operations and/or track maintenance result in changes in grade or alignment of, additions to, or relocation of track(s) or other facilities, or in the event future use of Licensor's rail corridor or property necessitate any change of location, height or depth in the Facilities or Encroachment, Licensee, at its sole cost and expense and within thirty (30) days after notice in writing from Licensor, shall make changes in the Facilities or Encroachment to accommodate such track(s) or operations.

6.2 If Licensee fails to do so, Licensor may make or contract to make such changes at Licensee's cost.

7. FACILITY CHANGES:

7.1 Licensee shall periodically monitor and verify the depth or height of the Facilities or Encroachment in relation to the existing tracks and facilities, and shall relocate the Facilities or change the Encroachment, at Licensee's expense, should such relocation or change be necessary to comply with the minimum clearance requirements of Licensor.

7.2 If Licensee undertakes to revise, renew, relocate or change in any manner whatsoever all or any part of the Facilities (including any change in voltage or gauge of wire or any change in circumference, diameter or radius of pipe or change in materials transmitted in and through said pipe), or is required by any public agency or court order to do so, plans therefor shall be submitted to Licensor for approval before such change. After approval, the terms and conditions of this Agreement shall apply thereto.

8. INTERFERENCE WITH RAIL FACILITIES:

8.1 Although the Facilities/Encroachment herein permitted may not presently interfere with Licensor's railroad or facilities, in the event that the operation, existence or maintenance of said Facilities, in the sole judgment of Licensor, causes: (a) interference (including, but not limited to, physical or interference from an electromagnetic induction, or interference from stray or other currents) with Licensor's power lines, communication, signal or other wires, train control system, or electrical or electronic apparatus; or (b) interference in any manner, with the operation, maintenance or use of the rail corridor, track(s), structures, pole line(s), devices, other property, or any appurtenances thereto; then and in either event, Licensee, upon receipt of written notice from Licensor of any such interference, and at Licensee's sole risk, cost and expense, shall promptly make such changes in its Facilities or installation, as may be required in the reasonable judgment of the Licensor to eliminate all such interference. Upon Licensee's failure to remedy or change, Licensor may do so or contract to do so at Licensee's sole cost.

8.2 Without assuming any duty hereunder to inspect the Facilities, Licensor hereby reserves the right to inspect same and to require Licensee to undertake repairs, maintenance or adjustments to the Facilities, which Licensee hereby agrees to make promptly, at Licensee's sole cost and expense.

9. RISK, LIABILITY, INDEMNITY:

With respect to the relative risk and liabilities of the parties, it is hereby agreed that:

9.1 Licensee, to the fullest extent permitted by State law (constitutional or statutory, as amended), hereby agrees to assume any and all liability, loss, claim, suit, damage, charge or expense on account of death or injury to any person whomsoever, and for damage to or loss of or destruction of any property whatsoever, arising out of, resulting from, or in any way connected with the construction, repair, maintenance, replacement, presence, existence, operations, use or removal of the Facilities or any structure in connection therewith, or restoration of premises of Licensors to good order or condition after removal.

9.2 Licensee's Contractor shall hereby agree to, defend, indemnify, and hold Licensors harmless from and against any and all liability, loss, claim, suit, damage, charge or expense which Licensors may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person whomsoever (including officers, agents, employees or invitees of Licensors), and for damage to or loss of or destruction of any property whosoever, arising out of resulting from, or in any way connected with the construction, repair, maintenance, replacement, presence, existence, operations, use or removal of the Facilities or any structure in connection therewith, or restoration of premises of Licensors to good order or condition after removal, EXCEPT when proven to have been caused solely by the willful misconduct or gross negligence of Licensors. HOWEVER, to the fullest extent permitted by State law, during any period of actual construction, repair, maintenance, replacement or removal of the Facilities, wherein agents, equipment or personnel of Licensee are on the railroad rail corridor, Licensee's liability hereunder shall be absolute, irrespective of any joint, sole or contributory fault or negligence of Licensors.

9.3 Use of Licensors' rail corridor involves certain risks of loss or damage as a result of the rail operations. Notwithstanding Section 9.1, Licensee expressly assumes all risk of loss and damage to Licensee's Property or the Facilities in, on, over or under the Encroachment, including loss of or any interference with use or service thereof, regardless of cause, including electrical field creation, fire or derailment resulting from rail operations. For this Section, the term "Licensee's Property" shall include property of third parties situated or placed upon Licensors' rail corridor by Licensee or by such third parties at request of or for benefit of Licensee.

9.4 To the fullest extent permitted by State law, as above, Licensee assumes all responsibility for: (a) all claims, costs and expenses, including reasonable attorneys' fees, as a consequence of any sudden or nonsudden pollution of air, water, land and/or ground water on or off the Encroachment area, arising from or in connection with the use of this Encroachment or resulting from leaking, bursting, spilling, or any escape of the material transmitted in or through the Facilities; (b) any claim or liability arising under federal or state law dealing with either such sudden or nonsudden pollution of air, water, land and/or ground water arising therefrom or the remedy thereof; and (c) any subsidence or failure of lateral or subjacent support of the tracks arising from such Facilities leakage.

9.5 Notwithstanding Section 9.1, Licensee also expressly assumes all risk of loss which in any way may result from Licensee's failure to maintain either required clearances for any overhead Facilities or the required depth and encasement for any underground Facilities, whether or not such loss(es) result(s) in whole or part from Licensor's contributory negligence or joint fault.

9.6 Obligations of Licensee hereunder to release Licensor shall also extend to companies and other legal entities that control, are controlled by, subsidiaries of, or are affiliated with Licensor, as well as any railroad that operates over the rail corridor on which the Encroachment is located, and the officers, employees and agents of each.

9.7 If a claim is made or action is brought against Licensor, and/or its operating lessee, for which Licensee may be responsible hereunder, in whole or in part, Licensee shall be notified to assume the handling or defense of such claim or action; but Licensor may participate in such handling or defense.

9.8 Notwithstanding anything contained in this Agreement, the limitation of liability contained in the state statutes, as amended from time to time, shall not limit Licensor's ability to collect under the insurance policies required to be maintained under this Agreement.

10. INSURANCE:

10.1 Prior to commencement of surveys, installation or occupation of premises pursuant to this Agreement, Licensee shall procure and shall maintain during the continuance of this Agreement, at its sole cost and expense, a policy of

- (i) Statutory Worker's Compensation and Employers Liability Insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00).
- (ii) Commercial General Liability coverage (inclusive of contractual liability) with available limits of not less than FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) in combined single limits for bodily injury and property damage and covering the contractual liabilities assumed under this Agreement and naming Licensor, and/or its designee, as additional insured. The evidence of insurance coverage shall be endorsed to provide for thirty (30) days' notice to Licensor, or its designee, prior to cancellation or modification of any policy. Mail CGL certificate, along with agreement, to CSX Transportation, Inc., Speed Code J180, 500 Water Street, Jacksonville, FL 32202. On each successive year, send certificate to RenewalCOI@csx.com.
- (iii) Business automobile liability insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00) combined single limit for bodily injury and/or property damage per occurrence naming Licensor, and/or its designee, as additional insured.

(iv) The insurance policies must contain a waiver of subrogation against CSXT and its Affiliates, except where prohibited by law. All insurance companies must be A. M. Best rated A- and Class VII or better.

(v) Such other insurance as Licensor may reasonably require.

(vi) Licensee shall require its contractors to meet minimum insurance requirements above when performing work in relation to this agreement. Licensee will procure and review contractor's insurance certificates to confirm requirements are met. Licensor may request a copy of the insurance certificate.

10.2 If Licensee's existing CGL policy(ies) do(es) not automatically cover Licensee's contractual liability during periods of survey, installation, maintenance and continued occupation, a specific endorsement adding such coverage shall be purchased by Licensee. If said CGL policy is written on a "claims made" basis instead of a "per occurrence" basis, Licensee shall arrange for adequate time for reporting losses. Failure to do so shall be at Licensee's sole risk.

10.3 Licensor, or its designee, may at any time request evidence of insurance purchased by Licensee to comply with this Agreement. Failure of Licensee to comply with Licensor's request shall be considered a default by Licensee.

10.4 To the extent permitted by law and without waiver of the sovereign immunity of Licensee, securing such insurance shall not limit Licensee's liability under this Agreement, but shall be security therefor.

10.5 (A) In the event Licensee finds it necessary to perform construction or demolition operations within fifty feet (50') of any operated railroad track(s) or affecting any railroad bridge, trestle, tunnel, track(s), roadbed, overpass or underpass, Licensee shall: (a) notify Licensor; and (b) require its contractor(s) performing such operations to procure and maintain during the period of construction or demolition operations, at no cost to Licensor,

i) Railroad Protective Liability (RPL) Insurance, naming Licensor, and/or its designee, as Named Insured, written on the current ISO/RIMA Form (ISO Form No. CG 00 35 04 13) with limits of FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) per occurrence for bodily injury and property damage, with at least TEN MILLION AND 00/100 U.S. DOLLARS (\$10,000,000.00) aggregate limit per annual policy period. The original of such RPL policy shall be sent to and approved by Licensor prior to commencement of such construction or demolition. Licensor reserves the right to demand higher limits.

OR

ii) The CGL policy shall include endorsement ISO CG 24 17 and the Auto Liability Policy shall include endorsement ISO CA 20 70 evidencing that coverage is provided for

work within 50 feet of a railroad. If such endorsements are not included, RPL insurance must be provided.

(B) At Licensor's option, in lieu of purchasing RPL insurance or the 50 foot endorsements from an insurance company (but not CGL insurance), Licensee may pay Licensor, at Licensor's current rate at time of request, the cost of adding this Encroachment, or additional construction and/or demolition activities, to Licensor's Railroad Protective Liability (RPL) Policy for the period of actual construction. This coverage is offered at Licensor's discretion and may not be available under all circumstances.

10.6 Notwithstanding the provisions of Sections 10.1 and 10.2, Licensee, pursuant to State Statute(s), may self-insure or self-assume, in any amount(s), any contracted liability arising under this Agreement, under a funded program of self-insurance, which fund will respond to liability of Licensee imposed by and in accordance with the procedures established by law.

11. GRADE CROSSINGS; PROTECTION SERVICES:

11.1 Nothing herein contained shall be construed to permit Licensee or Licensee's contractor to move any vehicles or equipment over the track(s), except at public road crossing(s), without separate prior written approval of Licensor.

11.2 If Licensor deems it advisable, during any construction, maintenance, repair, renewal, alteration, change or removal of said Facilities, to place watchmen, flagmen, or field construction managers for protection of operations of Licensor or others on Licensor's rail corridor at the Encroachment, and to keep persons, equipment or materials away from the track(s), Licensor shall have the right to do so at the expense of Licensee, but Licensor shall not be liable for failure to do so.

12. LICENSOR'S COSTS:

12.1 Any additional or alternative costs or expenses incurred by Licensor to accommodate Licensee's continued use of Licensor's property as a result of track changes or wire changes shall also be paid by Licensee.

12.2 Licensor's expense for wages ("force account" charges) and materials for any work performed at the expense of Licensee pursuant hereto shall be paid by Licensee within thirty (30) days after receipt of Licensor's bill therefor. Licensor may, at its discretion, request an advance deposit for estimated Licensor costs and expenses.

12.3 Such expense shall include, but not be limited to, cost of railroad labor and supervision under "force account" rules, plus current applicable overhead percentages, the actual cost of materials, and insurance, freight and handling charges on all material used. Equipment rentals shall be in accordance with Licensor's applicable fixed rate. Licensor may, at its discretion, require advance deposits for estimated costs of such expenses and costs.

13. DEFAULT, BREACH, WAIVER:

13.1 The proper and complete performance of each covenant of this Agreement shall be deemed of the essence thereof, and in the event Licensee fails or refuses to fully and completely perform any of said covenants or remedy any breach within thirty (30) days after receiving written notice from Licensor to do so (or within forty-eight (48) hours in the event of notice of a railroad emergency), Licensor shall have the option of immediately revoking this Agreement and the privileges and powers hereby conferred, regardless of encroachment fee(s) having been paid in advance for any annual or other period. Upon such revocation, Licensee shall make removal in accordance with Article 14.

13.2 No waiver by Licensor of its rights as to any breach of covenant or condition herein contained shall be construed as a permanent waiver of such covenant or condition, or any subsequent breach thereof, unless such covenant or condition is permanently waived in writing by Licensor.

13.3 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

14. TERMINATION, REMOVAL:

14.1 All rights which Licensee may have hereunder shall cease upon the date of (a) termination, (b) revocation, or (c) subsequent agreement, or (d) Licensee's removal of the Facility from the Encroachment. However, neither termination nor revocation of this Agreement shall affect any claims and liabilities which have arisen or accrued hereunder, and which at the time of termination or revocation have not been satisfied; neither party, however, waiving any third party defenses or actions.

14.2 Within thirty (30) days after revocation or termination, Licensee, at its sole risk and expense, shall (a) remove the Facilities from the rail corridor of Licensor, unless the parties hereto agree otherwise, (b) restore the rail corridor of Licensor in a manner satisfactory to Licensor, and (c) reimburse Licensor any loss, cost or expense of Licensor resulting from such removal.

15. NOTICE:

15.1 Licensee shall give Licensor at least thirty (30) days written notice before doing any work on Licensor's rail corridor, except that in cases of emergency shorter notice may be given. Licensee shall provide proper notification as follows:

a. For non-emergencies, Licensee shall submit online via the CSX Property Portal from Licensor's web site, via web link:
https://propertyportal.csx.com/pub_ps_res/ps_res/jsf/public/index.faces

b. For emergencies, Licensee shall complete all of the steps outlined in Section 15.1 a. above, and shall also include detailed information of the emergency. Licensee shall also call and report details of the emergency to Licensor's Rail Operations Emergency Telephone Number: 1-800-232-0144. In the event Licensor needs to contact Licensee concerning an emergency involving Licensee's Facility(ies), the emergency phone number for Licensee is: 231-750-6369.

15.2 All other notices and communications concerning this Agreement shall be addressed to Licensee at the address above, and to Licensor at the address shown on Page 1, c/o CSXT Contract Management, J180; or at such other address as either party may designate in writing to the other.

15.3 Unless otherwise expressly stated herein, all such notices shall be in writing and sent via Certified or Registered Mail, Return Receipt Requested, or by courier, and shall be considered delivered upon: (a) actual receipt, or (b) date of refusal of such delivery.

16. ASSIGNMENT:

16.1 The rights herein conferred are the privileges of Licensee only, and Licensee shall obtain Licensor's prior written consent to any assignment of Licensee's interest herein; said consent shall not be unreasonably withheld.

16.2 Subject to Sections 2 and 16.1, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns.

16.3 Licensee shall give Licensor written notice of any legal succession (by merger, consolidation, reorganization, etc.) or other change of legal existence or status of Licensee, with a copy of all documents attesting to such change or legal succession, within thirty (30) days thereof.

16.4 Licensor expressly reserves the right to assign this Agreement, in whole or in part, to any grantee, lessee, or vendee of Licensor's underlying property interests in the Encroachment, upon written notice thereof to Licensee.

16.5 In the event of any unauthorized sale, transfer, assignment, sublicense or encumbrance of this Agreement, or any of the rights and privileges hereunder, Licensor, at its option, may revoke this Agreement by giving Licensee or any such assignee written notice of such revocation; and Licensee shall reimburse Licensor for any loss, cost or expense Licensor may incur as a result of Licensee's failure to obtain said consent.

17. TITLE:

17.1 Licensee understands that Licensor occupies, uses and possesses lands, rights-of-way and rail corridors under all forms and qualities of ownership rights or facts, from full fee simple absolute to bare occupation. Accordingly, nothing in this Agreement shall act as

or be deemed to act as any warranty, guaranty or representation of the quality of Licensor's title for any particular Encroachment or segment of Rail Corridor occupied, used or enjoyed in any manner by Licensee under any rights created in this Agreement. It is expressly understood that Licensor does not warrant title to any Rail Corridor and Licensee will accept the grants and privileges contained herein, subject to all lawful outstanding existing liens, mortgages and superior rights in and to the Rail Corridor, and all leases, licenses and easements or other interests previously granted to others therein.

17.2 The term "license," as used herein, shall mean with regard to any portion of the Rail Corridor which is owned by Licensor in fee simple absolute, or where the applicable law of the State where the Encroachment is located otherwise permits Licensor to make such grants to Licensee, a "permission to use" the Rail Corridor, with dominion and control over such portion of the Rail Corridor remaining with Licensor, and no interest in or exclusive right to possess being otherwise granted to Licensee. With regard to any other portion of Rail Corridor occupied, used or controlled by Licensor under any other facts or rights, Licensor merely waives its exclusive right to occupy the Rail Corridor and grants no other rights whatsoever under this Agreement, such waiver continuing only so long as Licensor continues its own occupation, use or control. Licensor does not warrant or guarantee that the license granted hereunder provides Licensee with all of the rights necessary to occupy any portion of the Rail Corridor. Licensee further acknowledges that it does not have the right to occupy any portion of the Rail Corridor held by Licensor in less than fee simple absolute without also receiving the consent of the owner(s) of the fee simple absolute estate. Further, Licensee shall not obtain, exercise or claim any interest in the Rail Corridor that would impair Licensor's existing rights therein.

17.3 Licensee agrees it shall not have nor shall it make, and hereby completely and absolutely waives its right to, any claim against Licensor for damages on account of any deficiencies in title to the Rail Corridor in the event of failure or insufficiency of Licensor's title to any portion thereof arising from Licensee's use or occupancy thereof.

17.4 Licensee agrees to fully and completely indemnify and defend all claims or litigation for slander of title, overburden of easement, or similar claims arising out of or based upon the Facilities placement, or the presence of the Facilities in, on or along any Encroachment(s), including claims for punitive or special damages.

17.5 Licensee shall not at any time own or claim any right, title or interest in or to Licensor's property occupied by the Encroachments, nor shall the exercise of this Agreement for any length of time give rise to any right, title or interest in Licensee to said property other than the license herein created.

17.6 Nothing in this Agreement shall be deemed to give, and Licensor hereby expressly waives, any claim of ownership in and to any part of the Facilities.

17.7 Licensee shall not create or permit any mortgage, pledge, security, interest, lien or encumbrances, including without limitation, tax liens and liens or encumbrances with respect to work performed or equipment furnished in connection with the construction, installation, repair, maintenance or operation of the Facilities in or on any portion of the

Encroachment (collectively, "Liens or Encumbrances"), to be established or remain against the Encroachment or any portion thereof or any other Licensor property.

17.8 In the event that any property of Licensor becomes subject to such Liens or Encumbrances, Licensee agrees to pay, discharge or remove the same promptly upon Licensee's receipt of notice that such Liens or Encumbrances have been filed or docketed against the Encroachment or any other property of Licensor; however, Licensee reserves the right to challenge, at its sole expense, the validity and/or enforceability of any such Liens or Encumbrances.

18. GENERAL PROVISIONS:

18.1 This Agreement, and the attached specifications, contains the entire understanding between the parties hereto.

18.2 Neither this Agreement, any provision hereof, nor any agreement or provision included herein by reference, shall operate or be construed as being for the benefit of any third person.

18.3 Except as otherwise provided herein, or in any Rider attached hereto, neither the form of this Agreement, nor any language herein, shall be interpreted or construed in favor of or against either party hereto as the sole drafter thereof.

18.4 This Agreement is executed under current interpretation of applicable Federal, State, County, Municipal or other local statute, ordinance or law(s). However, each separate division (paragraph, clause, item, term, condition, covenant or agreement) herein shall have independent and severable status for the determination of legality, so that if any separate division is determined to be void or unenforceable for any reason, such determination shall have no effect upon the validity or enforceability of each other separate division, or any combination thereof.

18.5 This Agreement shall be construed and governed by the laws of the state in which the Facilities and Encroachment are located.

18.6 If any amount due pursuant to the terms of this Agreement is not paid by the due date, it will be subject to Licensor's standard late charge and will also accrue interest at eighteen percent (18%) per annum, unless limited by local law, and then at the highest rate so permitted.

18.7 Licensee agrees to reimburse Licensor for all reasonable costs (including attorney's fees) incurred by Licensor for collecting any amount due under the Agreement.

18.8 The provisions of this License are considered confidential and may not be disclosed to a third party without the consent of the other party(s), except: (a) as required by statute, regulation or court order, (b) to a parent, affiliate or subsidiary company, (c) to an auditing firm or legal counsel that are agreeable to the confidentiality provisions, or (d) to

Lessees of Licensor's land and/or track who are affected by the terms and conditions of this Agreement and will maintain the confidentiality of this Agreement.

18.9 Within thirty (30) days of an overpayment in a cumulative total amount of One Hundred Dollars (\$100.00) or more by Licensee to Licensor, Licensee shall notify Licensor in writing with documentation evidencing such overpayment. Licensor shall refund the actual amount of Licensee's overpayment within 120 days of Licensor's verification of such overpayment.

19. CONTRACTOR'S ACCEPTANCE:

19.1 Licensee shall observe and abide by, and shall require Licensee's Contractors to observe and abide by the terms, conditions and provisions set forth in this Agreement. Prior to any commencement of work under this Agreement by Licensee's Contractor, Licensee shall require Licensee's Contractor to execute and deliver to Licensor the Contractor Acceptance form attached hereto as Schedule A to acknowledge Licensee's Contractor's agreement to observe and abide by terms and conditions of the Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate
(each of which shall constitute an original) as of the effective date of this Agreement.

Witness for Licensors:

CSX TRANSPORTATION, INC.

_____ By:_____

Print/Type Name:_____

Print/Type Title:_____

Witness for Licensee:

CITY OF MUSKEGON

_____ By:_____

Who, by the execution hereof, affirms that he/she has
the authority to do so and to bind the Licensee to the
terms and conditions of this Agreement.

Print/Type Name:_____

Print/Type Title:_____

Tax ID No.:_____

Authority under Ordinance or

Resolution No._____,

Dated _____.

Schedule "A"

CONTRACTOR'S ACCEPTANCE

This Amendment is and shall be a part of Agreement No. CSX883729, and is incorporated therein.

To and for the benefit of CSX TRANSPORTATION, Inc. (Licensor") and to induce Licensor to permit Contractor on or about Licensor's property for the purposed of performing work in accordance with the Agreement dated March 5, 2019, between Licensee and Licensor, Contractor hereby agrees to abide by and perform all applicable terms of the Agreement, including, but not limited to Sections 3, 9, 10 of the Agreement.

Witness for Licensor:

CSX TRANSPORTATION INC.

By: _____

Print/Type Name: _____

Print/Type Title: _____

Witness for Licensee's Contractor

LICENSEE'S CONTRACTOR

By: _____

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Licensee has the authority to do so and to bind the Licensee to the terms and conditions of this Agreement

NAME: _____

TITLE: _____

DATE: _____



Invoice

Page 1 of 1
Account/Contract No. CSX883729
Customer Project No. 837930
Date 5/8/2019

Customer

City of Muskegon
933 Terrace Street
Muskegon, MI 49440

Please submit a copy of this statement with payment submission to the "Remit To" address shown below.

Fees-At-A-Glance

Amount Due U.S. Dollars \$ 21500.00

Fees Summary

Application Review Fee	\$	5,250.00
Railroad Protective Liability	\$	950.00
License Fee	\$	15,300.00
Sales Tax*		
Money on File		

* Florida Sales tax applies to the license fee

Total Current Fees in U.S. dollars \$ 21,500.00

CSX Federal ID No. 54-6000720
CSX Canadian ID No. 105203095 RC 0001
CSX Quebec ID No. 1022434469 IC 0001

Please remit payment to: CSX Transportation, Inc.

Legal Address:
500 Water Street, J180
Jacksonville, FL 32202

Mailing Address:
500 Water Street, J180
Jacksonville, FL 32202

Questions? Contact:

Anne.Jackson@csx.com
904.279.3953

CSX-883729 EXHIBIT A

Muskegon, Muskegon Co., MI
Midwest Region / Louisville Zone / Fremont Subdivision
Milepost CGC 56.3
CSXT has Leased the Track & R/W to Michigan Shore Railroad (MS)
Val. Sta. 2968+00 (GIS Map No. 22687)
N43:13:54.00 / W86:15:37.00



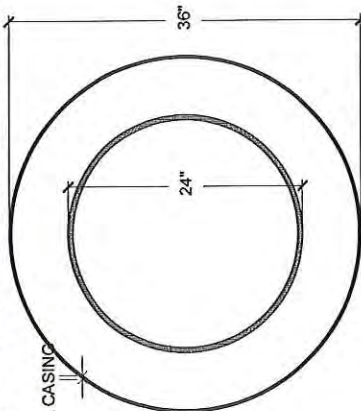
CSX GENERAL NOTES:

1. REFER TO THE CSX PIPELINE DESIGN & CONSTRUCTION SPECIFICATIONS FOR ADDITIONAL INFORMATION.
2. THE FRONT OF THE PIPE SHALL BE PROVIDED WITH MECHANICAL ARRANGEMENTS OR DEVICES THAT WILL POSITIVELY PREVENT THE AUGER FROM LEADING THE PIPE SO THAT NO UNSUPPORTED EXCAVATION IS AHEAD OF THE PIPE.
3. THE OPERATION SHALL BE PROGRESSED ON A 24-HOUR BASIS WITHOUT STOPPAGE (EXCEPT FOR ADDING LENGTHS OF PIPE) UNTIL THE LEADING EDGE OF THE PIPE HAS REACHED THE RECEIVING PIT.
4. THE AUGER AND CUTTING HEAD ARRANGEMENT SHALL BE REMOVABLE FROM WITHIN THE PIPE IN THE EVENT AN OBSTRUCTION IS ENCOUNTERED.
5. PIPELINE SHALL BE PROMINENTLY MARKED AT BOTH SIDES OF THE CSX PROPERTY LINES BY DURABLE, WEATHERPROOF SIGNS LOCATED OVER THE CENTERLINE OF THE PIPE IN ACCORDANCE WITH CSX SPECIFICATIONS.
6. NO CONSTRUCTION OR ENTRY UPON THE CSX CORRIDOR IS PERMITTED UNTIL THE DOCUMENT TRANSACTION IS COMPLETED, YOU ARE IN RECEIPT OF A FULLY EXECUTED DOCUMENT, AND YOU HAVE OBTAINED AUTHORITY FROM THE LOCAL MS ROADMASTER.
7. IF REQUIRED, A DEWATERING PLAN IN ACCORDANCE WITH CSX SPECIFICATIONS WILL BE SUBMITTED TO THE CSX REPRESENTATIVE FOR REVIEW AND APPROVAL PRIOR TO ANY DEWATERING OPERATIONS.
8. BLASTING IS NOT PERMITTED UNDER OR ON CSX PROPERTY.
9. CSX DOES NOT GRANT OR CONVEY AN EASEMENT FOR THIS INSTALLATION.
10. ALL PERSONNEL SHALL RECEIVE SAFETY BRIEFINGS BY A MS FLAGMAN OR DESIGNATED CSXT REPRESENTATIVE EACH DAY BEFORE BEGINNING WORK ON THE RIGHT OF WAY. ADDITIONAL SAFETY BRIEFINGS MAY BE REQUIRED WHEN CONDITIONS AND/OR WORK SITES ARE CHANGED.
11. AGENCY OR ITS CONTRACTOR SHALL ARRANGE AND CONDUCT ITS WORK SO THAT THERE WILL BE NO INTERFERENCE WITH MS OPERATIONS, INCLUDING TRAIN, SIGNAL, TELEPHONE AND TELEGRAPHIC SERVICES, OR DAMAGES TO CSXT'S PROPERTY, OR TO POLES, WIRES, AND OTHER FACILITIES OF TENANTS OF CSXT'S PROPERTY OR RIGHT-OF-WAY.
12. DURING CONSTRUCTION, THE CONTRACTOR SHALL PROTECT ALL ACTIVE RAILROAD FACILITIES, INCLUDING ELECTRICAL, WATER LINES, SEWER LINES, COMMUNICATION AND SIGNAL LINES AS WELL AS UNDERGROUND PIPING. THE CONTRACTOR SHALL BE REQUIRED TO KEEP ALL EQUIPMENT AND MATERIAL A MINIMUM OF SIX (6) FEET FROM AFOREMENTIONED ELEVATED COMMUNICATION AND SIGNAL FACILITIES.
13. CONTRACTOR MUST CONDUCT ALL OF ITS WORK IN A SAFE MANNER. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH RULES, REGULATIONS, PROCEDURES AND SAFE PRACTICES OF CSXT, OSHA, THE FRA AND ALL OTHER GOVERNMENT AGENCIES HAVING JURISDICTION OVER THE PROJECT.
14. OWNER SHALL REIMBURSE MS AND CSXT DIRECTLY FOR ALL COSTS OF FLAGGING AND INSPECTION SERVICE THAT ARE REQUIRED ON ACCOUNT OF CONSTRUCTION WITHIN CSXT PROPERTY SHOWN IN THE PLANS, OR COVERED BY AN APPROVED PLAN REVISION, SUPPLEMENTAL AGREEMENT OR CHANGE ORDER. INSPECTION SERVICE SHALL NOT RELIEVE CONTRACTOR FROM LIABILITY FOR ITS WORK.
15. OWNER OR CONTRACTOR SHALL GIVE A MINIMUM OF 30 DAYS' ADVANCE NOTICE TO MS AND CSXT REPRESENTATIVE FOR ANTICIPATED NEED FOR FLAGGING AND INSPECTION SERVICE. NO WORK SHALL BE UNDERTAKEN UNTIL THE FLAG PERSON(S) AND INSPECTOR(S) IS/ARE AT THE JOB SITE. IF IT IS NECESSARY FOR CSXT TO ADVISE A FLAGGING JOB FOR BID, CSXT SHALL NOT BE LIABLE FOR THE COST OF DELAYS ATTRIBUTABLE TO OBTAINING SUCH SERVICE.
16. THE RIGHT OF WAY SHALL BE RESTORED TO A CONDITION EQUAL TO OR BETTER THAN THE CONDITION PRIOR TO BEGINNING THE PROJECT BEFORE FINAL ACCEPTANCE WILL BE PROVIDED. PUNCH LISTS SHALL BE RESPONDED TO PRIOR TO ISSUANCE OF AN ACCEPTANCE MEMORANDUM SIGNED BY THE CSXT REPRESENTATIVE.
17. JACKING PIT: IDENTIFY HAZARDS AND PUT CONTROLS IN PLACE PRIOR TO START OF EXCAVATION. STAKE OR MARK PIT AS NEEDED FOR DIGGING. ESTABLISH A LAYDOWN AREA ABOVE THE FLOOD ZONE TO PLACE MOTORIZED EQUIPMENT. PLACE SNOW FENCE AROUND PIT 20' BEYOND THE LEADING EDGE OF EXCAVATION. ALL EROSION CONTROL METHODS SHALL BE INSTALLED AND MAINTAINED USING BEST MANAGEMENT PRACTICES AS REQUIRED. APPLY LAYER OF WASHED STONE TO BASE OF EXCAVATION TO ESTABLISH PROPER LINE AND GRADE (6" MIN.).
18. EXCAVATION: IF THE EXCAVATION IS 5 FEET OR GREATER IN DEPTH, THE WALLS MAY BE SLOPED AT 1.5 HORIZONTAL TO 1 VERTICAL TO REDUCE THE RISK OF CAVE-INS OR SLIDES. A SAFE MANNER IN WHICH TO ENTER AND EXIT THE EXCAVATION MUST BE ESTABLISHED.
19. CONTRACTOR ALSO HAS THE SOLE RESPONSIBILITY OF ASCERTAINING THAT ALL OTHER UTILITIES HAVE BEEN PROPERLY LOCATED BY COMPLYING WITH THE LOCAL "CALL BEFORE YOU DIG" REGULATION(S). CONTRACTOR SHALL SOLELY BE RESPONSIBLE FOR NOTIFYING OWNERS OF ADJACENT PROPERTIES AND OF UNDERGROUND FACILITIES AND UTILITY OWNERS WHEN PROSECUTION OF THE WORK MAY AFFECT THEM, AND SHALL COOPERATE WITH THEM IN THE PROTECTION, REMOVAL, RELOCATION AND REPLACEMENT OF THEIR PROPERTY.
20. BEFORE EXCAVATING, ALL SIGNAL CABLES AND OTHER UTILITIES MUST BE LOCATED AND MARKED/FLAGGED.

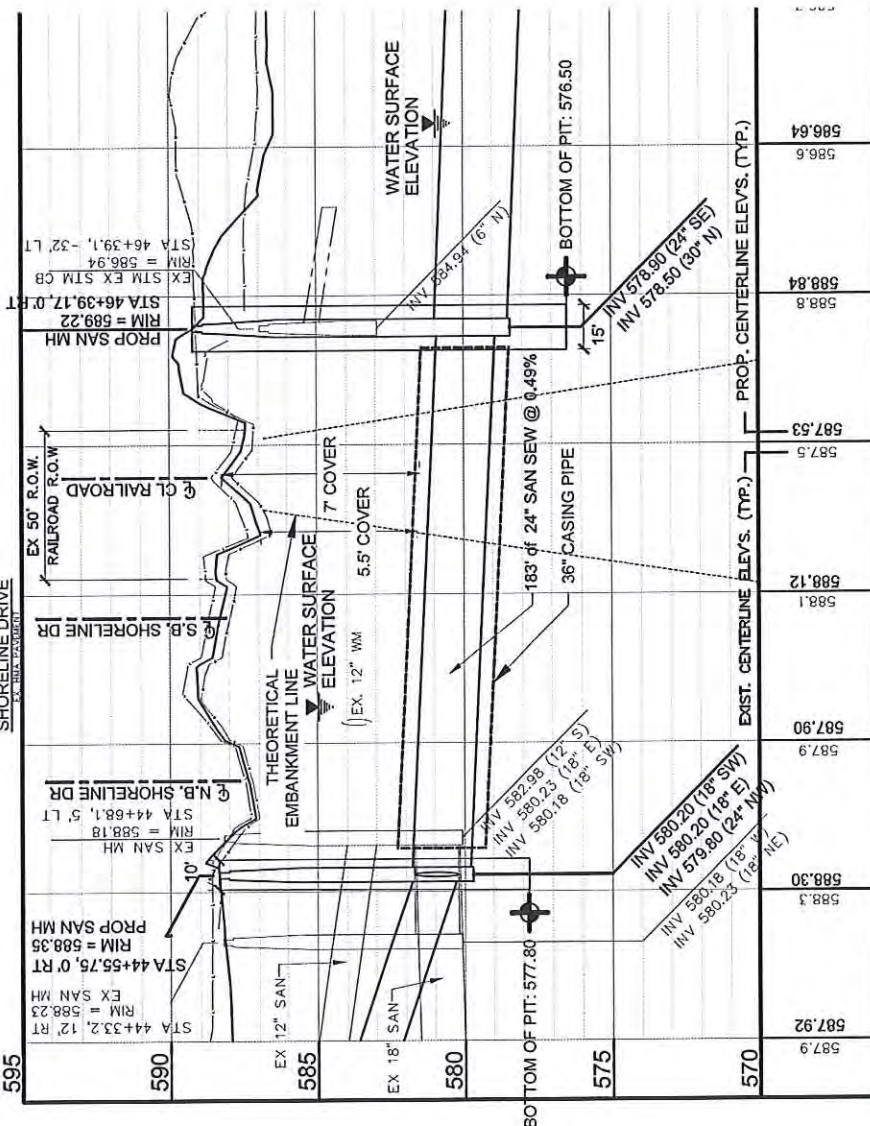
EXCEPTIONS NOTED:

1. GROUNDWATER MUST BE CONSIDERED DURING THE DESIGN AND CONSTRUCTION OF THE JACKING AND RECEIVING PITS. AGENCY OR CONTRACTOR SHALL SUBMIT, FOR CSXT APPROVAL, A DETAILED DESIGN AND PROCEDURE INDICATING DEWATERING SYSTEM LAYOUT, WELL DEPTHS, DEWATERING PUMP LOCATIONS, AND TRACK MONITORING PROGRAM TO MONITOR AND DETECT HORIZONTAL AND VERTICAL MOVEMENT OF THE TRACK & ROADBED.
2. MINIMUM WALL THICKNESS FOR 36" UNCOATED CASING PIPE SHALL BE 0.532".

ccy892730



0.532" THICK STEEL CASING ✓



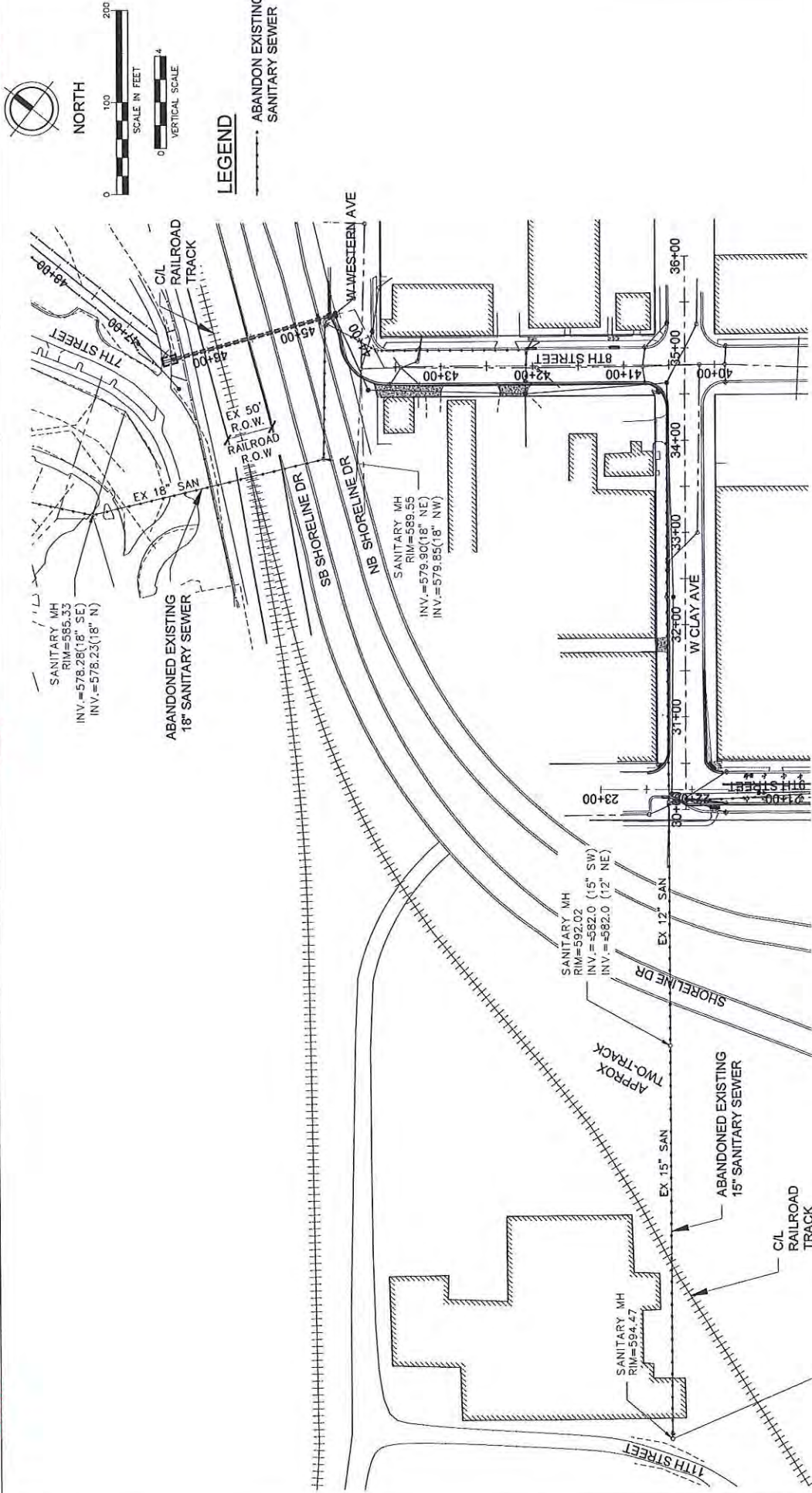
CITY OF MUSKOGON
MUSKOGON, MICHIGAN

SANITARY SEWER IMPROVEMENTS

BORE AND JACK PLAN & PROFILE

Sheet 2 of 4:

Tracking Number: 1026160



CSX File Number: CSX88379

PIPE DATA AND SPECIFICATIONS (Use F11 Key to tab from cell to cell)		
Specification	Carrier Pipe	Casing Pipe
(1) Pipe material	PVC	Steel
(2) Material specifications and grade	SDR-35	ASTM A-139 Grade B
(3) Specified minimum yield strength	46 psi	35,000 psi
(4) Nominal size in inches	24	36
(5) Wall thickness in inches	0.661	0.532
(6) Type of seam	N/A	Welded
(7) Type of joints	Rubber Gasket	Welded
Check Yes or No		
(8) Are tunnel liner plates required	Yes ☐ No ☒	
(9) Protective coating	Yes ☐ No ☒	
(10) Cathodic protection	Yes ☐ No ☒	
(11) Cathodic protection type	N/A	
(12) Commodity Description:	Bore & Jack under railroad of 24" pvc sanitary sewer via 36" steel casing	
(13) Maximum Operating Pressure:	N/A	
(14) Is Commodity Flammable:	No	

Notes / Comments:

Casing size increased from 30" to 36" (05-07-2019)

Date: May 14th, 2019

To: Honorable Mayor and City Commissioners

From: Department of Public Works

RE: DPW Carbon Monoxide System Upgrade and Repairs

SUMMARY OF REQUEST:

Award a contract for upgrade and repair to the carbon monoxide monitoring and control system at DPW to the low bidder.

Three contractors submitted bids for this project as follows:

- Foster Electric Company\$8,650.00
- Fredrickson Electric, Inc.\$11,676.50
- Belasco Electric\$17,923.00

FINANCIAL IMPACT:

\$8,650.00

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Award the project to the low bidder Foster Electric Company.

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

Assessor/
Equalization Co.
(231)724-6386
FAX (231)724-1129

Cemetery/Forestry
(231)724-6783
FAX (231)724-4188

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

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

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

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

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

Finance
(231)724-6713
FAX (231)726-2325

Fire Department
(231)724-6795
FAX (231)724-6985

Human Resources
Co. (Civil Service)
(231)724-6442
FAX (231)724-6840

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

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

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

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

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

SafeBuilt
(Inspections)
(231)724-6715
FAX (231)728-4371

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

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

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



CARBON MONOXIDE DETECTOR SYSTEM

Department of Public Works

We have completed our review and analyzed the carbon monoxide detector system in the DPW building per your request. Our findings are as follows:

1. There are a total of 10 detectors inside and 5 exhaust fans on the roof
2. Our team has troubleshot the system and we have found numerous wiring issues including the installation of bypass switches to turn the system exhaust fans off; there by making the space a hazardous area with carbon monoxide if someone does not turn the fans on. There is one detector and one fan that work as intended.
3. Out of 5 fans on the roof, three have motor issues as we speak.
4. The detectors on the inside are no longer available, the company no longer manufactures or supports the product. It is time to replace these existing sensors and start with a new system in place.

My recommendation is as follows:

I would suggest replacing every detector in the building. This would provide seven years of coverage until the sensor modules need to be replaced. Parts are readily available. I also would suggest replacing four of the five blower motors on the roof. I would also replace drive belts on these units. We also will restore the wiring and controls of the system to its intended functionality.

The costs are as follows:

10 commercial CO detectors with relay outputs.

4-3/4 horsepower 3 phase 480 volt blower motors TEFC.

Labor for all work performed and labor for new install.

Leo Evans

From: f.fairchild@frontier.com
Sent: Monday, April 15, 2019 3:33 PM
To: Leo Evans
Cc: Bobbie Parsons
Subject: Re: Questions on Quote
Attachments: Foster Electric Quote.pdf

Sorry

I can get the specs and shops on the controllers. The motors was a price to cover myself I would have to see the motors for replacement which I was to do if we were to get the job. I had my supplier provide me with pricing on the motor. My big problem is that I have left the pricing out of my bid for the new controllers. So in order for me to proceed I will have to revise my number to reflect the price of these new controllers.

The new install price what be
Eight thousand Six Hundred fifty Dollars. \$ 8650.00

I will understand if we are not consider for this job. But we cannot do the job for our original Price. If we are still in the running let us know and we will provide the information you are seeking.

Fred Fairchild
Foster Electric
Phone: 231-728-8522
f.fairchild@frontier.com

On Monday, April 15, 2019, 1:22:18 PM EDT, Leo Evans <leo.evans@shorelinecity.com> wrote:

Mr. Fairchild

I had a few questions on the attached quote.

- Could you provide a spec sheet for the proposed CO sensors and the replacement motors?
- Could you also confirm if your quote includes restoration of the wiring and control systems to its intended functionality?
 - o This would include removing all bypass switches from the fan controls and ensuring that once completed all fans function in unison when an alarm is tripped at any of the sensor locations.

Terry Spyke

From: jim fredrickson <fredricksonelectric@yahoo.com>
Sent: Friday, November 16, 2018 7:24 PM
To: Terry Spyke
Subject: Carbon monoxide detector system

Categories: Red Category

Terry,

We have completed our review and analyzed the carbon monoxide detector system in the DPW building per your request. Our findings are as follows:

1. There are a total of 10 detectors inside and 5 exhaust fans on the roof.
2. Our team has troubleshot the system and we have found numerous wiring issues including the installation of by pass switches to turn the system exhaust fans off; there bye making the space a hazardous area with carbon monoxide if someone does not turn the fans on. There is one detector and 1 fan that work as intended.
3. Out of 5 fans on the roof, 3 have motor issues as we speak.
4. The detectors on the inside are no longer available, the company no longer manufactures or supports the product. It is time to replace these existing sensors and start with a new system in place.

My recommendation is as follows:

I would suggest replacing every detector in the building. This would provide 7 years of coverage until the sensor modules need to be replaced. Parts are readily available. I also would suggest replacing 4 of the 5 blower motors on the roof. I would also replace drive belts on these units. We also will restore the wiring and controls of the system to its intended functionality.

The costs are as follows:

10-Macurco commercial CO detectors with relay outputs.	\$487.65 each
4-3/4 horsepower 3 phase 480 volt blower motors TEFC.	\$325.00 each
Labor for all work performed and labor for new install.	\$5500.00

TOTAL COST OF PROJECT:

\$11,676.50

Thank you for the opportunity to quote this project. Please call or email with any questions.

Regards,

Jim

Jim Fredrickson
Fredrickson Electric Inc.
616-846-5336 office
616-402-3689 emergency
Fredricksonelectric@yahoo.com

QUOTATION

**BELASCO
ELECTRIC**
POWERING THE LAKESHORE

1391 Peck Street Muskegon, MI. 49441
Phone: 231.722.3997 Fax: 231.722.1814



City of Muskegon
1350 E. Keating Ave.
Muskegon, MI. 49443

ATTENTION: Terry Spyke

DATE: 4/4/2019

REFERENCE: DPW Garage

WE ARE PLEASED TO SUBMIT THE FOLLOWING QUOTATION FOR YOUR CONSIDERATION:

QUANTITY	DESCRIPTION	UNIT PRICE
	Price as requested to rewire the garage CO detector systems as follows; Supply and install (10) CO detectors (attached) Replace (4) roof exhaust fan motors w/belts Replace (1) roof exhaust fan motor belt Remove bypass switches Conduit and wiring This Quotation includes all labor, materials, equipment, & permit.	
SUBTOTAL:		\$17,923.00
DELIVERY	F.O.B	TERMS:

IMPORTANT

PRICES ARE GOOD FOR ACCEPTANCE AND SHIPMENT WITHIN
30 DAYS ONLY. UNLESS SUCH TIME IS EXTENDED IN WRITING.
QUANTITIES SHOWN ABOVE ARE NOT GUARANTEED.

RESPECTFULLY SUBMITTED,

BY: John Belasco

Date: May 14th, 2019

To: Honorable Mayor and City Commissioners

From: Department of Public Works

RE: Change Order #003 – West Shore CF Demolition

SUMMARY OF REQUEST:

Authorize staff to process Change Order #003 for the proposed demolition work at the West Shore Correctional Facility.

Change Order #003 amends the contract to include removal of all existing underground utilities from the site. This was not included in the original bid request, but was later determined to be essential to facilitate future redevelopment.

FINANCIAL IMPACT:

\$120,000.00

BUDGET ACTION REQUIRED:

None. Staff is seeking an amendment to the purchase agreement to offset the added demolition costs. Costs will be reimbursed through the state MEDC grant if the purchase agreement cannot be amended.

STAFF RECOMMENDATION:

Authorize staff to process Change Order #003 for the proposed demolition work at the West Shore Correctional Facility.



Date: May 2, 2019

Invoice/Proposal Number: Change Order No. 3

To: City of Muskegon
Public Works Department
933 Terrace St
Muskegon, MI 49443 – 0536
Attention: Leo Evans

Project: Underground Utilities Removal at West
Shoreline Correctional Facility

Phone: (231) 724 - 6920 Fax: _____

Description:

Remove all Underground Utility structures for Water, Gas, Sanitary Sewer, Storm Sewer and Electrical
Cap lines leaving the site at a location inside the property line
Fill trenches and level to surrounding elevations
Install 3 inches of topsoil and seed
This work will add an additional 4 weeks to the project timeline

Original Work Order Amount: \$120,000

Special Notes / Changes:

Assumes less than 130 gallons of product is in the tank
Wash water / material removed to be containerized in 55 gallon drums which will be disposed of by Envirollogic

Proposal / Invoice Total: \$120,000

Authorized By: _____

Submitted By: 

TERMS: PAYMENT DUE UPON RECEIPT OF INVOICE FOR COMPLETED WORK OR PHASE OF COMPLETED WORK A SERVICE CHARGE OF 1.5% WILL BE ADDED TO PAST DUE ACCOUNTS. FAILURE TO PAY PAST DUE AMOUNTS WILL RESULT IN YOUR BEING LIABLE FOR ALL OF MELCHING INC'S. COLLECTION FEES, ATTORNEY FEES AND/OR COURT COSTS REQUIRED TO COLLECT PAST DUE AMOUNTS AND AS RELATED TO THE CONSTRUCTION LIEN ACT. CHANGES TO THESE TERMS MUST BE IN WRITING.

CITY OF MUSKEGON
DETAILED CONTRACT CHANGE REQUEST

CONTRACTOR		CONTRACT						DATE	5/6/2019
Melching Inc.		West Shore Correctional Facility Demolition						CHANGE ORDER No.	3
ITEM OF WORK DESCRIPTION, REASON, LOCATION OF CHANGE		UNIT OF MEASURE	QUANTITY PROPOSAL	QUANTITY AS BUILT	QUANTITY INCREASE +	QUANTITY DECREASE -	UNIT COST	AMOUNT INCREASE	AMOUNT DECREASE
1	"Underground Utility Removal" Original demolition contract did not require removal of underground utilities. After discussion with demolition contractor and potential end users it was determined that removal of the underground utilities from the site was recommended to facilitate future redevelopment	LSUM	0		1		\$120,000.00	\$120,000.00	\$0.00
2								\$0.00	\$0.00
3								\$0.00	\$0.00
4								\$0.00	\$0.00



CHANGE REQUEST EFFECTIVE DATE: _____

TOTALS \$120,000.00 \$0.00

ORIGINAL CONTRACT PRICE: \$338,910.10

NET OF PREVIOUS CHANGE ORDERS: \$20,485.00

NET OF CURRENT CHANGE ORDER: \$120,000.00

REVISED CONTRACT PRICE: \$479,395.10

41.45%

ENGINEERING DEPARTMENT		CONTRACTOR APPROVAL	CITY OF MUSKEGON APPROVAL
		AUTHORIZED REPRESENTATIVE AND DATE	AUTHORIZED REPRESENTATIVE AND DATE
PREPARED BY	DATE	PRINTED NAME AND TITLE	PRINTED NAME AND TITLE

Date: May 2, 2019
To: Honorable Mayor and City Commissioners
From: Finance Director
RE: 2019-20 Healthcare and Wellness Program

SUMMARY OF REQUEST: The City's healthcare coverage renews effective June 1st, for the period 6/1/19 -5/31/20. This year's Priority Health renewal premium came in at a 0.003% increase over the previous year. Last year's increase was 7.64%. For several years the City has made numerous benefit changes including increasing deductibles and copays along with changes to the drug copays to keep our increases as low as possible. Last year to help offset the cost we increase the employee's premium copay from 10% to 14%. This will keep our employer contribution below the 'hard cap limits' set by PA 152.

For 2019-20 the City will continue to pay the HRA deductible if the employee and spouse complete the wellness requirements by March 31st. Non-participants in the wellness program will be required to pay the \$1,000 for single coverage or \$2,000 per double or family coverage of the deductible.

FINANCIAL IMPACT: Following is an estimate of gross premium costs for the Priority Health HMO program compared with the current healthcare plan year:

	2019-20			2018-19		
Monthly Premium	563.93	1268.85	1522.61	561.76	1263.95	1516.75
Rate Change	0.03%	0.03%	0.03%	7.64%	7.64%	7.64%
Annual Premium	6,767.60	15,226.20	18,271.32	6,741.12	15,167.40	18,201.00
Current # Employees	42	35	96	44	40	110
Total Annual Premium	284,239.20	532,917.00	1,754,046.72	296,609.28	606,696.00	2,002,110.00
		\$ 2,571,202.92			2,905,415.28	
Add: HRA Deductible Paid by City		325,000.00			300,000.00	
Less: Employee Premium Copays		(409,159.00)			(408,758.14)	
Equals: Employer Cost		\$ 2,487,043.92			\$ 2,796,657.14	
2019 PA Hard Cap Limits						
\$ 6,685.17	\$ 13,980.75	\$ 18,232.31	\$ 6,560.52	\$ 13,720.07	\$ 17,892.36	
280,777.14	489,326.25	1,750,301.76	\$ 288,662.88	\$ 548,802.80	\$ 1,968,159.60	
	\$ 2,520,405.15			\$ 2,805,625.28		

BUDGET ACTION REQUIRED: Employee and retiree healthcare costs will be included in the forthcoming 2019-20 budget.

STAFF RECOMMENDATION: Authorize staff to execute documents with Priority Health to renew employee healthcare coverage for the coming year.

Rate Exhibit for CITY OF MUSKEGON



Plan: HMO Renewal Chiro 24
Effective Date: 06/01/2019
Deductible Type: Policy Year
Rating Segment: ACTIVE COBRA FULLY FUNDED
Quote No: 61307
Agent Name: JULIE BALGOOYEN
Commission: 3%
Group No: 778010

Product	[NonGrandfathered HCR]	HMO HRA	Riders
Copay Type		Copay Aligned	Chiropractic Visits: 24 DME/P&O Coins: 70%
Hospital Coinsurance			
In Network		70%	Rx Mail Order: 2.0 times
Out of Network		N/A	Rx Sexual Dysfunction: Oral & Non-Oral Treatment, 50% Copay
Deductible			
Individual - In Network		\$4,000	
Family - In Network		\$8,000	
Individual - Out of Network		N/A	
Family - Out of Network		N/A	
Coinsurance Max			
Individual - In Network		\$1,500	
Family - In Network		\$3,000	
Individual - Out of Network		N/A	
Family - Out of Network		N/A	
Office Visit (PCP) Copay		\$15	
Specialist Copay		\$30	
Urgent Care Copay		\$45	
Emergency Room Copay		\$100	
Ambulance Copay		\$50	
High Tech Imaging Copay		\$100	

Total Cost Sharing Out of Pocket Annual Limit	
Individual - In Network	\$7,350
Family - In Network	\$14,700

Rx Deductible (Individual/Family): \$0

	Copay	Coinsurance	Max
Rx Generic	\$10	100%	\$10
Rx Preferred Brand	\$40	100%	\$40
Rx Non-preferred Brand	\$80	100%	\$80
Rx Preferred Specialty	\$0	80%	\$100
Rx Non-preferred Specialty	\$0	80%	\$200

	Single	Double	Family
Premium	\$558.22	\$1,256.00	\$1,507.19
Federal & State Taxes	\$5.71	\$12.85	\$15.42
Billed Rate	\$563.93	\$1,268.85	\$1,522.61
Participants	42	35	96

Summary	Participants	173	<u>Combined</u>
	Monthly Cost	\$212,095.48	\$214,265.37
	Annual Cost	\$2,545,145.76	\$2,571,184.44
	PEPM	\$1,225.99	\$1,238.53

This benefit plan includes federally mandated benefits for the following: \$0 copay preventive care and women's preventive care services. Effective immediately, please refrain from quoting vision riders (shown). Please also remove this coverage from June, July, and any early release quotes not yet released.

PH will honor Jan-Feb 2019 quotes sold. However, groups must transition to an EyeMed plan upon their 2020 renewal. Sales has also been notified of this change. Until the riders are disabled in SQ, we must specifically monitor 'Final UW Review' quotes and deny any that include these riders - especially our March-May 2019 groups already released.



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RICK SNYDER
GOVERNOR

NICK A. KHOURI
STATE TREASURER

September 17, 2018

**PUBLIC EMPLOYER CONTRIBUTIONS TO MEDICAL BENEFIT PLANS
ANNUAL COST LIMITATIONS – CALENDAR YEAR 2019**

For a medical benefit plan coverage year beginning on or after January 1, 2012, MCL 15.563, as amended by 2013 Public Act 270, sets a limit on the amount that a public employer may contribute to a medical benefit plan.

For medical benefit plan coverage years beginning on or after January 1, 2013, MCL 15.563 provides that the dollar amounts that are multiplied by the number of employees with each coverage type be adjusted annually. Specifically, the dollar amounts shall be adjusted, by October 1 of each year, by the change in the medical care component of the United States consumer price index for the most recent 12-month period for which data are available. For calendar year 2018, the limit on the amount that a public employer may contribute to a medical benefit plan was set to the sum of the following:

- \$ 6,560.52 times the number of employees and elected public officials with single-person coverage
- \$13,720.07 times the number of employees and elected public officials with individual-and-spouse coverage or individual-plus-1-nonspouse-dependent coverage
- \$17,892.36 times the number of employees and elected public officials with family coverage.

The limits for 2019 equal the 2018 limits increased by **1.9 percent**. The 1.9 percent is the percentage change in the medical care component from the period September 2016-August 2017 to the period September 2017-August 2018.

Thus, for medical benefit plan coverage years beginning on or after January 1, 2019, the limit on the amount that a public employer may contribute to a medical benefit plan equals the sum of the following:

- \$ 6,685.17 times the number of employees and elected public officials with single-person coverage
- \$13,980.75 times the number of employees and elected public officials with individual-and-spouse coverage or individual-plus-1-nonspouse-dependent coverage
- \$18,232.31 times the number of employees and elected public officials with family coverage.

Nick A. Khouri
State Treasurer

September 17, 2018

Commission Meeting Date: May 14, 2019

Date: May 2, 2019
To: Honorable Mayor and City Commissioners
From: Finance
RE: Delta Dental Renewal

SUMMARY OF REQUEST: The City's dental insurance renews effective June 1st, for the period 6/1/19 – 5/31/20. This year's renewal came in at a 10% decrease over last year. We decided to take this opportunity to increase the benefits which has not been done in over 20 years. We are proposing to increase the annual maximum from \$1,000 to \$2,000. Overall this will net an increase of less than 1%.

FINANCIAL IMPACT: Less than \$1,500 annual increase.

BUDGET ACTION REQUIRED: This will be included in the 2019-2020 budget.

STAFF RECOMMENDATION: Authorize the staff to execute documents to renew the employee dental insurance coverage with the increase in the annual maximum.

CITY OF MUSKEGON**DELTA DENTAL 2019 RENEWAL****POLICE & FIRE - 7044-0001**

	CURRENT \$1,000*	RENEWAL \$1,000*	OPTION \$1,500*	OPTION \$2,000*
Single	\$ 27.45	\$ 24.70	\$ 27.33	\$ 28.51
Double	\$ 52.50	\$ 46.67	\$ 51.46	\$ 53.62
Family	\$ 106.33	\$ 95.63	\$ 103.85	\$ 107.74

NON UNION - 7044-0002

	CURRENT \$1,000*	RENEWAL \$1,000*	OPTION \$1,500*	OPTION \$2,000*
Single	\$ 34.03	\$ 30.29	\$ 33.40	\$ 34.77
Double	\$ 65.60	\$ 56.98	\$ 62.60	\$ 65.10
Family	\$ 132.74	\$ 116.06	\$ 125.62	\$ 130.05

CLERICAL & DPW - 7044-0003

	CURRENT \$1,000*	RENEWAL \$1,000*	OPTION \$1,500*	OPTION \$2,000*
Single	\$ 32.47	\$ 29.00	\$ 31.95	\$ 33.23
Double	\$ 62.90	\$ 55.36	\$ 60.75	\$ 63.12
Family	\$ 131.22	\$ 114.87	\$ 123.98	\$ 128.19

* ANNUAL OUT OF POCKET MAXIMUM

**PLEASE NOTE: ORTHODONTIC LIFETIME MAXIMUM WOULD
REMAIN THE SAME.**

Commission Meeting Date: May 14, 2019

Date: May 6, 2019
To: Honorable Mayor and City Commissioners
From: Finance
RE: Financing for Roof Replacement at L C Walker Arena

SUMMARY OF REQUEST: At the December 11, 2018 City Commission meeting the Commission voted to accept the bid from Certified Building Solutions for the roof replacement at the L C Walker Arena for \$1,051,413. At this time we are seeking authorization to enter into a lease agreement with Team Financial for the roof replacement. The proposed terms are for a seven year lease at 4.57% interest rate with the City purchasing the roof at the end of the lease for \$1.

FINANCIAL IMPACT: Annual payments of \$175,800.

BUDGET ACTION REQUIRED: This will be included in the 2019-2020 budget.

STAFF RECOMMENDATION: Authorize the staff to enter into a lease agreement with Team Financial for the roof replacement.

TEAM

FINANCIAL GROUP, INC.

Phone: (616) 735-2393

Fax: (616) 735-2392

E-Mail: info@teamfinancialgroup.com

Lease Proposal

April 29, 2019

Prepared for (Lessee):

City of Muskegon

Attn: Beth

Prepared by (Lessor):

Team Financial Group (TFG)

and/or its assigns

EQUIPMENT: Roofing Project by Certified Building Solutions (complete description required)**LEASE
COMMENCEMENT
AND INSTALL
DATE:**

Anticipated to be prior to May 30, 2019 and no later than June 29, 2019

**LEASE
STRUCTURE:**

Payments are due monthly and are payable in advance.

Amount	Term	Payment	Purchase Option	Payments Due at Closing	Fee
\$1,051,413.00	84	\$14,650.00	\$1 Out	0	\$500

LEASE AMOUNT: Figures are based on the amount quoted above and are subject to change as the final amount is determined.**END OF LEASE
OPTIONS:** At the end of the term, if the lease is current and all terms have been met, City of Muskegon may elect from the following options:

- A.) Purchase the equipment for the Option listed above
- B.) Continue to rent the equipment on a monthly basis from TFG
- C.) Act as TFG's agent to trade in the equipment and arrange for replacement equipment
- D.) Return the equipment to a location designated by TFG (Not applicable with a \$1 out and 10% Put)

**DOCUMENTATION
AND FILING FEES:**

The filing fee is quoted above and is due at the time of signing.

**NET LEASE
PROVISIONS:**

This lease will be a net lease wherein the Lessee will be responsible for all maintenance, insurance and taxes.

INSURANCE:

Prior to delivery, Lessee must submit to Lessor insurance coverage for physical loss and liability in the joint name of Lessee and Lessor.

**CREDIT
APPROVAL
CONDITIONS:**

This proposal, including structure and pricing, is subject to lessee's credit approval by lessor.

ACCEPTANCE:

This proposal must be signed and returned via fax to lessor within 10 days.

Accepted:**Option:** __________
Signature_____
Title_____
Print Name_____
Date

Commission Meeting Date: May 14, 2019

Date: May 6, 2019
To: Honorable Mayor and City Commissioners
From: Finance
RE: Financing for HVAC/Dehumidification Upgrades at L C Walker Arena

SUMMARY OF REQUEST: At the December 11, 2018 City Commission meeting the Commission voted to accept the bid from Hurst Mechanical for the Dehumidification upgrade at the L C Walker Arena. At this time we are seeking authorization to enter into a lease agreement with Team Financial for the HVAC/Dehumidification upgrades. The proposed terms are for a seven year lease at 4.33% interest rate with the City purchasing the systems at the end of the lease for \$1.

FINANCIAL IMPACT: Annual payments of \$207,252.

BUDGET ACTION REQUIRED: This will be included in the 2019-2020 budget.

STAFF RECOMMENDATION: Authorize the staff to enter into a lease agreement with Team Financial for the HVAC/Dehumidification upgrades.

TEAM

FINANCIAL GROUP, INC.

Phone: (616) 735-2393

Fax: (616) 735-2392

E-Mail: info@teamfinancialgroup.com

Lease Proposal

April 11, 2019

Prepared for (Lessee):

City of Muskegon

Attn:

Prepared by (Lessor):

Team Financial Group (TFG)

and/or its assigns

EQUIPMENT: Hurst Mechanical Project (complete description required)**LEASE
COMMENCEMENT
AND INSTALL****DATE:** Anticipated to be prior to May 9, 2019 and no later than June 8, 2019**LEASE
STRUCTURE:** Payments are due monthly and are payable in advance.

Amount	Term	Payment	Purchase Option	Payments Due at Closing	Fee
\$1,249,657.00	84	\$17,271.00	\$1 Out	0	\$500
\$1,249,657.00	60	\$23,200.00	\$1 Out	0	\$500

LEASE AMOUNT: Figures are based on the amount quoted above and are subject to change as the final amount is determined.**END OF LEASE
OPTIONS:** At the end of the term, if the lease is current and all terms have been met, City of Muskegon may elect from the following options:

- A.) Purchase the equipment for the Option listed above
- B.) Continue to rent the equipment on a monthly basis from TFG
- C.) Act as TFG's agent to trade in the equipment and arrange for replacement equipment
- D.) Return the equipment to a location designated by TFG (Not applicable with a \$1 out and 10% Put)

**DOCUMENTATION
AND FILING FEES:** The filing fee is quoted above and is due at the time of signing.**NET LEASE
PROVISIONS:** This lease will be a net lease wherein the Lessee will be responsible for all maintenance, insurance and taxes.**INSURANCE:** Prior to delivery, Lessee must submit to Lessor insurance coverage for physical loss and liability in the joint name of Lessee and Lessor.**CREDIT
APPROVAL
CONDITIONS:** This proposal, including structure and pricing, is subject to lessee's credit approval by lessor.**ACCEPTANCE:** This proposal must be signed and returned via fax to lessor within 10 days.**Accepted:** **Option:** __________
Signature_____
Title_____
Print Name_____
Date

Commission Meeting Date: May 14, 2019

Date: May 9, 2019
To: Honorable Mayor and City Commissioners
From: Finance
RE: Notice of Intent Resolution Sanitary Sewer
Revenue Bonds

SUMMARY OF REQUEST: A notice of Intent Resolution for Sanitary Sewer System Bonds was approved at the March 12, 2019 meeting for \$8.5 million. Based on recent estimates of the cost of the project we believe it is necessary to request an additional authorization for \$3 million. This will bring the total amount of bonds issued to finance the acquisition and construction of the project to shall not exceed \$11 million.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the Notice of Intent Resolutions for an additional \$3 million Sanitary Sewer System Revenue Bonds bringing the total not to exceed \$11 million.

**NOTICE OF INTENT RESOLUTION
SANITARY SEWER SYSTEM REVENUE BONDS, SERIES 2019
(STATE REVOLVING FUND PROJECT)**

CITY OF MUSKEGON
County of Muskegon, State of Michigan

Minutes of a regular meeting of the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, held on the 14th day of May, 2019, at 5:30 p.m., prevailing Eastern Time.

PRESENT: Members _____

ABSENT: Members _____

The following preamble and resolution were offered by Member: _____
and supported by Member: _____:

WHEREAS, the City of Muskegon, County of Muskegon, State of Michigan (the "City"), has determined that it is necessary for the public health, safety and welfare of the City to acquire, construct, furnish and equip improvements to the Sanitary Sewer System of the City (the "System"), including sewer system rehabilitation and replacement of existing sewer lines, together with pump station improvements and all related appurtenances and attachments (the "Project"); and

WHEREAS, the City has been advised by the Michigan Department of Environmental Quality ("MDEQ") that financial assistance to accomplish the acquisition and construction of all or a portion of the Project is available through the State Revolving Fund ("SRF") loan program administered by the MDEQ and the Michigan Finance Authority; and

WHEREAS, the City has made application for participation in the SRF loan program; and

WHEREAS, a notice of intent to issue revenue bonds must be published before the issuance of the Bonds in order to comply with the requirements of Section 33 of Act 94; and

WHEREAS, on March 24, 2019 the City published a notice of intent to issue bonds in in an amount not to exceed Eight Million Five Hundred Thousand Dollars (\$8,500,000) for the Project (the "Prior Notice"); and

WHEREAS, based on revised estimates of the cost of the Project, the City now anticipates that it will be necessary to issue bonds in excess of the amount described in the Prior Notice and desires to publish a new notice for an additional authorization of bonds in an amount not to exceed Three Million Dollars (\$3,000,000) which notice shall provide additional borrowing authority for the Project and shall be in addition to the principal amount of the bonds authorized by the Prior Notice; and

WHEREAS, the total amount of bonds to be issued to finance the acquisition and construction of the Project shall not exceed Eleven Million Five Hundred Thousand Dollars (\$11,500,000); and

WHEREAS, the City intends at this time to state its intentions to be reimbursed from proceeds of the Bonds for any expenditures undertaken by the City for the Project prior to issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is authorized and directed to publish a notice of intent to issue bonds in the *Muskegon Chronicle*, a newspaper of general circulation in the City.

2. The notice of intent shall be published as a display advertisement not less than one quarter (1/4) page in size in substantially the form attached to this resolution as Exhibit A.

3. The City Commission does hereby determine that the foregoing form of Notice of Intent to Issue Bonds, and the manner of publication directed, is adequate notice to the electors of the City and users of the System, and is the method best calculated to give them notice of the City's intent to issue the Bonds, the purpose of the Bonds, the security for the Bonds, and the right of referendum of the electors with respect thereto, and that the provision of forty-five (45) days within which to file a referendum petition is adequate to insure that the City's electors may exercise their legal rights of referendum, and the newspaper named for publication is hereby determined to reach the largest number of persons to whom the notice is directed.

4. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

- (a) As of the date hereof, the City reasonably expects to reimburse itself for the expenditures described in (b) below with proceeds of debt to be incurred by the City.
- (b) The expenditures described in this paragraph (b) are for the costs of acquiring the Project which were paid or will be paid subsequent to sixty (60) days prior to the date hereof from the Sanitary Sewer System funds of the City.
- (c) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is \$11,500,000.
- (d) A reimbursement allocation of the expenditures described in (b) above with the proceeds of the borrowing described herein will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the related Project are placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the

proceeds of the debt to be issued for the Project to reimburse the City for a capital expenditure made pursuant to this resolution.

5. Miller, Canfield, Paddock and Stone, P.L.C. is hereby confirmed as Bond Counsel to the City in connection with the issuance of the Bonds.

6. Robert W. Baird & Co., Inc. is hereby confirmed as the registered municipal advisor to the City in connection with the issuance of the Bonds.

7. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Members:_____

NAYS: Members:_____

RESOLUTION DECLARED ADOPTED.

Ann Marie Meisch, MMC
City Clerk

I hereby certify that the attached is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held on the 14th day of May, 2019, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976 and that minutes of the meeting were kept and will be or have been made available as required by said Act.

Ann Marie Meisch, MMC
City Clerk City Clerk

EXHIBIT A

NOTICE TO TAXPAYERS AND ELECTORS OF THE CITY OF MUSKEGON AND TO USERS OF THE CITY'S SANITARY SEWER SYSTEM OF INTENT TO ISSUE REVENUE BONDS AND THE RIGHT OF REFERENDUM RELATING THERETO

PLEASE TAKE NOTICE that the City Commission of the City of Muskegon, Muskegon County, Michigan, intends to issue and sell revenue bonds pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in one or more series in a total amount not to exceed Three Million Dollars (\$3,000,000), for the purpose of paying all or part of the cost to acquire, construct, furnish and equip improvements to the Sanitary Sewer System of the City (the "System"), including sewer system rehabilitation and replacement of existing sewer lines, together with pump station improvements and all related appurtenances and attachments (the "Project"). The City previously published a notice of intent to issue bonds for the Project on March 24, 2019 in an amount not to exceed Eight Million Five Hundred Thousand Dollars (\$8,500,000) (the "Prior Notice"). This principal amount of bonds to be issued and sold pursuant to this notice is in addition to the principal amount of bonds to be issued and sold pursuant to the Prior Notice.

SOURCE OF PAYMENT OF REVENUE BONDS

THE PRINCIPAL OF AND INTEREST ON THE REVENUE BONDS SHALL BE PAYABLE from the revenues received by the City from the operations of the Sanitary Sewer System except as provided below in the case of bonds sold to the Michigan Finance Authority in connection with the State of Michigan's State Revolving Fund program. The revenues will consist of rates and charges billed to the users of the system, a schedule of which is presently on file in the office of the City Clerk. The rates and charges may from time to time be revised to provide sufficient revenues to provide for the expenses of operating and maintaining the system, to pay the principal of and interest on the bonds and to pay other obligations of the system.

BOND DETAILS

THE REVENUE BONDS will be payable in annual installments not to exceed twenty (20) in number and will bear interest at the rate or rates to be determined at public or private sale but in no event to exceed such rates as may be permitted by law on the unpaid balance from time to time remaining outstanding on said bonds.

ADDITIONAL SOURCES OF PAYMENTS FOR BONDS SOLD TO MICHIGAN FINANCE AUTHORITY

IN THE EVENT THAT THE REVENUE BONDS ARE SOLD TO THE MICHIGAN FINANCE AUTHORITY, THE CITY MAY PLEDGE FOR THE PAYMENT OF THE BONDS MONEY RECEIVED OR TO BE RECEIVED BY THE CITY DERIVED FROM IMPOSITION OF TAXES BY THE STATE AND RETURNED OR TO BE RETURNED TO THE CITY AS PROVIDED BY LAW, except for money the use of which is prohibited for such purposes by the State Constitution. The City may enter into an agreement providing for the payment of taxes, which taxes are collected by the State and returned to the City as provided by law, to the Michigan

Finance Authority or a trustee, and such funds may be pledged for the payment of the revenue bonds.

IN THE EVENT THAT THE REVENUE BONDS ARE SOLD TO THE MICHIGAN FINANCE AUTHORITY, THE CITY MAY PLEDGE ITS LIMITED TAX FULL FAITH AND CREDIT AS SECURITY FOR THE REVENUE BONDS, IN WHICH EVENT DEBT SERVICE ON THE BONDS SHALL BE PAYABLE EITHER FROM REVENUES OF THE SYSTEM OR FROM AD VALOREM TAXES THAT MAY BE LEVIED ON ALL TAXABLE PROPERTY IN THE CITY, SUBJECT HOWEVER, TO CONSTITUTIONAL, STATUTORY AND CHARTER TAX RATE LIMITATIONS.

RIGHT OF REFERENDUM

THE REVENUE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A PETITION REQUESTING SUCH A VOTE SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS OF THE CITY IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER PUBLICATION OF THIS NOTICE. IF SUCH PETITION IS FILED, THE BONDS MAY NOT BE ISSUED WITHOUT AN APPROVING VOTE OF A MAJORITY OF THE QUALIFIED ELECTORS OF THE CITY VOTING THEREON.

THIS NOTICE is given pursuant to the requirements of Section 33, Act 94, Public Acts of Michigan, 1933, as amended.

ADDITIONAL INFORMATION will be furnished at the office of the City Clerk upon request.

Ann Marie Meisch, MMC
City Clerk, City of Muskegon

33598996.1\063684-00046

Commission Meeting Date: May 14, 2019

Date: May 7, 2019
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department
RE: Public Hearing for Amendment to the Brownfield
Plan for DMDC Redevelopment Project- Former
Muskegon Mall

SUMMARY OF REQUEST: To hold a public hearing and approve the attached resolution approving and adopting the amendment for the first amendment to the Brownfield Plan for DMDC Redevelopment Project – Former Muskegon Mall. The amendment is intended to identify additional eligible activities proposed for the eligible property owned by Sweetwater Development, LLC (“Sweetwater”) that was previously included in the Brownfield Plan.

FINANCIAL IMPACT: Brownfield Tax increment Financing will be used to reimburse the developer for “eligible expenses” incurred in association with development of The Leonard building downtown, which is anticipated to be an \$8.7 million investment.

“Eligible Expenses” would be reimbursed to Sweetwater starting in 2020. The estimated tax capture and payment schedule is included as Attachment L-4 in the proposed Brownfield Plan Amendment.

After all eligible costs incurred by the various parties are reimbursed, the BRA may, as the capture term provides, continue to capture local taxes for five more years for deposit into a Local Brownfield Revolving Fund.

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENDATION: The Muskegon City Commission set the public hearing for May 14, 2019 at their April 23, 2019 meeting. Since that time, a notice of the public hearing has been sent to taxing jurisdictions. In addition, the Brownfield Redevelopment Authority approved the Plan amendment on March 12, 2019 and further recommends that the Muskegon City Commission approve the Plan amendment.

RESOLUTION APPROVING THE BROWNFIELD PLAN AMENDMENT

First Amendment to the Brownfield Plan for DMDC Redevelopment Project-

Former Muskegon Mall

Sweetwater Development, LLC

City of Muskegon

County of Muskegon, Michigan

Minutes of a Regular Meeting of the City Commission of the City of Muskegon, County of Muskegon, Michigan (the "City"), held in the City Commission Chambers, on the 14th day of May 2019, at 5:30 p.m., prevailing Eastern Time.

PRESENT: Members

ABSENT: Members

The following preamble and resolution were offered by Commissioner _____ and supported by Commissioner _____:

WHEREAS, in accordance with the provisions of Act 381, Public Acts of Michigan, 1996, as amended ("Act 381"), the City of Muskegon Brownfield Redevelopment Authority (the "Authority") has prepared and approved a Brownfield Plan Amendment to identify "eligible activities" for the Sweetwater Development, LLC project; and

WHEREAS, the Authority has forwarded the Brownfield Plan Amendment to the City Commission requesting its approval of the Brownfield Plan Amendment; and

WHEREAS, the City Commission has provided notice and a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to express their views and recommendations regarding the Brownfield Plan Amendment, as required by Act 381; and

WHEREAS, not less than 10 days has passed since the City Commission provided notice of the proposed Brownfield Plan Amendment to the taxing units; and

WHEREAS, the City Commission held a public hearing on the proposed Brownfield Plan on May 14, 2019.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Brownfield Plan Amendment constitutes a public purpose under Act 381.
2. That the Brownfield Plan Amendment meets all the requirements of Section 13(1) of Act 381.
3. That the proposed method of financing the costs of the eligible activities, as identified in the Brownfield Plan and defined in Act 381, is feasible and the Authority has the authority to arrange the financing.
4. That the costs of the eligible activities proposed in the Brownfield Plan Amendment are reasonable and necessary to carry out the purposes of Act 381.

5. That the amount of captured taxable value estimated to result from the adoption of the Brownfield Plan Amendment is reasonable.

6. That the Brownfield Plan Amendment in the form presented is approved and is effective immediately.

7. That all resolutions or parts of resolutions in conflict herewith shall be and the same are hereby rescinded.

Be It Further Resolved that the Mayor and City Clerk are hereby authorized to execute all documents necessary or appropriate to implement the provisions of the Brownfield Plan Amendment.

AYES: Members

NAYS:

Members _____

RESOLUTION DECLARED ADOPTED.

Ann Meisch, City Clerk

Stephen J. Gawron, Mayor

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held on May 14, 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Ann Meisch, City Clerk

**CITY OF MUSKEGON
BROWNFIELD REDEVELOPMENT AUTHORITY**

***FIRST AMENDMENT TO THE BROWNFIELD
PLAN FOR DMDC REDEVELOPMENT
PROJECT -
FORMER MUSKEGON MALL***

Original Plan Approved by the Board of the City of Muskegon Brownfield Redevelopment Authority on **February 23, 1998,** with amendments approved 8/10/98;6/13/00; 4/15/03; 7/7/03; 4/20/04; 6/21/04; 9/8/04; 9/5/06; 2/23/07; 5/15/07; 11/12/07; 5/13/08; 6/24/08 and 4/9/13.

Original Plan Approved by the City Commission of the City of Muskegon on **April 14, 1998,** with amendments approved 8/11/98; 7/11/00; 5/27/03; 8/12/03; 5/25/04; 7/13/04; 7/27/04; 10/12/04; 10/24/06, 3/27/07; 6/12/07; 1/8/08; 5/13/08; 6/24/08 and 5/14/13

CITY OF MUSKEGON
BROWNFIELD REDEVELOPMENT AUTHORITY
BROWNFIELD PLAN

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 - L. Former Muskegon Mall (Approved 10/12/04)
 - M. Vida Nova at Edison Landing (Approved 10/10/06)

- N. Western Ave. Properties LLC and Port City Development Services, LLC (Approved 10/10/06)
- O. Viridian Place at Edison Landing (Approved 10/24/06)
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- S. Betten Auto Dealerships (Approved 5/13/08)
- T. Parkland Muskegon Mixed Use Project (Approved 6/24/08)
- U. Terrace Point Landing Redevelopment Project (Approved 5/14/13)
- V. P&G Holdings NY, LLC (Approved 1/10/17)

*City of Muskegon Brownfield Plan Amendment
December 2018*

I. INTRODUCTION

In order to promote the revitalization of commercial, industrial, and residential properties within the boundaries of the City of Muskegon (the "City"), the City established the City of Muskegon Brownfield Redevelopment Authority (the "Authority") pursuant to Act 381, Public Acts of Michigan, as amended ("Act 381"), and a resolution adopted by the Muskegon City Commission on February 10, 1998. Terms defined in Act 381 and applicable sections of the statute are noted in *italics* throughout this document.

This Brownfield Plan ("Plan") was originally intended to address the redevelopment of *eligible properties* within the City that are impacted by the presence of hazardous substances in concentrations that exceed Michigan's Part 201 Generic Cleanup Criteria ("*facilities*") or that have been determined to be Functionally Obsolete or Blighted. By facilitating redevelopment of underutilized *eligible properties*, the Plan is intended to promote economic growth for the benefit of the residents of the City and all taxing units located within and benefited by the Authority.

The Plan is intended to be a living document, which can be amended as necessary to achieve the purposes of Act 381. It is specifically anticipated that properties will be continually added to the Plan as new projects are identified. The Plan contains general provisions applicable to the Plan, as well as property-specific information for each project. The applicable Sections of Act 381 are noted throughout the Plan for reference purposes.

The Plan contains the information required by Section 13(2) of Act 381, as amended. Additional information is available from the Muskegon City Manager or the Director of Planning and Economic Development.

II. GENERAL PROVISIONS

A. Costs of the Brownfield Plan (Section 13(2)(a))

Any site-specific costs of implementing the Plan are described in the site-specific section of the Plan. Site-specific sources of funding may include tax increment financing revenue generated from new development on eligible brownfield properties, state and federal grant or loan funds, and/or private parties. Where private parties finance the costs of eligible activities under the Plan, tax increment revenues may be used to reimburse the private parties. The initial costs related to preparation of the Plan were funded by the City's general fund. Subsequent amendments to the Plan may be funded by the person requesting inclusion of a project in the Plan, and if eligible, may be reimbursed through tax increment financing.

The Authority intends to pay for administrative costs and all of the things necessary or convenient to achieve the objectives and purposes of the Authority with fees charged to applicants to be included in the Plan and any eligible tax increment revenues collected pursuant to the Plan, in accordance with the provisions of Act 381, including, but not limited to:

- i) the cost of financial tracking and auditing the funds of the Authority,
- ii) costs for amending and/or updating the Plan, including legal fees, and
- iii) costs for Plan implementation

Tax increment revenues that may be generated and captured by this Plan are identified in the site-specific sections of this Plan.

B. Method for Financing Costs of Plan and Bonded Indebtedness (Section 13(2)(d) and (e))

The City or Authority may incur some debt on a site-specific basis. Please refer to the site-specific section of the Plan for details on any debt to be incurred by the City or Authority. When a property proposed for inclusion in the Plan is in an area where tax increment financing is a viable option, the Authority intends to enter into Development and Reimbursement Agreement with the property owners/developers of properties included in the Plan to reimburse them for the costs of eligible activities undertaken pursuant to the Plan. Financing arrangements will be specified in the Development and Reimbursement Agreement, and also identified in the site-specific section of the Plan.

C. Duration of the Brownfield Plan (Section 13(2)(f))

The Plan, as it applies to a specific eligible property, shall be effective up to five (5) years after the year in which the total amount of any tax increment revenue captured is equal to the total costs of *eligible activities* attributable to the specific *eligible property*, or thirty (30) years from the date of first tax capture under the Plan as it relates to an individual site, whichever is less. The total costs of *eligible activities* include the cost of principal and interest on any note or obligation issued by the Authority to pay for the costs of *eligible activities*, the reasonable costs of a Work Plan, the actual costs of the Michigan Department of Environmental Quality's or Michigan Strategic Fund's review of the work plan, and implementation of the *eligible activities*.

D. Displacement/Relocation of Individuals on Eligible Properties (Section 13(2)(i),(j)(k)(l))

At this time, *eligible properties* identified in the Plan do not contain residences, nor are there any current plans or intentions by the City for identifying *eligible properties* that will require the relocation of the residences. Therefore the provisions of Section 13(2)(i-l) are not applicable at this time.

E. Local Brownfield Revolving Fund (Section 8; Section 13(5)(b))

Whenever the Plan includes a property for which taxes will be captured through Tax Increment Financing ("TIF") provided by Act 381, it is the Authority's intent to establish a Local Brownfield Revolving Fund ("Fund"). The Fund will consist of tax increment revenues that exceed the costs of eligible activities incurred on an eligible property, as specified in *Section 13(5) of Act 381*. Section 13(5) authorizes the capture of TIF from an eligible property for up to 5 years after the time that capture is required for the purposes of reimbursing the costs of eligible activities identified in the Plan. It is the intention of the Authority to continue to capture tax increment revenues for up to 5 years after eligible activities are funded from those properties identified for tax capture in the Plan, provided that the time frame allowed by Act 381 for tax capture is sufficient to accommodate capture to capitalize a Fund. The amount of school operating taxes captured for the Fund will be limited to the amount of school operating taxes captured for eligible department specific activities under the Plan. It may also include funds appropriated or otherwise made available from public or private sources.

The Fund may be used to reimburse the Authority, the City, and private parties for the costs of eligible activities at *eligible properties* and other costs as permitted by Act 381. It may also be used for eligible activities on *eligible property* for which there is no ability to capture tax increment revenues. The establishment of the Fund will provide additional flexibility to the Authority in facilitating redevelopment of brownfield properties by providing another source of financing for necessary eligible activities.

III. SITE SPECIFIC PROVISIONS

L. FORMER MUSKEGON MALL – FIRST AMENDMENT

Eligibility and Project Description (Sec. 13(2)(h))

Mall Development

The Plan that added the original Mall Property (defined below) was originally adopted in October 2004 to accommodate Downtown Muskegon Development Corporation's ("DMDC") acquisition and development of the former Muskegon Mall property in downtown Muskegon. A majority of the buildings on the 23-acre site had been demolished (See Map included as Attachment L-1.). The intent of the DMDC was to prepare the site for development and market the site to developers to create a mixed use residential, commercial, and retail development in the downtown.

Originally, the entire former Mall property was established as one parcel (the "Mall Property") when the Plan was adopted. The legal description of the Mall Property is included as Attachment L-2 and the *eligible property* included all new taxable personal property.

The Mall Property is considered a "facility" pursuant to Part 201 of the Natural Resources and Environmental Protection Act, and is therefore an *eligible property* pursuant to Act 381. Soils samples collected by Environmental Resources Management in June 2004 found concentrations of lead and mercury that exceed the Part 201 generic residential cleanup criteria.

The Mall Property was marketed by DMDC as a multi-developer site. Lots have been sold according to the needs of each developer under a condominium structure. To assure continued beautification, appropriate quality, and architectural integrity, restrictive covenants have been implemented by the DMDC to assure that the project develops according to the "Imagine Muskegon" plan. Overall guidelines for the development (i.e.: building height, style, etc.) have been developed as part of each sales agreement.

The Mall Property is serviced by city water and sewer, and has appropriate electric and natural gas service. Where appropriate, utilities have been upgraded and improved. Where possible, electrical service and cable was installed underground. As part of the original site development, a significant amount of infrastructure work was completed in preparation for future redevelopment. A majority of the work was completed using grant and loan funds and the intent was to utilize TIF under the Plan to repay the loans.

The Mall Property was subject to a tax-free Renaissance Zone through approximately 2012 and the intent was to begin capturing and reimbursing the

costs of *eligible activities*, including infrastructure improvements, demolition, site preparation, and environmental response activities undertaken after the Plan was approved.

The DMDC had originally estimated redevelopment would generate private investment of \$60 million and create approximately 225 jobs.

Sweetwater Development Project

The Plan is being amended for the purpose of supporting specific eligible activities associated with a new project located within the boundaries of the Mall Property in the heart of downtown. Sweetwater Development, LLC (“Sweetwater”) is proposing to redevelop a portion of the vacant lot at 292 W. Western Avenue known as Unit 24 of the Downtown Muskegon Development Center No.1 condominium plan consisting of approximately 0.32 acres located at the corner of W. Western Avenue and 2nd Street in downtown Muskegon (the “Sweetwater Property”). Sweetwater is proposing to construct a new six-story mixed use building that will contain approximately 48,000 sf and include a mix of first floor retail, office and residential space above approximately 8,000 sf of underground parking that would provide an estimated twenty-eight (28) parking spaces (the “Sweetwater Project”). The Sweetwater Project’s first floor retail space would include an estimated two (2) units with approximately 7,200 sf and two (2) stories of commercial office space above with approximately 7,300 sf on each floor. The Sweetwater Project’s remaining three (3) floors would include six (6) units on each floor (18 total units) with a mix of one and two bedroom units.

The Sweetwater Project will provide mixed use infill development along W. Western Avenue in the heart of downtown Muskegon. Total capital investment is estimated at approximately \$8.7 million and it is currently anticipated construction would begin in spring 2019 with eligible activities completed within 12 months.

Eligible Activities, Financing, Cost of Plan (Sec. 13(2)(a), (b), (c) (g))

Mall Development

Eligible activities that have been conducted on the Property include department specific activities, demolition, lead and asbestos abatement, infrastructure improvements, site preparation, and brownfield plan and work plan preparation and development. TIF has been and will be used to reimburse the City, DMDC, and developers for the cost of *eligible activities* undertaken by those parties and authorized pursuant to Act 381. No costs shall be reimbursed with school operating tax increment revenues unless they are conducted pursuant to a work

plan approved by the Michigan Department of Environmental Quality or the Michigan Strategic Fund, unless otherwise authorized by Act 381.

The following are *eligible activities* that have been and may be reimbursed through Brownfield tax increment revenues:

1. Department Specific Activities: Activities necessary for developers to undertake their environmental due diligence, and any necessary costs related to Due Care obligations, including preparation of Due Care Plans and implementation of Due Care Response Activities, are estimated at \$100,000. This amount is intended to accommodate the needs of the several developers anticipated to be involved in the Mall Property redevelopment and include Phase I, II and BEAs.
2. Demolition Activities, including Lead and Asbestos Abatement: Demolition of most of the buildings on the Mall Property was completed prior to original adoption of the Plan. However, subsequent developers may require selective interior and exterior demolition of remaining improvements on the Mall Property. Demolition costs were estimated at \$700,000.
3. Infrastructure Improvements: First, Second, Jefferson and Market Streets were rededicated in a grid similar to the original street layout for downtown Muskegon. DMDC sold the road and sidewalk right-of-ways to the City to accommodate rededication of these streets. The City then constructed the roads, sidewalks, streetscape, lighting and design. The cost for the improvements were estimated at \$1,000,000 and initial costs were covered through a combination of grants and loans, including a ULA Loan for \$700,000 that TIF is being used to repay.
4. Site Preparation Activities: Surveys, borings, testing, staking, etc. costs were estimated at \$100,000.

In addition to the eligible activities listed above, the Authority intends to capture tax increment revenues for the following costs, as applicable and available by law:

Brownfield Redevelopment Authority Administrative Costs: Reasonable and actual administrative and operating costs of the Authority from non-school taxes would be captured. Up to \$50,000/year will be captured from the Mall Property for Administrative Costs of the Authority.

Financing Costs: The Authority intends to capture tax increment revenue to pay for interest on the eligible expenses incurred. Interest is calculated at 5%, compounded annually, with payback beginning in 2013.

Local Brownfield Revolving Fund: The Authority intends to capture local tax increment revenue for up to five years after all eligible activities plus interest are reimbursed, for deposit into the Fund. The amount of school operating taxes captured for the Fund will be limited to the amount of school operating taxes captured for MDEQ eligible activities under the Plan. There will be no use of the Fund to finance the redevelopment.

Subject to the priority of capture outlined below for the Sweetwater Project, an estimate of the yearly captured taxable value and tax increment revenues for from the Mall Property and Sweetwater Property are shown in the tax capture table included as Attachment L-4. This table also shows the estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions affected by this tax capture. The Mall Property and Sweetwater Property are located within the City's Downtown Development Authority ("DDA") tax increment financing boundary and it is expected that the Authority will formalize a pass-through agreement with the DDA to ensure full brownfield capture by the Authority for the purpose of reimbursing eligible activities under the Plan.

Sweetwater Development Project

It is intended that the amended Plan shall provide priority for reimbursement of *eligible activities* conducted on the Sweetwater Property for the Sweetwater Project, including department specific activities (i.e. Phase I and II Environmental Site Assessment), site preparation, and infrastructure improvements. TIF revenues generated from the Sweetwater Project will first be used to reimburse the Sweetwater Project developer for the cost of eligible activities undertaken by the developer on the Sweetwater Property. Following full reimbursement of the Sweetwater Project eligible activities, TIF generated by the Sweetwater Property may be used for any other purpose allowable under Act 381 and the Plan.

The following are *eligible activities* that may be reimbursed through TIF revenues:

1. Department Specific Activities: Phase I and II Environmental Site Assessments have been completed prior to acquisition of the Sweetwater Property at a cost of up to \$20,000.
2. Site Preparation: Site preparation activities including temporary fencing, temporary security, temporary erosion control, grading and land balancing, sheet piling and excavation for underground parking are estimated at \$80,000.
3. Infrastructure Improvements: Infrastructure improvements made in connection with the Sweetwater Project include the construction of an underground parking structure that will provide approximately eighteen (18) spaces with another ten (10) above and road repairs/improvements in the public ROW and are estimated at \$833,000.

4. Contingency: A 15% contingency is included to cover unexpected cost overruns encountered during rehabilitation is estimated at \$136,950.
5. Brownfield Plan and/or Work Plan Preparation and Implementation: The costs incurred to prepare, develop and implement this amended Plan amendment and an Act 381 Work Plan are estimated at \$30,000.

Financing (Section 13(2)(d))

Financing to pay for infrastructure costs for the original Mall Property redevelopment came from a variety of grants and loans. It was intended TIF would be used to cover the cost of *eligible activities* not covered by the grant funds and to repay any outstanding loans used to pay for the infrastructure. Remaining eligible activities funded by private developers would be reimbursed under the amended Plan as-needed in order to foster redevelopment of the downtown. A Development and Reimbursement Agreement will be negotiated with any developer incurring *eligible activities* to provide for reimbursement through TIF.

Effective Date of Inclusion in Brownfield Plan

The Mall Property was originally added to the Plan on October 12, 2004 with available capture commencing in 2013. It is intended the duration of the Plan capture is the lesser of full reimbursement of eligible activities or 30 years with capture beginning no later than the availability of capture or 2009, whichever comes first.

ATTACHMENT L-1

SITE MAP

Sweetwater Property



ATTACHMENT L-2

LEGAL DESCRIPTION

CITY OF MUSKEGON
REVISED PLAT OF 1903
MUSKEGON MALL PROPERTY
THAT PART OF
BLK 309, BLK 310, ELK 311,
BLK 312, BLK 559, ELK 560,
BLK 561, BLK 564,
AND BLK 565 DESC AS
ENTIRE BLK 309
LYING WLY OF WLY LINE TERRACE ST AS RELOCATED
(WIN LINE OF TERRACE ST RELOCATED DESC AT END OF DESC)
INCLUDING E/W AND N/S ALLEYS VACATED IN SD BLK
ALSO ELK 310 LOTS 1 TO 11 INCLUSIVE
AND NLY 1/2 OF VAC E/W ALLEY ADJ THERE TO
AND LOT 18 AND SLY 1/2 OF E/W ALLEY ADJ THERE TO SD BLK 310
ALSO ENTIRE ELK 311 EXC E/W ALLEY IN SD BLK
ALSO ENTIRE BLK 312 INCLUDING ALL VAC ALLEYS TN SD BLK
ALSO LOTS 7 TO 16 INCLUSIVE BLK 559
LYING SLY OF MORRIS ST AND WLY OF TERRACE ST AS RELOCATED
(SEE DESCRIPTION OF MORRIS/TERRACE BELOW)
ALSO ENTIRE ELK 560 INCLUDING VAC ALLEY IN SD BLK
ALSO LOTS 3 TO 15 BLK 561 LYING SELY OF SELY LINE MORRIS ST
AND SELY 1/2 OF VAC 18 FT ALLEY THAT RUNS SW TO NE IN SD BLK 561
ALSO LOTS 1 AND 2 AND LOT 7 AND LOTS 8 TO 13 INCLUSIVE BLK 564
ALSO LOTS 1 TO 18 INCLUSIVE ELK 565
AND ENTIRE VAC ALLEY ADJ TO LOTS 3 TO 15 INCLUSIVE SD BLK 565
ALSO INCL ENTIRE VAC WESTERN AVE
ELY OF 3RD ST AND WLY OF TERRACE ST AS RELOCATED
ALSO INCL VAC JEFFERSON ST N OF CLAY AVE
ALSO INCL VAC JEFFERSON ST N OF WESTERN AVE
AND S OF MORRIS AVE
ALSO INCL VAC MARKET ST WLY OF TERRACE ST (RELOCATED) AND ELY
OF A LINE DESC AS BEG AT SE COR LOT 2 ELK 561
TH SELY ALD E LINE SD LOT 2 IF EXTENDED 33 FT
TH SWLY ALG C/L OF MARKET ST
TO INTERSECTION WITH WESTERN AVE FOR POE OF SD LINE
ALSO INCL SWLY 1/2 OF VAC 1ST ST
ADJ TO LOTS 13 14 AND ALLEY IN BLK 311
ALSO INCL ENTIRE VAC FIRST STREET
LYING N OF NLY ALLEY SD BLK 311
AND S OF A LINE DESC AS
COM AT NE COR LOT 13 BLK 564
TH NE ALONG EXTENSION OF N LINE SD LOT 13 10 FT M/L
TH S 86D OOM 005 E 5.66 FT
TH S 41D 33M 00S E 43.1 FT
TH S 86D OOM 005 E 17.9 FT

4. 2004 12:31V11

MUSP*blIN Lynn

.....

THN 49D 00M 00S E 199.83 FT TO POE OF SD LINE
THAT PART OF 2ND ST
OF SLY LINE OF ALLEY IN ELK 565
IDED ELY TO NW COR LOT 8 BLK 564
CL THAT PART OF SWLY 1/2 OF 2ND ST
LOT 18 BLK 565 AND LOTS BLK 564
TED LINES OF MORRIS AVENUE AND TERRACE ST IS AS FOLLOWS:
COR LOT 19 ELK 309
G N LINE CLAY AVE 338.40 FT FOR POB
NE TERRACE ST
M 00S W 190.25 FT
LO SWLY LINE TERRACE ST

ON ARC OF 482.50 FT RAD CURVE TO LEFT 221.25 FT

(LONG CHORD BEARS N 50D 40M W 219.27 FT)

THN 63D 48M W ALO SWLY LINE TERRACE ST 284.90 FT

TH N 63D 48M W ALO SWLY LINE TERRACE ST 211.80 FT

TH! WLY ALG ARC OF 82 FT RAD CURVE TO LEFT 128.47 FT

(LONG CHORD BEARING S 71D 19M W 115.73 FT

TO My LINE MORRIS AVE)

AND POE OF WLY LINE TERRACE ST RELOCATED

ATTACHMENT L-3

SUMMARY OF ELIGIBLE ACTIVITIES FORMER MUSKEGON MALL

Eligible Activities Costs		
	Mall Cost	Sweetwater Cost
BEA and Due Care Activities	\$100,000	\$20,000
<i>MDEQ Eligible Activities Total Cost</i>	\$100,000	\$20,000
Demolition	\$700,000	\$0
Site Preparation	\$100,000	
Temporary Construction Fencing		\$5,000
Temporary Erosion Control		\$5,000
Temporary Security/Shoring of Utilities		\$15,000
Excavation for underground parking, Land Balancing and Grading		\$55,000
<i>Site Preparation Sub-Total</i>	\$100,000	\$80,000
Infrastructure Improvements	\$1,000,000	
<i>Parking Structure (Private)</i>		
A/E		\$48,616
Sheet piling		\$35,000
Concrete		\$460,134
Plumbing		\$25,000
Metals		\$25,000
Waterproofing		\$75,000
Doors/Openings		\$12,000
Parking Equipment		\$17,500
Fire Protection		\$35,000
HVAC		\$60,000
Electrical		\$24,750
<i>Improvements in Right of Way (Public)</i>		
Sidewalks 833 @ \$6		\$5,000
Curb and Gutter 250LF @ \$20		\$5,000
Concrete Paving Repair		\$5,000
<i>Infrastructure Improvements Sub-Total</i>	\$1,000,000	\$833,000
<i>Total Eligible Activities</i>	\$1,900,000	\$933,000
Contingency (15%)		\$139,950
<i>Brownfield/Work Plan Preparation and Development</i>		\$30,000
Total Eligible Activities	\$1,900,000	\$1,102,950

*Interest on Mall costs will be reimbursed with Interest up to

\$5%.

ATTACHMENT L-4

**TAX CAPTURE ESTIMATES
FORMER MUSKEGON MALL**

Tax Increment Revenue Capture Estimates
Former Muskegon Mall
Muskegon, Michigan
December 6, 2018

Estimated Taxable Value (TV) Increase Rate: 1.50%

Plan Year	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Calendar Year	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Base Taxable Value	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Estimated New TV	\$ -	\$ -	\$ -	\$ -	\$ 3,200,391	\$ 3,442,850	\$ 3,117,735	\$ 3,187,686	\$ 3,106,755	\$ 3,153,356	\$ 3,200,657	\$ 3,248,667	\$ 3,297,397	\$ 3,346,857
Incremental Difference (New TV - Base TV)	\$ -	\$ -	\$ -	\$ -	\$ 3,200,391	\$ 3,442,850	\$ 3,117,735	\$ 3,187,686	\$ 3,106,755	\$ 3,153,356	\$ 3,200,657	\$ 3,248,667	\$ 3,297,397	\$ 3,346,857

School Capture	Millage Rate													
State Education Tax (SET)	6.0000	\$ -	\$ -	\$ -	\$ -	\$ 9,601	\$ 15,493	\$ 18,706	\$ 19,126	\$ 18,640	\$ 18,920	\$ 19,204	\$ 19,492	\$ 19,784
School Operating Tax	18.0000	\$ -	\$ -	\$ -	\$ -	\$ 26,408	\$ 43,014	\$ 51,338	\$ 52,825	\$ 52,865	\$ 56,760	\$ 57,612	\$ 58,476	\$ 59,353
School Total	24.0000	\$ -	\$ -	\$ -	\$ -	\$ 36,009	\$ 58,507	\$ 70,044	\$ 71,951	\$ 71,505	\$ 75,681	\$ 76,816	\$ 77,968	\$ 79,138

Local Capture	Millage Rate													
City Operating	10.0869	\$ -	\$ -	\$ -	\$ -	\$ 15,340	\$ 26,048	\$ 31,449	\$ 32,165	\$ 31,350	\$ 31,808	\$ 32,285	\$ 32,769	\$ 33,261
County Operating	5.6984	\$ -	\$ -	\$ -	\$ -	\$ 9,119	\$ 14,714	\$ 17,766	\$ 18,165	\$ 17,703	\$ 17,969	\$ 18,239	\$ 18,512	\$ 18,790
City Sanitation	3.0000	\$ -	\$ -	\$ -	\$ -	\$ 4,000	\$ 7,746	\$ 9,353	\$ 9,563	\$ 9,320	\$ 9,460	\$ 9,602	\$ 9,746	\$ 9,892
County Museum	0.3221	\$ -	\$ -	\$ -	\$ -	\$ 515	\$ 832	\$ 1,004	\$ 1,027	\$ 1,001	\$ 1,016	\$ 1,031	\$ 1,046	\$ 1,062
Senior Services	0.4998	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,594	\$ 1,553	\$ 1,576	\$ 1,600	\$ 1,624	\$ 1,648
County Veterans	0.0752	\$ -	\$ -	\$ -	\$ -	\$ 120	\$ 194	\$ 234	\$ 240	\$ 233	\$ 237	\$ 241	\$ 244	\$ 248
County Qual Life	0.2400	\$ -	\$ -	\$ -	\$ -	\$ 960	\$ 895	\$ 749	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Central Dispatch	0.3000	\$ -	\$ -	\$ -	\$ -	\$ 480	\$ 775	\$ 936	\$ 956	\$ 932	\$ 946	\$ 960	\$ 975	\$ 989
Comm College	2.2037	\$ -	\$ -	\$ -	\$ -	\$ 3,526	\$ 5,690	\$ 6,871	\$ 7,025	\$ 6,846	\$ 6,949	\$ 7,053	\$ 7,159	\$ 7,266
MAISD	4.7580	\$ -	\$ -	\$ -	\$ -	\$ 6,013	\$ 9,704	\$ 11,716	\$ 11,980	\$ 11,675	\$ 15,004	\$ 15,229	\$ 15,457	\$ 15,689
Hackley Library	2.4000	\$ -	\$ -	\$ -	\$ -	\$ 3,840	\$ 6,197	\$ 7,482	\$ 7,651	\$ 7,456	\$ 7,568	\$ 7,682	\$ 7,797	\$ 7,914
Local Total	29.5841	\$ -	\$ -	\$ -	\$ -	\$ 43,913	\$ 72,795	\$ 87,560	\$ 90,366	\$ 88,069	\$ 92,532	\$ 93,920	\$ 95,329	\$ 96,759

Non-Capturable Millages	Millage Rate													
Comm College Debt	0.3400	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 878	\$ 1,060	\$ 1,084	\$ 1,057	\$ 1,072	\$ 1,088	\$ 1,105	\$ 1,121
Hackley Debt	0.5611	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,750	\$ 1,581	\$ 1,553	\$ 1,769	\$ 1,796	\$ 1,823	\$ 1,850
MPS Debt - 1995	4.7000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 14,653	\$ 14,982	\$ 14,602	\$ 14,821	\$ 15,043	\$ 15,269	\$ 15,498
MPS Debt - 2009	2.1000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,547	\$ 6,694	\$ 6,524	\$ 6,622	\$ 6,721	\$ 6,822	\$ 6,925
Total Non-Capturable Taxes	7.7011	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 878	\$ 24,011	\$ 24,341	\$ 23,736	\$ 24,284	\$ 24,649	\$ 25,018	\$ 25,394

Total Tax Increment Revenue (TIR) Available for Capture	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 79,922	\$ 131,302	\$ 157,604	\$ 162,317	\$ 159,574	\$ 168,213	\$ 170,736	\$ 173,297	\$ 175,897
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Footnotes:
Ren Zone expired and first year of available capture was 2013.
Past capture shown through 2017 with inflation at 1.5% thereafter

Tax Increment Revenue Capture Estimates																	
Former Muskegon Mall																	
Muskegon, Michigan																	
December 6, 2018																	
Estimated Taxable Value (TV) Increase Rate:																	
Plan Year	15	16	17	18	19	20	21	22	23	24	25	26	27	28			
Calendar Year	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036			
Base Taxable Value	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
Estimated New TV	\$ 3,397,060	\$ 3,448,016	\$ 3,499,736	\$ 3,552,233	\$ 3,605,516	\$ 3,659,599	\$ 3,714,493	\$ 3,770,210	\$ 3,826,763	\$ 3,884,165	\$ 3,942,427	\$ 4,001,564	\$ 4,061,587	\$ 4,122,511			
Incremental Difference (New TV - Base TV)	\$ 3,397,060	\$ 3,448,016	\$ 3,499,736	\$ 3,552,233	\$ 3,605,516	\$ 3,659,599	\$ 3,714,493	\$ 3,770,210	\$ 3,826,763	\$ 3,884,165	\$ 3,942,427	\$ 4,001,564	\$ 4,061,587	\$ 4,122,511			
School Capture	Millage Rate																
State Education Tax (SET)	6.0000	\$ 20,382	\$ 20,688	\$ 20,998	\$ 21,313	\$ 21,633	\$ 21,958	\$ 22,287	\$ 22,621	\$ 22,961	\$ 23,305	\$ 23,655	\$ 24,009	\$ 24,370	\$ 24,735		
School Operating Tax	18.0000	\$ 61,147	\$ 62,064	\$ 62,995	\$ 63,940	\$ 64,899	\$ 65,873	\$ 66,861	\$ 67,864	\$ 68,882	\$ 69,915	\$ 70,964	\$ 72,028	\$ 73,109	\$ 74,205		
School Total	24.0000	\$ 81,529	\$ 82,752	\$ 83,994	\$ 85,254	\$ 86,532	\$ 87,830	\$ 89,148	\$ 90,485	\$ 91,842	\$ 93,220	\$ 94,618	\$ 96,038	\$ 97,478	\$ 98,940		
Local Capture	Millage Rate																
City Operating	10.0869	\$ 34,266	\$ 34,780	\$ 35,301	\$ 35,831	\$ 36,368	\$ 36,914	\$ 37,468	\$ 38,030	\$ 38,600	\$ 39,179	\$ 39,767	\$ 40,363	\$ 40,969	\$ 41,583		
County Operating	5.6984	\$ 19,358	\$ 19,648	\$ 19,943	\$ 20,242	\$ 20,546	\$ 20,854	\$ 21,167	\$ 21,484	\$ 21,806	\$ 22,134	\$ 22,466	\$ 22,803	\$ 23,145	\$ 23,492		
City Sanitation	3.0000	\$ 10,191	\$ 10,344	\$ 10,499	\$ 10,657	\$ 10,817	\$ 10,979	\$ 11,143	\$ 11,311	\$ 11,480	\$ 11,652	\$ 11,827	\$ 12,005	\$ 12,185	\$ 12,368		
County Museum	0.3221	\$ 1,094	\$ 1,111	\$ 1,127	\$ 1,144	\$ 1,161	\$ 1,179	\$ 1,196	\$ 1,214	\$ 1,233	\$ 1,251	\$ 1,270	\$ 1,289	\$ 1,308	\$ 1,328		
Senior Services	0.4998	\$ 1,698	\$ 1,723	\$ 1,749	\$ 1,775	\$ 1,802	\$ 1,829	\$ 1,857	\$ 1,884	\$ 1,913	\$ 1,941	\$ 1,970	\$ 2,000	\$ 2,030	\$ 2,060		
County Veterans	0.0752	\$ 255	\$ 259	\$ 263	\$ 267	\$ 271	\$ 275	\$ 279	\$ 284	\$ 288	\$ 292	\$ 296	\$ 301	\$ 305	\$ 310		
County Qual Life	0.2400	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Central Dispatch	0.3000	\$ 1,019	\$ 1,034	\$ 1,050	\$ 1,066	\$ 1,082	\$ 1,098	\$ 1,114	\$ 1,131	\$ 1,148	\$ 1,165	\$ 1,183	\$ 1,200	\$ 1,218	\$ 1,237		
Comm College	2.2037	\$ 7,486	\$ 7,598	\$ 7,712	\$ 7,828	\$ 7,945	\$ 8,065	\$ 8,186	\$ 8,308	\$ 8,433	\$ 8,560	\$ 8,688	\$ 8,818	\$ 8,951	\$ 9,085		
MAISD	4.7580	\$ 16,163	\$ 16,406	\$ 16,652	\$ 16,902	\$ 17,155	\$ 17,412	\$ 17,674	\$ 17,939	\$ 18,208	\$ 18,481	\$ 18,758	\$ 19,039	\$ 19,325	\$ 19,615		
Hackley Library	2.4000	\$ 8,153	\$ 8,275	\$ 8,399	\$ 8,525	\$ 8,653	\$ 8,783	\$ 8,915	\$ 9,049	\$ 9,184	\$ 9,322	\$ 9,462	\$ 9,604	\$ 9,748	\$ 9,894		
Local Total	29.5841	\$ 99,684	\$ 101,179	\$ 102,697	\$ 104,237	\$ 105,801	\$ 107,388	\$ 108,998	\$ 110,633	\$ 112,293	\$ 113,977	\$ 115,687	\$ 117,422	\$ 119,184	\$ 120,971		
Non-Capturable Millages	Millage Rate																
Comm College Debt	0.3400	\$ 1,155	\$ 1,172	\$ 1,190	\$ 1,208	\$ 1,226	\$ 1,244	\$ 1,263	\$ 1,282	\$ 1,301	\$ 1,321	\$ 1,340	\$ 1,361	\$ 1,381	\$ 1,402		
Hackley Debt	0.5611	\$ 1,906	\$ 1,935	\$ 1,964	\$ 1,993	\$ 2,023	\$ 2,053	\$ 2,084	\$ 2,115	\$ 2,147	\$ 2,179	\$ 2,212	\$ 2,245	\$ 2,279	\$ 2,313		
MPS Debt - 1995	4.7000	\$ 15,966	\$ 16,206	\$ 16,449	\$ 16,695	\$ 16,946	\$ 17,200	\$ 17,458	\$ 17,720	\$ 17,986	\$ 18,256	\$ 18,529	\$ 18,807	\$ 19,089	\$ 19,376		
MPS Debt - 2009	2.1000	\$ 7,134	\$ 7,241	\$ 7,349	\$ 7,460	\$ 7,572	\$ 7,685	\$ 7,800	\$ 7,917	\$ 8,036	\$ 8,157	\$ 8,279	\$ 8,403	\$ 8,529	\$ 8,657		
Total Non-Capturable Taxes	7.7011	\$ 26,161	\$ 26,554	\$ 26,952	\$ 27,356	\$ 27,766	\$ 28,183	\$ 28,606	\$ 29,035	\$ 29,470	\$ 29,912	\$ 30,361	\$ 30,816	\$ 31,279	\$ 31,748		
Total Tax Increment Revenue (TIR) Available for Capture	\$	181,213	\$ 183,931	\$ 186,690	\$ 189,491	\$ 192,333	\$ 195,218	\$ 198,146	\$ 201,118	\$ 204,135	\$ 207,197	\$ 210,305	\$ 213,460	\$ 216,662	\$ 219,912		

Footnotes:

Ren Zone expired and first year of available capture was 2013.

Past capture shown through 2017 with inflation at 1.5% thereafter

Tax Increment Revenue Capture Estimates
Former Muskegon Mall
Muskegon, Michigan
December 6, 2018

Estimated Taxable Value (TV) Increase Rate:

		Plan Year		29	30	TOTAL		
		Calendar Year		2037	2038			
		Base Taxable Value	\$	-	\$	-		
		Estimated New TV	\$	4,184,349	\$	4,247,114		
Incremental Difference (New TV - Base TV)		\$	4,184,349	\$	4,247,114	\$	4,247,114	
School Capture		Millage Rate						
State Education Tax (SET)		6.0000	\$	25,106	\$	25,483	\$	544,552
School Operating Tax		18.0000	\$	75,318	\$	76,448	\$	1,615,407
School Total		24.0000	\$	100,424	\$	101,931	\$	2,159,959
Local Capture		Millage Rate						
City Operating		10.0869	\$	42,207	\$	42,840	\$	914,700
County Operating		5.6984	\$	23,844	\$	24,202	\$	517,180
City Sanitation		3.0000	\$	12,553	\$	12,741	\$	271,475
County Museum		0.3221	\$	1,348	\$	1,368	\$	29,234
Senior Services		0.4998	\$	2,091	\$	2,123	\$	41,714
County Veterans		0.0752	\$	315	\$	319	\$	6,824
County Qual Life		0.2400	\$	-	\$	-	\$	2,604
Central Dispatch		0.3000	\$	1,255	\$	1,274	\$	27,228
Comm College		2.2037	\$	9,221	\$	9,359	\$	200,005
MAISD		4.7580	\$	19,909	\$	20,208	\$	418,236
Hackley Library		2.4000	\$	10,042	\$	10,193	\$	217,820
Local Total		29.5841	\$	122,786	\$	124,628	\$	2,647,019
Non-Capturable Millages		Millage Rate						
Comm College Debt		0.3400	\$	1,423	\$	1,444	\$	30,315
Hackley Debt		0.5611	\$	2,348	\$	2,383	\$	48,181
MPS Debt - 1995		4.7000	\$	19,666	\$	19,961	\$	406,909
MPS Debt - 2009		2.1000	\$	8,787	\$	8,919	\$	181,811
Total Non-Capturable Taxes		7.7011	\$	32,224	\$	32,707	\$	667,216
Total Tax Increment Revenue (TIR) Available for Capture			\$	223,210	\$	226,558	\$	4,806,978

Footnotes:

Ren Zone expired and first year of available capture was 2013.
Past capture shown through 2017 with inflation at 1.5% thereafter

Tax Increment Revenue Capture Estimates
Sweetwater Development
Muskegon, Michigan
December 6, 2018

Estimated Taxable Value (TV) Increase Rate:		1.50%		Commercial Rehab Abatement													
	Plan Year	1	2	3	4	5	6	7	8	9	10	11	12	13	14		
	Calendar Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031		
	Base Taxable Value	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Estimated New TV	\$ -	\$ 50,000	\$ 1,724,098	\$ 1,749,959	\$ 1,776,209	\$ 1,802,852	\$ 1,829,895	\$ 1,857,343	\$ 1,885,203	\$ 1,913,481	\$ 1,942,184	\$ 1,971,316	\$ 2,000,886	\$ 2,030,899		
	Incremental Difference (New TV - Base TV)	\$ -	\$ 50,000	\$ 1,724,098	\$ 1,749,959	\$ 1,776,209	\$ 1,802,852	\$ 1,829,895	\$ 1,857,343	\$ 1,885,203	\$ 1,913,481	\$ 1,942,184	\$ 1,971,316	\$ 2,000,886	\$ 2,030,899		

School Capture	Millage Rate																
State Education Tax (SET)	6.0000	\$ -	\$ -	\$ 10,345	\$ 10,500	\$ 10,657	\$ 10,817	\$ 10,979	\$ 11,144	\$ 11,311	\$ 11,481	\$ 11,653	\$ 11,828	\$ 12,005	\$ 12,185		
School Operating Tax	18.0000	\$ -	\$ -	\$ 31,034	\$ 31,499	\$ 31,972	\$ 32,451	\$ 32,938	\$ 33,432	\$ 33,934	\$ 34,443	\$ 34,959	\$ 35,484	\$ 36,016	\$ 36,556		
School Total	24.0000	\$ -	\$ -	\$ 41,378	\$ 41,999	\$ 42,629	\$ 43,268	\$ 43,917	\$ 44,576	\$ 45,245	\$ 45,924	\$ 46,612	\$ 47,312	\$ 48,021	\$ 48,742		

Local Capture	Millage Rate																
City Operating	10.0869	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,183	\$ 20,485		
County Operating	5.6984	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,402	\$ 11,573		
City Sanitation	3.0000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,003	\$ 6,093		
County Museum	0.3221	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 644	\$ 654		
Senior Services	0.4998	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,000	\$ 1,015		
County Veterans	0.0752	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 150	\$ 153		
County Qual Life	0.2400	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 480	\$ 487		
Central Dispatch	0.3000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 600	\$ 609		
Comm College	2.2037	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,409	\$ 4,475		
MAISD	4.7580	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,520	\$ 9,663		
Hackley Library	2.4000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,802	\$ 4,874		
Local Total	29.5841	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 59,194	\$ 60,082		

Non-Capturable Millages	Millage Rate																
Comm College Debt	0.3400	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 680	\$ 691		
Hackley Debt	0.5611	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,123	\$ 1,140		
MPS Debt - 1995	4.7000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,404	\$ 9,545		
MPS Debt - 2009	2.1000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,202	\$ 4,265		
Total Non-Capturable Taxes	7.7011	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,409	\$ 15,640		

Total Tax Increment Revenue (TIR) Available for Capture	\$ -	\$ -	\$ 41,378	\$ 41,999	\$ 42,629	\$ 43,268	\$ 43,917	\$ 44,576	\$ 45,245	\$ 45,924	\$ 46,612	\$ 47,312	\$ 107,216	\$ 108,824			
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Footnotes:
Sweetwater Property only with projected TV and 1.5% inflation thereafter
Assumes millage rates remain the same
Assumes 10yr Commercial Rehab Act abatement on the new building.

Tax Increment Revenue Capture Estimates
Sweetwater Development
Muskegon, Michigan
December 6, 2018

Estimated Taxable Value (TV) Increase Rate:

Plan Year	15	16	17	18	19	20	21	TOTAL
Calendar Year	2032	2033	2034	2035	2036	2037	2038	
Base Taxable Value	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Estimated New TV	\$ 2,061,363	\$ 2,092,283	\$ 2,123,668	\$ 2,155,523	\$ 2,187,855	\$ 2,220,673	\$ 2,253,983	\$ 2,253,983
Incremental Difference (New TV - Base TV)	\$ 2,061,363	\$ 2,092,283	\$ 2,123,668	\$ 2,155,523	\$ 2,187,855	\$ 2,220,673	\$ 2,253,983	\$ 2,253,983
School Capture	Millage Rate							
State Education Tax (SET)	6.0000	\$ 12,368	\$ 12,554	\$ 12,742	\$ 12,933	\$ 13,127	\$ 13,324	\$ 13,524
School Operating Tax	18.0000	\$ 37,105	\$ 37,661	\$ 38,226	\$ 38,799	\$ 39,381	\$ 39,972	\$ 40,572
School Total	24.0000	\$ 49,473	\$ 50,215	\$ 50,968	\$ 51,733	\$ 52,509	\$ 53,296	\$ 54,096
Local Capture	Millage Rate							
City Operating	10.0869	\$ 20,793	\$ 21,105	\$ 21,421	\$ 21,743	\$ 22,069	\$ 22,400	\$ 22,736
County Operating	5.6984	\$ 11,746	\$ 11,923	\$ 12,102	\$ 12,283	\$ 12,467	\$ 12,654	\$ 12,844
City Sanitation	3.0000	\$ 6,184	\$ 6,277	\$ 6,371	\$ 6,467	\$ 6,564	\$ 6,662	\$ 6,762
County Museum	0.3221	\$ 664	\$ 674	\$ 684	\$ 694	\$ 705	\$ 715	\$ 726
Senior Services	0.4998	\$ 1,030	\$ 1,046	\$ 1,061	\$ 1,077	\$ 1,093	\$ 1,110	\$ 1,127
County Veterans	0.0752	\$ 155	\$ 157	\$ 160	\$ 162	\$ 165	\$ 167	\$ 169
County Qual Life	0.2400	\$ 495	\$ 502	\$ 510	\$ 517	\$ 525	\$ 533	\$ 541
Central Dispatch	0.3000	\$ 618	\$ 628	\$ 637	\$ 647	\$ 656	\$ 666	\$ 676
Comm College	2.2037	\$ 4,543	\$ 4,611	\$ 4,680	\$ 4,750	\$ 4,821	\$ 4,894	\$ 4,967
MAISD	4.7580	\$ 9,808	\$ 9,955	\$ 10,104	\$ 10,256	\$ 10,410	\$ 10,566	\$ 10,724
Hackley Library	2.4000	\$ 4,947	\$ 5,021	\$ 5,097	\$ 5,173	\$ 5,251	\$ 5,330	\$ 5,410
Local Total	29.5841	\$ 60,984	\$ 61,898	\$ 62,827	\$ 63,769	\$ 64,726	\$ 65,697	\$ 66,682
Non-Capturable Millages	Millage Rate							
Comm College Debt	0.3400	\$ 701	\$ 711	\$ 722	\$ 733	\$ 744	\$ 755	\$ 766
Hackley Debt	0.5611	\$ 1,157	\$ 1,174	\$ 1,192	\$ 1,209	\$ 1,228	\$ 1,246	\$ 1,265
MPS Debt - 1995	4.7000	\$ 9,688	\$ 9,834	\$ 9,981	\$ 10,131	\$ 10,283	\$ 10,437	\$ 10,594
MPS Debt - 2009	2.1000	\$ 4,329	\$ 4,394	\$ 4,460	\$ 4,527	\$ 4,594	\$ 4,663	\$ 4,733
Total Non-Capturable Taxes	7.7011	\$ 15,875	\$ 16,113	\$ 16,355	\$ 16,600	\$ 16,849	\$ 17,102	\$ 17,358
Total Tax Increment Revenue (TIR) Available for Capture		\$ 110,456	\$ 112,113	\$ 113,795	\$ 115,502	\$ 117,234	\$ 118,993	\$ 120,778
								\$ 1,467,771

Footnotes:
Sweetwater Property only with projected TV and 1.5% inflation thereafter
Assumes millage rates remain the same
Assumes 10yr Commercial Rehab Act abatement on the new building.

Tax Increment Financing Reimbursement Table
Muskegon Mall Project
Muskegon, Michigan
December 6, 2018

Developer Maximum Reimbursement	Proportionality	School & Local Taxes	Local-Only Taxes	Total
State	52.2%	\$ 2,434,600		\$ 2,434,600
Local	47.8%	\$ 2,231,028		\$ 2,231,028
TOTAL				\$ 4,665,628
MDEQ		\$ 123,000	0	\$ 123,000
MSF		\$ 2,879,950	\$ -	\$ 2,879,950

Estimated Total
Years of Plan: 35

Estimated Capture
Administrative Fees
State Revolving Fund
LSRRF

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Total State Incremental Revenue	\$ -	\$ -	\$ -	\$ -	\$ 36,009	\$ 58,507	\$ 70,044	\$ 71,951	\$ 71,505	\$ 75,681	\$ 76,816	\$ 119,346
State Brownfield Revolving Fund (50% of SET)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
State TIR Available for Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ 36,009	\$ 58,507	\$ 70,044	\$ 71,951	\$ 71,505	\$ 75,681	\$ 76,816	\$ 119,346
Total Local Incremental Revenue	\$ -	\$ -	\$ -	\$ -	\$ 43,913	\$ 72,795	\$ 87,560	\$ 90,366	\$ 88,069	\$ 92,532	\$ 93,920	\$ 95,329
BRA Administrative Fee	\$ -	\$ -	\$ -	\$ -	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)
Local TIR Available for Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ 33,913	\$ 62,795	\$ 77,560	\$ 80,366	\$ 78,069	\$ 82,532	\$ 83,920	\$ 85,329
Total State & Local TIR Available	\$ -	\$ -	\$ -	\$ -	\$ 69,922	\$ 121,302	\$ 147,604	\$ 152,317	\$ 149,574	\$ 158,213	\$ 160,736	\$ 204,676
DEVELOPER	Beginning Balance											
DEVELOPER Reimbursement Balance	\$ 3,002,950	\$ 3,002,950	\$ 3,002,950	\$ 3,092,950	\$ 3,187,450	\$ 3,286,675	\$ 3,317,695	\$ 3,296,753	\$ 3,247,679	\$ 3,191,751	\$ 3,136,445	\$ 3,069,872
MSF Non-Environmental Costs - City	\$ 1,800,000	\$ 1,800,000	\$ 1,800,000	\$ 1,890,000	\$ 1,984,500	\$ 2,083,725	\$ 2,119,779	\$ 2,107,572	\$ 2,069,125	\$ 2,024,163	\$ 1,979,627	\$ 1,924,445
State Tax Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ 33,416	\$ 54,294	\$ 65,001	\$ 66,771	\$ 66,357	\$ 70,232	\$ 71,285	\$ 72,354
Local Tax Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ 31,471	\$ 58,274	\$ 71,976	\$ 74,580	\$ 72,448	\$ 76,590	\$ 77,878	\$ 79,185
Total MSF Reimbursement Balance	\$ 1,800,000	\$ 1,800,000	\$ 1,890,000	\$ 1,984,500	\$ 2,018,837	\$ 2,007,211	\$ 1,970,595	\$ 1,927,775	\$ 1,885,359	\$ 1,832,805	\$ 1,775,282	\$ 1,712,506
Interest (5%)	\$ 90,000	\$ 94,500	\$ 99,225	\$ 100,942	\$ 100,361	\$ 98,530	\$ 96,389	\$ 94,268	\$ 91,640	\$ 88,764	\$ 85,625	\$ 82,488
MSF Non-Environmental Costs - Sweetwater	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950
State Tax Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 40,509
Local Tax Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total MSF Reimbursement Balance	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,079,950	\$ 1,039,441
MDEQ Environmental Costs - City	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 94,966	\$ 86,232	\$ 75,604	\$ 64,638	\$ 53,868	\$ 42,477	\$ 30,904
State Tax Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ 2,593	\$ 4,213	\$ 5,043	\$ 5,180	\$ 5,148	\$ 5,449	\$ 5,531	\$ 5,614
Local Tax Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ 2,442	\$ 4,521	\$ 5,584	\$ 5,786	\$ 5,621	\$ 5,942	\$ 6,042	\$ 6,144
Total MDEQ Reimbursement Balance	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 94,966	\$ 86,232	\$ 75,604	\$ 64,638	\$ 53,868	\$ 42,477	\$ 30,904	\$ 19,146
MDEQ Environmental Costs - Sweetwater	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000
State Tax Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 869
Local Tax Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total MDEQ Reimbursement Balance	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 23,000	\$ 22,131
Local Only Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local Tax Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Local Only Reimbursement Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Annual Developer Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ 69,922	\$ 121,302	\$ 147,604	\$ 152,317	\$ 149,574	\$ 158,213	\$ 160,736	\$ 204,676

LOCAL SITE REMEDIATION FUND

LSRRF Deposits *	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
State Tax Capture	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local Tax Capture	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total LSRRF Capture	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

* Up to five years of capture for LSRRF Deposits after eligible activities are reimbursed. May be taken from DEQ & Local TIR only.

Footnotes:

(1) Assumes taxable value increases based on proposed build out, plus 1.5% annual increases for inflation thereafter.

(2) Assumes Millage Rates remain constant.

(3) 10yr Commercial Rehab Act Abatement

Assumes Reimbursement on Mall and Sweetwater are separate from one another

Tax Increment Financing Reimbursement Table
Muskegon Mall Project
Muskegon, Michigan
December 6, 2018

\$	6,274,749
\$	260,000
\$	-
\$	704,080

	Commercial Rehab Abatement - Sweetwater Development									2030	2031	2032	2033	2034	2035	2036	2037	2038
	2021	2022	2023	2024	2025	2026	2027	2028	2029									
Total State Incremental Revenue	\$ 121,137	\$ 122,954	\$ 124,798	\$ 126,670	\$ 128,570	\$ 130,498	\$ 132,456	\$ 134,443	\$ 136,459	\$ 138,506	\$ 140,584	\$ 142,693	\$ 144,833	\$ 147,006	\$ 149,211	\$ 151,449	\$ 153,721	\$ 156,026
State Brownfield Revolving Fund (50% of SET)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
State TIR Available for Reimbursement	\$ 121,137	\$ 122,954	\$ 124,798	\$ 126,670	\$ 128,570	\$ 130,498	\$ 132,456	\$ 134,443	\$ 136,459	\$ 138,506	\$ 140,584	\$ 142,693	\$ 144,833	\$ 147,006	\$ 149,211	\$ 151,449	\$ 153,721	\$ 156,026
Total Local Incremental Revenue	\$ 96,759	\$ 98,211	\$ 99,684	\$ 101,179	\$ 102,697	\$ 104,237	\$ 105,801	\$ 107,388	\$ 108,998	\$ 109,828	\$ 110,828	\$ 111,828	\$ 112,828	\$ 113,828	\$ 114,828	\$ 115,828	\$ 116,828	\$ 117,828
BRA Administrative Fee	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)
Local TIR Available for Reimbursement	\$ 86,759	\$ 88,211	\$ 89,684	\$ 91,179	\$ 92,697	\$ 94,237	\$ 95,801	\$ 97,388	\$ 98,998	\$ 99,828	\$ 100,828	\$ 101,828	\$ 102,828	\$ 103,828	\$ 104,828	\$ 105,828	\$ 106,828	\$ 107,828
Total State & Local TIR Available	\$ 207,896	\$ 211,164	\$ 214,482	\$ 217,849	\$ 221,267	\$ 224,736	\$ 228,257	\$ 231,830	\$ 235,458	\$ 238,334	\$ 241,412	\$ 244,521	\$ 247,661	\$ 250,834	\$ 254,041	\$ 257,287	\$ 260,549	\$ 263,826
DEVELOPER																		
DEVELOPER Reimbursement Balance	\$ 2,878,850	\$ 2,753,163	\$ 2,620,252	\$ 2,479,375	\$ 2,330,115	\$ 2,172,031	\$ 2,004,664	\$ 1,827,527	\$ 1,640,111	\$ 1,441,882	\$ 1,233,081	\$ 1,008,426	\$ 772,281	\$ 522,982	\$ 267,685	\$ -	\$ -	\$ -
MSF Non-Environmental Costs - City																		
State Tax Reimbursement	\$ 73,440	\$ 76,889	\$ 81,529	\$ 82,752	\$ 83,994	\$ 85,254	\$ 86,532	\$ 87,830	\$ 89,148	\$ 90,485	\$ 91,842	\$ 93,220	\$ 94,618	\$ 96,041	\$ 97,489	\$ 98,961	\$ 100,457	\$ 101,978
Local Tax Reimbursement	\$ 80,512	\$ 84,444	\$ 89,684	\$ 91,179	\$ 92,697	\$ 94,237	\$ 95,801	\$ 97,388	\$ 98,998	\$ 100,633	\$ 102,293	\$ 103,977	\$ 105,687	\$ 107,421	\$ 109,179	\$ 110,961	\$ 112,767	\$ 114,597
Total MSF Reimbursement Balance	\$ 1,644,180	\$ 1,565,055	\$ 1,472,095	\$ 1,371,769	\$ 1,263,667	\$ 1,147,359	\$ 1,022,394	\$ 888,296	\$ 744,565	\$ 590,674	\$ 426,073	\$ 250,179	\$ 62,383	\$ -	\$ -	\$ -	\$ -	\$ -
Interest (5%)	\$ 82,209	\$ 78,253	\$ 73,605	\$ 68,588	\$ 63,183	\$ 57,368	\$ 51,120	\$ 44,415	\$ 37,228	\$ 29,534	\$ 21,304	\$ 12,509	\$ 3,119	\$ -	\$ -	\$ -	\$ -	\$ -
MSF Non-Environmental Costs - Sweetwater																		
State Tax Reimbursement	\$ 41,117	\$ 41,734	\$ 42,360	\$ 42,995	\$ 43,640	\$ 44,295	\$ 44,959	\$ 45,634	\$ 46,318	\$ 47,013	\$ 47,718	\$ 48,434	\$ 49,160	\$ 49,898	\$ 50,649	\$ 51,414	\$ 52,193	\$ 52,986
Local Tax Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total MSF Reimbursement Balance	\$ 998,324	\$ 956,590	\$ 914,230	\$ 871,235	\$ 827,595	\$ 783,300	\$ 738,341	\$ 692,707	\$ 646,389	\$ 599,425	\$ 551,425	\$ 502,886	\$ 453,828	\$ 405,257	\$ 356,674	\$ 308,079	\$ 259,472	\$ 210,854
MDEQ Environmental Costs - City																		
State Tax Reimbursement	\$ 5,698	\$ 3,436	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local Tax Reimbursement	\$ 6,247	\$ 3,766	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total MDEQ Reimbursement Balance	\$ 7,202	\$ 7,202	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
MDEQ Environmental Costs - Sweetwater																		
State Tax Reimbursement	\$ 882	\$ 895	\$ 909	\$ 922	\$ 936	\$ 950	\$ 964	\$ 979	\$ 994	\$ 1,008	\$ 1,024	\$ 1,039	\$ 1,055	\$ 1,070	\$ 1,086	\$ 1,101	\$ 1,117	\$ 1,133
Local Tax Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total MDEQ Reimbursement Balance	\$ 21,249	\$ 20,354	\$ 19,445	\$ 18,523	\$ 17,587	\$ 16,637	\$ 15,672	\$ 14,693	\$ 13,700	\$ 12,693	\$ 11,672	\$ 10,637	\$ 9,589	\$ 8,528	\$ 7,454	\$ 6,367	\$ 5,267	\$ 4,154
Local Only Costs																		
Local Tax Reimbursement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Local Only Reimbursement Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Annual Developer Reimbursement	\$ 207,896	\$ 211,164	\$ 214,482	\$ 217,849	\$ 221,267	\$ 224,736	\$ 228,257	\$ 231,830	\$ 235,458	\$ 238,334	\$ 241,412	\$ 244,521	\$ 247,661	\$ 250,834	\$ 254,041	\$ 257,287	\$ 260,549	\$ 263,826

LOCAL SITE REMEDIATION FUND

LSRRF Deposits *	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
State Tax Capture	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local Tax Capture	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total LSRRF Capture	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

* Up to five years of capture for LSRRF Deposits

Footnotes:

(1) Assumes taxable value increases based on inflation thereafter.

(2) Assumes Millage Rates remain constant

(3) 10yr Commercial Rehab Act Abatement
Assumes Reimbursement on Mall and Sweetwater

Tax Increment Financing Reimbursement Table
Muskegon Mall Project
Muskegon, Michigan
December 6, 2018

	TOTAL
Total State Incremental Revenue	\$ 3,061,871
State Brownfield Revolving Fund (50% of SET)	\$ -
State TIR Available for Reimbursement	\$ 3,061,871
Total Local Incremental Revenue	\$ 3,212,878
BRA Administrative Fee	\$ (260,000)
Local TIR Available for Reimbursement	\$ 2,952,878
Total State & Local TIR Available	\$ -
DEVELOPER	
DEVELOPER Reimbursement Balance	
MSF Non-Environmental Costs - City	\$ -
State Tax Reimbursement	\$ 1,648,185
Local Tax Reimbursement	\$ 1,814,493
Total MSF Reimbursement Balance	\$ -
Interest (5%)	
MSF Non-Environmental Costs - Sweetwater	\$ -
State Tax Reimbursement	\$ 723,075
Local Tax Reimbursement	\$ 356,875
Total MSF Reimbursement Balance	\$ -
MDEQ Environmental Costs - City	\$ -
State Tax Reimbursement	\$ 47,904
Local Tax Reimbursement	\$ 52,096
Total MDEQ Reimbursement Balance	\$ -
MDEQ Environmental Costs - Sweetwater	\$ -
State Tax Reimbursement	\$ 15,436
Local Tax Reimbursement	\$ 7,564
Total MDEQ Reimbursement Balance	\$ -
Local Only Costs	\$ -
Local Tax Reimbursement	\$ -
Total Local Only Reimbursement Balance	\$ -
Total Annual Developer Reimbursement	\$ -
LOCAL SITE REMEDIATION FUND	
LSRRF Deposits *	\$ 704,080
State Tax Capture	\$ 55,091
Local Tax Capture	\$ 648,989
Total LSRRF Capture	

* Up to five years of capture for LSRRF Deposits

Footnotes:

(1) Assumes taxable value increases base inflation thereafter.

(2) Assumes Millage Rates remain constant

(3) 10yr Commercial Rehab Act Abatement
Assumes Reimbursement on Mall and Sweetwater

Commission Meeting Date: May 14, 2019

Date: May 8, 2019
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department
RE: Public Hearing for Amendment to Brownfield
Plan- City of Muskegon (Developer)

SUMMARY OF REQUEST: To hold a public hearing and approve the attached resolution approving and adopting the amendment for the Brownfield Plan. The amendments are for the inclusion of properties owned by the City of Muskegon LLC in the Brownfield Plan.

FINANCIAL IMPACT: Brownfield Tax increment Financing will be used to reimburse the developer for "eligible expenses" incurred in association with development of 48 residential units in the Nelson Neighborhood.

"Eligible Expenses" would be reimbursed starting in 2020. The estimated tax capture and payment schedule is included as Attachment B in the proposed Brownfield Plan Amendment.

After all eligible costs incurred by the various parties are reimbursed (estimated to be in 2032), the BRA is authorized to continue to capture local taxes for five more years for deposit into a Local Site Remediation Revolving Fund.

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENDATION: The Muskegon City Commission set the public hearing for May 14, 2019 at their April 23, 2019 meeting. Since that time, a notice of the public hearing has been sent to taxing jurisdictions. In addition, the Brownfield Redevelopment Authority approved the Plan amendment on April 9, 2019 and further recommends that the Muskegon City Commission approve the Plan amendment.

RESOLUTION APPROVING THE BROWNFIELD PLAN AMENDMENT

City of Muskegon (Developer)

County of Muskegon, Michigan

Minutes of a Regular Meeting of the City Commission of the City of Muskegon, County of Muskegon, Michigan (the "City"), held in the City Commission Chambers, on the 14th day of May 2019, at 5:30 p.m., prevailing Eastern Time.

PRESENT: Members

ABSENT: Members

The following preamble and resolution were offered by Commissioner _____ and supported by Commissioner _____:

WHEREAS, in accordance with the provisions of Act 381, Public Acts of Michigan, 1996, as amended ("Act 381"), the City of Muskegon Brownfield Redevelopment Authority (the "Authority") has prepared and approved a Brownfield Plan Amendment to add The City of Muskegon (developer), and

WHEREAS, the Authority has forwarded the Brownfield Plan Amendment to the City Commission requesting its approval of the Brownfield Plan Amendment; and

WHEREAS, the City Commission has provided notice and a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to express

their views and recommendations regarding the Brownfield Plan Amendment, as required by Act 381; and

WHEREAS, not less than 10 days has passed since the City Commission provided notice of the proposed Brownfield Plan to the taxing units; and

WHEREAS, the City Commission held a public hearing on the proposed Brownfield Plan on May 14, 2019.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Brownfield Plan constitutes a public purpose under Act 381.
2. That the Brownfield Plan meets all the requirements of Section 13(1) of Act 381.
3. That the proposed method of financing the costs of the eligible activities, as identified in the Brownfield Plan and defined in Act 381, is feasible and the Authority has the authority to arrange the financing.
4. That the costs of the eligible activities proposed in the Brownfield Plan are reasonable and necessary to carry out the purposes of Act 381.
5. That the amount of captured taxable value estimated to result from the adoption of the Brownfield Plan is reasonable.
6. That the Brownfield Plan in the form presented is approved and is effective immediately.
7. That all resolutions or parts of resolutions in conflict herewith shall be and the same are hereby rescinded.

Be It Further Resolved that the Mayor and City Clerk are hereby authorized to execute all documents necessary or appropriate to implement the

provisions of the Brownfield Plan.

AYES: Members

NAYS:

Members

RESOLUTION DECLARED ADOPTED.

Ann Meisch, City Clerk

Stephen J. Gawron, Mayor

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held on May 14, 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Ann Meisch, City Clerk

**CITY OF MUSKEGON
BROWNFIELD REDEVELOPMENT
AUTHORITY**

BROWNFIELD PLAN AMENDMENT

***NELSON NEIGHBORHOOD INFILL HOUSING
PROJECT***

April 9, 2019

**Prepared For The City of Muskegon Brownfield
Redevelopment Authority**

Prepared By City of Muskegon Staff

PROJECT NAME

Nelson Neighborhood Infill Housing Project

DEVELOPER

City of Muskegon, a qualified unit of local government, as defined by Public Act 381 of 1996, as amended

ELIGIBLE PROPERTY LOCATION

There are 28 Eligible Properties for this project, most of which are not adjacent to one another. Please refer to the "Eligible Property Information Chart" and the "Eligible Property Map (Attachment A)" on the following pages.

TYPE OF ELIGIBLE PROPERTY

Blighted

SUBJECT PROJECT DESCRIPTION

The project consists of 28 vacant parcels in the Nelson Neighborhood. A majority of the homes will be single family, detached homes on small lots. However, multi-family homes will be constructed on lots that allow for them by zoning

ELIGIBLE ACTIVITIES

Seller Concessions, Preparation of Brownfield Plan

DEVELOPER'S REIMBURSABLE COSTS

\$848,000

MAXIMUM DURATION OF CAPTURE

30 years

ESTIMATED TOTAL CAPITAL INVESTMENT

\$9,000,000

INITIAL TAXABLE VALUE

\$0 (City Owned)

1. Introduction

The City of Muskegon, Michigan (the “City”), established the Muskegon Brownfield Redevelopment Authority (the “Authority”) on July 4, 1997, pursuant to Michigan Public Act 381 of 1996, as amended (“Act 381”). The primary purpose of Act 381 is to encourage the redevelopment of eligible property by providing economic incentives through tax increment financing for certain eligible activities.

The main purpose of this Brownfield Plan is to promote the redevelopment of and investment in certain “Brownfield” properties within the City. Inclusion of the subject properties within this Plan will facilitate the development of infill housing at eligible properties. By facilitating redevelopment of underutilized properties, the Plan is intended to promote economic growth for the benefit of the residents of the City and all taxing units located within and benefited by the Authority.

This Plan is intended to be a living document, which can be amended as necessary to achieve the purposes of Act 381. It is specifically anticipated that properties will be continually added to the Plan as new projects are identified. The Plan contains general provisions applicable to the Plan, as well as property-specific information for each project. The applicable Sections of Act 381 are noted throughout the Plan for reference purposes.

This Brownfield Plan contains the information required by Section 13(1) of Act 381, as amended. Additional information is available from the Muskegon City Manager or the Planning Director.

2. General Provisions

A. Costs of the Brownfield Plan (Section 13(1)(a))

Any site-specific costs of implementing this Plan are described in the site-specific section of the Plan. Site-specific sources of funding may include tax increment financing revenue generated from new development on eligible brownfield properties, state and federal grant or loan funds, and/or private parties. Where private parties finance the costs of eligible activities under the Plan, tax increment revenues may be used to reimburse the private parties. The initial costs related to preparation of the Brownfield Plan were funded by the City’s general fund. Subsequent amendments to the Plan may be funded by the person requesting inclusion of a project in the Plan, and if eligible, may be reimbursed through tax increment financing.

The Authority intends to pay for administrative costs and all of the things necessary or convenient to achieve the objectives and purposes of the Authority with fees charged to

applicants to be included in the Plan, and any eligible tax increment revenues collected pursuant to the Plan, in accordance with the provisions of Act 381, including, but not limited to:

- i) the cost of financial tracking and auditing the funds of the Authority,
- ii) costs for amending and/or updating this Plan, and
- iii) costs for Plan implementation

Tax increment revenues that may be generated and captured by this Plan are identified in the site-specific sections of this Plan.

B. Method for Financing Costs of Plan (Section 13(1)(d) and (e))

The City or Brownfield Authority may incur some debt on a site-specific basis. Please refer to the site-specific section of this Plan for details on any debt to be incurred by the City or Authority. When a property proposed for inclusion in the Plan is in an area where tax increment financing is a viable option, the Authority intends to enter into Development Agreements with the property owners/developers of properties included in the Plan to reimburse them for the costs of eligible activities undertaken pursuant to this Plan. Financing arrangements will be specified in a Development and Reimbursement Agreement, and also identified in the Site Specific section of the Plan.

C. Duration of the Brownfield Plan (Section 13(1)(f))

The duration of this Plan is expected to be 19 years. It is estimated that all of the homes associated with the Project (defined below) will be completed in 2020 and it is estimated that it could take 14 years to recapture eligible costs through tax increment revenues. In addition, once all activity costs are reimbursed, funds may be captured for the local site remediation revolving fund, if available. Therefore, the duration of capture for the Project (defined below) will begin no later than 2020 and will continue until such time that all the eligible activities undertaken in this Plan are reimbursed, but in no event will the Plan exceed the maximum duration provided for in (MCLA 125.2663(1)(22)). The total costs of eligible activities include the cost of principal and interest on any note or obligation issued by the Authority to pay for the costs of eligible activities, the cost of principal and interest otherwise incurred to pay for eligible activities, the reasonable costs of a work plan or remedial action plan and the costs of preparation of Brownfield Plans and amendments.

D. Displacement/Relocation of Individuals on Eligible Properties (Section 13(1)(i),(j)(k)(l))

At this time, eligible properties identified in this Plan do not contain existing residences, therefore the provisions of *Section 13(1)(i-l)* are not applicable at this time.

E. Local Site Remediation Revolving Fund (Section 8; Section 13(1)(m))

Whenever this Plan includes a property for which taxes will be captured through the tax increment financing authority provided by Act 381, it is the Authority's intent to establish and fund a Local Site Remediation Revolving Fund ("Fund"). The Fund will consist of tax increment revenues that exceed the costs of eligible activities incurred on an eligible property, as specified in Section 13(5) of Act 381. Section 13(5) authorizes the capture of tax increment revenue from an eligible property for up to 5 years after the time that capture is required for the purposes of paying the costs of eligible activities identified in the Plan. It is the intention of the Authority to continue to capture tax increment revenues for 5 years after eligible activities are funded from those properties identified for tax capture in the Plan, provided that the time frame allowed by Act 381 for tax capture is sufficient to accommodate capture to capitalize a Fund. The amount of school operating taxes captured for the Revolving Fund will be limited to the amount of school operating taxes captured for eligible environmental response activities under this Plan. It may also include funds appropriated or otherwise made available from public or private sources.

The Revolving Fund may be used to reimburse the Authority, the City, and private parties for the costs of eligible activities at eligible properties and other costs as permitted by Act 381. It may also be used for eligible activities on an eligible property for which there is no ability to capture tax increment revenues. The establishment of this Revolving Fund will provide additional flexibility to the Authority in facilitating redevelopment of brownfield properties by providing another source of financing for necessary eligible activities.

3. Site Specific Provisions

A. Eligibility and Project Description (Sec. 13(1)(h))

The eligible properties comprising the Nelson Neighborhood Infill Housing Project included in this Plan is approximately 4.29 acres of vacant spread across 28 parcels in the Nelson Neighborhood Muskegon, Michigan (See Attachment A). The parcel numbers/legal description of the eligible properties are:

1246 5th St

Parcel #24-205-378-0006-00

CITY OF MUSKEGON REVISED PLAT OF 1903 N 46 FT LOT 6 BLK 378

1252 5th St

Parcel #24-205-378-0006-10

CITY OF MUSKEGON REVISED PLAT OF 1903 NLY 44 FT OF SLY 86 FT LOT 6 BLK 378

1245 5th St

Parcel #24-205-377-0001-00

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 1 EX SELY 79.5 FT TH'OF & E 1/2 OF LOT 2 EX SELY 79.5 FT TH'OF BLK 377

1261 5th St

Parcel #24-205-377-0011-00

CITY OF MUSKEGON REVISED PLAT OF 1903 N 1/4 LOT 11 & N 1/2 OF N 1/2 LOT 12 BLK 377

1342 6th St

Parcel #24-205-388-0006-20

CITY OF MUSKEGON REVISED PLAT OF 1903 SELY 44 FT OF SWLY 26 FT LOT 5 & SELY 44 FT OF LOT 6 BLK 388

1349 6th St

Parcel #24-205-389-0012-00

CITY OF MUSKEGON REVISED PLAT OF 1903 N 1/2 LOT 12 BLK 389

1352 6th St

Parcel #24-205-388-0007-00

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 7 BLK 388

1411 6th St

Parcel #24-205-390-0011-20

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 11 BLK 390 EXC W 92 FT TH'OF

1387 7th St

Parcel #24-205-375-0005-00

CITY OF MUSKEGON REVISED PLAT OF 1903 SELY 74 FT LOT 5 & N 30 FT LOT 8 BLK 375

395 Houston Ave

Parcel #205-369-0004-00

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 4 BLK 369

248 Mason Ave

Parcel #24-205-387-0007-00

CITY OF MUSKEGON REVISED PLAT OF 1903 N 1/2 LOT 7 & W 26.7 FT OF S 1/2 LOT 7 BLK 387

275 Mason Ave

Parcel #24-205-391-0003-00

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 3 BLK 391

346 Mason Ave

Parcel #24-205-389-0009-00

CITY OF MUSKEGON REVISED PLAT OF 1903 W 30 FT LOT 9 BLK 389

352 Mason Ave

Parcel #24-205-389-0008-00

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 8 BLK 389

219 Merrill Ave
Parcel # 24-205-386-0012-00
CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 12 BLK 386

271 Merrill Ave
Parcel #24-205-387-0005-00
CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 5 BLK 387

388 Merrill Ave
Parcel #24-205-376-0007-20
CITY OF MUSKEGON REVISED PLAT OF 1903 ELY 66 FT OF WLY 132 FT LOT 7 EXC NLY 20 FT BLK 376

235 Monroe Ave
Parcel #24-205-379-0003-10
CITY OF MUSKEGON REVISED PLAT OF 1903 E 28 FT LOT 3 BLK 379

239 Monroe Ave
Parcel #24-205-379-0003-00
CITY OF MUSKEGON REVISED PLAT OF 1903 BLK 379 W 38 FT LOT 3

240 Monroe Ave
Parcel #24-205-367-0010-00
CITY OF MUSKEGON REVISED PLAT OF 1903 W 1/2 LOT 10 BLK 367

250 Monroe Ave
Parcel #24-205-367-0009-00
CITY OF MUSKEGON REVISED PLAT OF 1903 W 1/2 LOT 9 BLK 367

254 Monroe Ave
Parcel #24-205-367-0008-10
CITY OF MUSKEGON REVISED PLAT OF 1903 E 40 FT LOT 8 BLK 367

398 Monroe Ave
Parcel #24-205-370-0011-10
CITY OF MUSKEGON REVISED PLAT OF 1903 E 27 FT OF LOT 11 BLK 370

1392 Park St
Parcel #24-205-375-0003-20
CITY OF MUSKEGON REVISED PLAT OF 1903 PART LOTS 3-4 & 11 BLK 375 COM ON S LN LOT 11 40 FT
E OF SW COR TH E 84 FT TH NLY 26 FT TH NWLY TO A PT 48.5 FT N OF S LN LOT 11 TH W 62.4 FT TH S
48.5 FT TO BEG

382 W Muskegon Ave
Parcel #24-205-336-0008-00
CITY OF MUSKEGON REVISED PLAT OF 1903 SLY 24.75 FT LOT 9 & NLY 55 FT LOT 8 BLK 336

487 W Muskegon Ave
Parcel #24-205-370-0011-10

CITY OF MUSKEGON REVISED PLAT OF 1903 E 27 FT OF LOT 11 BLK 370

420 Washington Ave

Parcel #24-205-375-0010-00

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 10 BLK 375

459 Washington Ave

Parcel #24-205-408-0002-00

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 2 & 3 BLK 408

The 28 subject properties are all zoned for residential housing. Twenty-two of the subject properties are zoned for single family residential. Ten of those lots can be split, resulting in a total of 34 parcels for single family homes. Six of the subject properties are zoned for multi-family housing. This will allow for an additional 14 housing units (11 rowhomes and one triplex). The project will result in a total of 48 housing units with an estimated investment of over \$9,000,000.

The chart below depicts a listing of eligible properties and the basis for their eligibility.

Eligible Property Information Chart

Address	Tax Identification Number	Basis of Brownfield Eligibility	Approximate Acreage	Zoning
1246 5 th St	24-205-378-0006-00	Seller Concessions	0.07	R-3
1252 5 th St	24-205-378-0006-10	Seller Concessions	0.07	R-3
1245 5 th St	24-205-377-0001-00	Seller Concessions	0.12	R-3
1261 5 th St	24-205-377-0011-00	Seller Concessions	0.1	R-3
1342 6 th St	24-205-388-0006-20	Seller Concessions	0.09	R-3
1349 6 th St (2 lots)	24-205-389-0012-00	Seller Concessions	0.19	R-3
1352 6 th St (2 lots)	24-205-388-0007-00	Seller Concessions	0.2	R-3
1411 6 th St	24-205-390-0011-20	Seller Concessions	0.1	R-3
1387 7 th St (2 lots)	24-205-375-0005-00	Seller Concessions	0.22	R-3
395 Houston Ave (2 lots)	24-205-369-0004-00	Seller Concessions	0.21	R-3
248 Mason Ave	24-205-387-0007-00	Seller Concessions	0.14	R-3
275 Mason Ave (2 lots)	24-205-391-0003-00	Seller Concessions	0.18	R-3
346 Mason Ave (2 lots)	24-205-389-0009-00	Seller Concessions	0.09	R-3
352 Mason Ave	24-205-389-0008-00	Seller Concessions	0.2	R-3
219 Merrill Ave	24-205-386-0012-00	Seller Concessions	0.12	R-3
271 Merrill Ave (2 lots)	24-205-387-0005-00	Seller Concessions	0.19	R-3
388 Merrill Ave (2 lots)	24-205-376-0007-20	Seller Concessions	0.2	R-3
235 Monroe Ave	24-205-379-0003-10	Seller Concessions	0.09	FBC, UR
239 Monroe Ave	24-205-379-0003-00	Seller Concessions	0.11	FBC, UR
240 Monroe Ave	24-205-367-0010-00	Seller Concessions	0.11	FBC, UR
250 Monroe Ave	24-205-367-0009-00	Seller Concessions	0.2	FBC, UR

254 Monroe Ave	24-205-367-0008-10	Seller Concessions	0.06	FBC, UR
398 Monroe Ave	24-205-370-0011-10	Seller Concessions	0.08	R-3
1392 Park St	24-205-375-0003-20	Seller Concessions	0.07	R-3
382 W Muskegon Ave	24-205-336-0008-00	Seller Concessions	0.24	R-1
487 W Muskegon Ave	24-205-347-0004-00	Seller Concessions	0.19	FBC, UR
420 Washington Ave (2 lots)	24-205-375-0010-00	Seller Concessions	0.19	R-3
459 Washington Ave (4 lots)	24-205-408-0002-00	Seller Concessions	0.46	R-3

Eligible Activities, Financing, Cost of Plan (Sec. 13(1) (a) (b) (c) (d) (g))

Eligible activities include seller concessions and Brownfield Plan preparation and development (see chart below).

Eligible Activities Chart

Eligible Activity	Cost
Seller Concessions	\$720,000
Brownfield Plan Preparation and Development	\$20,000
Sub-total	\$720,000
Contingency (15%)	\$108,000
Total Eligible Activities to be paid under this Plan	\$848,000

The eligible activities described above will occur on the Property and are further described as follows:

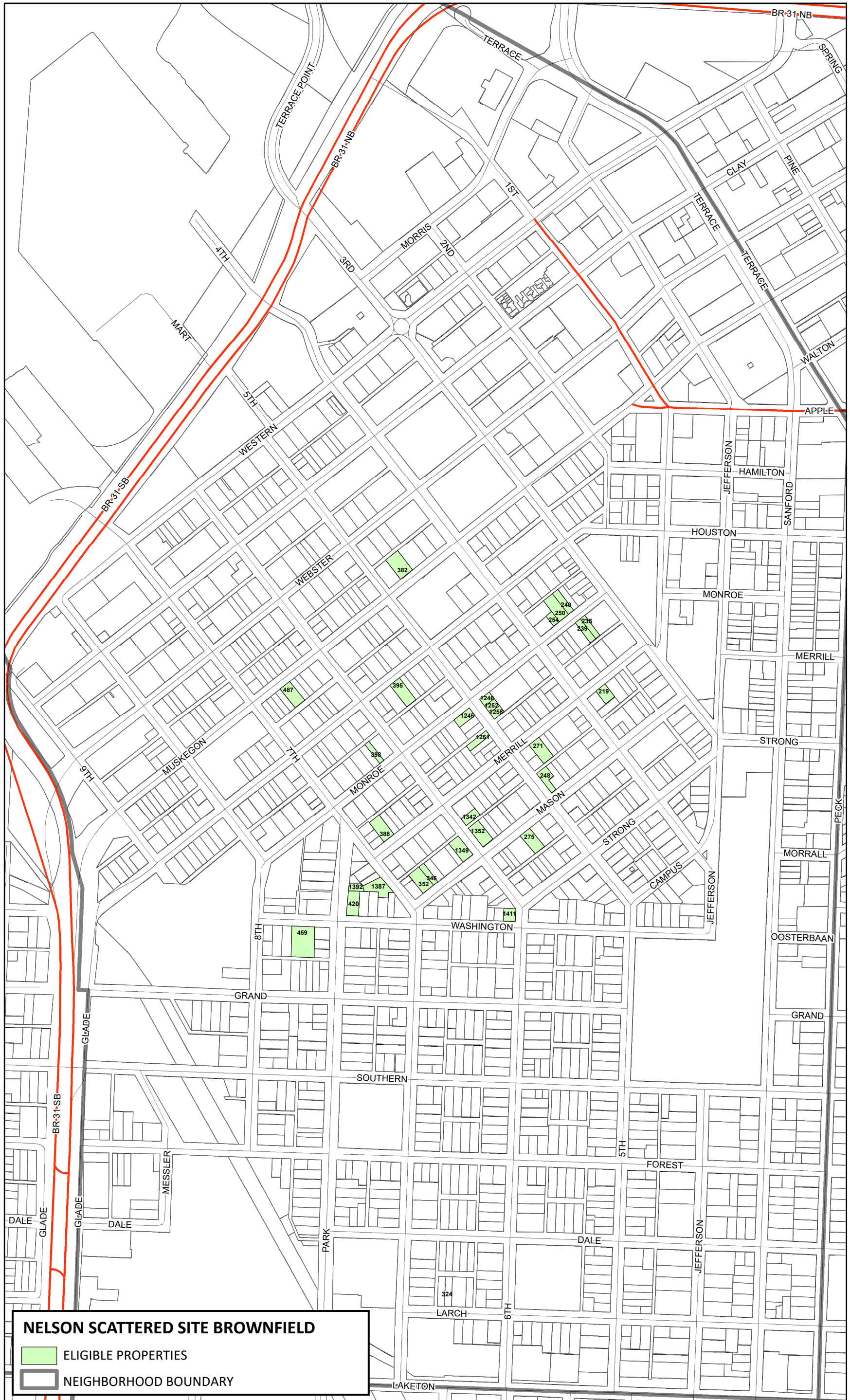
1. Seller Concessions: If the sale of a home results in a loss to the developer, the difference between the cost of construction and the sale price is considered a seller concession. For this Plan, it is anticipated that each home may result in the loss of \$15,000 per unit (48 units total).
2. Brownfield Plan Preparation and Development: Costs incurred to prepare and develop this brownfield plan, as required per Act 381 of 1996, as amended.

It is intended that the above eligible activities will be reimbursed with interest at 5%. An estimate of the captured taxable value and tax increment revenues, which includes the impact on the taxing jurisdictions, is included as Attachment B.

Effective Date of Inclusion in the Brownfield Plan

The Nelson Neighborhood Infill Housing Project was added to this Plan on _____, 2019 and will be amended accordingly upon adoption of this Plan Amendment.

Attachment A
Eligible Property Map



Attachment B

	Taxable Value	Yearly Capture Amount	Total Captured	Expenses to be Reimbursed after Current Year Capture	Interest Owed per Year on Remaining Balance	Amount Paid in Current Year for Eligible Expenses	Total Amt Paid for Eligible Expenses
Year 0 (2019)	0	0	0	\$848,000			
Year 1	\$3,360,000	\$95,247	\$95,247	\$795,153	\$42,400.00	\$52,847.00	\$52,847.00
Year 2	\$3,360,000	\$95,247	\$190,494	\$739,664	\$39,757.65	\$55,489.35	\$108,336.35
Year 3	\$3,360,000	\$95,247	\$285,741	\$681,400	\$36,983.18	\$58,263.82	\$166,600.17
Year 4	\$3,360,000	\$95,247	\$380,988	\$620,223	\$34,069.99	\$61,177.01	\$227,777.18
Year 5	\$3,360,000	\$95,247	\$476,235	\$555,987	\$31,011.14	\$64,235.86	\$292,013.03
Year 6	\$3,360,000	\$95,247	\$571,482	\$488,539	\$27,799.35	\$67,447.65	\$359,460.69
Year 7	\$3,360,000	\$95,247	\$666,729	\$417,719	\$24,426.97	\$70,820.03	\$430,280.72
Year 8	\$3,360,000	\$95,247	\$761,976	\$343,358	\$20,885.96	\$74,361.04	\$504,641.76
Year 9	\$3,360,000	\$95,247	\$857,223	\$265,279	\$17,167.91	\$78,079.09	\$582,720.84
Year 10	\$3,360,000	\$95,247	\$952,470	\$183,296	\$13,263.96	\$81,983.04	\$664,703.89
Year 11	\$3,360,000	\$95,247	\$1,047,717	\$97,214	\$9,164.81	\$86,082.19	\$750,786.08
Year 12	\$3,360,000	\$95,247	\$1,142,964	\$6,828	\$4,860.70	\$90,386.30	\$841,172.39
Year 13	\$3,360,000	\$95,247	\$1,238,211	-\$88,078	\$341.38	\$94,905.62	\$936,078.00
Year 14	\$3,360,000	\$95,247	\$1,333,458	-\$187,729	-\$4,403.90	\$99,650.90	\$1,035,728.90
Year 15	\$3,360,000	\$95,247	\$1,428,705	-\$292,362	-\$9,386.45	\$104,633.45	\$1,140,362.35
Year 16	\$3,360,000	\$95,247	\$1,523,952	-\$402,227	-\$14,618.12	\$109,865.12	\$1,250,227.47
Year 17	\$3,360,000	\$95,247	\$1,619,199	-\$517,586	-\$20,111.37	\$115,358.37	\$1,365,585.84
Year 18	\$3,360,000	\$95,247	\$1,714,446	-\$638,712	-\$25,879.29	\$121,126.29	\$1,486,712.13
Year 19	\$3,360,000	\$95,247	\$1,809,693	-\$765,895	-\$31,935.61	\$127,182.61	\$1,613,894.74
Year 20	\$3,360,000	\$95,247	\$1,904,940	-\$899,436	-\$38,294.74	\$133,541.74	\$1,747,436.48
Year 21	\$3,360,000	\$95,247	\$2,000,187	-\$1,039,655	-\$44,971.82	\$140,218.82	\$1,887,655.30
Year 22	\$3,360,000	\$95,247	\$2,095,434	-\$1,186,885	-\$51,982.77	\$147,229.77	\$2,034,885.07
Year 23	\$3,360,000	\$95,247	\$2,190,681	-\$1,341,476	-\$59,344.25	\$154,591.25	\$2,189,476.32

Year 24	\$3,360,000	\$95,247	\$2,285,928	-\$1,503,797	-\$67,073.82	\$162,320.82	\$2,351,797.13
Year 25	\$3,360,000	\$95,247	\$2,381,175	-\$1,674,234	-\$75,189.86	\$170,436.86	\$2,522,233.99
Year 26	\$3,360,000	\$95,247	\$2,476,422	-\$1,853,193	-\$83,711.70	\$178,958.70	\$2,701,192.69
Year 27	\$3,360,000	\$95,247	\$2,571,669	-\$2,041,099	-\$92,659.63	\$187,906.63	\$2,889,099.33
Year 28	\$3,360,000	\$95,247	\$2,666,916	-\$2,238,401	-\$102,054.97	\$197,301.97	\$3,086,401.29
Year 29	\$3,360,000	\$95,247	\$2,762,163	-\$2,445,568	-\$111,920.06	\$207,167.06	\$3,293,568.36
Year 30	\$3,360,000	\$95,247	\$2,857,410	-\$2,663,094	-\$122,278.42	\$217,525.42	\$3,511,093.77

Assumptions:

- * Taxable value of each house is \$70,000 every year, no inflation
- * 48 houses are built and complete at the end of year 0

Commission Meeting Date: May 14, 2019

Date: April 29, 2019

To: Honorable Mayor and City Commissioners

From: Jeffrey Lewis, Director of Public Safety

RE: Fireworks Ordinance Update (Sec. 30-303 & 30-308)

SUMMARY OF REQUEST:

The Director of Public Safety requests that the Commission consider approving an update to our local fireworks ordinance. The State of Michigan has amended the state law effective December 28, 2018 as it relates to fireworks use and also providing civil fines for violations. It significantly shortens the days and times that fireworks can be discharged within the City of Muskegon. The penalty for discharging fireworks will be a civil infraction carrying a fine of \$1,000.00 for the first offense with \$500.00 of the fine collected shall be remitted to the City of Muskegon Police Department as provided for in MCL.28.457 (3)

FINANCIAL IMPACT:

Revenue generated will be put into a separate account as prescribed above.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the Use of consumer fireworks prohibited ordinance.

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

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

1. Chapter 30, Article V of the Code of Ordinances of the City of Muskegon, Michigan, Sections 303 and 308 are amended to read as follows:

Sec. 30-303. Use of consumer fireworks prohibited.

It shall be unlawful for any person to ignite, discharge, and use consumer fireworks except on the following days after 11:00 a.m.:

- (1) December 31 until 1:00 a.m. on January 1;
- (2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days;
- (3) June 29 to July 4 until 11:45 p.m. on each of those days;
- (4) July 5, if that date is a Friday or Saturday, until 11:45 p.m.; and
- (5) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

Sec. 30-308. Penalty.

- (1) A violation of Section 30-303 shall result in a civil fine of \$1,000 for each violation and no other fine or sanction as provided for in MCL 28.457(3). The first \$500.00 of the fine collected under this section shall be remitted to the City of Muskegon Police Department as provided for in MCL 28.457(3).
 - (2) Except as provided in Section 30-308(1), a violation of Article V of this Chapter shall be responsible for a municipal civil infraction. Fines and penalties stated within Public Act 256 of 2011 (MCL 28.541, et. seq.) may be imposed.
2. This Ordinance is to become effective ten (10) days after adoption.

Ayes:

Nays:

First Reading:

Second Reading:

CERTIFICATE

The undersigned, being the duly qualified Clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the ____ day of _____, 2019, at which meeting a quorum was present and remained throughout, and that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Date: _____, 2019

Ann Marie Meisch, MMC
City Clerk

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

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on _____, 2019, the City Commission of the City of Muskegon amended Chapter 30, Article V, Sections 30-303 and 30-308 of the Muskegon City Code, summarized as follows:

1. Section 30-303 is amended to prohibit the lighting, discharging and use of consumer fireworks, excluding certain hours on or near holidays.
2. Section 30-308 establishes the civil fine for violating Section 30-303, including the allocation of the civil fine, and a municipal civil infraction for other offenses in Article V of Chapter 30 of the Muskegon City Code.

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

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

Published: _____, 2019

CITY OF MUSKEGON

By _____
Ann Marie Meisch, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

MICHIGAN FIREWORKS SAFETY ACT (EXCERPT)
Act 256 of 2011

28.457 Local ordinances.

Sec. 7. (1) Except as provided in this act, a local unit of government shall not enact or enforce an ordinance, code, or regulation pertaining to or in any manner regulating the sale, display, storage, transportation, or distribution of fireworks regulated under this act.

(2) A local unit of government may enact an ordinance regulating the ignition, discharge, and use of consumer fireworks, including, but not limited to, an ordinance prescribing the hours of the day or night during which a person may ignite, discharge, or use consumer fireworks. If a local unit of government enacts an ordinance under this subsection, the ordinance shall not regulate the ignition, discharge, or use of consumer fireworks on the following days after 11 a.m.:

(a) December 31 until 1 a.m. on January 1.

(b) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.

(c) June 29 to July 4 until 11:45 p.m. on each of those days.

(d) July 5, if that date is a Friday or Saturday, until 11:45 p.m.

(e) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

(3) An ordinance under subsection (2) shall impose a civil fine of \$1,000.00 for each violation of the ordinance and no other fine or sanction. The ordinance must provide for the remittance of \$500.00 of the fine collected under the ordinance to the local law enforcement agency responsible for enforcing the ordinance.

(4) Beginning August 1, 2019, a local unit of government with a population of 100,000 or more or a local unit of government located in a county with a population of 750,000 or more may enact or enforce an ordinance that regulates the use of a temporary structure. An ordinance established under this subsection may include, but is not limited to, a restriction on the number of permits issued for a temporary structure, regulation of the distance required between 2 or more temporary structures, or a zoning ordinance that regulates the use of a temporary structure. An ordinance established under this subsection may not prohibit the temporary storage, transportation, or distribution of fireworks by a consumer fireworks certificate holder at a retail location that is a permanent building or structure. As used in this subsection, "temporary structure" means a movable structure that is used in the sale, display, storage, transportation, or distribution of fireworks, including, but not limited to, a tent or a stand.

History: 2011, Act 256, Eff. Jan. 1, 2012;—Am. 2013, Act 65, Imd. Eff. June 19, 2013;—Am. 2018, Act 635, Imd. Eff. Dec. 28, 2018.

COMMISSION MEETING DATE May 14, 2019

Date: April 29, 2019

To: Honorable Mayor and City Commissioners

From: Jeffrey Lewis, Director of Public Safety

RE: Prohibition of Sale and the Consumption of Marihuana in Public Places (Sec 58-4)

SUMMARY OF REQUEST:

The Director of Public Safety requests that the Commission consider approving the prohibition of sale and consumption of marijuana in public places.

- A public place is considered any places owned, occupied, or managed by the City of Muskegon
- The penalty is a civil infraction as prescribed by MCL.333.27965.
- This ordinance does not supersede rights and obligations with the respect to the transfer or consumption of marihuana on private property to the extent authorized by the person who owns, occupies, or operates such property and with respect to the use of marihuana for medicinal purpose.

FINANCIAL IMPACT:

Revenue generated will be put into a separate account.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the prohibition of sale and consumption of marijuana in public places.

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

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

1. Chapter 58, Article I of the Code of Ordinances of the City of Muskegon, Michigan, Sections 58-4 is adopted to read as follows:

Sec. 58-4. – Prohibition of Sale and Consumption of Marihuana in Public Places.

- (a) In conformance with the Michigan Regulation and Taxation of Marihuana Act, the sale or consumption of marihuana in any form and the sale or display of marihuana accessories, as defined by the Michigan Regulation and Taxation of Marihuana Act, is prohibited in any public places owned, occupied, or managed by the City of Muskegon.
- (b) Any person who violates any of the provisions of this section shall be responsible for a civil fine as prescribed by MCL 333.27965.
- (c) This section does not supersede rights and obligations with respect to the transfer and consumption of marihuana on private property to the extent authorized by the person who owns, occupies or operates such property, as provided and authorized by the Michigan Regulation and Taxation of Marihuana Act, and does not supersede rights and obligations with respect to the use of marihuana for medicinal purposes as provided by any law of the State of Michigan allowing for or regulating marihuana for medical use.

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

Ayes:

Nays:

First Reading:

Second Reading:

CERTIFICATE

The undersigned, being the duly qualified Clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the ____ day of _____, 2019, at which meeting a quorum was present and remained throughout, and that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Date: _____, 2019

Ann Marie Meisch, MMC
City Clerk

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

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on _____, 2019, the City Commission of the City of Muskegon adopted Chapter 58, Article I, Section 58-4 of the Muskegon City Code, summarized as follows:

1. Section 58-4 is adopted to prohibit the sale or consumption of marihuana in any form and the sale or display of marihuana in public places owned, occupied or managed by the City of Muskegon and to set penalties as provided by MCL 333. 27965.

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

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

Published: _____, 2019

CITY OF MUSKEGON

By _____
Ann Marie Meisch, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT (EXCERPT)
Initiated Law 1 of 2018

333.27965 Violations; penalties.

Sec. 15. A person who commits any of the following acts, and is not otherwise authorized by this act to conduct such activities, may be punished only as provided in this section and is not subject to any other form of punishment or disqualification, unless the person consents to another disposition authorized by law:

1. Except for a person who engaged in conduct described in sections 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(d), 4(1)(g), or 4(1)(h), a person who possesses not more than the amount of marihuana allowed by section 5, cultivates not more than the amount of marihuana allowed by section 5, delivers without receiving any remuneration to a person who is at least 21 years of age not more than the amount of marihuana allowed by section 5, or possesses with intent to deliver not more than the amount of marihuana allowed by section 5, is responsible for a civil infraction and may be punished by a fine of not more than \$100 and forfeiture of the marihuana.

2. Except for a person who engaged in conduct described in section 4, a person who possesses not more than twice the amount of marihuana allowed by section 5, cultivates not more than twice the amount of marihuana allowed by section 5, delivers without receiving any remuneration to a person who is at least 21 years of age not more than twice the amount of marihuana allowed by section 5, or possesses with intent to deliver not more than twice the amount of marihuana allowed by section 5:

(a) for a first violation, is responsible for a civil infraction and may be punished by a fine of not more than \$500 and forfeiture of the marihuana;

(b) for a second violation, is responsible for a civil infraction and may be punished by a fine of not more than \$1,000 and forfeiture of the marihuana;

(c) for a third or subsequent violation, is guilty of a misdemeanor and may be punished by a fine of not more than \$2,000 and forfeiture of the marihuana.

3. Except for a person who engaged in conduct described by section 4(1)(a), 4(1)(d), or 4(1)(g), a person under 21 years of age who possesses not more than 2.5 ounces of marihuana or who cultivates not more than 12 marihuana plants:

(a) for a first violation, is responsible for a civil infraction and may be punished as follows:

(1) if the person is less than 18 years of age, by a fine of not more than \$100 or community service, forfeiture of the marihuana, and completion of 4 hours of drug education or counseling; or

(2) if the person is at least 18 years of age, by a fine of not more than \$100 and forfeiture of the marihuana.

(b) for a second violation, is responsible for a civil infraction and may be punished as follows:

(1) if the person is less than 18 years of age, by a fine of not more than \$500 or community service, forfeiture of the marihuana, and completion of 8 hours of drug education or counseling; or

(2) if the person is at least 18 years of age, by a fine of not more than \$500 and forfeiture of the marihuana.

4. Except for a person who engaged in conduct described in section 4, a person who possesses more than twice the amount of marihuana allowed by section 5, cultivates more than twice the amount of marihuana allowed by section 5, or delivers without receiving any remuneration to a person who is at least 21 years of age more than twice the amount of marihuana allowed by section 5, shall be responsible for a misdemeanor, but shall not be subject to imprisonment unless the violation was habitual, willful, and for a commercial purpose or the violation involved violence.

History: 2018, Initiated Law 1, Eff. Dec. 6, 2018.

Compiler's note: This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

Commission Meeting Date: May 14, 2018

Date: May 7, 2019

To: Honorable Mayor and City Commission

From: Community and Neighborhood Services Department (CNS)

RE: 2019 CDBG/HOME Budget Recommendations

SUMMARY OF REQUEST: To approve the 2019 Budget recommendations for CDBG/HOME Allocations.

FINANCIAL IMPACT: Budget will be published for release of funds request.

BUDGET ACTION REQUIRED: To finalize the budget for the CNS department and direct staff to publish approved 2019 CDBG/HOME Allocation and Budget for Release of Funds and Environmental Review of Projects.

STAFF RECOMMENDATION: To approve the 2019 CDBG and HOME Budgets.

COMMITTEE RECOMMENDATION: The Citizens District Council has made their recommendations. (See attached spreadsheet)

CDBG Organization/Agency	Activity	CNS-Staff Proposed 2019	CDC Proposed 2019
COM - Finance	Youth Opportunities/Summer Internships	\$ 20,000.00	\$ 20,000.00
COM - CNS	CDBG Admin **	\$ 197,690.20	\$ 197,690.20
COM - CNS	Priority Home Repair	\$ 100,000.00	\$ 125,000.00
COM - CNS	Services Delivery	\$ 65,000.00	\$ 65,000.00
COM - CNS	Residential Façade Program	\$ 50,000.00	\$ 50,000.00
COM - Finance	Fire Station Bond Repayment	\$ 254,166.66	\$ 254,166.66
COM - Inspections	Dangerous Bldgs - Demolition	\$ 25,000.00	\$ 25,000.00
COM - Inspections	Dangerous Bldgs - Board-Ups	\$ -	\$ -
COM - Leisure Services	Youth Recreation*	\$ 100,000.00	\$ 100,000.00
COM - Planning	Code Enforcement Staff	\$ -	\$ -
COM - Engineering	Smith Ryerson Park		
COM - Engineering	Neighborhood Beautification - 3rd St Sidewalks		
COM - Planning	Economic Development	\$ 10,000.00	\$ -
COM - CNS	Youth Center	\$ 111,594.14	\$ 86,594.14
COM - Engineering	Sidewalks - ADA	\$ 10,000.00	\$ 20,000.00
COM - DPW	Skate Park	\$ 30,000.00	\$ 20,000.00
COM - ?**	Construction of ADA Enhancements-Convention Center		\$ 10,000.00
**not vetted, recommended by the CDC		\$ 973,451.00	\$ 973,451.00

HOME Organization/Agency	Activity	CNS-Staff Proposed 2019	CDC Proposed 2019
CHDO Allocation	Housing Affordable Units****	\$ 50,222.70	\$ 50,222.70
CHDO Administration	Administration	\$ -	\$ -
COM - CNS	HOME Administration***	\$ 33,481.80	\$ 33,481.80
COM - CNS	Rental Rehab	\$ 20,000.00	\$ 20,000.00
COM - CNS	HOME Rehab Construction *	\$ 110,000.00	\$ 110,000.00
COM - CNS	HOME Infill	\$ 121,113.50	\$ 121,113.50
		\$ 334,818.00	\$ 334,818.00

AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners
FROM: Frank Peterson, City Manager
DATE: May 8, 2019
RE: Purchase Agreement – Former Farmers Market Site

SUMMARY OF REQUEST:

City staff is seeking permission to amend the purchase agreement with Core Development, as follows:

1. Acquisition of the former farmers market site for \$150,000
2. Closing on the parcels must take place on or before June 15, 2019

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

To authorize the city manager execute a purchase agreement with the approved terms for city-owned properties comprising the former farmers market site: 731 Yuba Street, 205 East Muskegon Ave, 287 East Muskegon Ave, and 225 Eastern Ave.

COMMITTEE RECOMMENDATION: