

CITY OF MUSKEGON

CITY COMMISSION MEETING

MAY 13, 2014

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ CALL TO ORDER:
- ❑ PRAYER:
- ❑ PLEDGE OF ALLEGIANCE:
- ❑ ROLL CALL:
- ❑ HONORS AND AWARDS:
 - A. Muskegon High School Big Reds Basketball Team – 2014 State Champions.
 - B. Deshaun Thrower – Hal Schram Mr. Basketball Trophy.
- ❑ INTRODUCTIONS/PRESENTATION:
- ❑ CITY MANAGER'S REPORT:
- ❑ CONSENT AGENDA:
 - A. Approval of Minutes. CITY CLERK
 - B. Memorandum of Understanding – Justice Assistance Grant. PUBLIC SAFETY
 - C. Memorandum of Understanding – 2014 Project Safe Neighborhoods. PUBLIC SAFETY
 - D. Interlocal Agreement – 2014 Port Security Grant. PUBLIC SAFETY
 - E. Farmers' Market – ATM Lease. PLANNING & ECONOMIC DEVELOPMENT
 - F. Farmers' Market – First Amendment to Purchase Agreement. PLANNING & ECONOMIC DEVELOPMENT
 - G. Finance Division Restructure. FINANCE
 - H. Small Distiller License. CITY CLERK
 - I. Charter Communications – METRO Act Permit. ENGINEERING
- ❑ PUBLIC HEARINGS:
- ❑ COMMUNICATIONS:

❑ **UNFINISHED BUSINESS:**

❑ **NEW BUSINESS:**

A. 2014-2015 Healthcare Renewal. FINANCE

❑ **ANY OTHER BUSINESS:**

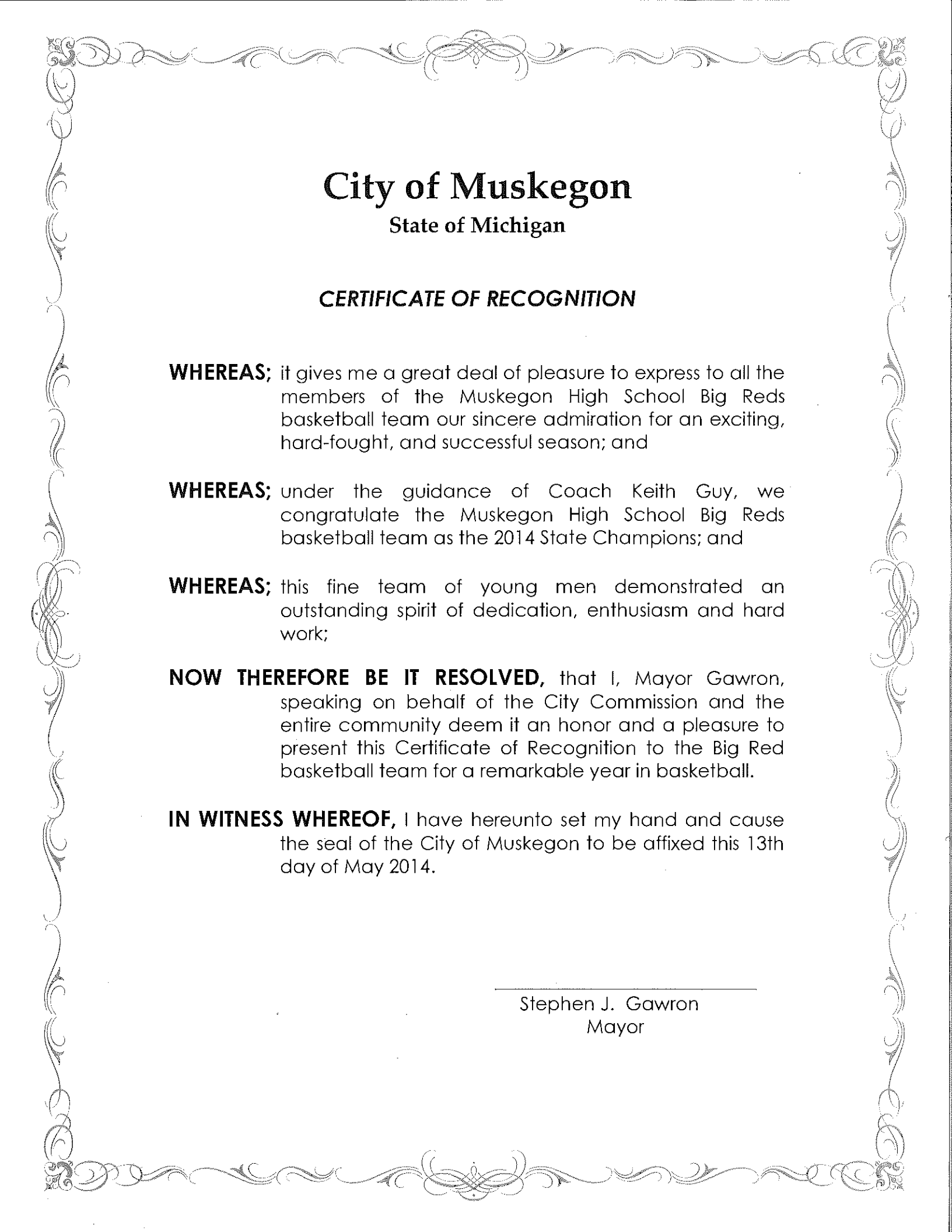
❑ **PUBLIC PARTICIPATION:**

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

❑ **CLOSED SESSION:**

❑ **ADJOURNMENT:**

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



City of Muskegon

State of Michigan

CERTIFICATE OF RECOGNITION

WHEREAS; it gives me a great deal of pleasure to express to all the members of the Muskegon High School Big Reds basketball team our sincere admiration for an exciting, hard-fought, and successful season; and

WHEREAS; under the guidance of Coach Keith Guy, we congratulate the Muskegon High School Big Reds basketball team as the 2014 State Champions; and

WHEREAS; this fine team of young men demonstrated an outstanding spirit of dedication, enthusiasm and hard work;

NOW THEREFORE BE IT RESOLVED, that I, Mayor Gawron, speaking on behalf of the City Commission and the entire community deem it an honor and a pleasure to present this Certificate of Recognition to the Big Red basketball team for a remarkable year in basketball.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the seal of the City of Muskegon to be affixed this 13th day of May 2014.

Stephen J. Gawron
Mayor

City of Muskegon

State of Michigan

CERTIFICATE OF RECOGNITION

WHEREAS; it gives me a great deal of pleasure to express to Deshaun Thrower our sincere admiration and congratulations for earning the Hal Schram Mr. Basketball trophy; and

WHEREAS; Deshaun Thrower is the 34th recipient of the Hall Schram Mr. Basketball trophy, an award given annually to the state's top senior by the Basketball Coaches Association of Michigan;

NOW THEREFORE BE IT RESOLVED, that I, Mayor Gawron, speaking on behalf of the City Commission and the entire community deem it an honor and a pleasure to present this Certificate of Recognition to Deshaun Thrower as the recipient of the 2014 Mr. Basketball award.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the seal of the City of Muskegon to be affixed this 13th day of May 2014.

Stephen J. Gawron
Mayor

Memorandum

To: Mayor and Commissioners

From: Frank Peterson

Re: City Commission Meeting

Date: May 12, 2014

We have a number of items on the agenda, and I thought you could use a little background on them as you prepare for our meeting next week.

Work Session

1. We will have a presentation from our Sister Cities folks.
2. Staff will talk about a proposal to change our current health care offerings as a way to mitigate a planned 11.68% increase in healthcare costs. While the changes will have an effect on some employee costs, we believe the options selected would minimize the negative effects. The change in deductible could open the City to a greater risk, as we plan to cover the deductible 100%, but based on our history, we believe the savings will out-weigh the potential for more deductible usage on a wide-spread scale.
3. Chief Lewis will make a short presentation on Staff's request to implement a beach warning system. The initial cost for the system will likely come in around \$70,000, but we are looking at funding sources outside of City government to help reduce our contribution.
4. The Civil Service Commission has asked that the City Commission accept two requests from their recent meeting:
 - a. To extend the Human Resources contract with the County of Muskegon for another 12 months, with no changes to the other terms.
 - b. To place a question on the ballot that would amend the City Charter to eliminate the "Rule of 1" and the "Rule of 3." The Civil Service Commission unanimously made this recommendation. Staff agrees with the Civil Service's expectation that the elimination of these two provisions would allow for a deeper and more-diverse candidate pool for new hires, as well as promotions/transfers.

CRC Meeting

1. We have a candidate for the Construction Board of Appeals. We are recommending approval.
2. I plan to have a draft presentation for the Commission to review and comment on. This is the presentation that we would be giving at the May 20 Special meeting, as well as at various neighborhood/community/business meetings over the next few months.

Regular Meeting

1. The Big Reds basketball team will be in attendance ☺
2. The Justice Assistance Grant will help pay for prosecution services.
3. Project Safe Neighborhoods will help put additional police resources into our neighborhoods.
4. The Port Security Grant will help purchase a number of new radios for our public safety personnel.
5. We are partnering with 5/3 Bank to install an ATM at the Farmers Market.
6. The amendment to the Farmers Market Purchase Agreement is necessary as a result of the construction work stretching past the original April 30 deadline.
7. We are recommending the promotion of Ken Grant to the Treasurer position. We intend to hire a supervisor in the Treasury Department to help manage day-to-day activities. Overall, this plan will reduce costs by eliminating a department head level position and replacing with a supervisory-level position.
8. We have a request to open/operate a distillery in the former Club Envy space. This is allowable under State Law, and could be another destination point for the downtown – just like the two breweries have become.
9. The Metro Act Permit will be presented by Engineering – this is a routine approval.
10. We will be asking the Commission to vote on the proposed health insurance changes discussed at the work session.

Other Updates:

1. FY 2014-15 budget preparation is under way. We are working to incorporate some of the elements of the 5-year financial plan. The health insurance costs through us quite a bit out of whack – but with the proposed change, I believe we will be in a position to present a balanced budget to the Commission next month.
2. We had a great City turnout for the leadership lunch event at LC Walker. We are looking forward to more events like this.
3. The grand opening of the farmers market is scheduled for May 24 – remarks will take place at 10a.
4. The farmers market will host the next business for breakfast event ☺
5. We have gotten many inquiries about our new mobile food vendor ordinance – I hope this is a good sign for some additional downtown activity this summer!
6. CNS has finished rehabbing 2035 Harding in Lakeside, and an open house is planned. Please try to come by and see it on May 8th from 11a to 1p.

Date: May 13, 2014
To: Honorable Mayor and City Commissioners
From: Ann Marie Cummings, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes of the April 22nd City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

APRIL 22, 2014

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, April 22, 2014.

Mayor Gawron opened the meeting with a prayer from Mr. George Monroe after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Gawron, Vice Mayor Lawrence Spataro, Commissioners Ken Johnson, Eric Hood, Willie German, Dan Rinsema-Sybenga, and Byron Turnquist, City Manager Franklin Peterson, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

2014-29 HONORS AND AWARDS:

A. 2013 Outstanding Citizenship Awards.

Mayor Gawron congratulated Shirley Green, Greg Borgman, and Debra Griffin as recipients of the 2013 Outstanding Citizenship Award.

B. Jazz Appreciation Month.

April, 2014, was proclaimed as Jazz Appreciation Month.

2014-30 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes of the April 7th Commission Worksession Meeting, and the April 8th City Commission Meeting.

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 Saturday, May 17th in honor of Norway's

Constitution Day (Independence Day).

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the request.

D. Amendment to Chapter 30 “Fire Prevention & Protection”, Article IV “Recreational Fires”. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety requests that the City Commission review and authorize the proposed amendments to *Chapter 30, Article IV of the Recreational Fire Ordinance, Section(s) 30-220, 221, 222, 223*, of the City of Muskegon “*Fire Prevention and Protection*” Ordinance.

The Muskegon Fire Department has reviewed and proposed changes in our *recreational fire ordinance* to better serve the community at large and address illegal burning issues in our City in which fire/police must respond to in order to maintain general public safety.

The amendments are to address: size of the fire pit, materials that are allowed in the fire pit, use manufactured portable burning stand. The prohibition of steel “*burn barrels*”, commonly used for burning trash and yard waste, and examples of items that cannot be burned without violating the amended ordinance.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approving amendments to said existing ordinance.

F. Fireworks Display Permit for Muskegon Country Club. CITY CLERK

SUMMARY OF REQUEST: Melrose Pyrotechnics, Inc. is requesting approval of a fireworks display permit for July 4, 2014, at the Muskegon Country Club, 2801 Lakeshore Drive. Fire Marshall Metcalf will inspect the fireworks on the day of the event.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

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

G. Fireworks Display Permit for 4th of July Celebration at Heritage Landing. CITY CLERK

SUMMARY OF REQUEST: Night Magic is requesting approval of a fireworks display permit for July 4th at Heritage Landing. Fire Marshall Metcalf has reviewed the request and recommends approval contingent on inspection of the fireworks.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

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

Motion by Vice Mayor Spataro, second by Commissioner Johnson to approve the Consent Agenda as read with the exception of items C and E.

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

Nays: None

MOTION PASSES

2014-31 ITEMS REMOVED FROM THE CONSENT AGENDA:

C. City – MDOT Agreement for Veteran Park Improvements. ENGINEERING

SUMMARY OF REQUEST: Approve the contract with MDOT for the pedestrian mobility improvements at the Veteran's Memorial Park at the Causeway between northbound and southbound M-120 and approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: The estimated total cost of this project is \$978,500 of which \$39,100 is the local share. As of April 2012, the three local agencies; Muskegon, N. Muskegon and Muskegon County had committed a total of \$36,000 with the Veteran Group committing to make up any shortfall.

BUDGET ACTION REQUIRED: None at this time as this project was budgeted for.

STAFF RECOMMENDATION: Approve the contract and resolution authorizing the Mayor and Clerk to sign both.

Motion by Mayor Gawron, second by Commissioner German to approve the contract and resolution authorizing the Mayor and Clerk to sign both regarding the City-MDOT Agreement for Veteran Park improvements.

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

Nays: None

MOTION PASSES

E. DBE/MBE/WBE Procurement Policy for Federally Contracted Programs and Collaborations. AFFIRMATIVE ACTION & RISK MANAGEMENT

SUMMARY OF REQUEST: The Contract and Procurement Policy for Federally Contracted Programs and Collaborations has been developed to include the "Fair Share Goals" language to meet the "Good Faith Effort" requirements of our federally contracted funds. The "Fair Share Goals" are specific to the

Environmental Protection Agency (EPA) contracts, and “Good Faith Efforts” are standard to our other federally contracted funds.

The steps for “Good Faith Efforts” will allow the City to achieve compliance in all of our federal contracts and ensure that Disadvantaged Business Enterprises (DBE), Minority Business Enterprises (MBE), and Women-owned Business Enterprises (WBEs) are actively solicited for participation in the bid process for contracting and procurement of supplies, construction, equipment and services under all federal contracts and collaborations.

The Policy will be placed in all contracts and collaborations that include federal funds.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the City of Muskegon DBE/MBE/WBE Procurement Policy for Federally Contracted Programs and Collaborations, and authorize the Mayor and Clerk to sign.

Motion by Commissioner Turnquist, second by Commissioner Rinsema-Sybenga to approve the City of Muskegon DBE/MBE/WBE Procurement Policy for Federally Contracted Programs and Collaborations, and authorize the Mayor and Clerk to sign.

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

Nays: None

MOTION PASSES

2014-32 PUBLIC HEARINGS:

A. 2014-2015 Action Plan. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To conduct a public hearing of the 2014 – 2015 Action Plan for public comments.

FINANCIAL IMPACT: Action Plan establishes the 2014-2015 Community Development Block Grant and HOME budgets.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To receive comments about the proposed 2014 – 2015 Action Plan at the public Commission Meeting.

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

Motion by Commissioner Hood, second by Commissioner German to close the Public Hearing and receive comments about the proposed 2014-2015 Action

Plan.

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

Nays: None

MOTION PASSES

2014-33 NEW BUSINESS:

A. Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following: PUBLIC SAFETY

1974 Dowd Street

1522 Clinton Street (Garage Only)

1265 Holt Street

912 E. Isabella Avenue

1141 Jefferson Street

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 30 days. 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 a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds for 1974 Dowd and 1265 Holt. General Funds for 1522 Clinton (garage only), 912 E. Isabella, and 1141 Jefferson.

BUDGET ACTION REQUIRED: None.

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

Motion by Vice Mayor Spataro, second by Commissioner Johnson to concur with the Housing Board of Appeals notice and order to demolish 1974 Dowd Street, 1522 Clinton Street (garage only), 1265 Holt Street, 912 E. Isabella Avenue, and 1141 Jefferson Street.

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

Nays: None

MOTION PASSES

B. Special Event Request – Muskegon Bike Time 2014. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Muskegon Bike Time has filed a special event application for the annual Bike Time festival in downtown Muskegon to be held on July 17, 18, 19, and 20, 2014. Portions of their request require City Commission approval.

FINANCIAL IMPACT: Request that equipment rental fees be waived.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: As in past years, it is recommended that staff be allowed to make the final decision regarding rental fees and actual costs to be coordinated through the City Manager. In addition, staff recommends that if Bike Time picks up items such as picnic tables, bleachers, and trash cans for distribution at the proper locations, there will be no equipment rental charge to Bike Time. This must first be approved by and coordinated through City staff. It is also recommended that City staff review staffing levels for City personnel with the Bike Time staff, with the City making the final decision on the number of City staff needed for the event.

Regarding street closures, staff recommends approval with the condition that Bike Time notify affected downtown businesses of the dates and times of street closures and the date and time that No Parking restrictions go into effect on those streets.

Motion by Commissioner Hood, second by Commissioner Turnquist to accept the recommendation approving conditions and that Bike Time notify affected downtown businesses of the dates and times of street closures and the date and time that No Parking restrictions go into effect on those streets.

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

MOTION PASSES

C. Mobile Food Vending Ordinance. CITY CLERK

SUMMARY OF REQUEST: In consultation with Downtown Muskegon Now, staff has developed a Mobile Food Vending Ordinance for consideration. The proposed monthly fee is \$300. Those established brick and mortar businesses located in the City of Muskegon selling their own goods through the Mobile Food Vending Ordinance may pay a monthly fee of \$150. Brick and mortar restaurants located in the targeted DDA area will be charged a monthly fee of \$50.

Mobile food vehicles shall not be left unattended and cannot be parked between the hours of 3 a.m. and 6 a.m. They shall not operate within 1,000 feet of any City approved special event or leased park. Vendors wishing to sell at the Farmer's Market must obtain permission through management of the Farmer's Market.

Mobile food vehicles shall not be parked within 150 feet of an existing brick and

mortar restaurant during the hours when such restaurant is open to the public for business unless permission has been obtained from the restaurant.

Applications will be considered for the following areas: Sherman Blvd., Henry Street, Apple Avenue, Laketon Avenue, Getty Street as well as within the area of the Downtown District Authority, and industrial parks.

Comments from the downtown businesses are attached as well as mapping indicating the distance of 150 feet, 200 feet, 250 feet, and 300 feet parameters around existing brick and mortar businesses.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Adopt the ordinance as presented as well as the resolution stating the areas that a Mobile Food Vending vehicle/trailer/cart may operate.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson to adopt the Mobile Food Vending Ordinance as presented as well as the resolution stating the areas that a Mobile Food Vending vehicle/trailer/cart may operate.

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

Nays: None

MOTION PASSES

D. Amendment to the Transient Merchant Ordinance. CITY CLERK

SUMMARY OF REQUEST: Staff compared the current Transient Merchant Ordinance with several other communities and reviewed comments received by customers and is making recommendations.

Some proposed changes include:

Offering the license as an annual license instead of a daily license currently allowed a maximum of 60 days per calendar year. The current fee is \$30 per day. The proposed fee is \$150 annual fee renewed on May 1st of each year.

The bond amount is proposed to increase from \$500 to \$1,000.

School sponsored events should not require a permit.

Merchants may stay in one location no longer than 45 days (current ordinance states 90 days).

Hours shall be set between 9 a.m. and 8 p.m. or sunset (whichever is earlier).

Merchants may not operate within 1,000 feet of any approved special event or leased park unless they have obtained permission from the event sponsor or

lessee. The license does not allow for the sale of goods or services at any City-owned park/facility or Farmer's Market without a permit from the City.

Residents and businesses selling parking spaces on their property during a City approved special event in the downtown district are required to obtain a license. At least one ADA compliant restroom facility with a hand washing unit must be made available to the public for the first 50 parking spaces being offered on a parcel and two restroom facilities be available on parcels selling 100 or more parking spaces. The license must be prominently displayed at the entrance to the parking facility and if the number of parking spaces meets or exceeds 50, a sign must be prominently displayed indicating to the public that a public restroom is available.

The fee for a license is proposed to be \$25 for the first 50 parking spaces and \$50 for more than 50 parking spots on one parcel.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Adopt the ordinance as presented.

Motion by Commissioner Johnson, second by Commissioner German to adopt the ordinance as presented.

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

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Public comments were received.

ADJOURNMENT: The City Commission Meeting adjourned at 6:45 p.m.

Respectfully submitted,

Ann Marie Cummings, MMC
City Clerk

Date: May 13, 2014
To: Honorable Mayor and City Commissioners
From: Jeffrey A. Lewis
Director of Public Safety
RE: Memorandum of Understanding – Justice Assistance Grant

SUMMARY OF REQUEST:

The Director of Public Safety requests that the Commission authorize the Director and the City Manager to enter into an agreement with the City of Muskegon Heights and Muskegon County in regards to the disbursement of the FY 2014 Justice Assistance Grant. It is further requested that the Mayor be authorized to sign the Memorandum of Understanding. Note that time is of the essence as this grant requires a 30 day governing body review period before the grant submission and the grant deadline is June 10.

Although the Bureau of Justice Assistance has designated us as being in a disparate funding situation due to the County providing more than 50% of the jail facilities, our proposal is to keep the allocations exactly as they initially came down from the BJA which is as follows: County of Muskegon \$ 0; City of Muskegon \$ 30,709 and City of Muskegon Heights \$ 19,903. Note that BJA uses crime data versus population in making these allocation decisions.

The City of Muskegon portion is planned to be used in continuation of the manner in which the previous year's JAG funding was used which is for the prosecution of city ordinance cases dealing primarily with neighborhood issues. A prosecutor was hired specifically for this under a previous fiscal year JAG Grant.

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Staff recommends approval of this request.

**MEMORANDUM OF UNDERSTANDING
THE CITY OF MUSKEGON
THE COUNTY OF MUSKEGON
THE CITY OF MUSKEGON HEIGHTS**

**FY 2014 JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD
Regular Funding / Local Solicitation**

This Agreement is made and entered into on the _____ day of _____, 2014, by and between the County of Muskegon, acting by and through its governing body, the Board of County Commissioners, located at 990 Terrace Street, Muskegon, Michigan 49442 and the City of Muskegon, acting by and through its governing body, the City Commission, located at 933 Terrace Street, Muskegon, Michigan 49443-0536, and the City of Muskegon Heights, acting by and through its governing body, the City Council, located at 2724 Peck Street, Muskegon Hts., MI 49444, all of Muskegon County, State of Michigan, witnesseth:

WHEREAS, the CITY OF MUSKEGON has agreed to serve as the applicant/fiscal agent for the joint funds under the: Justice Assistance Grant(Local Solicitation) as the Bureau of Justice Assistance has designated the allocation to the law enforcement communities in Muskegon County as a disparate allocation; and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions, hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body find that the performance of this Agreement is in the best interest of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

WHEREAS, the breakdown of allocated funding agreed upon by those entities involved in the disparate funding is \$ 30,709 to the CITY OF MUSKEGON and \$ 19,903 to the CITY OF MUSKEGON HEIGHTS; and

WHEREAS, the CITY OF MUSKEGON, CITY OF MUSKEGON HEIGHTS and COUNTY OF MUSKEGON believe it to be in their best interests to allocate the JAG funds as specified in this Agreement.

NOW THEREFORE, THE COUNTY OF MUSKEGON, CITY OF MUSKEGON AND CITY OF MUSKEGON HEIGHTS agree as follows:

AGREEMENT

1. THE CITY OF MUSKEGON will act as the fiscal agent/applicant agency.
2. The total eligible joint allocation for the disparate jurisdictions of \$ 50,612 will be allocated as follows: COUNTY OF MUSKEGON - \$ 0; CITY OF MUSKEGON - \$30,709; CITY OF MUSKEGON HEIGHTS - \$ 19,903
3. Each municipality will be responsible for its actions in the use of any equipment purchased under this Agreement and the fiscal agent shall not be liable for any civil liability that may arise from the purchase of the use of the equipment.
4. The CITY OF MUSKEGON HEIGHTS will be responsible for submitting quarterly reports to the CITY OF MUSKEGON by the third day of the month following the quarter in the reporting fashion required by the CITY OF MUSKEGON and for any month in which an expenditure under the grant has occurred the CITY OF MUSKEGON HEIGHTS will submit a reimbursement request to the CITY OF MUSKEGON by the third day of the following month along with backup documentation such as invoices.
5. The CITY OF MUSKEGON HEIGHTS will be responsible for the accuracy of all data submitted to the CITY OF MUSKEGON for submission to the Bureau of Justice

Programs and will be liable for penalties as a result of submitting the data late and for any inaccurate data.

6. Nothing in the performance of this Agreement shall impose any liability for claims against the CITY OF MUSKEGON passing from this program or from the CITY OF MUSKEGON HEIGHT's expenditure of the JAG funds.
7. By entering into this Agreement, the parties do not intent to create any obligations, express or implied, other than those set out herein. Further, this Agreement shall not create any rights in any party not a signatory hereto.

COUNTY OF MUSKEGON

Dated: _____, 2014

By: _____
Kenneth Mahoney, Chairman
County Board of Commissioners

CITY OF MUSKEGON

Dated: _____, 2014

By: _____
Stephen Gawron, Mayor

CITY OF MUSKEGON HEIGHTS

Dated: _____, 2014

By: _____
Darrell Paige, Mayor

Date: May 13, 2014
To: Honorable Mayor and City Commissioners
From: Jeffrey A. Lewis 
Director of Public Safety
RE: Memorandum of Understanding – 2014 Project Safe Neighborhoods

SUMMARY OF REQUEST:

The Director of Public Safety requests that the Commission authorize the Director and the City Manager to enter into an agreement with the County of Muskegon and City of Muskegon Heights in regards to the 2014 Violent Gang and Gun Reduction (Project Safe Neighborhoods) Grant. It is further requested that the Mayor be authorized to sign the Memorandum of Understanding on behalf of the City of Muskegon.

The City of Muskegon portion of this project, should the grant be approved, will be 60,640 which will be used for targeted enforcement activities at gang/gun crimes as well as analysis leading to those areas needing this targeted enforcement, above what would be possible under our regular budget.

This is a multijurisdictional project involving the County Prosecutor, Muskegon and Muskegon Heights Police Departments, the U.S. Attorney's Office as well as other agencies to address not only the enforcement piece but also the prosecution of gang and gun activities at the highest level possible. The total grant amount being applied for is \$ 300,000

FINANCIAL IMPACT:

None. This grant does not require a match.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Staff recommends approval of this request.

**MEMORANDUM OF UNDERSTANDING
THE CITY OF MUSKEGON
THE COUNTY OF MUSKEGON
THE CITY OF MUSKEGON HEIGHTS**

**FY 2014 Violent Gang and Gun Crime Reduction Program (Project Safe
Neighborhoods)
CFDA #16.609**

This Agreement is made and entered into on the 13th day of May, 2014, by and between the County of Muskegon, acting by and through its governing body, the Board of County Commissioners, located at 990 Terrace Street, Muskegon, Michigan 49442 and the City of Muskegon, acting by and through its governing body, the City Commission, located at 933 Terrace Street, Muskegon, Michigan 49443-0536, and the City of Muskegon Heights, acting by and through its governing body, the City Council, located at 2724 Peck Street, Muskegon Hts., MI 49444, all of Muskegon County, State of Michigan, witnesseth:

WHEREAS, the COUNTY OF MUSKEGON has agreed to serve as the applicant/fiscal agent for the joint funds under the: FY 2014 Violent Gang and Gun Crime Reduction Program (Project Safe Neighborhoods - CFDA #16.609); and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions, hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body find that the performance of this Agreement is in the best interest of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

WHEREAS, the breakdown of funding agreed upon by those entities involved in the Violent Gang and Gun Crime Reduction Program is \$60,640 to the CITY OF MUSKEGON and \$75,360 to the CITY OF MUSKEGON HEIGHTS; and \$164,000 to the COUNTY OF MUSKEGON and

WHEREAS, the CITY OF MUSKEGON, CITY OF MUSKEGON HEIGHTS and COUNTY OF MUSKEGON believe it to be in their best interests to allocate the grant funds as specified in this Agreement.

NOW THEREFORE, THE COUNTY OF MUSKEGON, CITY OF MUSKEGON AND CITY OF MUSKEGON HEIGHTS agree as follows:

AGREEMENT

1. THE COUNTY OF MUSKEGON will act as the fiscal agent/applicant agency.
2. The total eligible joint allocation for the Violent Gang and Gun Crime Reduction Program will be allocated as follows: COUNTY OF MUSKEGON - \$164,000; CITY OF MUSKEGON - \$60,640; CITY OF MUSKEGON HEIGHTS - \$ 75,360.
3. Each municipality will be responsible for its actions in the use of any personnel paid under this Agreement and the fiscal agent shall not be liable for any civil liability that may arise from the use of personnel funded by the grant.
4. The CITY OF MUSKEGON HEIGHTS AND CITY OF MUSKEGON will be responsible for submitting quarterly reports to the COUNTY OF MUSKEGON by the third day of the month following the quarter in the reporting fashion required by the COUNTY OF MUSKEGON and for any month in which an expenditure under the grant has occurred the CITY OF MUSKEGON HEIGHTS and CITY OF MUSKEGON will submit a reimbursement request to the COUNTY OF MUSKEGON by the third day of the following month along with backup documentation such as invoices.
5. The CITY OF MUSKEGON HEIGHTS and CITY OF MUSKEGON will be responsible for the accuracy of all data submitted to the COUNTY OF MUSKEGON for submission to the Bureau of Justice Programs and will be liable for penalties as a result of submitting the data late and for any inaccurate data.

6. The CITY OF MUSKEGON HEIGHTS, the COUNTY OF MUSKEGON SHERIFF, the COUNTY OF MUSKEGON PROSECUTOR and CITY OF MUSKEGON will participate as full partners in the Project Safe Neighborhood Task Force.
7. The CITY OF MUSKEGON HEIGHTS, the COUNTY OF MUSKEGON SHERIFF, the COUNTY OF MUSKEGON PROSECUTOR and CITY OF MUSKEGON agree to participate in the implementation of the Program as designed by the Project Safe Neighborhood Task Force and to cooperate with the evaluator for the Program.
8. Nothing in the performance of this Agreement shall impose any liability for claims against the COUNTY OF MUSKEGON passing from this program or from the CITY OF MUSKEGON HEIGHT's and CITY OF MUSKEGON'S expenditure of the Violent Gang and Crime Reduction Program funds.
9. By entering into this Agreement, the parties do not intent to create any obligations, express or implied, other than those set out herein. Further, this Agreement shall not create any rights in any party not a signatory hereto.

COUNTY OF MUSKEGON

Dated: _____, 2014

By: _____
Kenneth Mahoney, Chairman
County Board of Commissioners

CITY OF MUSKEGON

Dated: _____, 2014

By: _____
Stephen Gawron, Mayor

CITY OF MUSKEGON HEIGHTS

Dated: _____, 2014

By: _____
Darrell Paige, Mayor

Date: May 13, 2014
To: Honorable Mayor and City Commissioners
From: Jeffrey A. Lewis
Director of Public Safety 
RE: Interlocal Agreement – 2014 Port Security Grant

SUMMARY OF REQUEST:

The Director of Public Safety requests that the Commission authorize the Director and the City Manager to enter into an agreement with the County of Muskegon in regards to the 2014 Port Security Grant. It is further requested that the Mayor be authorized to sign the Interlocal Agreement.

The City of Muskegon portion of this project will be approximately \$ 90,000 and is planned for Fire Communications Equipment and Police Cyber-Crime Equipment and Training. The grant requires a 25% local match. Thus the federal dollars will be approximately \$ 67,500 and the local match approximately \$ 22,500.

FINANCIAL IMPACT:

The local match is planned to either come from existing budget line items or to be in-kind.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Staff recommends approval of this request.

INTERLOCAL AGREEMENT

**COUNTY OF MUSKEGON
and
CITY OF MUSKEGON**

2014 PORT SECURITY GRANT

CFDA Number 97.056
CFDA Title: Port Security Grant Program
U.S. Department of Homeland Security

This Agreement is made and entered into on the 13th day of May, 2014 by and between the County of Muskegon, acting by and through its governing body, the Board of Commissioners, hereinafter referred to as "County," located at 990 Terrace Street, Muskegon, Michigan 49442 and City of Muskegon, acting by and through its governing body, the City Commission, hereinafter referred to as "City," located at 933 Terrace Street, Muskegon, Michigan 49443-0536, both of Muskegon County, (referred from time-to-time as either Parties or Governing Bodies) witnesseth:

RECITALS:

WHEREAS, this Agreement is made under the authority of MCL 244.504, the "Urban Cooperation Act," and

WHEREAS, the COUNTY has agreed to serve as the applicant/fiscal agent for a joint application for funding under the Port Security Grant, Department of Homeland Security;

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions, hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body find that the performance of this Agreement is in the best interest of both parties, that the undertaking will benefit the public, and that the provision of

costs fairly compensates the performing party for the services or functions under this Agreement’
and

WHEREAS, the CITY agrees to pay the COUNTY Twenty-Two Thousand Five Hundred and no dollars (\$22,500) in cash or in-kind match for the grant;

WHEREAS, the CITY and COUNTY believe it to be in their interests to allocate the funds as funds as specified in this Agreement.

THEREFORE, THE CITY AND COUNTY agree as follows:

RECITALS:

1. CITY agrees to provide the COUNTY Twenty Two Thousand Five Hundred Dollars (\$22,500) either an in-kind or the cash match.
2. COUNTY agrees to pay CITY Sixty Seven Thousand Five Hundred Dollars (\$67,500) from the Port Security Grant. The CITY will be responsible for its actions in the use of equipment purchased under this Agreement and the COUNTY shall not be liable for any civil liability that may arise from the purchase or the use of the equipment.
3. The CITY will be responsible for submitting the quarterly reports to the COUNTY by the third day of the month following the quarter in the fashion required by the COUNTY.
4. The CITY will be responsible for the accuracy of all data submitted to the COUNTY for the submission of reports to the Department of Homeland Security and will be liable for penalties as a result of submitting the data late or any inaccurate data.

Nothing in the performance of this Agreement shall impose any liability for claims against the COUNTY passing from this program or from the CITY’s expenditure of Port Security grant funds.

By entering into this Agreement, the parties do not intend to create any obligations, express or implied, other than those set forth herein. Further, this Agreement shall not create any rights in any party not a signatory hereto.

Dated: _____ 2014

Kenneth Mahoney, Chairman
Muskegon County Board of Commissioners

Dated: _____ 2014

Stephen Gawron, Mayor
City of Muskegon

Commission Meeting Date: May 13, 2014

Date: May 2, 2014
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department
RE: Farmers' Market- ATM Lease

SUMMARY OF REQUEST: Fifth Third Bank has donated a significant amount to the new downtown Muskegon Farmers' Market. They also anticipate partnering with the Farmers' Market in the future for educational endeavors and events. Due to this partnership, Fifth Third is providing an ATM at the new Farmers' Market. The location of the ATM will be to the North of the main entrance to the Farmers' Market building office/commercial kitchen.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the attached lease agreement and authorize the Mayor and Clerk's signature's.

ATM LEASE AGREEMENT

This ATM Lease Agreement ("Agreement") is entered into as of this _____ day of May, 2014 ("Effective Date"), between FIFTH THIRD BANK, an Ohio banking corporation ("Lessee") and City of Muskegon, a (an) municipal corporation ("Lessor").

1. **PREMISES:** The Lessor does hereby lease to Lessee sufficient space at Downtown Muskegon Farmer's Market located at 242 W. Western Ave., Muskegon, MI. 49440 (Western & Terrace Streets in Muskegon, MI) for the installation of one (1) remotely controlled device which automatically performs certain services normally performed by a bank teller (hereinafter "ATM"). The ATM shall be located as depicted on Exhibit A, attached hereto and made a part hereof. Lessee represents and agrees that the ATM will be placed in a cleared space allowing convenient access to customers. The location of the ATM shall be referred to as the "Premises."

2. **TERM:**

a. ***Initial Term:*** The term of this Agreement shall be for a period of five (5) years ("Initial Term"), commencing on the date on which the permanent ATM begins to operate ("Commencement Date"). Lessor acknowledges and agrees as a condition to this Agreement, if Lessee is unable to obtain all necessary governmental approvals, Lessee may immediately terminate this Agreement by giving written notice of such to Lessor and that Lessee shall have no liability for any claims in law or in equity arising from said termination.

b. ***Renewals:*** Lessor and Lessee agree to review transaction counts on a quarterly basis during the Initial Term of the Agreement to discern overall ATM performance, and prior to expiration of the Initial Lease Term mutually agree upon terms and conditions to renew this Agreement in each party's sole discretion (the "Renewals").

c. ***Termination for low usage/Termination for Damages: Intentionally omitted.***

d. ***Holdover Tenancy:*** If, without the execution of a new lease or written extension and with the consent of Lessor, Lessee shall holdover after the expiration of the Initial Term or any Renewal Term of this Agreement, Lessee shall be deemed to be occupying the Premises as a tenant from month to month, which tenancy may be terminated by either Lessor or Lessee upon thirty (30) days prior written notice to the other.

3. **RENT:** *Intentionally omitted.*

4. **LIGHTING AND SIGNAGE:** Lessee, at its sole option and expense, shall have the right to place lighting and signage on and around the ATM and the adjacent portions of the Premises in accordance with Lessee's standard practices and procedures. Additionally, Lessee may install, with the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed, other signage on Lessor's premises identifying Lessee, the ATM, or the services provided therein.

5. **COVENANTS OF LESSEE:** Lessee does hereby covenant and agree that it shall: (i) erect and install the ATM and related improvements on the Premises; (ii) not commit any waste on the Premises; (iii) not use or occupy the Premises for any unlawful purpose; (iv) not make alterations or additions, subsequent to the installation, on or to the Premises without the written consent of Lessor, which consent shall not be unreasonably withheld, except that adjustments in signage shall not require Lessor's consent; (v) furnish separate electrical power to the ATM; and (vi) at its expense, have the option, after consultation with Lessor, to install theft deterrent devices in and on the Premises to prevent theft and/or losses to the ATM, including but not be limited to, dye packs, audible alarms, smoke packs and visual alarms.

6. **COVENANTS OF LESSOR:** Lessor does hereby covenant and agree that it shall: (i) if necessary, fully cooperate with Lessee to obtain approval of all public and governmental authorities as to all matters relating to zoning, building permit, special use permits or similar requirements for use of the Premises in accordance with Lessee's plans and specifications; (ii) permit the Lessee, its agents, servants and employees access to the ATM and/or related Lessor's property during normal hours of operation for the purposes of installation, maintenance, and servicing of the ATM, or at such designated pre-opening or post-closing hours as mutually agreed upon; (iii) permit the Lessee, its agents, servants and employees to park motor vehicles on the Lessor's premises, subject to such limitations as may, from time to time, be required; (iv) provide normal cleaning around the ATM; (v) maintain the area around each ATM in orderly fashion so that customers have convenient and safe access to the ATM; (vi) provide security and lighting, consistent with the normal operating standards of Lessor; (vii) pay for relocation when requested by Lessor; (viii) during the term of this Agreement and any extensions thereof, not permit any other ATM or electronic device to be installed or operated in the building or on the campus where the Premises are located, by any bank, savings and loan association, financial institution, securities or brokerage firm, or other enterprise offering any financial services or products offered by Lessee without the express written consent of Lessee, which consent may be withheld in Lessee's sole discretion; (ix) permit such inspections of the Premises as are necessary, including but not limited to, fire and electrical hazards, by authorized personnel.

7. **DEFAULT:**

a. ***Lessee Default and Remedy:*** If Lessee shall be in default in the performance of any covenant of this Agreement and has not commenced to cure such default within thirty (30) days after notice thereof by Lessor, Lessor may terminate this Agreement and resume possession of the Premises thereby wholly discharging Lessee from its obligations under this Agreement.

b. ***Lessor Default and Remedy:*** If any default by Lessor under the terms of this Agreement shall continue for thirty (30) days after written notice thereof from Lessee without Lessor's having commenced to cure the same, Lessee may terminate this Agreement without penalty.

8. **FIXTURES AND PERSONAL PROPERTY; SURRENDER:** Upon termination of this Agreement, Lessee shall return the Premises in as good condition as received, normal wear and tear excepted. Trade fixtures, furniture and other personal property installed or

placed in or on the Premises at the cost of Lessee shall be the property of Lessee unless otherwise specified in this Agreement and Lessee shall remove the same, at Lessee's sole expense, within thirty (30) days of the expiration or termination of this Agreement. Lessee shall, at its own cost and expense, promptly and completely repair any and all damage to the Premises resulting from or caused by such installation or removal. If Lessee fails to remove all or any of such property, Lessor may at Lessor's option retain all or any of such property and title thereto shall thereupon vest in Lessor, or Lessor may remove from the Premises and dispose of in any manner all or any of such property, in which latter event Lessee shall, upon demand, promptly pay to Lessor the actual expense of such removal and disposition and the cost of repair of any and all damage to the Premises resulting from or caused by such installation or removal.

9. **QUIET ENJOYMENT**: Lessor covenants that so long as Lessee fulfills the conditions and covenants required of it to be performed, Lessee will have peaceful and quiet possession of the Premises;

10. **ASSIGNABILITY**: Lessee may assign the Premises, without Lessor's consent, to (i) any entity controlled by, controlling or under common control of Lessee or (b) to any entity that that succeeds to or acquires all or substantially all of the business of Lessee through merger, consolidation, acquisition of stock or assets, or other business combination.

11. **INSURANCE**: Lessee agree to carry comprehensive general liability insurance according protection to the under a policy, which shall insure against a combined loss of not less than One Million Dollars (\$1,000,000.00) for each occurrence.

12. **EXCUSE FROM PERFORMANCE**: In the event of any judicial or other governmental determination that ATMs may not be operated in one or more mutually agreed locations covered by this Agreement, this Agreement shall be terminated with respect to such ATM, with no further liability of either party.

13. **CONDEMNATION**: If the whole or any part of the Premises shall be taken under the power of eminent domain, then the Agreement shall terminate as to the part taken on the day when Lessee is required to yield possession thereof, and Lessor, to the extent of the condemnation award, shall make such repairs and alterations as may be necessary in order to restore the part not taken to useful condition. If the amount of the Premises so taken is such as to impair substantially the usefulness of the Premises for the purposes for which the same are hereby leased, then either party shall have the option to terminate this Agreement as of the date when Lessee is required to yield possession.

14. **NOTICES**: Any notices under this Agreement shall be personally delivered, delivered by the deposit thereof in the U.S. Postal Service, postage prepaid, registered, or certified, return receipt requested, or by reputable overnight courier service to the party at the address listed below or at another address hereafter designated by notice. Any such notice shall be deemed to have been delivered and given upon personal delivery or delivery by overnight courier service, or deposit with the United States Postal Service:

LESSEE:
Fifth Third Bank
Fifth Third Center
38 Fountain Square Plaza
MD 10ATA1
Cincinnati, Ohio 45263
Attn: SVP Corporate Facilities

LESSOR:
City of Muskegon
Western & Terrace Streets
Muskegon, Michigan 49440

Attn: Cathy Brubaker-Clarke, Director
Community & Economic Development
City of Muskegon
933 Terrace St., P.O. Box 536
Muskegon, MI 49440-0536

With copy to:

And

Fifth Third Bank
Fifth Third Center
38 Fountain Square Plaza
MD 10 ATA1
Cincinnati, OH 45263
Attn: ATM Administrator

Frank Peterson, City Manager
City of Muskegon
933 Terrace St., P.O. Box 536
Muskegon, MI 49440-0536

15. MISCELLANEOUS:

a. ***Governing Law:*** The laws of the State of Michigan shall govern this Agreement without reference to the choice-of-law provisions thereof.

b. ***Entire Agreement:*** This Agreement represents the entire agreement between the parties with respect to the subject matter hereto, and supersedes all other proposals, agreements, representations and covenants, oral or written. Any modification of this Agreement, unless otherwise indicated herein, must be in writing and signed by both parties.

c. ***Provisions Binding:*** This Agreement shall be binding upon and inure to the benefit of the respective successors or assigns of the parties to this Agreement, except as otherwise prohibited by this Agreement

d. ***Invalid or Illegal Provisions:*** Any provision or provisions of this Agreement which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and the remaining provisions hereof shall nevertheless remain in full force and effect.

e. ***Captions of Paragraphs:*** The captions of the paragraphs in this Agreement are for convenience only and shall not be considered or referred to in resolving questions of

interpretation or construction. The parties hereby agree that they have read and fully understand all terms, conditions and covenants contained within this Agreement and enter the Agreement freely, without reservation. This Agreement shall not be construed as if prepared by one of the parties, but rather according to its fair meaning as a whole, as if both parties had prepared it.

f. ***Rights, Options, Election, Powers and Remedies:*** The various rights, options, elections, powers and remedies contained in this Agreement shall be construed as cumulative and no one of them shall be exclusive of any of the others, or of any other legal or equitable remedy which either party might otherwise have in the event of breach or default in the terms hereof, and the exercise of one right or remedy by such party shall not impair its right to any other right or remedy until all obligations upon the other party have been fully performed.

g. ***Time:*** Time is of the essence with respect to the performance of each of the covenants and agreements under this Agreement.

h. ***Relationship of Lessor and Lessee:*** Nothing contained herein will be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of computation of Rent, nor any other provision contained herein nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than the relationship of lessor and lessee.

i. ***Force Majeure:*** In the event Lessor shall be delayed or hindered in or prevented from the performance of any obligation required under this Agreement by reason of strikes, lockouts, inability to procure labor or materials, failure of power, fire or other casualty, acts of God, restrictive governmental laws or regulations, riots, insurrection, terrorist acts, war, or any other reason not within the reasonable control of Lessor, then the performance of such obligation shall be excused for a period of such delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

j. ***Waiver of Jury Trial:*** Both parties hereby knowingly and voluntarily waive the right to a jury trial in any action, proceeding, or permissive counterclaim involving any matters whatsoever arising out of or in any way connected with the Agreement, the relationship of Lessor and Lessee, Lessee's use or occupancy of the Premises, or any claim for injury or damage.

[Remainder of page left intentionally blank]

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

LESSEE:

FIFTH THIRD BANK

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

LESSOR:

CITY OF MUSKEGON

By: _____
Name: _____
Title: Mayor
Date: _____

By: _____
Name: _____
Title: City Clerk
Date: _____

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing ATM Lease Agreement was acknowledged before me this ____ day of _____, 2014 by _____, the _____ of the Fifth Third Bank, a(n) Ohio banking corporation, on behalf of the corporation.

Notary Public

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing ATM Lease Agreement was acknowledged before me this ____ day of _____, 2014 by _____, the _____ of the Fifth Third Bank, a(n) Ohio banking corporation, on behalf of the corporation.

Notary Public

STATE OF)
) SS:
COUNTY OF)

The foregoing ATM Lease Agreement was acknowledged before me this ____ day of _____, 2014 by _____, the _____ of the _____, a(n) _____ corporation, on behalf of the corporation.

Notary Public

STATE OF)
) SS:
COUNTY OF)

The foregoing ATM Lease Agreement was acknowledged before me this ____ day of _____, 2014 by _____, the _____ of the _____, a(n) _____ corporation, on behalf of the corporation.

Notary Public

Exhibit A

Premises



Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: ☐ Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶	
	Exemptions (see Instructions): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____	
	☐ Other (see Instructions) ▶	
Address (number, street, and apt. or suite no.)		Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number	
Employer identification number	

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below), and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶	Date ▶

VENDOR DIRECT DEPOSIT REQUEST

Vendor Number:

Vendor Name:

Vendor Address:

City, State, and Zip:

(Vendor) sells goods and/or services to Fifth Third Bank and/or one or more of its subsidiaries.

Fifth Third Bank is requesting the flexibility to make payments for such goods and/or services by Electronic Funds Transfer (EFT) through the Automated Clearing House (ACH) Network and/or Federal Reserve Wire System.
(Vendor) agrees to grant such flexibility.

Therefore, (Vendor) hereby (1) authorizes Fifth Third Bank to make payments for goods and/or services by EFT and to initiate, if necessary, adjustment or debit entries for any credit entries made in error, (2) certifies that it has selected the following financial institution to receive such payments on its behalf, and (3) directs that all such electronic funds transfers be made as provided below:

Receiving Financial Institution:

Name _____

Address _____

City _____

State, Zip _____

Routing and Transit Number _____

Your Account Name _____

Your Account Number _____

Your Account qualifier (please circle one):

Direct deposit

(OR)

Savings

(Vendor) will give thirty (30) days advance, written notice to Fifth Third Bank of changes in financial institution or other payment instructions. This authorization will remain in full force and effect until Fifth Third Bank has received written notification from (Vendor).

Name of Company: _____

By: _____
(printed name)

By: _____
(authorized signature)

Title: _____

Date: _____

Commission Meeting Date: May 13, 2014

Date: May 6, 2014
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department
RE: Farmers' Market- First Amendment to Purchase Agreement

SUMMARY OF REQUEST: Due to the weather conditions during the winter of 2013-2014, the construction of the new downtown Farmers' Market has taken longer than anticipated. Although the Farmers' Market was able to open as scheduled, on May 3, 2014, the entire construction will not be complete until just prior to the Grand Opening on May 24, 2014. Therefore, it was necessary to enter into an "Amendment to Purchase Agreement". The Amendment allows for the Farmers' Market operation prior to the official closing on the property, with the City "fully responsible for any and all liability related to operating the farmers' market" during that time. The Closing is moved to July 3, 2014 or before.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the attached "First Amendment to Purchase Agreement" and authorize the City Manager's signature (after the fact).

FIRST AMENDMENT TO PURCHASE AGREEMENT

This Amendment ("Amendment") is made effective on _____, 2014 ("Effective Date") by and between the **City of Muskegon**, a Michigan municipal corporation, with offices located at 933 Terrace Street, Muskegon, Michigan 49440 ("City"), and **Downtown Muskegon Development Corporation**, a Michigan non-profit corporation, with offices located at 425 W. Western, Muskegon, Michigan 49442 ("DMDC"). City and DMDC, may each be referred to as a "Party" or collectively as "Parties".

Background

A. City and DMDC entered into a purchase agreement on August 13, 2013 ("Purchase Agreement") for certain Premises (as defined in the Purchase Agreement). The Premises are being sold to DMDC to City for the purpose of operating a farmer's market in downtown Muskegon.

B. The intent of the Purchase Agreement was to have a Closing (as defined in the Purchase Agreement) upon the completion of construction of certain elements and structures by DMDC. The farmer's market is scheduled to open on May 3, 2014, however, the Parties will not be able to close prior to such date.

C. The Parties now desire to move the Closing to on or before July 3, 2014, or such other date mutually agreed upon by the Parties. During the time period between May 3, 2014 and the Closing, the Parties desire for the City to operate the farmer's market on the Premises.

Therefore, for good and valuable consideration, and the mutual promises contained in this Amendment, the Parties agree to amend Purchase Agreement as follows:

1. **Closing.** The Closing shall occur on or before July 3, 2014, or such other date mutually agreed upon by the Parties.

2. **Operations.** From the date the farmer's market opens on the Premises until Closing, the City shall operate the farmer's market ("Operations Period"). City shall have full use of the Premises during the Operations Period.

3. **Liability.** During the Operations Period, City shall be fully responsible for any and all liability on the Premises related to operating the farmer's market. In addition, City shall include operating the farmer's market on its general liability insurance coverage. Notwithstanding the preceding, DMDC shall be responsible for any liability on the Premises related to its actions, and the actions of its employees or agents.

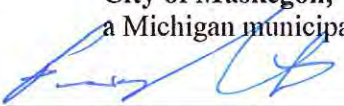
4. **No Other Modification.** Except as expressly modified by the terms of this Amendment, the Purchase Agreement shall remain in full force and effect. In the event of any inconsistency or conflict between the Purchase Agreement and this Amendment, the provisions of this Amendment shall govern and control.

The Parties have executed this Amendment as of the Effective Date.

[Signatures to appear on the following page]

Draft 1
4/25/14

CITY: **City of Muskegon,**
 a Michigan municipal corporation

By:  _____
Name: Frank Peterson
Title: City Manager
Date: April 25, 2014

DMDC: **Downtown Muskegon Development Company,**
 a Michigan non-profit corporation

By: _____
Name: _____
Title: _____
Date: _____, 2014

Commission Meeting Date: May 13, 2014

Date: May 6, 2014
To: Honorable Mayor and City Commissioners
From: Finance Director
RE: Finance Division Restructure

SUMMARY OF REQUEST: As described in the attached memo, staff is recommending the restructure of the Finance Division. The main elements of this restructure are: 1) appointment of Kenneth Grant as City Treasurer, 2) elimination of the Income Tax Administrator/Deputy Treasurer position to be replaced with the Treasury Services Supervisor position.

FINANCIAL IMPACT: The proposed restructure will save approximately \$33,000 annually.

BUDGET ACTION REQUIRED: We anticipate this restructure to be incorporated into the 2015 budget process.

STAFF RECOMMENDATION: Approval.

COMMITTEE RECOMMENDATION: None.

Memo

To: City Commission City Manager

From: Finance Director

Date: May 6, 2014

Re: Finance Division Restructure

The Finance Division team has considered various options for filling the void left earlier this year by the promotion of the former Treasurer to Finance Director. We believe we have a plan to restructure the Finance Division in a manner that will enhance customer service and reduce overall costs.

The basic elements of this plan are as follows:

1. Reclassify the Income Tax Administrator/Deputy Treasurer (Kenneth Grant) to City Treasurer. (no additional cost since both positions are currently at the same salary schedule)
2. Eliminate the Income Tax Administrator/Deputy Treasurer position and replace with the Treasury Services Supervisor position. In 2006 the Treasurer and Income Tax offices were located together to enhance staff coverage, cross-training opportunities and customer service. This step will formally align the coordination of activities in both offices. (\$33,000 annual savings)

We would like to implement these changes immediately and respectfully ask for the City Commission's approval of:

1. The appointment of Kenneth Grant as City Treasurer and,
2. The overall restructure plan as described.

If you have any questions, please let me know.

Thank you.

Date: May 13, 2014
To: Honorable Mayor and City Commissioners
From: Ann Marie Cummings, City Clerk
RE: Small Distiller License
Distillery 43 LLC
435-441 W. Western

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Cody Wasilchenko, Distillery 43 LLC, for a Small Distiller License to be located at 435-441 W. Western Avenue.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

A Small Distiller license:

License issued by the Liquor Control Commission to manufacture spirits, not to exceed 60,000 gallons annually of all brands combined.

License also includes the manufacture of Brandy.

May offer free samples to consumers on the manufacturing premises.

May sell spirits to consumers for consumption on the manufacturing premises.

May sell spirits to consumers for off-premises consumption (take-out) for not less than the uniform price set by the Commission.

May **not** sell spirits directly to Michigan retail licensees.

May sell spirits to the Michigan Liquor Control Commission who resells spirit products through the spirit distribution system.



Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
7150 Harris Drive, P.O. Box 30005 - Lansing, Michigan 48909-7505
Toll Free (866) 813-0011 • www.michigan.gov/lcc

Business ID: _____

Request ID: _____

(For MLCC use only)

Local Government Approval

(Authorized by MCL 436.1501)

Instructions for Applicants:

- You must obtain a recommendation from the local legislative body for a new license application and/or a new banquet facility permit.

Instructions for Local Legislative Body:

- Complete this resolution, or provide a resolution, along with certification from the clerk, or adopted minutes from the meeting at which this request was considered.

At a _____ meeting of the _____ council/board
(regular or special) (township, city, village)

called to order by _____ on _____ at _____
(date) (time)

the following resolution was offered:

Moved by _____ and supported by _____

that the application from _____
(name of applicant)

for the following license(s): _____

to be located at _____

and the following permit, if applied for:

☐ Banquet Facility Permit Address of Banquet Facility: _____

It is the consensus of this body that it _____ this application be considered for
(recommends/does not recommend)

approval by the Michigan Liquor Control Commission.

If disapproved, the reasons for disapproval are _____

Vote

Yeas: _____

Nays: _____

Absent: _____

I hereby certify that the foregoing is true and is a complete copy of the resolution offered and adopted by the _____
council/board at a _____ meeting held on _____
(regular or special) (date) (township, city, village)

Name and title of authorized clerk (please print): _____

Signature of authorized clerk and date: _____

Phone number and e-mail of authorized officer: _____

Under Article IV, Section 40, of the Constitution of Michigan (1963), the Commission shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Further, the Commission shall have the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the licensure of businesses and individuals.



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Business ID: _____
Request ID: _____
(For MLCC use only)

Application for New Licenses, Permits, or Transfer of Ownership or Interest in License
(Manufacturer and Wholesaler Applicants Located in Michigan Only)

Part 5 - Licenses and Permits: Check the type of license and permits that you need to complete your request

MCL 436.1525(1) provides that license fees shall be paid at the time of filing applications. (All checks/money orders should be made payable to the State of Michigan)

License Type:	Base Fee:	Permits:	Base Fee:
☐ Brewer	\$50.00	☐ Sunday Sales Permit (AM)	\$160.00
☐ Micro Brewer (Under 30,000 gallons annually)	\$50.00	☐ Sunday Sales Permit (PM)	15% of license fee
☐ Wine Maker	\$100.00	☐ Catering Permit	\$100.00
☐ Small Wine Maker (Under 50,000 gallons annually)	\$25.00	☐ Beer and Wine Consumer Sampling Event Permit	\$70.00
☐ Winery Tasting Room	\$100.00	☐ Spirit Consumer Sampling Permit	\$70.00
☐ Spirit Tasting Room	\$100.00	☐ Outdoor Service	No charge *
☐ Brandy Tasting Room	\$100.00	☐ Entertainment Permit	No charge *
☐ Manufacturer of Brandy	\$100.00	☐ Dance Permit	No charge *
☐ Manufacturer of Mixed Spirit Drink	\$100.00	☐ Topless Activity Permit	No charge *
☐ Manufacturer of Spirits	\$1,000.00	☐ Living Quarters	No charge *
☒ Small Distiller (Under 60,000 gallons annually)	\$100.00	☐ Specific Purpose Permit (list activity below): Hours requested: _____	
☐ Outstate Seller of Beer	\$1,000.00	☐ Extended Hours Permit (check type below): ☐ Dance ☐ Entertainment Hours requested: _____	No charge *
☐ Outstate Seller of Wine	\$300.00	☐ Off-premise Storage	No charge
☐ Outstate Seller of Mixed Spirit Drink	\$300.00	☐ Direct Connection(s)	No charge
☐ Wholesaler	\$300.00		
* Plus \$50.00 for each additional vehicle used to deliver alcoholic beverages to retail licensees.		*Note: MCL 436.1529(5)(b) provides that an inspection fee shall not be required for the issuance of a new permit, or the transfer of an existing permit, if the permit is issued or transferred simultaneously with the issuance or transfer of a license or an interest in a license.	
☐ Warehouser	\$50.00		
☐ Industrial Manufacturer	\$10.00		
☐ Seller of Alcohol	\$10.00		
☐ Limited Alcohol Buyer	\$10.00		

Date: May 13, 2014
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Charter Communications – METRO Act Permit

SUMMARY OF REQUEST: Approve the request for a permit from Charter Communications and authorize the Mayor to sign the permit.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the permit and sign the documents.

Date: May 13, 2014

To: Honorable Mayor and City Commissioners

From: Finance Department

RE: 2014-15 Healthcare Renewal

SUMMARY OF REQUEST: It is time to renew the City's healthcare coverage for 2014-15 plan year (6/1/14-5/31/15). Renewal premiums for the City's current healthcare program came in at an 11.68% increase over the current year. However, by changing to an 80/20 coinsurance plan and increasing the deductible from \$1,000/\$2,000 to \$2,000/\$4,000, the net result is a premium decrease of 2.62% from the current year. Last year we experienced a 5.04% increase and in 2012-13 the increase was 7.90%. In comparative terms, many employers are experiencing sharp double-digit rate increases. Also, the City's healthcare costs remain well below the "hard cap limits" set by PA 152 and remain cost competitive with the standards set by EVIP for new hires. These are good independent indicators that the City's program is cost-effective.

For 2014-15, the City will continue to pay the HRA deductible if the employee and spouse completed the four-step wellness initiative prior to April 30th; non-participants in the wellness program will continue to pay the first \$500 (single)/ \$1,000 (double/family) 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:

	2014-15			2013-14		
	Single	Double	Family	Single	Double	Family
Monthly Premium	\$ 421.37	\$ 948.08	\$ 1,137.70	\$ 432.74	\$ 973.67	\$ 1,168.40
Rate Change	(2.62%)	(2.62%)	(2.62%)	5.04%	5.04%	5.04%
Annual Premium	5,056.44	11,376.96	13,652.40	5,192.88	11,684.04	14,020.80
Current # Employees	33	34	118	33	34	118
Total Annual Premium	166,862.52	386,816.64	\$ 1,610,983.20	171,365.04	397,257.36	\$ 1,654,454.40
		2,164,662.36			2,223,076.80	
Add: HRA Deductibles Paid by City		160,000.00			134,356.52	
Less: 10% Employee Premium Copays		(216,466.23)			(222,307.68)	
Equals: Employer Cost		\$2,108,196.13			\$2,135,125.64	
	2014 PA 152 Hard Cap Limits			2013 PA 152 Hard Cap Limits		
	\$ 5,857.58	\$ 12,250.00	\$ 15,975.23	\$ 5,692.50	\$ 11,385.00	\$ 15,525.00
	193,300.14	416,500.00	1,885,077.14	187,852.50	387,090.00	1,831,950.00
		\$2,494,877.28			\$2,406,892.50	

Full-time City employees pay 10% of the above premium costs through payroll deduction.

BUDGET ACTION REQUIRED: Employee and retiree healthcare costs will be included in the forthcoming 2014-15 budget.

STAFF RECOMMENDATION: Authorize staff to execute documents with Priority Health to renew employee healthcare coverage for the coming year with an 80/20 coinsurance and \$2,000/\$4,000 deductible.