

CITY OF MUSKEGON

CITY COMMISSION MEETING

APRIL 9, 2013

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ **CALL TO ORDER:**
- ❑ **PRAYER:**
- ❑ **PLEDGE OF ALLEGIANCE:**
- ❑ **ROLL CALL:**
- ❑ **HONORS AND AWARDS:**
 - A. Mayors Day of Recognition for National Service.
- ❑ **INTRODUCTIONS/PRESENTATION:**
 - A. Medication Disposal.
- ❑ **CONSENT AGENDA:**
 - A. Approval of Minutes. CITY CLERK
 - B. Resolution to Support Bike to Work Week. CITY CLERK
 - C. 2013-14 Healthcare & Wellness Program. FINANCE
 - D. Environmental Program Mowing and Trash Clean-up Contract. PLANNING & ECONOMIC DEVELOPMENT
 - E. 2013 Sodium Hypochlorite Water Treatment Chemical Bid. PUBLIC WORKS
 - F. Request to Accept Prein and Newhof as Dredging Consultant. PUBLIC WORKS
 - G. Consideration of Bids for Wickham Drive, Sherman to Glen (H-1690). ENGINEERING
 - H. City – MDOT Agreement for the Reconstruction of Sherman Blvd. from Estes to Glenside. ENGINEERING
- ❑ **PUBLIC HEARINGS:**
 - A. Request for an Industrial Facilities Exemption Certificate – Graphics House. PLANNING & ECONOMIC DEVELOPMENT

❑ **COMMUNICATIONS:**

❑ **CITY MANAGER'S REPORT:**

❑ **UNFINISHED BUSINESS:**

❑ **NEW BUSINESS:**

A. Endorsement of Farmers Market Relocation. CITY MANAGER

B. Set Public Hearing for Amendment to Brownfield Plan – Terrace Point Landing, LLC. PLANNING & ECONOMIC DEVELOPMENT

❑ **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.

Mayors Day of Recognition for National Service

WHEREAS, service to others is a hallmark of the American character, and central to how we meet our challenges; and

WHEREAS, the nation's mayors are increasingly turning to national service and volunteerism as a cost-effective strategy to meet city needs; and,

WHEREAS, AmeriCorps and Senior Corps address the most pressing challenges facing our cities and nation, from educating students for the jobs of the 21st century and supporting veterans and military families to preserving the environment and helping communities recover from natural disasters; and

WHEREAS, national service expands economic opportunity by creating more sustainable, resilient communities and providing education, career skills, and leadership abilities for those who serve; and

WHEREAS, national service participants serve in more than 70,000 locations across the country, bolstering the civic, neighborhood, and faith-based organizations that are so vital to our economic and social well-being; and

WHEREAS, national service participants increase the impact of the organizations they serve with, both through their direct service and by recruiting and managing millions of additional volunteers; and,

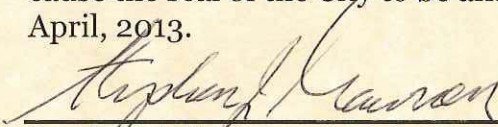
WHEREAS, national service represents a unique public-private partnership that invests in community solutions and leverages non-federal resources to strengthen community impact and increase the return on taxpayer dollars; and,

WHEREAS, AmeriCorps members and Senior Corps volunteers demonstrate commitment, dedication, and patriotism by making an intensive commitment to service, a commitment that remains with them in their future endeavors; and

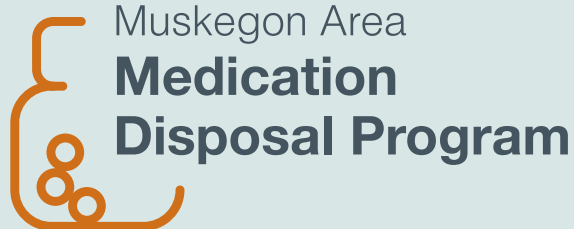
WHEREAS, the Corporation for National and Community Service shares a priority with mayors nationwide to engage citizens, improve lives, and strengthen communities; and is joining with mayors across the country to support the Mayors Day of Recognition for National Service on April 9, 2013.

THEREFORE, BE IT RESOLVED that I, Stephen J. Gawron, Mayor of the City of Muskegon, do hereby proclaim April 9, 2013, as National Service Recognition Day, and encourage residents to recognize the positive impact of national service in our city, to thank those who serve; and to find ways to give back to their communities.

IN WITNESS WHEREOF, I hereby set my hand and cause the seal of the City to be affixed this 9th day of April, 2013.



Stephen J. Gawron
Mayor



Muskegon Area
**Medication
Disposal Program**

MEDICATION & SHARPS COLLECTION

//////////////////// **FREE** //////////////////////

Drop off your unused or expired medications for proper disposal. Properly disposing of your unused medications, both over-the-counter and prescription, reduces risk of accidental poisoning, environmental contamination, and misuse. Be sure to mark out patient information prior to drop off.

Sharps will be accepted in appropriate containers.

**SATURDAY, APRIL 27, 2013
10:00 AM–2:00 PM
MUSKEGON FIRE STATION
(CENTRAL STATION)**

770 TERRACE STREET / MUSKEGON, MI 49440

To learn more, visit us at www.mamdp.com or call Carrie Uthe at 231-672-3882 or Laura Fitzpatrick at 231-672-3201. A daily medication take-back program is also available, with locations listed on our website.

Become a fan and join the conversation on Facebook.

COALITION MEMBERS:

*City of Muskegon Police
Department
Lakeshore Health Network
Mercy Health Partners
Mercy Health Partners'
Retail Pharmacies
Muskegon Community
Health Project
Muskegon County Public
Works - HHW Program
Muskegon County
Sheriff's Office*

COMMUNITY PARTNERS:

*CALL 2-1-1
City of Muskegon
Coalition for a Drug Free
Muskegon County
C.O.R.E.
Muskegon County
Muskegon Fire Department
Muskegon Pharmaceutical
Access Coalition
Norton Shores Fire
Department
Norton Shores Police
Department
Public Health -
Muskegon County
Senior Resources*

BRONZE SPONSOR:

*Osteopathic Foundation
of Michigan*

SILVER SPONSORS:

*Meridian Health Plan
of Michigan
UnitedHealthcare
Community Plan*



Muskegon Area
**Medication
Disposal Program**

DISPOSE OF YOUR NON-CONTROLLED UNUSED MEDICATIONS

*(Includes over-the-counter items, antibiotics and medications
for high blood pressure, heart, diabetes, asthma and so on)*

Benson's Drug SavMor #17*

961 Spring Street / Muskegon, MI 49442 / 231-722-2861

Shopko Pharmacy

3165 Holton-Whitehall Road / Whitehall, MI 49461 / 231-894-2635

Watkins Pharmacy

1391 E. Sherman Boulevard / Muskegon, MI 49444 / 231-739-7158

MERCY HEALTH PARTNERS' RETAIL PHARMACIES

Glenside Pharmacy

1663 W. Sherman Boulevard / Muskegon, MI 49441 / 231-755-2443

Hackley Professional Pharmacy*

1675 Leahy Street, Suite 111 / Muskegon, MI 49442 / 231-728-5888

Lakes Campus Pharmacy

6401 Prairie Street, Suite 1100 / Muskegon, MI 49444 / 231-727-7968

Westshore Professional Pharmacy

1150 E. Sherman Blvd., Suite 1400 / Muskegon, MI 49444 / 231-672-2204

Wolf Lake Pharmacy

5483 E. Apple Avenue / Muskegon, MI 49442 / 231-788-4087

Certain restrictions apply. Ask your pharmacist for more information.

*Sharps accepted in appropriate containers at these locations.



www.mamdp.com



Muskegon Area
**Medication
Disposal Program**

DISPOSE OF YOUR CONTROLLED UNUSED MEDICATIONS

(Includes medications for pain, ADHD, anxiety, sleeping and so on)

Dispose of your unwanted or expired *controlled* medications
at the following law enforcement agencies, where secure
drop-boxes have been installed, during normal business hours:

Fruitport Police Department

5825 Airline Road / Fruitport, MI 49415 / 231-865-8477

Montague Police Department

8778 Ferry Street / Montague, MI 49437 / 231-893-0810

Muskegon County Sheriff's Office Records

25 W. Walton Avenue / Muskegon, MI 49440 / 231-724-6351

Muskegon County Sheriff Road Patrol Offices

1611 Oak Avenue / Muskegon, MI 49442 / 231-724-6259

Muskegon Heights Police Department

2715 Baker Street / Muskegon, MI 49444 / 231-733-8900

Muskegon Police Department

980 Jefferson Street / Muskegon, MI 49440 / 231-724-6750

Muskegon Township Police Department

1990 Apple Avenue / Muskegon, MI 49442 / 231-777-1666

North Muskegon Police Department

1114 Ruddiman Drive / North Muskegon, MI 49445 / 231-744-4313

Norton Shores Police Department

4814 Henry Street / Norton Shores, MI 49441 / 231-733-2691

Roosevelt Park Police Department

900 Oak Ridge Road / Muskegon, MI 49441 / 231-755-3721

Whitehall Police Department

405 E. Colby Street / Whitehall, MI 49461 / 231-894-2317



Made possible by the Environmental
Endowment Fund of the Community
Foundation for Muskegon County.



www.mamdp.com

Date: April 9, 2013
To: Honorable Mayor and City Commissioners
From: Ann Marie Cummings, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes of the March 26th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 26, 2013

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, March 26, 2013.

Mayor Gawron opened the meeting with a prayer from Pastor Tim Cross from the Living Word Church 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 Eric Hood, Willie German, Sue Wierengo, Byron Turnquist, and Lea Markowski, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

2013-24 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes of the March 11th Commission Worksession Meeting, and the March 12th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. 2013 Dozer Rental for Beach Leveling at PM Park. PUBLIC WORKS

SUMMARY OF REQUEST: Staff is requesting permission to enter into a rental agreement with Michigan Cat for a Cat D6TXL Cab Dozer for leveling sand at Pere Marquette Beach.

FINANCIAL IMPACT: Estimated cost for the 2013 Dozer rental is \$9,000 (which includes \$700 for delivery and pickup).

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve request.

C. One Year Janitorial Services Extension, Optional Year through April 30, 2014. ENGINEERING

SUMMARY OF REQUEST: Extend the current janitorial services contract with Reliant Professional Cleaning for one more year which was allowed for as an optional year at the time the contract was bid back in 2010 to clean City Hall, Public Service Building and the Filtration Plant areas with no change in the cost. The contractor has submitted the request for exercising the optional year extension and staff recommends it.

FINANCIAL IMPACT: The total annual cost of the contract (City Hall, P.D., DPW and Filtration Plant) is \$61,788.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the one year extension, optional year, with Reliant Professional Cleaning Services to provide janitorial services until the end of April, 2014, at City Hall, DPW and Filtration.

D. City – MDOT Agreement for the Reconstruction of: Laketon Avenue from Wood to Getty. ENGINEERING

SUMMARY OF REQUEST: Approve the contract with MDOT for the reconstruction of Laketon Avenue between Wood and Getty, and approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: MDOT's participation is limited to the approved federal funds of \$313,000. The estimated total construction cost is \$1,394,600 plus engineering cost.

BUDGET ACTION REQUIRED: None at this time.

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

E. Liquor License Request – Pigeon Hill Brewing Company, LLC, 500 W. Western. CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Pigeon Hill Brewing Company, LLC for a new Micro Brewer License with Dance and Entertainment Permits to be located at 500 W. Western Avenue, #1.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.

F. Amendment to the Zoning Ordinance. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Staff initiated request to amend Section 2326, Off-Street Parking and Loading, of the Zoning Ordinance to lessen the off-street parking requirements for existing buildings.

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 at their March 14th meeting.

H. Acceptance of Viridian's and Terrace Point's Extensions into the City's Street System. ENGINEERING

SUMMARY OF REQUEST: Adopt the resolution accepting the extensions of Viridian and Terrace Point Drive into the City's street system.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Adopt the resolution.

I. Permission to Donate a Retired Police Cruiser to Muskegon Area Career Tech Center (MACTC). PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to donate a retired police cruiser, valued at approximately \$3,500 to MACTC for their training program. The City's donation, if approved, would be consistent with two of the City's goals:

1. Foster Opportunities for City/Community Youth
2. Foster Strong Ties Among Governments and Community Agencies.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Both DPW and the Police Department are recommending this donation.

J. Grand Trunk Launch Ramp Dredging. CITY MANAGER

SUMMARY OF REQUEST: To approve entering into a grant agreement(s) with the Department of Natural Resources for funding to dredge the channel used for the Grand Trunk Launch Ramp. Also, to authorize waiving bidding requirements and authorize the Mayor and City Clerk to execute a dredging contract that is in the best interest of the City.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To enter into grant agreement(s) with the Department of Natural Resources to secure funding for dredging of the channel used for the Grand Trunk Launch Ramp. Further, to waive any bidding requirements and formalities and authorize the Mayor and City Clerk to enter into necessary dredge contracts as deemed in the best interest by the City Manager and City Attorney.

Motion by Commissioner Wierengo, second by Commissioner Hood to accept the Consent Agenda as presented minus item G.

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

Nays: None

MOTION PASSES

2013-25 ITEM REMOVED FROM THE CONSENT AGENDA:

G. Detective Vehicles. PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to purchase one Chevy Malibu from Shaheen Chevrolet, the Mi Deal (state contract) awarded dealership for Chevy and one Ford Fusion from Gorno Ford, the Mi Deal (state contract) awarded for Ford.

FINANCIAL IMPACT: \$37,969.

BUDGET ACTION REQUIRED: None, amount is what was budgeted.

STAFF RECOMMENDATION: Authorize staff to purchase new detective vehicles from Shaheen Chevrolet and Gorno Ford.

Motion by Commissioner Turnquist, second by Commissioner Wierengo to purchase one Chevy Malibu from Betten Chevrolet.

ROLL VOTE: Ayes: German, Wierengo, Turnquist, Markowski, and Hood

Nays: Gawron and Spataro

MOTION PASSES

Motion by Vice Mayor Spataro, second by Commissioner Markowski to purchase one Ford Fusion from Gorno Ford which is the lowest responsible bidder.

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

MOTION PASSES

2013-26 NEW BUSINESS:

A. Approval of Sale of City-Owned Home at 134 E. Isabella. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community & Neighborhood Services Department to complete the sales transaction between Mr. Michael D. Kelly for the Neighborhood Stabilization Program rehabilitated home at 134 E. Isabella. Mr. Kelly will purchase it for \$27,000.

FINANCIAL IMPACT: The proceeds from the sale will be used to close out the NSP Program.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and direct the CNS staff to complete the sale.

Motion by Vice Mayor Spataro, second by Commissioner German to approve the sale of the City-owned home at 134 E. Isabella to Mr. Kelly.

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

Nays: None

MOTION PASSES

B. Approval of Sale of City-Owned Home at 605 Jackson. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community and Neighborhood Services Department to complete the sales transaction between LaQuandra Robinson for the newly constructed home at 605 Jackson, which is part of the City's Neighborhood Stabilization Program through the Michigan State Housing Development Authority Office of Community Development and Leverage funds with the HOME Program by HUD.

FINANCIAL IMPACT: The proceeds from the sale will be returned to the NSP and HOME Programs.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and direct the CNS staff to complete the sale.

Motion by Vice Mayor Spataro, second by Commissioner Hood to approve the sale of the City-owned home at 605 Jackson to LaQuandra Robinson for \$65,000.

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

Nays: None

MOTION PASSES

C. Amendment to the Renaissance Zone Development Agreement for Highpoint Flats. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend the renaissance zone development agreement for the Highpoint Flats apartment project at 285 W. Western Avenue to extend the deadline for the private investment minimums until December 31, 2015.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the renaissance zone development

agreement amendment.

Motion by Commissioner Hood, second by Commissioner Turnquist to approve the Renaissance Zone development agreement amendment.

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

Nays: None

MOTION PASSES

D. Permanent Traffic Control Orders. PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to remove the current Traffic Signals per Traffic Control Orders #4-8 and remove on-street parking on Muskegon Avenue between Jefferson and Terrace Streets and install permanent Stop Signs on the various adjoining cross-streets.

FINANCIAL IMPACT: Cost of removal of traffic signals, pavement markings and man-power to install signs, if approved.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve request.

Motion by Vice Mayor Spataro, second by Commissioner German to approve the request for the permanent traffic control orders.

Motion by Vice Mayor Spataro, second by Commissioner Wierengo to Table to the May Worksession.

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

Nays: None

MOTION TO TABLE PASSES

E. S.S. Milwaukee Clipper – Letter of Support. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The S.S. Milwaukee Clipper Preservation, Inc. Board is seeking approval from the County of Muskegon to relocate to a permanent location at Heritage Landing. The Board is requesting a letter of support from the City of Muskegon.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To authorize the Mayor to send a letter of support to the S.S. Milwaukee Clipper Preservation, Inc. Board to relocate to Heritage Landing, providing a suitable location is identified.

Motion by Commissioner Hood, second by Vice Mayor Spataro to authorize the

Mayor to send a letter of support to the S.S. Milwaukee Clipper Preservation, Inc. Board to relocate to Heritage Landing, providing a suitable location is identified.

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

Nays: None

MOTION PASSES

F. Proclamation – School Spirit. CITY CLERK

SUMMARY OF REQUEST: The City Commission has directed staff to draft a proclamation encouraging citizens to wear school colors the first Friday of each month to show support for our area schools.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the proclamation.

Motion by Commissioner Markowski, second by Vice Mayor Spataro to approve the proclamation of School Spirit for the City of Muskegon.

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

Nays: Hood

MOTION PASSES

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

390 Catherine (Area 11)

1200 Ambrosia (Area 11)

1284 Pine (Area 11)

1458 Jiroch (Area 13)

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.

BUDGET ACTION REQUIRED: None.

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

Motion by Commissioner German, second by Vice Mayor Spataro to concur with the Housing Board of Appeals notice and order to demolish 390 Catherine, 1200 Ambrosia, 1284 Pine, and 1458 Jiroch.

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

Nays: None

MOTION PASSES

H. Liquor License Renewal – Dreamers, 978 Pine. CITY CLERK

Motion by Commissioner German, second by Vice Mayor Spataro to remove Dreamer's, 978 Pine from the resolution being sent to the State regarding non-renewal of liquor licenses.

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

Nays: None

MOTION PASSES

2013-27 ANY OTHER BUSINESS:

A. Resolution Authorizing S2 Grant. ENGINEERING

Motion by Commissioner Markowski, second by Commissioner Wierengo to authorize the resolution for the S2 Grant not to exceed \$160,000.

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

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Public comments were received.

ADJOURNMENT: The City Commission Meeting adjourned at 6:40 p.m.

Respectfully submitted,

Ann Marie Cummings, MMC
City Clerk

Date: April 9, 2013
To: Honorable Mayor and City Commissioners
From: City Clerk's Office
RE: Resolution to Support Bike to Work Week

SUMMARY OF REQUEST: To adopt the resolution proclaiming May 13 – 17, 2013 as "Bike to Work Week" and encourage citizens to participate.

FINANCIAL IMPACT:

STAFF RECOMMENDATION: To approve the resolution.

RESOLUTION TO SUPPORT NATIONAL BIKE TO WORK WEEK

WHEREAS, for more than a century, the bicycle has been an important part of the lives of Americans; and

WHEREAS, today, millions of Americans engage in bicycling as an environmentally sound form of transportation, an excellent form of fitness, and provides quality family recreation; and

WHEREAS, “Bike to Work Week” is a nationwide endeavor to educate the public about the benefits of bicycling and to increase awareness of and respect for bicyclists; and

WHEREAS, the City of Muskegon recognizes the benefits of bicycle commuting in providing exercise, decreasing air pollution, conserving fuel, decreasing traffic congestion, decreasing noise pollution, and improving the health of its citizens; and

WHEREAS, the League of Michigan Bicyclists and independent cyclists throughout our state are promoting greater public awareness of bicycle operation and safety education in an effort to reduce accidents, injuries and fatalities; and

WHEREAS, bicycle transportation is an integral part of the “multi-modal” transportation system planned for by city, state and local transportation government agencies; and

WHEREAS, we recognize and encourage cycling as an important means of transportation, and support potential new cyclists in joining our community; and

WHEREAS, Ride On! Muskegon County Bikes to Work Week Committee encourage all citizens to ride their bicycles to work, to the store, to the park, around their neighborhoods and with friends and family to promote the personal and societal benefits achieved from bicycling;

NOW THEREFORE I, Stephen J. Gawron, Mayor of the City of Muskegon, do hereby proclaim May 13-17, 2013 as “Bike to Work Week” in Muskegon, MI and encourage its observance to all citizens.

Signed this 9th day of April 2013.

Stephen J. Gawron
Mayor

Date: April 9, 2013

To: Honorable Mayor and City Commissioners

From: Finance Department

RE: 2013-14 Healthcare & Wellness Program

SUMMARY OF REQUEST: It is time to renew the City's healthcare coverage for 2013-14 plan year (6/1/13-5/31/14). Renewal premiums for the City's current healthcare program have come in at a 5.04% increase over the current year. Last year we experienced a 7.90% increase and in 2011-12 the increase was 8.83%. In comparative terms, the rate increase is moderate as 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 2012-13, the City will continue to pay the HRA deductible if the employee and spouse complete 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:

	2013-14			2012-13		
	Single	Double	Family	Single	Double	Family
Monthly Premium	\$ 432.74	\$ 973.67	\$ 1,168.40	\$ 411.99	\$ 926.96	\$ 1,112.37
Rate Increase	5.04%	5.04%	5.04%	7.90%	7.90%	7.90%
Annual Premium	5,192.88	11,684.04	14,020.80	4,943.88	11,123.52	13,348.44
Current # Employees	28	41	132	35	40	134
Total Annual Premium	145,400.64	479,045.64	\$ 1,850,745.60	173,035.80	444,940.80	\$ 1,788,690.96
		2,475,191.88			2,406,667.56	
Add: HRA Deductibles Paid by City		160,000.00			140,056.47	
Less: 10% Employee Premium Copays		(247,519.19)			(182,471.00)	
Equals: Employer Cost		\$2,387,672.69			\$2,364,253.03	
	2013 PA 152 Hard Cap Limits			PA 152 Hard Cap Limits		
	\$ 5,692.50	\$ 11,385.00	\$ 15,525.00	\$ 5,500.00	\$ 11,000.00	\$ 15,000.00
	159,390.00	466,785.00	2,049,300.00	192,500.00	440,000.00	2,010,000.00
		\$2,675,475.00			\$2,642,500.00	

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

BUDGET ACTION REQUIRED: Employee and retiree healthcare costs will be included in the forthcoming 2013-14 budget.

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

Commission Meeting Date: April 9, 2013

Date: March 28, 2013
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department
RE: Environmental Program Mowing and Trash Clean-up Contract

SUMMARY OF REQUEST:

The contract for mowing of lots and trash clean up of public and private properties previously held by Earth Creations LLC. had expired on March 31, 2013. A request for bids was advertised and five companies placed bids. Earth Creations LLC of North Muskegon is the low bidder for a two-year agreement.

FINANCIAL IMPACT:

None - Funds budgeted for this activity.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION:

To approve a 2 year contract with Earth Creations LLC. and to authorize the Mayor and City Clerk to sign the agreements, for the mowing of lots and trash removal on properties located within the city.

COMMITTEE RECOMMENDATION: None

Memo

To: Honorable Mayor and City Commission
From: Hope Mitchell, Code Coordinator
Date: March 28, 2013
Re: Environmental mowing & trash contract bids

Staff requested bids for a possible two year contract with an optional contract extension typically set at two years. The bid documents also had an area for submission of a three year bid with an option to extend that, which is typically set at two years. This request for bids resulted in five submissions from area contractors to perform the services needed and are shown in the tables located later in this document.

Because of the varying prices submitted by the different bidders, staff would like to recommend that a two year contract be awarded to Earth Creations LLC with a two year extension possible.

Awarding contracts as indicated would be accepting the low bidder, Earth Creations LLC. The reasoning for the two year agreement with Earth Creations LLC is that they had submitted a bid for a two year contract due to the rising costs of gas prices.

Staff believes that the management of two contractors, versus one contractor, would still be the best to do.

Two year contract bid tabulations:

Company Name:	Pick up w/operator & large trailer – minimum 10 cubic yd. capacity.	Tractor w/operator & brush hogs w/ 5' mowing bed.	Lawn mower & Trimmer for lots & Operator.	Helping labor, consisting of 2 persons.
Earth Creations LLC	\$31.50	\$42.00	\$34.50	\$25.00
Freelance Enterprises	\$34.00	\$43.00	\$38.00	\$0
Preferred Lawn Care	\$55.00	\$95.00	\$42.50	\$35.00
Sons & Sanford Hauling	\$18.50 *	\$25.00 *	\$80.00 *	\$9.50 *
ALT Property Mgmt	\$68.00	\$84.00	\$60.00	\$42.00

* The bid packet required these to be bid as 2 person items per hour. This was billed at an hourly rate per person with the bid packet requiring nothing to be altered from what was needed.

**CITY OF MUSKEGON
CONTRACT FOR SERVICES**

This Agreement is effective on this 10th day of April, 2013, between City of Muskegon, a Michigan municipal corporation, of 933 Terrace Street, Muskegon, MI 49443 ("City"), and, James Rudicil Jr., of Earth Creations LLC, ("Contractor"), with reference to the following facts:

Background

- A. City requested bid proposals for yard maintenance and trash clean up of City-owned, State-owned and privately-owned properties located within the City limits of Muskegon, as well as areas including but not limited to railroad and street right-of-ways and terraces.
- B. Contractor submitted a bid proposal for the yard maintenance and trash clean up of the City-owned, State-owned and privately-owned properties located within the City limits of Muskegon as listed above.

Therefore, the parties agree as follows:

- 1. **Inclusion of Additional Agreements.** This Agreement includes, but may not be limited to the following:
 - a. Invitations to bid, instructions to bidders and the pre-bid conference with minutes;
 - b. All descriptions of services not included in this Agreement but used in connection with the bidding process;
 - c. The bid proposal and any requirement included with or attached to the bid documents and this Agreement; and
 - d. Any specifications used in connection with this Agreement.

This Agreement, together with the documents described above, constitutes the Agreement between the parties and shall be considered as part of the Agreement as if attached or repeated herein.

In the event that there are inconsistencies within the Agreement, the Contractor shall immediately notify the City, in writing, for a determination, interpretation, clarification and/or prioritization of the inconsistencies.

- 2. **Services.** Contractor shall provide the following services, under the direction and supervision of the City Planning Department, relating to yard maintenance and trash clean up of the above listed properties. Contractor shall perform the services set forth in this contract in a timely, workman-like manner.
 - a. **Mowing.** Contractor shall mow all grass, weeds and brush including mowing around all obstacles, up to three inches (3") in diameter, leaving no ridges of high or uncut grass.

- b. **Trimming/Cutting/ Raking.** Contractor shall trim all bushes and unsightly branches, cut large tree limbs or logs, rake and remove heavy concentrations of yard clippings, small debris and fallen leaves and/or branches. Contractor shall also sweep or blow sidewalk and/or driveways clean of debris.
 - c. **Garbage, debris and waste removal.** Contractor shall pick up and remove all garbage, debris, trash and waste materials, including but not limited to cans, bottles, loose papers, dead tree limbs, grass and bush clippings, abandoned/broken/unused household appliances, furniture, and other like items.
 - d. **Disposal.**
 - i. Contractor shall handle and dispose of Freon according to the applicable State and Federal mandates.
 - ii. Contractor shall ensure the separation and individual disposal of garbage and lawn debris.
 - iii. All garbage, debris, trash, waste materials, grass, weeds, brush, appliances, furniture and other items removed from each site shall be transported by the Contractor for disposal to a location predetermined by City.
 - e. **Photographs.** Contractor shall photograph each job site prior to and after completion. The photographs will indicate each job site address and/or location to ensure proper identification of the location and/or property. The photographs shall also indicate the time and date the picture was taken. All processing costs associated with this service shall be the sole responsibility of the Contractor.
 - f. **Record Keeping.** Contractor agrees to keep proper records of all work performed on behalf of City.
 - g. **Other.** Contractor may be required to perform other related work as deemed necessary by the City Planning Department.
3. **Equipment.** Contractor shall furnish or supply all the equipment and labor necessary to carry out its obligations under this Agreement. The equipment and labor includes but is not limited to: general labor, technical personnel, machinery, tools, transportation, fuel, and all other such materials. All equipment must meet the safety standards as required by MIOSHA.
- a. **Inspection.** City or its designated agents shall inspect for safety, appearance and sanitation, all equipment used by Contractor to carry out its obligations under this Agreement. All vehicles used in the transport of garbage, trash and other waste must be police safety inspected. City may refuse Contractor the right to utilize any equipment that is deemed to be unsafe, unsanitary or of an unsightly appearance based on that inspection. In that event, Contractor shall repair, replace or restore the equipment to a suitable condition as soon as reasonably possible.
 - b. **Required Equipment.**

- i. Two (2) trucks.
 - ii. Two (2) truck trailers. Minimum size: 10 yards with a 4,000 lb. capacity.
 - iii. Two (2) tractors with the ability to obtain four (4) tractors. Must have a brush hog type mower or flail type mower with a mower deck of a minimum five feet (5') diameter for each.
 - iv. Power trimmers.
 - v. Chain saws.
 - vi. Lawn mowers.
 - vii. Hand Tools, including rakes, brooms, shovels, pitch forks, and other tools as deemed appropriate for the job site.
 - viii. Lawn edger blowers. One per team or work crew.
 - ix. Digital Cameras. Minimum 3 megapixel resolution with automatic time and dating capacity.
 - x. CD-R compact discs for the transfer of digital images.
 - xi. Personal computer with ability to record photo images to CD-R compact discs.
 - xii. Alternative equipment may be proposed for use but requires City approval prior to use.
- c. **Method of Transport.** Contractor agrees to haul tractors, mowers and other equipment to the job location, unless otherwise approved by City.
- 4. **Expenses.** Contractor shall be responsible to pay for all expenses incurred by Contractor related to the performance of its duties under this Agreement and for all compensation owed to its workers and/or subcontractors.
- 5. **Contract Price.** City agrees to pay Contractor, in full consideration for the complete performance of Contractor's obligations under this Agreement, the amount set forth in the Contractor's bid proposal and documents described in paragraph 1.
- 6. **Assignments.** Work assignments are determined on an as needed basis.
- 7. **Contractor Work Crew.**
 - a. **Number.** Each work crew shall consist of two (2) persons per assignment, unless otherwise approved by the City. City reserves the right to limit the size of work crews at any time.
 - b. **City Representatives.** City may assign one or more persons to the job site as its Representative(s). The City Representative(s) may supervise work crews in their performance at the job site, and may instruct the work crews as to what tasks must be performed.
- 8. **Schedule.**
 - a. Work schedules shall be completed by City on a daily or as needed basis.
 - b. Provisions shall be made, at Contractor's expense, for contacting the Contractor on short notice or in an emergency situation by any the following methods:

- i. Telephone;
- ii. Cellular Telephone; or
- iii. Beeper.

9. **Work Orders.**

- a. **Distribution.** Work orders will be distributed to the Contractor at a location designated by the City.
- b. **Completion.** All jobs listed in a work order must be completed within five (5) working days following receipt of the work order by Contractor. Time extensions may be permitted for inclement weather and similar restricting circumstances, as determined by the City. All completed work orders shall be returned to the City by 8:00 a.m. the following work day after the work is completed.

10. **Payment.**

- a. **Form.**
 - i. Requests for payment shall be submitted on a form prepared and approved by the City;
 - ii. Requests shall include a list of job numbers with the corresponding cost of each job;
 - iii. Requests shall be on a per-quarter hour basis; total time per job to be agreed to by the Contractor and City Representative.
 - iv. Requests for work completed that were not performed in compliance with subsection 9(b) may not be compensated.
 - v. Inadvertent payment made to the Contractor for work not performed in compliance with the terms of this contract, or for any other reason, will be deducted by the City from subsequent payments.
- b. **Frequency.** Requests for payment shall be made monthly and payment will be made on the second and fourth Friday of each month.
- c. **Travel Time.** Travel time shall be charged by Contractor as follows:
 - i. Time may be charged for travel from a completed job site to another job site. Travel time shall be shown on a voucher completed for the destination site.
 - ii. Time may be charged for travel to and from a disposal site with a full load of garbage, trash, waste and other items. Travel time shall be indicated on a dump voucher or slip.
 - iii. Travel time shall only be compensated for direct and logical routes.
 - iv. All vouchers, bills, slips and pictures pertaining to a work order or a job site shall be submitted to the City at the same time.

- v. Requests for payment that are submitted without the proper documentation, including but not limited to vouchers, bills, slips and pictures will not be accepted until such time all such items are submitted.

11. **Specific Reservations.**

- a. City reserves the right to have Contractor bag or remove debris and/or trash from the property and place the same on the terrace at the property for removal by the City refuse contractor.
- b. City reserves the right to have the City refuse contractor clean up the debris and/or trash left on the terrace at a work site property on an as needed basis.
- c. City reserves the right to use volunteers, court ordered public service workers and/or prisoners in lieu of Contractor's services for any work indicated throughout this Agreement.

12. **Terms and Termination.**

- a. This Agreement shall be effective on April 10, 2013, and shall remain in full force and effect until April 10, 2015, with an annual extension option through April 10, 2017.
- b. This Agreement may be terminated by either party, without cause, upon thirty (30) days' written notice to the other party.

13. **Commencement and Damages.**

- a. **Commencement.** Contractor shall commence work no later than the time set forth in the Agreement.
- b. **Damages.** In the event that Contractor fails to commence performance at the specified time and is in default of the Agreement, Contractor shall pay to the City the sum of \$200 for each and every calendar day that the Contractor is in default. The amount of damages shall not be construed as a penalty, but to ensure the City's ability to provide substituted services and costs associated with that default. Damages shall be determined by the City after investigation by the City. Damages shall be deducted from payment.
- c. **Violations.** Following Contractor's commencement of performance of this Agreement, City shall notify Contractor of each violation of the Agreement reported to City. It shall be the duty of Contractor to remedy the cause of the complaint. Failure of Contractor to take remedial measures shall be considered a breach of the Agreement, and for the purpose of computing damages under the provisions of this section, it is agreed that City may deduct from payments due or to become due to Contractor the City's cost to remedy or substitute performance.

Failure to perform pursuant to this Agreement for a period in excess of three (3) consecutive, scheduled, working days, or failure for a similar period, to perform in the manner required, and provided such failure is not a result of war, insurrection, riots, or acts of God, the City may, at its option and after written notice

to Contractor, utilize any or all of Contractor's equipment used in performance of this Agreement until such time the matter is resolved and the Contractor is performing under the terms of the Agreement.

Any and all expenses incurred by City during such time may be deducted from payments due or to become due to Contractor.

Should Contractor be unable to resume performance at the close of ten (10) calendar days, all liability of the City under this Agreement shall cease and City shall be free to negotiate with other contractors for the performance of work. Any contract thereby entered into with another contractor shall not release Contractor from liability to City for breach of this Agreement.

- d. **Appeal.** The City's determination shall be final and binding on both parties, unless appealed, in writing to the City Manager or his designee within ten (10) working days after notice. The City Manager or his designee shall grant Contractor an informal hearing upon such request. The decision of the City Manager shall be final and binding.
- e. **Waiver.** City may waive all or any portion of damages without prejudicing its rights under this Agreement.

14. **Insurance and Indemnity.**

- a. **Hold Harmless Agreements.** To the fullest extent permitted by law, Contractor agrees to defend, pay in behalf of, indemnify, and hold harmless the City, its elected and appointed officials, employees, volunteers, and others working on behalf of the City against any and all claims, demands, suits, or losses, including all costs connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City, its elected and appointed officials, employees, volunteers, or others working on behalf of the City, arising out of or is any way connected or associated with this contract. The obligation to defend and hold harmless extends to City's employees, agents, subcontractors, assigns and successors.
- b. **City Insurance Requirement.** Contractor shall not commence work under this contract until obtaining the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan and Best Rated A VIII. All coverage shall be with insurance carriers acceptable to City.
- c. **Workers' Compensation Insurance.** Contractor shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable Statutes of the State of Michigan.
- d. **Vehicle Liability Insurance.** Contractor shall procure and maintain during the life of this contract, Vehicle Liability Insurance, in accordance with all applicable Statutes of the State of Michigan.
- e. **Commercial General Liability Insurance.** Contractor shall procure and maintain during the life of this contract, Commercial General Liability Insurance

on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (SCU) exclusions, if applicable.

- f. **Additional Insured.** Commercial General Liability Insurance, as described above, shall include an endorsement stating the following shall be "Additional Insureds": The City, all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof. The endorsement adding the City as additional insured shall read exactly as follows: "The City of Muskegon is hereby added as an additional insured..."
 - g. **Cancellation Notice.** Workers' Compensation Insurance and Commercial General Liability Insurance, as described above, shall include an endorsement stating the following: "It is understood and agreed that Thirty (30) days' Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be sent to: CITY OF MUSKEGON PLANNING DEPARTMENT.
 - h. **Proof of Insurance Coverage.** Contractor shall provide the City at the time the contracts are returned for execution, certificates and policies endorsing the City as additional insured as listed below:
 - i. Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance, if applicable;
 - ii. Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance; and
 - iii. If so requested, Certified Copies of all policies mentioned above will be furnished.
 - i. If any of the above coverages expire during the term of this contract, Contractor shall deliver renewal certificates and/or policies to City at least ten (10) days prior to the expiration date.
15. **Income Tax Withholding.** Contractor shall withhold income taxes from each employee who is subject to such withholding, and pay such tax in accordance with the City of Muskegon Income Tax Ordinance and all applicable laws associated with that ordinance. Contractor shall require the same from each subcontractor, consultant or vendor used in the performance of his duties and obligations in this Agreement. City reserves the right to withhold payments otherwise due to Contractor to assure compliance with this Agreement or to cure such noncompliance.

16. **General Provisions.**

- a. **Notices.** Any notice that either party may give or is required to give under this Agreement shall be in writing, and, if mailed, shall be effective on the day it is delivered to the other party at the other party's address set forth in this Agreement or at any other address that the other party provides in writing. Notices given in person are effective on the day they are given.
- b. **Governing Law.** This Agreement is executed in accordance with, shall be governed by, and construed and interpreted in accordance with, the laws of the State of Michigan.
- c. **Assignment or Delegation.** Neither party shall assign all nor any portion of its rights and obligations contained in this Agreement without the express prior written approval of the other party, which approval may be withheld in the other party's sole discretion.
- d. **Entire Agreement.** This Agreement shall constitute the entire agreement, and shall supersede any other Agreements, written or oral, that may have been made or entered into, by, and between the parties with respect to the subject matter of this Agreement, and shall not be modified or amended except in a subsequent writing signed by the party against whom enforcement is sought.
- e. **Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of, and be enforceable by, the parties and their respective legal representatives, permitted successors, and assigns.
- f. **Non-Waiver.** No waiver by any party of any provision of this Agreement shall constitute a waiver by such party of such provision on any other occasion or a waiver by such party of any other provision of this Agreement.
- g. **Severability.** Should any one or more of the provisions of this Agreement be determined to be invalid, unlawful, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be impaired or affected.
- h. **Venue.** The parties agree that, for purposes of any dispute in connection with this Agreement, the Muskegon County Circuit Court shall have exclusive personal and subject matter jurisdiction and venue.
- i. **Survival.** All representations, warranties, and covenants in this Agreement shall survive the signing of this Agreement.

City and Contractor have executed this Agreement on the date written next to their signatures to be effective according to the term(s) stated in this document.

Date: _____, 2013

City –

CITY OF MUSKEGON

By: _____
Stephen Gawron
Mayor

And: _____
Ann Marie Cummings, MMC
City Clerk

Date: _____, 2013

Contractor –

By: _____
James Rudicil Jr.

Its: _____
President

Date: April 9, 2013
To: Mayor and City Commission
From: Dept of Public Works - Director
**RE: 2013 Sodium Hypochlorite Water Treatment
Chemical Bid**

SUMMARY OF REQUEST:

Endorse the lowest responsible bid received by the City of Holland from KA Steel to supply sodium hypochlorite for the purchase of Sodium Hypochlorite for the water filtration plant

FINANCIAL IMPACT:

Annual cost of \$50.216 to purchase 370 tons of Sodium Hypochlorite based on average annual water pumped to mains.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Staff recommends endorsing the low bid received by the City of Holland from KA Steel Chemicals for sodium hypochlorite for one year

2013 Sodium Hypochlorite Water Treatment Chemical Bid

CO-OP includes:

Cities of Holland, Wyoming, Muskegon,
Muskegon Heights and Grand Haven

	Rowell Chemical	KA Steel Chemical	Alexander Chemical	Haviland Chemical
	\$	\$	\$	
Cost Per Ton:	153.89	135.72	135.80	not reported
Cost Per Gallon:	0.7743	0.679	0.679	0.735
Lead-time ARO	1-2 days	1-2 days	3-5 days	2-3 days

Term: April 16,
2013 - April 15,
2014

Date: April 9, 2013
To: Honorable Mayor and City Commission
From: Dept. of Public Works
RE: Request to accept Prein and Newhof as dredging consultant.

SUMMARY OF REQUEST:

Authorize staff to hire Prein and Newhof for design and construction consultation for dredging work to be done at Hartshorn Marina and Cottage Grove.

FINANCIAL IMPACT:

None at this time. Should the city accept this proposal, amendment to the future CIP budget will require commission approval.

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

Authorize staff to hire Prein and Newhof.

COMMITTEE RECOMMENDATION:

**Dredging // 2013 // Hartshorn Marina // Cottage Grove
Small Boat Basin**

MUSKEGON



West Michigan's Shoreline City
www.shorelinecity.com

Edgewater Resources

Prein and Newhof

Abonmarche

Preliminary Engineering

Design Engineering

Construction

Total Submitted Proposal

\$15,400.00

\$12,674.00

\$18,250.00

Prepared by Kevin Santos, Highway Supervisor, Dept. of Public Works

Date: April 9, 2013
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Consideration of Bids for:
Wickham Dr., Sherman to Glen (H-1690)

SUMMARY OF REQUEST:

Award the reconstruction of Wickham Dr. from Sherman to Glen Brenner Excavating Inc. out of Hopkins since they were the lowest responsible bidder with a total bid price of \$314,721.70 see attached bid tabulation.

Furthermore, if approved, authorize staff to amend the 2012/2013 CIP and increase the budgeted amount to \$350,000 for said project (from \$300,000 to \$350,000).

FINANCIAL IMPACT:

The construction cost of \$314,721.70 plus engineering

BUDGET ACTION REQUIRED:

Amend the 2012/13 budget by increasing the allocated amount by \$50,000 in the CIP-for Local Street Fund.

STAFF RECOMMENDATION:

Award the contract to Brenner Excavating and authorize staff to amend the budgeted amount in the 12/13 CIP.

COMMITTEE RECOMMENDATION:

H-1690 WICKHAM, SHERMAN BLVD., TO GLEN AVE. BID TABULATIONS

CONTRACTOR				ENGINEER'S ESTIMATE		Thompson Brothers Inc.		Jackson-Merkey		Brenner Excavating, Inc.		Schippers Excavating, Inc.		Jack Dykstra Excavating		Nashville Construction	
ADDRESS CITY/ST/ZIP						388 W. McMillan Rd. Muskegon, MI 49445		555 E. Western Ave. Muskegon, MI 49442		2841 132nd Ave. Hopkins, MI 49328		9829 Lake Michigan Drive West Olive, MI 49460		3677 - 3 Mile Rd NW Grand Rapids, MI 49534		11205 Lawrence Hwy. Nashville, MI 49073	
LINE	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1	Mobilization, Max.	LS	1	\$ 5,000.00	\$5,000.00	\$ 21,670.37	\$ 21,670.37	\$ 6,500.00	\$ 6,500.00	\$ 5,122.00	\$ 5,122.00	\$ 11,500.00	\$ 11,500.00	\$ 12,000.00	\$ 12,000.00	\$ 3,600.00	\$ 3,600.00
2	Sewer, Rem, Less than 24 inch	Ft	92	\$ 7.00	\$644.00	\$ 5.00	\$ 460.00	\$ 7.00	\$ 644.00	\$ 5.15	\$ 473.80	\$ 7.00	\$ 644.00	\$ 6.00	\$ 552.00	\$ 6.00	\$ 552.00
3	Dr Structure, Rem, Modified	Ea	6	\$ 300.00	\$1,800.00	\$ 200.00	\$ 1,200.00	\$ 230.00	\$ 1,380.00	\$ 183.00	\$ 1,098.00	\$ 200.00	\$ 1,200.00	\$ 300.00	\$ 1,800.00	\$ 250.00	\$ 1,500.00
4	Sidewalk, Rem	Syd	326	\$ 5.00	\$1,630.00	\$ 10.00	\$ 3,260.00	\$ 3.60	\$ 1,173.60	\$ 3.10	\$ 1,010.60	\$ 4.00	\$ 1,304.00	\$ 5.00	\$ 1,630.00	\$ 5.00	\$ 1,630.00
5	Pavt, Rem, Modified	Syd	6903	\$ 4.00	\$27,612.00	\$ 2.50	\$ 17,257.50	\$ 4.90	\$ 33,824.70	\$ 3.20	\$ 22,089.60	\$ 3.75	\$ 25,886.25	\$ 9.00	\$ 62,127.00	\$ 6.00	\$ 41,418.00
6	Machine Grading, Modified	Sta	19.8	\$ 1,200.00	\$23,760.00	\$ 950.00	\$ 18,810.00	\$ 846.00	\$ 16,750.80	\$ 520.50	\$ 10,305.90	\$ 960.00	\$ 19,008.00	\$ 1,000.00	\$ 19,800.00	\$ 500.00	\$ 9,900.00
7	Erosion Control, Inlet Protection, Fabric Drop	Ea	14	\$ 75.00	\$1,050.00	\$ 80.00	\$ 1,120.00	\$ 100.00	\$ 1,400.00	\$ 78.70	\$ 1,101.80	\$ 95.00	\$ 1,330.00	\$ 90.00	\$ 1,260.00	\$ 85.00	\$ 1,190.00
8	Aggregate Base, 8 inch	Syd	7066	\$ 5.00	\$35,330.00	\$ 5.00	\$ 35,330.00	\$ 4.75	\$ 33,563.50	\$ 5.25	\$ 37,096.50	\$ 5.50	\$ 38,863.00	\$ 5.45	\$ 38,509.70	\$ 5.38	\$ 38,015.08
9	Maintenance Gravel, LM	Cyd	300	\$ 20.00	\$6,000.00	\$ 10.00	\$ 3,000.00	\$ 11.50	\$ 3,450.00	\$ 5.00	\$ 1,500.00	\$ 10.00	\$ 3,000.00	\$ 20.00	\$ 6,000.00	\$ 5.00	\$ 1,500.00
10	Sewer, Cl E, 12 inch, Tr Det B	Ft	343.5	\$ 30.00	\$10,305.00	\$ 19.00	\$ 6,526.50	\$ 30.00	\$ 10,305.00	\$ 22.90	\$ 7,866.15	\$ 28.00	\$ 9,618.00	\$ 22.55	\$ 7,745.93	\$ 26.54	\$ 9,116.49
11	Sewer Tap, 10 inch	Ea	1	\$ 200.00	\$200.00	\$ 250.00	\$ 250.00	\$ 105.00	\$ 105.00	\$ 92.30	\$ 92.30	\$ 300.00	\$ 300.00	\$ 50.00	\$ 50.00	\$ 125.00	\$ 125.00
12	storm sewer, D.I. class 52, 10 inch	Ft	427.5	\$ 45.00	\$19,237.50	\$ 35.00	\$ 14,962.50	\$ 45.00	\$ 19,237.50	\$ 36.60	\$ 15,646.50	\$ 46.00	\$ 19,665.00	\$ 38.45	\$ 16,437.38	\$ 40.00	\$ 17,100.00
13	Dr Structure, Tap, 10 inch	Ea	1	\$ 250.00	\$250.00	\$ 250.00	\$ 250.00	\$ 205.00	\$ 205.00	\$ 92.30	\$ 92.30	\$ 300.00	\$ 300.00	\$ 100.00	\$ 100.00	\$ 125.00	\$ 125.00
14	Dr Structure, Tap, 12 inch	Ea	3	\$ 250.00	\$750.00	\$ 250.00	\$ 750.00	\$ 205.00	\$ 615.00	\$ 88.20	\$ 264.60	\$ 350.00	\$ 1,050.00	\$ 270.00	\$ 810.00	\$ 150.00	\$ 450.00
15	Dr Structure, Adj, Add Depth, Modified	Ft	3.5	\$ 250.00	\$875.00	\$ 200.00	\$ 700.00	\$ 335.00	\$ 1,172.50	\$ 125.00	\$ 437.50	\$ 400.00	\$ 1,400.00	\$ 300.00	\$ 1,050.00	\$ 150.00	\$ 525.00
16	Dr Structure Cover, Modified	Lb	9955	\$ 1.00	\$9,955.00	\$ 1.75	\$ 17,421.25	\$ 1.50	\$ 14,932.50	\$ 2.05	\$ 20,407.75	\$ 2.80	\$ 27,874.00	\$ 1.50	\$ 14,932.50	\$ 1.20	\$ 11,946.00
17	Catch Basin Special Detail	Ea	7	\$ 1,000.00	\$7,000.00	\$ 1,000.00	\$ 7,000.00	\$ 855.00	\$ 5,985.00	\$ 931.00	\$ 6,517.00	\$ 1,150.00	\$ 8,050.00	\$ 910.00	\$ 6,370.00	\$ 992.00	\$ 6,944.00
18	Dr Structure, Cover, Adj, Case I, Modified	Ea	11	\$ 350.00	\$3,850.00	\$ 400.00	\$ 4,400.00	\$ 330.00	\$ 3,630.00	\$ 316.00	\$ 3,476.00	\$ 450.00	\$ 4,950.00	\$ 300.00	\$ 3,300.00	\$ 300.00	\$ 3,300.00
19	Catch Basin 2 Ft ID Special Detail	Ea	7	\$ 1,000.00	\$7,000.00	\$ 800.00	\$ 5,600.00	\$ 715.00	\$ 5,005.00	\$ 612.00	\$ 4,284.00	\$ 760.00	\$ 5,320.00	\$ 625.00	\$ 4,375.00	\$ 734.00	\$ 5,138.00
20	HMA, 3C	Ton	613	\$ 65.00	\$39,845.00	\$ 57.97	\$ 35,535.61	\$ 56.30	\$ 34,511.90	\$ 58.60	\$ 35,921.80	\$ 58.00	\$ 35,554.00	\$ 56.50	\$ 34,634.50	\$ 56.28	\$ 34,499.64
21	HMA, 4C	Ton	613	\$ 70.00	\$42,910.00	\$ 71.02	\$ 43,535.26	\$ 69.00	\$ 42,297.00	\$ 71.80	\$ 44,013.40	\$ 71.00	\$ 43,523.00	\$ 69.00	\$ 42,297.00	\$ 68.95	\$ 42,266.35
22	Driveway, Nonreinf Conc, 6 inch, Modified	Syd	634	\$ 25.00	\$15,850.00	\$ 23.85	\$ 15,120.90	\$ 28.25	\$ 17,910.50	\$ 27.50	\$ 17,435.00	\$ 26.00	\$ 16,484.00	\$ 25.85	\$ 16,388.90	\$ 24.09	\$ 15,273.06
23	Curb & Gutter, Conc., Det D-2, Modified	Ft	3912	\$ 7.50	\$29,340.00	\$ 7.86	\$ 30,748.32	\$ 9.35	\$ 36,577.20	\$ 9.10	\$ 35,599.20	\$ 8.30	\$ 32,469.60	\$ 8.86	\$ 34,660.32	\$ 7.94	\$ 31,061.28
24	Detectable Warning Surface	Ft	339	\$ 40.00	\$13,560.00	\$ 26.65	\$ 9,034.35	\$ 26.65	\$ 9,034.35	\$ 27.70	\$ 9,390.30	\$ 32.00	\$ 10,848.00	\$ 26.65	\$ 9,034.35	\$ 26.92	\$ 9,125.88
25	Sidewalk Ramp, Conc, 4 inch	Sft	2364	\$ 3.50	\$8,274.00	\$ 1.97	\$ 4,657.08	\$ 2.50	\$ 5,910.00	\$ 2.35	\$ 5,555.40	\$ 4.00	\$ 9,456.00	\$ 2.30	\$ 5,437.20	\$ 1.99	\$ 4,704.36
26	Sidewalk, Conc, 4 inch	Sft	1281	\$ 2.60	\$3,330.60	\$ 1.97	\$ 2,523.57	\$ 2.50	\$ 3,202.50	\$ 2.35	\$ 3,010.35	\$ 2.50	\$ 3,202.50	\$ 2.30	\$ 2,946.30	\$ 1.99	\$ 2,549.19
27	concrete wall special detail	Ft	84	\$ 40.00	\$3,360.00	\$ 31.41	\$ 2,638.44	\$ 10.00	\$ 840.00	\$ 32.70	\$ 2,746.80	\$ 24.00	\$ 2,016.00	\$ 36.50	\$ 3,066.00	\$ 31.72	\$ 2,664.48
28	Barricade, Type III, High Intensity, Lighted, Furn	Ea	28	\$ 45.00	\$1,260.00	\$ 60.00	\$ 1,680.00	\$ 75.00	\$ 2,100.00	\$ 84.30	\$ 2,360.40	\$ 80.00	\$ 2,240.00	\$ 75.00	\$ 2,100.00	\$ 75.75	\$ 2,121.00
29	Barricade, Type III, High Intensity, Lighted, Oper	Ea	28	\$ 1.00	\$28.00	\$ 1.00	\$ 28.00	\$ 1.00	\$ 28.00	\$ 5.20	\$ 145.60	\$ 1.00	\$ 28.00	\$ 1.00	\$ 28.00	\$ 1.01	\$ 28.28
30	Plastic Drum, High Intensity, Furn	Ea	83	\$ 13.00	\$1,079.00	\$ 12.00	\$ 996.00	\$ 15.00	\$ 1,245.00	\$ 14.80	\$ 1,228.40	\$ 20.00	\$ 1,660.00	\$ 15.00	\$ 1,245.00	\$ 15.15	\$ 1,257.45
31	Plastic Drum, High Intensity, Oper	Ea	83	\$ 1.00	\$83.00	\$ 1.00	\$ 83.00	\$ 1.00	\$ 83.00	\$ 0.78	\$ 64.74	\$ 1.00	\$ 83.00	\$ 1.00	\$ 83.00	\$ 1.01	\$ 83.83
32	Sign, Type B, Temp, Prismatic, Furn	Sft	760.5	\$ 3.00	\$2,281.50	\$ 3.00	\$ 2,281.50	\$ 3.00	\$ 2,281.50	\$ 3.40	\$ 2,585.70	\$ 4.20	\$ 3,194.10	\$ 3.00	\$ 2,281.50	\$ 3.03	\$ 2,304.32
33	Sign, Type B, Temp, Prismatic, Oper	Sft	760.5	\$ 1.00	\$760.50	\$ 0.50	\$ 380.25	\$ 1.00	\$ 760.50	\$ 0.78	\$ 593.19	\$ 1.00	\$ 760.50	\$ 1.00	\$ 760.50	\$ 1.01	\$ 768.11
34	Topsoil Surface, Furn, 4 inch	Syd	3656	\$ 3.00	\$10,968.00	\$ 2.00	\$ 7,312.00	\$ 3.00	\$ 10,968.00	\$ 1.50	\$ 5,484.00	\$ 2.80	\$ 10,236.80	\$ 3.80	\$ 13,892.80	\$ 2.00	\$ 7,312.00
35	Hydroseeding	Syd	3656	\$ 0.50	\$1,828.00	\$ 0.60	\$ 2,193.60	\$ 0.45	\$ 1,645.20	\$ 0.52	\$ 1,901.12	\$ 0.60	\$ 2,193.60	\$ 0.50	\$ 1,828.00	\$ 1.50	\$ 5,484.00
36	Water Valve Box and Cover, Complete	Ea	16	\$ 275.00	\$4,400.00	\$ 500.00	\$ 8,000.00	\$ 300.00	\$ 4,800.00	\$ 370.00	\$ 5,920.00	\$ 500.00	\$ 8,000.00	\$ 320.00	\$ 5,120.00	\$ 400.00	\$ 6,400.00
37	Manhole Special Detail	Ea	2	\$ 1,500.00	\$3,000.00	\$ 1,300.00	\$ 2,600.00	\$ 1,245.00	\$ 2,490.00	\$ 942.00	\$ 1,884.00	\$ 1,750.00	\$ 3,500.00	\$ 1,250.00	\$ 2,500.00	\$ 1,236.00	\$ 2,472.00
											\$ -						
					\$ 344,406.10		\$ 329,316.00		\$ 336,563.75		\$ 314,721.70		\$ 366,711.35		\$ 377,152.87		\$ 324,449.79
	Apparent Low Bidder/Brenner Excavating, Inc.																
	Calulation Error																

H-1690 WICKHAM, SHERMAN BLVD., TO GLEN AVE. BID TABULATIONS

CONTRACTOR ADDRESS CITY/ST/ZIP				ENGINEER'S ESTIMATE		Nagel Construction Inc PO Box 10 Moline, MI 49335-0010		Al's Excavating, Inc. 4515 134th Ave. Hamilton, MI 49419		Dan Hoe Excavation 3664 Rocky's Rd. Holland, MI 49424		Connan Inc. 200 W. Washington Zeeland, MI 49464	
LINE	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1	Mobilization, Max. _____	LS	1	\$ 5,000.00	\$5,000.00	\$ 15,000.00	\$ 15,000.00	\$ 30,000.00	\$ 30,000.00	\$ 10,000.00	\$ 10,000.00	\$ 25,000.00	\$ 25,000.00
2	Sewer, Rem, Less than 24 inch	Ft	92	\$ 7.00	\$644.00	\$ 1.50	\$ 138.00	\$ 7.50	\$ 690.00	\$ 8.00	\$ 736.00	\$ 8.00	\$ 736.00
3	Dr Structure, Rem, Modified	Ea	6	\$ 300.00	\$1,800.00	\$ 50.00	\$ 300.00	\$ 225.00	\$ 1,350.00	\$ 200.00	\$ 1,200.00	\$ 180.00	\$ 1,080.00
4	Sidewalk, Rem	Syd	326	\$ 5.00	\$1,630.00	\$ 1.50	\$ 489.00	\$ 2.00	\$ 652.00	\$ 2.00	\$ 652.00	\$ 4.10	\$ 1,336.60
5	Pavt, Rem, Modified	Syd	6903	\$ 4.00	\$27,612.00	\$ 4.70	\$ 32,444.10	\$ 3.20	\$ 22,089.60	\$ 5.00	\$ 34,515.00	\$ 3.10	\$ 21,399.30
6	Machine Grading, Modified	Sta	19.8	\$ 1,200.00	\$23,760.00	\$ 585.00	\$ 11,583.00	\$ 750.00	\$ 14,850.00	\$ 700.00	\$ 13,860.00	\$ 1,500.00	\$ 29,700.00
7	Erosion Control, Inlet Protection, Fabric Drop	Ea	14	\$ 75.00	\$1,050.00	\$ 85.00	\$ 1,190.00	\$ 70.00	\$ 980.00	\$ 150.00	\$ 2,100.00	\$ 85.00	\$ 1,190.00
8	Aggregate Base, 8 inch	Syd	7066	\$ 5.00	\$35,330.00	\$ 5.40	\$ 38,156.40	\$ 6.50	\$ 45,929.00	\$ 5.25	\$ 37,096.50	\$ 5.30	\$ 37,449.80
9	Maintenance Gravel, LM	Cyd	300	\$ 20.00	\$6,000.00	\$ 1.00	\$ 300.00	\$ 20.00	\$ 6,000.00	\$ 5.00	\$ 1,500.00	\$ 15.00	\$ 4,500.00
10	Sewer, Cl E, 12 inch, Tr Det B	Ft	343.5	\$ 30.00	\$10,305.00	\$ 26.00	\$ 8,931.00	\$ 33.00	\$ 11,335.50	\$ 24.50	\$ 8,415.75	\$ 25.00	\$ 8,587.50
11	Sewer Tap, 10 inch	Ea	1	\$ 200.00	\$200.00	\$ 315.00	\$ 315.00	\$ 250.00	\$ 250.00	\$ 300.00	\$ 300.00	\$ 150.00	\$ 150.00
12	storm sewer, D.I. class 52, 10 inch	Ft	427.5	\$ 45.00	\$19,237.50	\$ 40.00	\$ 17,100.00	\$ 50.00	\$ 21,375.00	\$ 40.00	\$ 17,100.00	\$ 40.00	\$ 17,100.00
13	Dr Structure, Tap, 10 inch	Ea	1	\$ 250.00	\$250.00	\$ 315.00	\$ 315.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 150.00	\$ 150.00
14	Dr Structure, Tap, 12 inch	Ea	3	\$ 250.00	\$750.00	\$ 365.00	\$ 1,095.00	\$ 350.00	\$ 1,050.00	\$ 300.00	\$ 900.00	\$ 180.00	\$ 540.00
15	Dr Structure, Adj, Add Depth, Modified	Ft	3.5	\$ 250.00	\$875.00	\$ 50.00	\$ 175.00	\$ 250.00	\$ 875.00	\$ 125.00	\$ 437.50	\$ 220.00	\$ 770.00
16	Dr Structure Cover, Modified	Lb	9955	\$ 1.00	\$9,955.00	\$ 2.50	\$ 24,887.50	\$ 1.50	\$ 14,932.50	\$ 1.60	\$ 15,928.00	\$ 1.60	\$ 15,928.00
17	Catch Basin Special Detail	Ea	7	\$ 1,000.00	\$7,000.00	\$ 1,100.00	\$ 7,700.00	\$ 1,400.00	\$ 9,800.00	\$ 1,200.00	\$ 8,400.00	\$ 1,000.00	\$ 7,000.00
18	Dr Structure, Cover, Adj, Case I, Modified	Ea	11	\$ 350.00	\$3,850.00	\$ 305.00	\$ 3,355.00	\$ 250.00	\$ 2,750.00	\$ 200.00	\$ 2,200.00	\$ 300.00	\$ 3,000.00
19	Catch Basin 2 Ft ID Special Detail	Ea	7	\$ 1,000.00	\$7,000.00	\$ 700.00	\$ 4,900.00	\$ 800.00	\$ 5,600.00	\$ 1,000.00	\$ 7,000.00	\$ 700.00	\$ 4,900.00
20	HMA, 3C	Ton	613	\$ 65.00	\$39,845.00	\$ 56.28	\$ 34,499.64	\$ 56.28	\$ 34,499.64	\$ 56.28	\$ 34,499.64	\$ 56.28	\$ 34,499.64
21	HMA, 4C	Ton	613	\$ 70.00	\$42,910.00	\$ 68.95	\$ 42,266.35	\$ 68.95	\$ 42,266.35	\$ 68.95	\$ 42,266.35	\$ 68.95	\$ 42,266.35
22	Driveway, Nonreinf Conc, 6 inch, Modified	Syd	634	\$ 25.00	\$15,850.00	\$ 23.85	\$ 15,120.90	\$ 23.85	\$ 15,120.90	\$ 27.00	\$ 17,118.00	\$ 23.85	\$ 15,120.90
23	Curb & Gutter, Conc., Det D-2, Modified	Ft	3912	\$ 7.50	\$29,340.00	\$ 7.86	\$ 30,748.32	\$ 7.86	\$ 30,748.32	\$ 9.50	\$ 37,164.00	\$ 7.86	\$ 30,748.32
24	Detectable Warning Surface	Ft	339	\$ 40.00	\$13,560.00	\$ 26.65	\$ 9,034.35	\$ 26.65	\$ 9,034.35	\$ 26.65	\$ 9,034.35	\$ 26.65	\$ 9,034.35
25	Sidewalk Ramp, Conc, 4 inch	Sft	2364	\$ 3.50	\$8,274.00	\$ 1.97	\$ 4,657.08	\$ 1.97	\$ 4,657.08	\$ 2.00	\$ 4,728.00	\$ 1.97	\$ 4,657.08
26	Sidewalk, Conc, 4 inch	Sft	1281	\$ 2.60	\$3,330.60	\$ 1.97	\$ 2,523.57	\$ 1.97	\$ 2,523.57	\$ 2.00	\$ 2,562.00	\$ 1.97	\$ 2,523.57
27	concrete wall special detail	Ft	84	\$ 40.00	\$3,360.00	\$ 31.41	\$ 2,638.44	\$ 31.41	\$ 2,638.44	\$ 50.00	\$ 4,200.00	\$ 40.48	\$ 3,400.32
28	Barricade, Type III, High Intensity, Lighted, Furn	Ea	28	\$ 45.00	\$1,260.00	\$ 75.00	\$ 2,100.00	\$ 75.00	\$ 2,100.00	\$ 75.00	\$ 2,100.00	\$ 75.00	\$ 2,100.00
29	Barricade, Type III, High Intensity, Lighted, Oper	Ea	28	\$ 1.00	\$28.00	\$ 1.00	\$ 28.00	\$ 1.00	\$ 28.00	\$ 1.00	\$ 28.00	\$ 1.00	\$ 28.00
30	Plastic Drum, High Intensity, Furn	Ea	83	\$ 13.00	\$1,079.00	\$ 15.00	\$ 1,245.00	\$ 15.00	\$ 1,245.00	\$ 15.00	\$ 1,245.00	\$ 15.00	\$ 1,245.00
31	Plastic Drum, High Intensity, Oper	Ea	83	\$ 1.00	\$83.00	\$ 1.00	\$ 83.00	\$ 1.00	\$ 83.00	\$ 1.00	\$ 83.00	\$ 1.00	\$ 83.00
32	Sign, Type B, Temp, Prismatic, Furn	Sft	760.5	\$ 3.00	\$2,281.50	\$ 3.00	\$ 2,281.50	\$ 3.00	\$ 2,281.50	\$ 3.00	\$ 2,281.50	\$ 3.00	\$ 2,281.50
33	Sign, Type B, Temp, Prismatic, Oper	Sft	760.5	\$ 1.00	\$760.50	\$ 1.00	\$ 760.50	\$ 1.00	\$ 760.50	\$ 1.00	\$ 760.50	\$ 1.00	\$ 760.50
34	Topsoil Surface, Furn, 4 inch	Syd	3656	\$ 3.00	\$10,968.00	\$ 2.00	\$ 7,312.00	\$ 4.50	\$ 16,452.00	\$ 0.16	\$ 584.96	\$ 2.90	\$ 10,602.40
35	Hydroseeding	Syd	3656	\$ 0.50	\$1,828.00	\$ 0.85	\$ 3,107.60	\$ 0.40	\$ 1,462.40	\$ 1.00	\$ 3,656.00	\$ 0.60	\$ 2,193.60
36	Water Valve Box and Cover, Complete	Ea	16	\$ 275.00	\$4,400.00	\$ 275.00	\$ 4,400.00	\$ 300.00	\$ 4,800.00	\$ 300.00	\$ 4,800.00	\$ 380.00	\$ 6,080.00
37	Manhole Special Detail	Ea	2	\$ 1,500.00	\$3,000.00	\$ 1,425.00	\$ 2,850.00	\$ 2,000.00	\$ 4,000.00	\$ 1,600.00	\$ 3,200.00	\$ 1,250.00	\$ 2,500.00
				</									

Date: April 9, 2013
To: Honorable Mayor and City Commissioners
From: Engineering
**RE: City – MDOT Agreement for the reconstruction of:
Sherman Blvd. from Estes to Glenside**

SUMMARY OF REQUEST:

Approve the attached contract with MDOT for the reconstruction of Sherman Blvd. between Estes & Glenside and approve the attached resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT:

MDOT's participation is limited to the approved federal funds of \$301,000. The estimated total construction cost is \$1,158,200 plus engineering cost.

BUDGET ACTION REQUIRED:

none at this time

STAFF RECOMMENDATION:

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

COMMITTEE RECOMMENDATION:

RESOLUTION _____

RESOLUTION FOR APPROVAL OF A CONTRACT AGREEMENT BETWEEN THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND THE CITY OF MUSKEGON FOR THE RECONSTRUCTION OF SHERMAN BLVD. BETWEEN ESTES & GLENSIDE TOGETHER WITH OTHER NECESSARY RELATED WORK ITEMS AND AUTHORIZATION FOR MAYOR STEPHEN J. GAWRON AND CITY CLERK, ANN CUMMINGS, TO EXECUTE SAID CONTRACT

Moved by _____ and supported by _____

Commissioner _____ that the following Resolution be adopted:

WHEREAS, entry by the City of Muskegon into Contract no. **13-5097** between the Michigan Department of Transportation and the City of Muskegon for the **reconstruction of Sherman Blvd. between Estes & Glenside** within the City is in the best interests of the City of Muskegon.

RESOLVED, that entry by the City into Contract Agreement Number **13-5097** be and the same is hereby authorized and approved and the Mayor and Clerk are authorized to execute said contract for and on behalf of the City of Muskegon.

Adopted this _____ day of _____, 2013.

BY

Stephen J. Gawron, Mayor

ATTEST

Ann Cummings, City Clerk

CERTIFICATION

This resolution was adopted at a meeting of the City Commission, held on _____, **2013**. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By _____
Ann Cummings, City Clerk

STP

DA

Control Section	STUL 61400
Job Number	114684
Project	STP 1361(015)
Federal Item No.	HH 8514
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	13-5097

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of _____, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF MUSKEGON, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Muskegon, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated March 4, 2013, attached hereto and made a part hereof:

PART A – FEDERAL PARTICIPATION

Reconstruction work along Sherman Boulevard from Estes Street to Glenside Boulevard; including concrete pavement, drainage improvement, sidewalk ramp, and pavement marking work; and all together with necessary related work.

PART B – NO FEDERAL PARTICIPATION

Watermain and sanitary sewer work along Sherman Boulevard from Estes Street to Glenside Boulevard; and all together with necessary related work.

WITNESSETH:

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

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

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

SURFACE TRANSPORTATION PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

PART A

Federal Surface Transportation Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST up to the lesser of: (1) \$301,000, or (2) an amount such that 81.85 percent, the normal Federal participation ratio for such funds, for the PART A portion of the PROJECT is not exceeded at the time of the award of the construction contract. The balance of the PART A portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART B

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

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

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

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

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

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

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

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

9. The REQUESTING PARTY certifies that a) it is a person under the Natural Resources and Environmental Protection Act, MCL 324.20101 et seq., as amended, and is not aware of and has no reason to believe that the property is a facility as defined in MCL 324.20101(1); b) the REQUESTING PARTY further certifies that it has completed the tasks required by MCL 324.20126 (3)(h); c) it conducted a visual inspection of property within the existing right of way on which construction is to be performed to determine if any hazardous substances were present; and at sites on which historically were located businesses that involved hazardous substances, it performed a reasonable investigation to determine whether hazardous substances exist. This reasonable investigation should include, at a minimum, contact with local, state and federal environmental agencies to determine if the site has been identified as, or potentially as, a site containing hazardous substances; d) it did not cause or contribute to the release or threat of release of any hazardous substance found within the PROJECT limits.

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

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

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

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

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

The providing of recommendations or advice by the DEPARTMENT or its agents does not relieve the REQUESTING PARTY and the local agencies, as applicable of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402 et seq., as amended.

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT or its agents is performing a governmental function, as that term is defined in MCL 691.1401 et seq., as amended, which is incidental to the completion of the PROJECT.

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

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

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

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

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

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

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

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

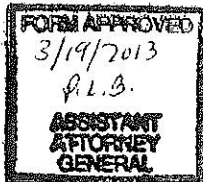
CITY OF MUSKEGON

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By _____
Title:

By _____
Department Director MDOT

By _____
Title:



APPROVED BY: Matt J. [Signature] 3/24/13
Administrator Date
Real Estate

March 4, 2013

EXHIBIT I

CONTROL SECTION	STUL 61400
JOB NUMBER	114684
PROJECT	STP 1361(015)

ESTIMATED COST

CONTRACTED WORK

	<u>PART A</u>	<u>PART B</u>	<u>TOTAL</u>
Estimated Cost	\$1,020,000	\$138,200	\$1,158,200

COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	\$1,020,000	\$138,200	\$1,158,200
Less Federal Funds*	<u>\$ 301,000</u>	<u>\$ -0-</u>	<u>\$ 301,000</u>
BALANCE (REQUESTING PARTY'S SHARE)	\$ 719,000	\$138,200	\$ 857,200

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

NO DEPOSIT

DOT

TYPE B
BUREAU OF HIGHWAYS
03-15-93

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I COMPLIANCE WITH REGULATIONS AND DIRECTIVES

SECTION II PROJECT ADMINISTRATION AND SUPERVISION

SECTION III ACCOUNTING AND BILLING

SECTION IV MAINTENANCE AND OPERATION

SECTION V SPECIAL PROGRAM AND PROJECT CONDITIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

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

- g. FAPG (23 CFR 645B): Accommodation of Utilities (PPM 30-4.1)
 - h. FAPG (23 CFR 655F): Traffic Control Devices on Federal-Aid and other Streets and Highways
 - i. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments—Allowable Costs
- 3. Modification Or Construction Of Railroad Facilities
 - a. FAPG (23 CFR 140I): Reimbursement for Railroad Work
 - b. FAPG (23 CFR 646B): Railroad Highway Projects
- C. In conformance with FAPG (23 CFR 630C) Project Agreements, the political subdivisions party to this contract, on those Federally funded projects which exceed a total cost of \$100,000.00 stipulate the following with respect to their specific jurisdictions:
 - 1. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.
 - 2. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.
 - 3. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.
- D. Ensure that the PROJECT is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless modified or deleted by approval of the FHWA.
- E. All the requirements, guidelines, conditions and restrictions noted in all other pertinent Directives and Instructional Memoranda of the FHWA will apply to this contract and will be adhered to, as applicable, by the parties hereto.

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

- A. The DEPARTMENT shall provide such administrative guidance as it determines is required by the PROJECT in order to facilitate the obtaining of available federal and/or state funds.
- B. The DEPARTMENT will advertise and award all contracted portions of the PROJECT work. Prior to advertising of the PROJECT for receipt of bids, the REQUESTING PARTY may delete any portion or all of the PROJECT work. After receipt of bids for the PROJECT, the REQUESTING PARTY shall have the right to reject the amount bid for the PROJECT prior to the award of the contract for the PROJECT only if such amount exceeds by ten percent (10%) the final engineer's estimate therefor. If such rejection of the bids is not received in writing within two (2) weeks after letting, the DEPARTMENT will assume concurrence. The DEPARTMENT may, upon request, readvertise the PROJECT. Should the REQUESTING PARTY so request in writing within the aforesaid two (2) week period after letting, the PROJECT will be cancelled and the DEPARTMENT will refund the unused balance of the deposit less all costs incurred by the DEPARTMENT.
- C. The DEPARTMENT will perform such inspection services on PROJECT work performed by the REQUESTING PARTY with its own forces as is required to ensure compliance with the approved plans & specifications.
- D. On those projects funded with Federal monies, the DEPARTMENT shall as may be required secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.
- E. All work in connection with the PROJECT shall be performed in conformance with the Michigan Department of Transportation Standard Specifications for Construction, and the supplemental specifications, Special Provisions and plans pertaining to the PROJECT and all materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. No extra work shall be performed nor changes in plans and specifications made until said work or changes are approved by the project engineer and authorized by the DEPARTMENT.

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

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

All such agreements will be submitted for approval by the DEPARTMENT and, if applicable, by the FHWA prior to execution thereof, except for agreements for amounts less than \$100,000 for preliminary engineering and testing services executed under and in accordance with the provisions of the "Small Purchase Procedures" FAPG (23 CFR 172), which do not require prior approval of the DEPARTMENT or the FHWA.

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

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

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

SECTION III

ACCOUNTING AND BILLING

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

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

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

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

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

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

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

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

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

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

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

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

The agency shall submit two copies of:

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

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

b. Agencies expending less than \$500,000 in federal funds must submit a letter to the Department advising that a circular audit was not required. The letter shall indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the Department federal programs, and the CFDA grant number(s). This information must also be submitted to the address below.

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

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

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

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

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

or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number _____", or "Final Billing".

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

B. Payment of Contracted and DEPARTMENT Costs:

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

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

C. General Conditions:

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

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

SECTION IV

MAINTENANCE AND OPERATION

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

1. All Projects:

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

2. Projects Financed in Part with Federal Monies:

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

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

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

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

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

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

SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

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

APPENDIX A

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

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

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the contractor's commitments under this Appendix.
6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.

7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.
9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised June 2011

APPENDIX B
TITLE VI ASSURANCE

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

1. **Compliance with Regulations:** For all federally assisted programs, the contractor shall comply with the nondiscrimination regulations set forth in 49 CFR Part 21, as may be amended from time to time (hereinafter referred to as the Regulations). Such Regulations are incorporated herein by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed under the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection, retention, and treatment of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contractor covers a program set forth in Appendix B of the Regulations.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment:** All solicitations made by the contractor, either by competitive bidding or by negotiation for subcontract work, including procurement of materials or leases of equipment, must include a notification to each potential subcontractor or supplier of the contractor's obligations under the contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined to be pertinent by the Department or the United States Department of Transportation (USDOT) in order to ascertain compliance with such Regulations or directives. If required information concerning the contractor is in the exclusive possession of another who fails or refuses to furnish the required information, the contractor shall certify to the Department or the USDOT, as appropriate, and shall set forth the efforts that it made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Department shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to, the following:
 - a. Withholding payments to the contractor until the contractor complies; and/or
 - b. Canceling, terminating, or suspending the contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor shall include the provisions of Sections (1) through (6) in every subcontract, including procurement of material and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department or the USDOT may direct as a means of enforcing such provisions, including sanctions for non-compliance, provided, however, that in the event a contractor becomes involved in or is threatened with litigation from a subcontractor or supplier as a result of such direction, the contractor may request the Department to enter into such litigation to protect the interests of the state. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Revised June 2011

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

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

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

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

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

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

Commission Meeting Date: April 9, 2013

Date: April 4, 2013
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Public Hearing - Request for an Industrial Facilities Exemption Certificate – Graphics House

SUMMARY OF REQUEST:

Pursuant to Public Act 198 of 1974, as amended, Graphics House Sports Promotions, Inc, has requested the issuance of an Industrial Facilities Tax Exemption Certificate. The company will be investing \$435,000 in personal property. The investment is expected to create up to three jobs. This qualifies them for a tax abatement of six years on personal property.

FINANCIAL IMPACT:

The City will capture certain additional property taxes generated by the expansion (see attached Summary Sheet).

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of the attached resolution granting an Industrial Facilities Exemption Certificate for a term of six years for personal property.

COMMITTEE RECOMMENDATION:

None

Resolution No. _____

MUSKEGON CITY COMMISSION

**RESOLUTION APPROVING APPLICATION FOR ISSUANCE
OF INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE
*GRAPHICS HOUSE SPORTS PROMOTIONS, INC***

WHEREAS, pursuant to P.A. 198 of 1974 as amended, after duly noticed public hearing held on March 27, 2012, this Commission by resolution established an Industrial Development District as requested by Graphics House Sports Promotions, Inc, including the property they own at 444 Irwin Ave, Muskegon, Michigan 49442; and

WHEREAS, Graphics House Sports Promotions, Inc has filed an application for the issuance of an Industrial Facilities Tax Exemption Certificate with respect to new machinery and equipment that has been installed within said Industrial Development District ; and

WHEREAS, said application was filed no later than six months after project completion and the Muskegon City Commission held a public hearing on April 9, 2013, at the Muskegon City Hall in Muskegon, Michigan at 5:30 p.m. at which hearing the applicant, the assessor and representatives of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, the installation of machinery and equipment is calculated to and will have the reasonable likelihood to retain, create, or prevent the loss of employment in Muskegon, Michigan; and

WHEREAS, the aggregate SEV of real property exempt from ad valorem taxes within the City of Muskegon, will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of personal and real property thus exempted.

NOW, THEREFORE, BE IT RESOLVED by the Muskegon City Commission of the City of Muskegon, Michigan that:

- 1) The Muskegon City Commission finds and determines that the Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Act of 1974 as amended and Act No. 255 of the Public Acts of 1978 as amended shall not have the effect of substantially impeding the operation of the City of Muskegon or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Muskegon.
- 2) The application of Graphics House Sports Promotions, Inc , for the issuance of an Industrial Facilities Tax Exemption Certificate with respect to the installation of new machinery and equipment on the following described parcel of real property situated within the City of Muskegon to wit:

CITY OF MUSKEGON REVISED PLAT OF 1903 THAT PART OF BLK 96 & VAC NIMS ST DESC AS COM AT SW COR OF SD BLK FOR POB TH N ALG W LN OF SD BLK 330 FT TH E AT RT ANGLES TO W LN 235.86 FT TO NELY LN OF BLK 96 & SWLY LN OF SD VAC NIMS ST TH N 48D 47M 35S E 35.47 FT TO CL OF VAC NIMS ST TH SELY ALG CL ON ARC OF A SPIRAL CURVE TO LT TO THE N OF IRWIN AVE (THE LONG CHORD OF SD SPIRAL CURVE BEARS S 42D 01M 30S E 466.40 FT) TH S 89D 18M 45S W ALG SD N LN IRWIN AVE 574.81 FT TO POB

- 3) The Industrial Facilities Tax Exemption Certificate is issued and shall be and remain in force and effect for a period of _____ years on personal property.

Adopted this 9th Day of April 2013.

Ayes:

Nays:

Absent:

BY: _____
Stephen Gawron
Mayor

ATTEST: _____
Ann Cummings
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on April 9, 2013.

Ann Cummings
Clerk

Application for Industrial Facilities Tax Exemption Certificate

Issued under authority of P.A. 198 of 1974, as amended. Filing is mandatory.

INSTRUCTIONS: File the original and two copies of this form and the required attachments (three complete sets) with the clerk of the local government unit. The State Tax Commission (STC) requires two complete sets (one original and one copy). One copy is retained by the clerk. If you have any questions regarding the completion of this form or would like to request an informational packet, call (517) 373-3272.

To be completed by Clerk of Local Government Unit	
Signature of Clerk	Date received by Local Unit
STC Use Only	
Application Number	Date Received by STC

APPLICANT INFORMATION

All boxes must be completed.

1a. Company Name (Applicant must be the occupant/operator of the facility) <u>Graphics House Sports Promotions, Inc</u>		1b. Standard Industrial Classification (SIC) Code - Sec. 2(10) (Four Digit Code) <u>2750</u>	
1c. Address of Facility (real property or personal property location) <u>444 Irwin Ave, Muskegon, MI 49442</u>		1d. Name of City/Township/Village (Indicate which) <u>City of Muskegon</u>	1e. County <u>Muskegon</u>
2. Type of Approval Requested ☒ New (Sec. 2(4)) ☐ Speculative Building (Sec. 3(8)) ☐ Research and Development (Sec. 2(9))		3a. School District where facility is located <u>Muskegon</u>	3b. School Code <u>61010</u>
☐ Transfer (1 copy to only) ☐ Rehabilitation (Sec. 3(1))		4. Amount of years requested for exemption (1-12 Years) <u>12</u>	

5. Thoroughly describe the project for which exemption is sought: Real Property (Type of Improvements to Land, Building, Size of Addition); Personal Property (Explain New, Used, Transferred from Out-of-State, etc.) and Proposed Use of Facility. (Please attach additional page(s) if more room is needed).

12-14-12 Electronics for Imaging - 653250 Pro (Recert) Printer \$ 435,000.00
- NEW -

6a. Cost of land and building improvements (excluding cost of land) * Attach list of improvements and associated costs. * Also attach a copy of building permit if project has already begun.	Real Property Costs <u>435,000.00</u>
6b. Cost of machinery, equipment, furniture and fixtures * Attach itemized listing with month, day and year of beginning of installation plus total costs	Personal Property Costs <u>435,000.00</u>
6c. Total Project Costs	Total of Real & Personal Costs <u>870,000.00</u>

7. Indicate the time schedule for start and finish of construction and equipment installation. Projects must be completed within a two year period of the effective date of the certificate unless otherwise approved by the STC.

Begin Date (M/D/Y)	End Date (M/D/Y)	
Real Property Improvements		☐ Owned ☐ Leased
Personal Property Improvements	<u>12-1-12</u> <u>12-14-12</u>	☒ Owned ☐ Leased

8. Are State Education Taxes reduced or abated by the Michigan Economic Development Corporation (MEDC)? If yes, applicant must attach a signed MEDC Letter of Commitment to receive this exemption.
☐ Yes ☒ No

9. Number of existing jobs at this facility that will be retained as a result of this project. 52
10. Number of new jobs at this facility expected to be created within two years of project completion. 0-3

11. Rehabilitation applications only: Complete a, b and c of this section. You must attach the assessor's statement of valuation for the entire plant rehabilitation district. The SEV data below must be as of December 31 of the year prior to the rehabilitation.

a. SEV of Real Property (excluding land)
b. SEV of Personal Property (excluding inventory)
c. Total SEV

12a. Check the type of District the facility is located in:

☒ Industrial Development District ☐ Plant Rehabilitation District

12b. Date district was established by local government unit (contact local unit)

12c. Is this application for a speculative building (Sec. 3(8))?

☐ Yes ☐ No

RECEIVED

MAR 08 2013

CITY OF MUSKEGON
PLANNING DEPARTMENT

APPLICANT CERTIFICATION - complete all boxes.

The undersigned, authorized officer of the company making this application certifies that, to the best of his/her knowledge, no information contained herein or in the attachments hereto is false in any way and that all are truly descriptive of the industrial property for which this application is being submitted.

It is further certified that the undersigned is familiar with the provisions of P.A. 198 of 1974, as amended, being Sections 207.551 to 207.572, inclusive, of the Michigan Compiled Laws; and to the best of his/her knowledge and belief, (s)he has complied or will be able to comply with all of the requirements thereof which are prerequisite to the approval of the application by the local unit of government and the issuance of an Industrial Facilities Exemption Certificate by the State Tax Commission.

13a. Preparer Name <i>Candy Crane</i>	13b. Phone Number <i>231-733-5664</i>	13c. Fax Number <i>231-733-1549</i>	13d. E-mail Address <i>candycr@ghimaging.com</i>
14a. Name of Contact Person <i>Candy Crane</i>	14b. Phone Number <i>231-733-5664</i>	14c. Fax Number <i>231-733-1549</i>	14d. E-mail Address <i>same</i>
15a. Name of Company Officer (No Authorized Agents) <i>Daniel J. McKinnon</i>			
15b. Signature of Company Officer (No Authorized Agents) <i>Daniel J. McKinnon</i>		15c. Fax Number <i>231-733-1549</i>	15d. Date
15e. Mailing Address (Street, City, State, ZIP) <i>444 Irwin Muskegon MI 49442</i>		15f. Phone Number <i>231-739-4004</i>	15g. E-mail Address <i>Brentm@ghimaging.com</i>

LOCAL GOVERNMENT ACTION & CERTIFICATION - complete all boxes.

This section must be completed by the clerk of the local governing unit before submitting application to the State Tax Commission. Check items on file at the Local Unit and those included with the submittal.

16. Action taken by local government unit ☐ Abatement Approved for _____ Years (1-12) After Completion ☐ Yes ☐ No ☐ Denied (Include Resolution Denying)	16b. The State Tax Commission Requires the following documents be filed for an administratively complete application: Check or Indicate N/A if Not Applicable ☐ 1. Original Application plus attachments, and one complete copy ☐ 2. Resolution establishing district ☐ 3. Resolution approving/denying application. ☐ 4. Letter of Agreement (Signed by local unit and applicant) ☐ 5. Affidavit of Fees (Signed by local unit and applicant) ☐ 6. Building Permit for real improvements if project has already begun ☐ 7. Equipment List with dates of beginning of installation ☐ 8. Form 3222 (if applicable) ☐ 9. Speculative building resolution and affidavits (if applicable)
16a. Documents Required to be on file with the Local Unit Check or Indicate N/A if Not Applicable ☐ 1. Notice to the public prior to hearing establishing a district. ☐ 2. Notice to taxing authorities of opportunity for a hearing. ☐ 3. List of taxing authorities notified for district and application action. ☐ 4. Lease Agreement showing applicants tax liability.	
17. Name of Local Government Body	18. Date of Resolution Approving/Denying this Application

Attached hereto is an original and one copy of the application and all documents listed in 16b. I also certify that all documents listed in 16a are on file at the local unit for inspection at any time.

19a. Signature of Clerk	19b. Name of Clerk	19c. E-mail Address
19d. Clerk's Mailing Address (Street, City, State, ZIP Code)		
19e. Phone Number	19f. Fax Number	

State Tax Commission Rule Number 57: Complete applications approved by the local unit and received by the State Tax Commission by October 31 each year will be acted upon by December 31. Applications received after October 31 may be acted upon in the following year.

Local Unit: Mail one original and one copy of the completed application and all required attachments to:

State Tax Commission
Michigan Department of Treasury
P.O. Box 30471
Lansing, MI 48909-7971

STC USE ONLY			
LUCI Code	Begin Date	End Date	End Date2

CITY OF MUSKEGON

CONTRACT FOR TAX ABATEMENT

Act 198 Public Acts of 1974

AGREEMENT between CITY OF MUSKEGON, a municipal corporation of 933 Terrace Street, Muskegon, Michigan 49441, (“City”) and Graphics House Sports Promotions, Inc. (“Company”).

Recitals:

A. The Company has applied to City for the establishment of an industrial development district or industrial rehabilitation district pursuant to the provisions of Act 198 of the Public Acts of 1974, as amended, which act requires a contract between the City and the Company to be agreed and submitted with the Company’s subsequent anticipated application for an industrial facilities exemption certificate.

B. That in addition to the statutory requirement, the City has determined that it is in the best interests of the taxpayers, property owners and residents of the City that this Agreement be approved and executed prior to the establishment of the requested district, and the City deems this Contract, together with the conditions set forth in the said Act to constitute a necessary element in the City’s determination whether or not to create the district.

C. The Company intends to install the project set forth in its application (“project”) which it believes qualifies for the process of establishing the district and the application for industrial facilities exemption certificate.

D. The City, provided this Agreement is executed, will determine whether to create the district based upon the potential for the production of permanent jobs, the continuation or increase of economic activity, planning and zoning considerations and the City’s general plan and intentions regarding economic development. In addition to the City policy considerations and predictions that the Company’s proposed district and certificate benefit the community in those ways, the City has further determined that the contractual commitments made by the Company to thereby assist the community shall be binding on the Company and necessary to continue the tax exemption made possible by the certificate.

NOW THEREFORE THE PARTIES AGREE:

1. **COMPANY AGREEMENT.** The Company irrevocably commits to the investment, job retention and job creation promises made in its application, a copy of which is attached hereto and incorporated herein. In particular the Company agrees:

- 1.1 That 100% of the jobs shall be filled and in existence with full-time employees by a date no later than two (2) years from the date of the granting of the certificate by the State Tax Commission.
- 1.2 The Company shall meet the affirmative action goal included in the application or in any documents supplied by the City and utilized by the Company, including any additional representations made to the City Commission on or before the date two (2) years after the granting of the certificate by the State Tax Commission. It shall maintain the said levels of employment diversity during the period of the certificate.
- 1.3 The Company, by the end of two (2) years from the date of the grant of the certificate by the State Tax Commission shall have completed the investment of \$450,000 in personal property improvements as shown in the application.
- 1.4 That the improvements and equipment to receive the tax abatement treatment shall be completed on or before the date two (2) years from the date of granting of the certificate by the State Tax Commission.
- 1.5 The Company shall pay its specific taxes required by the act in a timely manner, and shall not delay payments so as to incur any penalties or interest.
- 1.6 The Company shall not appeal the valuation of any real or personal property at the facility to the Michigan Tax Tribunal or the State Tax Commission.
- 1.7 The Company shall fully cooperate with the City representatives in supplying all requested and required documentation regarding jobs, investment, the meeting of all goals and the timely installation and utilization of equipment and improvements. The City shall be entitled to inspect at reasonable hours the Company's premises where the said improvements and equipment have been installed and where the said jobs are performed.
- 1.8 The Company shall maintain, during the entire period for which the tax abatement is granted, the level of jobs, affirmative action goals, production and utilization of the improvements and equipment at the site where the district has been created and for which the tax exemption has been granted.
- 1.9 The Company shall not cause or fail to cure the release of any hazardous substance, or the violation of any environmental law on its premises in the City. It shall report any releases to the appropriate governmental authority in a timely and complete manner, and provide copies of said report documentation to the City. It shall comply with all orders and actions of any governmental agency having authority.
- 1.10 The Company shall maintain the equipment and improvements so as to minimize physical or functional obsolescence.

1.11 The Company shall continue to operate its business location in the City, containing the same number of and type of jobs, for the term of the certificate.

2. **AGREEMENT BY THE CITY.** Provided this contract has been executed and further provided all applications to create the district and achieve the industrial facility exemption certificate have been properly filed, the City shall, in a timely manner, determine in a public meeting to create the district and receive, process, and approve thereafter the Company's application for an industrial facilities exemption certificate. The City may consider this contract in a meeting separate from and prior to the meeting in which the City considers the creation of the district and approval of the application for certificate. Further, the City shall require the submission of this contract signed by the Company together with its applications, before creating the district.

3. **EVENTS OF DEFAULT.** The following actions or failures to comply shall be considered events of default by the Company:

3.1 Failure to meet any of the commitments set forth above.

3.2 The closing of the Company's facilities in the City. Closing shall mean for purpose of this Agreement, the removal, without transfer to another site within the City of substantially all of the production facilities, and the elimination of substantially all the jobs created or retained thereby, which are set forth in the Company's application.

3.3 Failure to afford to the City the documentation and reporting required.

3.4 The failure to create or retain jobs, meet affirmative action goals or expend the funds on equipment and improvements as represented in the application within the times required hereby.

3.5 The bankruptcy or insolvency of the Company.

3.6 The failure to pay any and all taxes and assessments levied on the Company's property or any other taxes, local, state or federal, including but not limited to City income taxes and the withholding of said City income taxes from employees as required by the City Income Tax Ordinance.

3.7 The performance or omission of any act which would lead to revocation under MCLA 207.565, being §15 of the Act.

3.8 The violation of any provisions, promises, commitments, considerations or covenants of this Agreement.

4. **REMEDIES ON DEFAULT.** In the event of any of the above defaults the City shall have the following remedies which it may invoke without notice, except as may be reasonably required by the Company's rights to due process:

4.1 In the event of closing as determined after investigation of the facts and a public hearing, the Company shall be immediately liable for penalties to be paid forthwith to the city as determined as follows:

4.1.1 The Company shall pay to the City for prorata distribution to the taxing units experiencing the abatement, an amount equal to the difference between the industrial facilities tax which it has paid, and the total property taxes to the relevant taxing units which it would have paid, given its installations of improvements and equipment, during the years for which the certificate was in effect.

4.1.2 Immediate Revocation. The Company hereby consents to revocation to the IFT certificate before the State Tax Commission, without hearing, and the City shall submit a copy of this Agreement to the State Tax Commission in connection with its revocation procedure, giving notice that the default has occurred and immediate revocation should occur.

4.2 In the event the improvements and equipment have not been installed before the two (2) year period, in addition to the revocation procedures before the State Tax Commission, the abatement should immediately be reduced by the City proportionately, and any installations which have not been finished at the end of said two (2) year period shall not be eligible for the abatement thereafter and shall be placed on the regular tax roll.

4.3 Failure to Expend the Funds Represented. In the event, (whether or not the installations have been completed), the Company has not expended the funds it has represented on its application that it would invest for the installation of equipment, the abatement shall be reduced prorata, and any remaining value of equipment shall be placed on the regular tax roll.

4.4 Job Creation and Retention. In the event the promised number of jobs have not been created or retained at the end of the two (2) years after the grant of the certificate by the State Tax Commission, the abatement shall be proportionately reduced.

4.5 Affirmative Action Goals. In the event, after one (1) year from the grant of the certificate by the State Tax Commission, the affirmative action goals of the City for additional jobs have not been met on a prorata basis, the abatement shall be revoked.

4.6 For other violations of this Agreement or for actions or omissions by the Company amounting to grounds for revocation by statute, the City shall recommend to the State Tax Commission immediate revocation of the certificate.

4.7 Special Assessment. For any amount due to be paid to the City, under this Section 4, the Company consents that the City shall have a personal action against the Company for the said amount, and in addition, cumulatively, and not by election, the City shall have a special assessment lien on all the property of the Company personal and real, located in the City, for the collection of the amounts due as and in the manner of property taxes and in such case the collection of the said special assessment shall be accomplished by addition by the City to the Company's property tax statement regularly rendered.

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

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

7. Benefit. This Agreement shall be binding upon and inure to the benefit of the respective parties, their successors and personal representatives.

8. Effective Date. This Agreement shall be effective on the date the State of Michigan Tax Commission grants the company at Industrial Facilities Exemption Certificate.

CITY OF MUSKEGON

By _____
Stephen Gawron, Mayor

Date _____

and _____
Ann Cummings, Clerk

Date _____

By _____

Its _____

Date _____



City of Muskegon Industrial Facilities Exemption Application Summary Sheet

Project Summary:

Graphics House Sports Promotions, Inc, located at 444 Irwin Ave, will be making a total investment of \$435,000 and creating 3 jobs. This investment qualifies them for a 9 year abatement on personal property.

Employment Information: 49 employees

Racial Characteristics:

White	48 (98%)
Minority	1 (2%)

Gender Characteristics:

Male	35 (71%)
Female	14 (29%)

Total No. of Anticipated New Jobs: 3

Investment Information:

Real Property:	\$0
Personal Property	\$435,000
Total:	\$435,000

Property Tax Information: (Annual)	All Jurisdictions	City Only
Total New Taxes Generated	\$ 7,214	\$ 2,408
Value of Abatement	\$ 3,607	\$ 1,204
Total New Taxes Collected	\$ 3,607	\$ 1,204

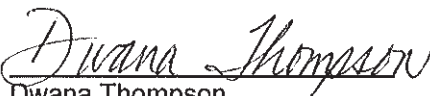
Income Tax Information: (Annual)

Total Additional Income Tax Generated: \$480

Company Requirements:

Adopted Affirmative Action Policy	☒ Yes	☐ No
Meeting w/ City Affirmative Action Director	☒ Yes	☐ No
Signed Tax Abatement Contract	☒ Yes	☐ No
Taxes Paid In Full	☒ Yes	☐ No
Zoning Conflicts	☐ Yes	☒ No


Mike Franzak
Planner III


Dwana Thompson
Affirmative Action Director

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: April 3, 2013

RE: Endorsement of Farmers Market Relocation

SUMMARY OF REQUEST:

The Downtown Muskegon Development Corporation (DMDC) is requesting an endorsement from the City Commission to relocate the Farmers Market to properties owned by the DMDC in the vicinity of Morris Avenue, Terrace Street, and Western Avenue.

FINANCIAL IMPACT:

The capital cost of the relocation will be funded by the DMDC.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To approve the request.

COMMITTEE RECOMMENDATION:

None.

Commission Meeting Date: April 9, 2013

Date: April 2, 2013
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department
RE: Set Public Hearing for Amendment to Brownfield Plan - Terrace Point Landing, LLC

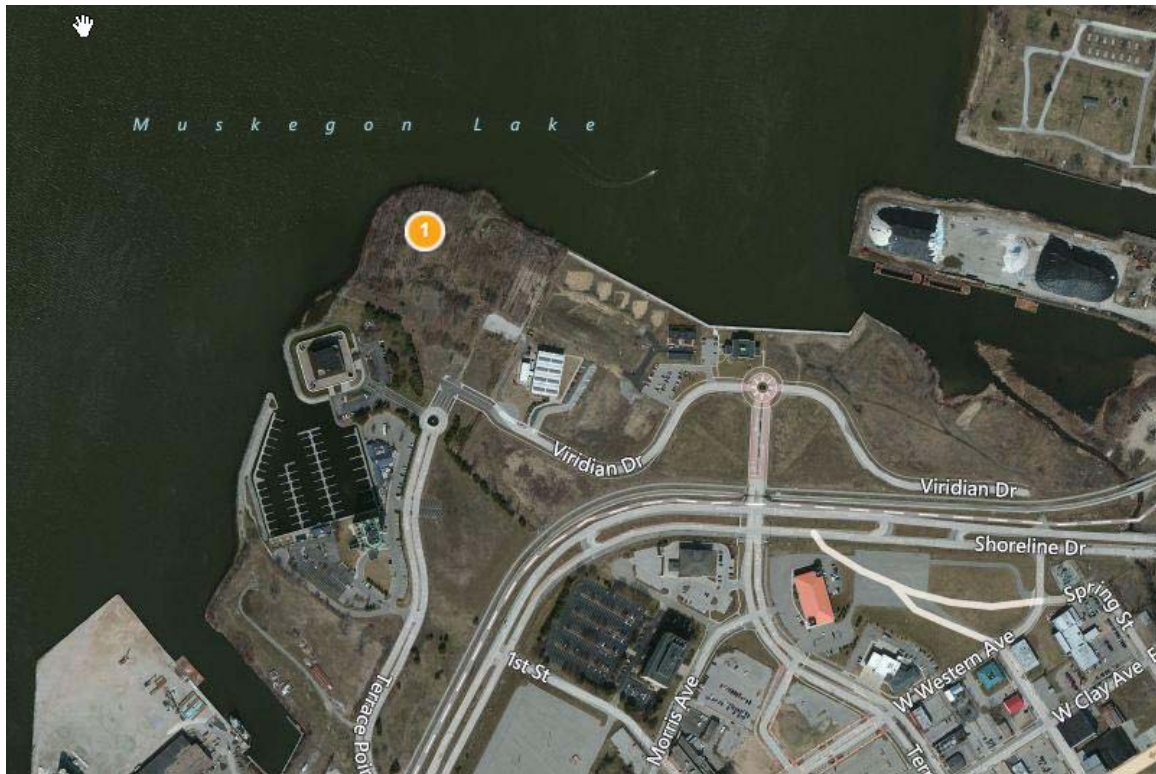
SUMMARY OF REQUEST: To approve the attached resolution setting a public hearing for an amendment for the Brownfield Plan, and notifying taxing jurisdictions of the Brownfield Plan Amendment including the opportunity to express their views and recommendations regarding the proposed amendment at the public hearing. The amendment is for the inclusion of property owned by Terrace Point Landing, LLC, which is an approximately 11-acre vacant parcel located at the end of Terrace Point Drive in downtown Muskegon (see attached map).

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 attached resolution and authorize the Mayor and Clerk to sign the resolution.

COMMITTEE RECOMMENDATION: The Brownfield Redevelopment Authority met on April 9, 2013 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, 2013.



1 denotes the proposed location of Terrace Point Landing

**RESOLUTION NOTIFYING TAXING UNITS
AND CALLING PUBLIC HEARING REGARDING
APPROVAL OF AMENDMENT TO THE BROWNFIELD PLAN OF THE
CITY OF MUSKEGON BROWNFIELD REDEVELOPMENT AUTHORITY**

TERRACE POINT LANDING, 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 offices, on the 9th day of April, 2013, 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, Michigan (the "City") is authorized by the provisions of Act 381, Public Acts of Michigan, 1996, as amended ("Act 381"), to create a brownfield redevelopment authority; and

WHEREAS, pursuant to Act 381, the City Commission of the City duly established the City of Muskegon Brownfield Redevelopment Authority (the "Authority"); and

WHEREAS, in accordance with the provisions of Act 381, the Authority has prepared and approved Brownfield Plan Amendments to include **Terrace Point Landing, LLC**, and

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

WHEREAS, prior to approval of the Brownfield Plan Amendments, the Muskegon City Commission desires to hold a public hearing in connection with consideration of the Brownfield Plan Amendments as required by Act 381; and

WHEREAS, prior to approval of the Brownfield Plan Amendments, the City Commission is required to provide notice and a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture, to express their views and recommendations regarding the Brownfield Plan Amendments.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Commission hereby acknowledges receipt of the Brownfield Plan Amendments from the Authority and directs the City Clerk to send a copy of the proposed Brownfield Plan Amendments to the governing body of each taxing jurisdiction in the City, notifying them of the City Commission's intention to consider approval of the Brownfield Plan Amendments [after the public hearing described below].

2. A public hearing is hereby called on the 14th of May, 2013 at 5:30 p.m., prevailing Eastern Time, in the City Hall Commission Chambers to consider adoption by the City Commission of a resolution approving the Brownfield Plan Amendments.

3. The City Clerk shall cause notice of said public hearing to be published in the Muskegon Chronicle, a newspaper of general circulation in the City, twice before

the public hearing. The first publication of the notice shall be not less than 10 days or more than 40 days before the date set for the public hearing. The notice shall be published as a display advertisement prominent in size.

4. The notice of the hearing shall be in substantially the following form:

CITY OF MUSKEGON
COUNTY OF MUSKEGON, STATE OF MICHIGAN

PUBLIC HEARING ON AN AMENDMENT TO THE MUSKEGON BROWNFIELD
PLAN, AS APPROVED BY THE CITY OF MUSKEGON BROWNFIELD
REDEVELOPMENT AUTHORITY

TO ALL INTERESTED PERSONS IN THE CITY OF MUSKEGON:

PLEASE TAKE NOTICE that the Muskegon City Commission of the City of Muskegon, Michigan, will hold a public hearing on May 14, 2013, at 5:30 p.m., prevailing Eastern Time in the City Hall Commission Chambers located at 933 Terrace Street, Muskegon, Michigan, to consider the adoption of a resolution approving a Brownfield Plan Amendment for the City of Muskegon Brownfield Redevelopment Authority pursuant to Act 381 of the Public Acts of Michigan of 1996, as amended.

The property to which the proposed Brownfield Plan Amendment applies is:

Parcel #61-24-205-558-0001-00

Terrace Point Landing, LLC
Vacant land at the end of Terrace Point Drive
(see Attachment A for legal description of property)
Muskegon, Michigan 49440

Copies of the proposed Brownfield Plan Amendment are on file at the office of the City Clerk for inspection during regular business hours.

At the public hearing, all interested persons desiring to address the City Commission shall be afforded an opportunity to be heard in regard to the approval of the Brownfield Plan Amendments for the City of Muskegon Brownfield Redevelopment Authority. All aspects of the Brownfield Plan Amendments will be open for discussion at the public hearing.

FURTHER INFORMATION may be obtained from the City Clerk.

This notice is given by order of the City Commission of the City of Muskegon, Michigan.

Ann Marie Cummings, City Clerk

5. 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 Cummings, City Clerk

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 April 9, 2013, 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 Marie Cummings, City Clerk

ATTACHMENT A

Included in this Plan is approximately 11 acres of vacant land located at the end of Terrace Point Road in downtown Muskegon, Michigan. The parcel number/legal description of the *eligible property* is:

Parcel #61-24-205-558-0001-00

Legal description:

CITY OF MUSKEGON REVISED PLAT OF 1903 THAT PART OF BLK 558 AS RECORDED IN L 3 OF PLATS P 71 MUSKEGON COUNTY MI INCLUDING ALL LANDS MADE BY LAND-FILL WHICH MAY HAVE BEEN SUBSQUEOUS LANDS AT THE TIME OF THE DEDICATION OF SD REVISED PLAT OF 1903 DESC AS FOLS: COM @ INT NELY LN TERRACE ST BEING SWLY LN BLK 557 EXTND TO CL VAC WATER ST TH N 62D 44M 00S W ALNG NELY LN SD TERRACE ST EXTND 381.45 FT TH WLY ALNG NLY LN SD TERRACE ST ALNG ARC OF A 302.48 FT R CURVE TO LT A DIST OF 269.86 FT TO LN BET LOTS 5 & 6 SD BLK 558 (LC SD CURVE BEARS N 88D 17M 30S W 261 FT CENTRAL ANGLE SD CURVE 51D 07M 00S) TH N 46D 09M 15S W ALNG SD LN BET LOTS 5 & 6 A DIST 534.25 FT TO POB THIS DESC TH N 27D 25M 55S E 925.82 FT TO A POINT HEREINAFTER REFERRED TO AS "POINT A" TH CONT N 27D 25M 55S E 5 FT M/L TO SHORE MUSKEGON LAKE TH NWLY & SWLY ALNG SHORE MUSKEGON LAKE 1350 FT M/L TO SD LN BET LOTS 5 & 6 SD BLK TH S 46D 09M 15S E ALNG SD LN BET LOTS 5 & 6 A DIST 820 FT M/L TO POB EXC PART TH'OF INCLUDED IN FOL DESC PARCEL THAT PART BLKS 558 & 563 DESC AS FOL COM @ INT NELY LN TERRACE ST BEING SWLY LN BLK 557 EXTND TO CL VAC WATER ST TH N 62D 44M 00S W ALNG NELY LN SD TERRACE ST EXTND 381.45 FT TH WLY ALNG NLY LN SD TERRACE ST ALNG ARC OF A 302.48 FT R CURVE TO LT A DIST 477.51 FT (LC SD CURVE BEARS S 72D 02M 30S W 429.45 FT CENTRAL ANGLE SD CURVE IS 90D 27M 00S) TH S 26D 49M 00S W ALNG NELY LN SD TERRACE ST 225.07 FT TO A POINT HEREINAFTER REFERRED TO AS POB FOR EASEMENT TH NLY ALNG ARC OF A 517 FT R CURVE TO RT A DIST 705.40 FT (LC SD CURVE BEARS N 23 D 29M 25S W 651.95 FT CENTRAL ANGLE SD CURVE IS 78D 10M 34S) TH N 15D 35M 52S E 187.25 FT TH ELY NLY & WLY ALNG ARC OF A 75 FT R CURVE TO LT A DIST 232.88 FT (LC SD CURVE BEARS N 18D 20M 25S W 149.98 FT CENTRAL ANGLE SD CURVE IS 177D 54M 42S) TO POB THIS DESC TH SWLY ALNG ARC OF A 75 FT R CURVE TO LT A DIST 105.61 FT (LC SD CURVE BEARS S 32D 21M 55S W 97.10 FT CENTRAL ANGLE SD CURVE IS 80D 40M 47S) TH N 61D 06M 15S W 139.74 FT TH SWLY ALNG ARC OF 172 FT R CRUVE TO RT A DIST 89.56 FT (LC SD CURVE BEARS S 58D 58M 45S W 88.55 FT CENTRAL ANGLE SD CURVE IS 29D 50M 00S) TH S 73D 53M 45S W 127.91 FT TH N 16D 06M 15S W 75 FT TH S 73D 53M 45S W 110 FT TH N 16D 06M 15S W 250 FT M/L TO WATER'S EDGE MUSKEGON LAKE TO A POINT HEREINAFTER REFFERED TO AS "POINT A" TH RECOM AT POB TH N 17D 17M 45S W 326.55 FT TH N 66D 15M 15S W 275 FT M/L TO WATER'S EDGE MUSKEGON LAKE TH SWLY ALNG SD WATER'S EDGE MUSKEGON LAKE 350 FT M/L TO ABOVE MENTIONED "POINT A" EXC THAT PART OF BLK 558 AS RECORDED IN L 3 OF PLATS P 71 MUSKEGON COUNTY MI INCLUDING ALL LANDS MADE BY LAND-FILL WHICH MAY HAVE BEEN SUBSQUEOUS LANDS AT THE TIME OF THE DEDICATION OF SD REVISED PLAT OF 1903 DESC AS FOLS: COM @ WESTERNMOST CRNR MUSKEGON LAKESHORE SMARTZONE CONDOMINIUM SUBDIVISION NO. 100 AS AMENDED: TH N 27 DEG 25 MIN 55 SEC E 198.94 FT ALNG THE WLY LN OF SD CONDO TO POB TH N 62 DEG 05 MIN 15 SEC W 106.63 FT TH S 27 DEG 54 MIN 45 SEC W 61.66 FT TO THE NTHLY LINE OF TERRACE PT DR TH NWLY ALNG SD LINE 91.59 FT ALNG A 75.00 FT RAD CURVE TO THE LEFT THE LONG CHORD OF WHICH BEARS N 62 DEG 02 MIN 15 SEC W 86.00 FT TH N 27 DEG 54 MIN 45 SEC E 127.66 FT TH S 62 DEG 05 MIN 15 SEC E 192.07 FT TO THE WLY LINE OF SD CONDOMINIUM TH S 27 DEG 25 MIN 55 SEC W 66.00 FT ALNG SD LN TO POB.

This *eligible property* includes all real and new personal property.