

CITY OF MUSKEGON

CITY COMMISSION MEETING

APRIL 8, 2008

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ CALL TO ORDER:
- ❑ PRAYER:
- ❑ PLEDGE OF ALLEGIANCE:
- ❑ ROLL CALL:
- ❑ HONORS AND AWARDS:
- ❑ INTRODUCTIONS/PRESENTATION:
- ❑ CONSENT AGENDA:
 - A. Approval of Minutes. CITY CLERK
 - B. Pere Marquette Park Vendor Proposals. PUBLIC WORKS
 - C. Aggregates, Highway Maintenance Materials and Concrete. PUBLIC WORKS
 - D. Surf Muskegon. PUBLIC WORKS
 - E. Transfer of Sewage Lift Station to County of Muskegon (Wastewater). PUBLIC WORKS
 - F. Land Purchase – 1845 Creston Street. PUBLIC WORKS
 - G. City – MDOT Agreement for the Resurfacing of Quarterline, Apple to McArthur. ENGINEERING
 - H. Set Public Hearing for Amendments to Brownfield Plan – Betten Auto Dealerships Project. PLANNING & ECONOMIC DEVELOPMENT
 - I. Liquor License Transfer Request for Applebee's, 1825 E. Sherman. CITY CLERK
 - J. Request to Fly the Norwegian Flag. CITY CLERK
- ❑ PUBLIC HEARINGS:
 - A. Lease with Option to Purchase Pilot Program. COMMUNITY & NEIGHBORHOOD SERVICES

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

A. Approval of the 2008-2009 Action Plan. COMMUNITY & NEIGHBORHOOD SERVICES

- ❑ **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.)

❑ **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 BECKER, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TDD: (231) 724-4172.

Date: April 8, 2008
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, March 25th.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

APRIL 8, 2008

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, Michigan at 5:30 p.m., Tuesday, April 8, 2008.

Mayor Warmington opened the meeting with a prayer from George Monroe from the Evanston Avenue Baptist 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 Warmington, Vice Mayor Stephen Gawron, Commissioners Clara Shepherd, Lawrence Spataro, Sue Wierengo, Steve Wisneski, and Chris Carter, Finance Director Tim Paul, City Attorney John Schrier, and City Clerk Ann Marie Becker.

2008-33 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, March 25th.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Pere Marquette Park Vendor Proposals. PUBLIC WORKS

SUMMARY OF REQUEST: Permission to enter into vendor contracts with Dan Etterman (Sandy Bottoms Snack Shop) and Steve Negen (MACkite Kiteboarding School and Shop).

FINANCIAL IMPACT: Both vendors bring value added activities to Pere Marquette Park. In addition, each vendor offers a percentage of gross revenues or pay for needed park items.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

C. Aggregates, Highway Maintenance Materials and Concrete. PUBLIC WORKS

SUMMARY OF REQUEST:

Award bid to supply H1 and H2 limestone chip blend to Verplank Trucking Company, PO Box 8, Ferrysburg, MI 49409

Award bid to supply road slag to Verplank Trucking Company, PO Box 8, Ferrysburg, MI 49409

Award bid to supply Sylvax patching material (CP-6 alternative) to Rieth-Riley Construction Co., PO Box 278, Ada, MI 49301

Award bid for crack sealant to ASI Manufacturing, LLC, 1805 Industrial Park Dr., Grand Haven, MI 49417

Award bid to supply bituminous asphalt product to Asphalt Paving, Inc., 1000 E. Sherman Boulevard, Muskegon MI 49444-0190

Award bid to supply Calcium Chloride 38% (road brine) and 32% (winter salting) to Liquid Dustlayer, Inc., P.O. Box 188, Manistee, MI 49660

Award bid to supply screened top soil to Felco Contractors, Inc., 965 Pulaski Ave., Muskegon, MI 49441

Award bid to supply 2NS sand to Verplank Trucking Company, PO Box 8, Ferrysburg, MI 49409

Award bid to supply 7-sack mix concrete to Consumers Concrete, 4400 E. Evanston, Muskegon, MI 49442; contingent upon product availability, timely deliveries, and prices as quoted.

FINANCIAL IMPACT: \$136,378 based on 2007 quantities at 2008 quotes.

BUDGET ACTION REQUIRED: None; funds appropriated in several budgets.

D. Surf Muskegon. PUBLIC WORKS

SUMMARY OF REQUEST: To authorize use of the Water Filtration Plant as the site to host equipment to enable the creation of a "Surf Muskegon" internet website by Masana, LLC.

FINANCIAL IMPACT: Use of electricity to power the camera, weather equipment, and cable modem located at the Water Filtration Plant.

BUDGET ACTION REQUIRED: There is no budget action required.

STAFF RECOMMENDATION: Staff recommends approval for use of the Water Filtration Plant to house the equipment to enable creation of the Surf Muskegon internet website by Masana, LLC.

E. Transfer of Sewage Lift Station to County of Muskegon (Wastewater).
PUBLIC WORKS

SUMMARY OF REQUEST: The City of Muskegon wishes to transfer maintenance responsibilities of the Keating Avenue Sewage Lift Station to Muskegon County (Wastewater). The County is taking over the maintenance of the major lift stations in the collection system.

FINANCIAL IMPACT: The City should see some savings in its maintenance budget with a slight increase in the treatment budget as these maintenance costs will be charged by the County as part of its collections budget.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

F. Land Purchase – 1845 Creston Street. PUBLIC WORKS

SUMMARY OF REQUEST: The property to the north of the Public Works storage area is available for purchase. Additional storage area is needed, and this allows an alternate direct access to Laketon Avenue at a signalized intersection.

FINANCIAL IMPACT: \$25,000 for purchase. Demolition of structure to be done by City forces.

BUDGET ACTION REQUIRED: Cost will be absorbed by the Equipment Fund.

STAFF RECOMMENDATION: Approval.

G. City – MDOT Agreement for the Resurfacing of Quarterline, Apple to McArthur. ENGINEERING

SUMMARY OF REQUEST: To approve the contract with MDOT for the milling and resurfacing of Quarterline between Apple and McArthur and to approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: MDOT's participation is limited to the federal funds of \$663,400 and state funds of \$165,800 from the local jobs today funds for a total grant of \$829,200. The estimated total construction cost of the project is \$872,100.

BUDGET ACTION REQUIRED: None at this time.

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

H. Set Public Hearing for Amendments to Brownfield Plan – Betten Auto Dealerships Project. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the resolution setting a public hearing for amendments to the City of Muskegon Brownfield Plan, and notifying taxing jurisdictions, Michigan Department of Environmental Quality, and Michigan Economic Growth Authority of the Brownfield Plan Amendments, including the opportunity to express their views and recommendations regarding the proposed amendments at the public hearing. The amendments are for the inclusion of the Betten Auto Dealerships Project in the Brownfield Plan.

FINANCIAL IMPACT: Brownfield Tax Increment Financing would be used to reimburse the developer and the City for Act 381 "eligible expense" incurred in association with development of the Betten properties, starting in 2008. The developers/owners estimate that full development of the Betten properties will involve over \$13 million in private investment (in addition to property

acquisition), resulting in a substantial increase in the city income, and local and school property taxes generated by the property.

"Eligible expenses" would be reimbursed to Betten starting in 2008, commencing for either 15 years, or up to \$3 million, whichever occurs first. After reimbursement of "eligible expenses" to Betten, tax capture would continue to reimburse the City for its infrastructure costs involved in resurfacing Henry Street between Sherman and Hackley, which will enhance the Betten project. The estimated tax capture schedule is included as Attachment S-3 in the proposed Brownfield Plan Amendment. The City is also authorized by law to capture up to \$75,000/year to pay for "reasonable and actual administrative and operating costs" of the Brownfield Redevelopment Authority. As such, \$10,000/year of the local tax increment will be captured to reimburse the Brownfield Authority.

After all eligible costs incurred by the parties are reimbursed, the BRA is authorized to continue to capture local taxes for five more years for deposit into a Local Site Remediation Revolving Fund. Current tax capture estimates indicate that approximately \$998,500 could be captured from the taxes on the Betten properties for deposit into this local fund.

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

COMMITTEE RECOMMENDATION: The Brownfield Redevelopment Authority (BRA) met on April 1, 2008, and approved the Brownfield Plan Amendment adding the Betten Auto Dealership properties to the Brownfield Plan. The BRA requests that the Muskegon City Commission set a public hearing on the Plan Amendments, and requests notification of the taxing jurisdictions, MDEQ, and MEGA of the proposed amendment and its financial impact on each jurisdiction.

I. Liquor License Transfer Request for Applebee's, 1825 E. Sherman. CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Applebee's of Michigan, Inc. to transfer ownership of the 2007 Class C Resort licensed business located at 1825 E. Sherman to Applebee's Restaurants Mid-Atlantic LLC.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

J. Request to Fly the Norwegian Flag. CITY CLERK

SUMMARY OF REQUEST: The Sons of Norway is requesting permission to fly the Norwegian Flag at City Hall on Friday, May 16th to Monday, May 19th to celebrate Norway's Constitution Day.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the request.

Motion by Commissioner Carter, second by Commissioner Spataro to approve the consent agenda as read.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

2008-34 NEW BUSINESS:

A. Lease with Option to Purchase Pilot Program. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To have the Commission approve the pilot program developed by the Community and Neighborhood Services office for a Lease with Option to Purchase Pilot Program for the houses owned by CNS.

The lessee will have a three-year period (36 months) to obtain a mortgage. If the lessee is able to obtain a mortgage after the first year, the purchaser will be able to receive a nine-percent decrease in the purchase price. If it takes two years to qualify for a mortgage, the property will be sold at a five-percent decrease from the original asking price. If it takes the three-year period for the lessee to obtain the mortgage, the sale price would be the original price. The lessee would be responsible for all the utilities and upkeep of the property.

Because of the current economic environment, as it relates to housing, the department feels we can assist the market by implementing this program.

Two homes are eligible for this pilot program: 435 Monroe and 867 Williams.

FINANCIAL IMPACT: This will eliminate some of the overhead costs the City has because of the length of time these houses have been on the market. Costs include utilities, alarm system, grass cutting, snow removal, etc.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the request.

COMMITTEE RECOMMENDATION: The program has been reviewed by the Citizen's District Council.

Comments were heard from Leland Davis, 1148 Terrace; Bob Carr, 24 Morrall; and Jim Burgess, 6336 S. Walker Rd., Fruitport.

Motion by Commissioner Spataro, second by Commissioner Wisneski to approve the request to initiate the lease to purchase program as recommended by the Citizen's District Council.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd

Nays: None

MOTION PASSES

B. Approval of the 2008-2009 Action Plan. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the 2008-2009 Action Plan for the City of Muskegon Community Development Block Grant/HOME Partnership Program activity. If the Action Plan is approved, the Community and Neighborhood Services office will continue the comment period of the Action Plan as amended, if needed, until April 17, 2008.

On or after April 17, 2008, the Community and Neighborhood Services office will deliver the Action Plan to the United States Department of Housing and Urban Development as required in order to request the Release of Funds for the 2008-2009 fiscal year.

FINANCIAL IMPACT: Action Plan establishes the 2008-2009 Community Development and HOME budgets.

BUDGET ACTION REQUIRED: None at this time. Budget established by Action Plan.

STAFF RECOMMENDATION: To approve the Action Plan as is or as amended.

COMMITTEE RECOMMENDATION: The Commission received both the Citizen District Council and the Administration recommendations.

Motion by Vice Mayor Gawron, second by Commissioner Carter to approve the Action Plan as recommended by administration for the 2008-2009 Community Development Block Grant and accept the HOME Fund recommendation as outlined by Commissioner Carter at a previous meeting to take \$10,000 from Neighborhood Investment Corporation and \$10,000 from Habitat for Humanity and transfer that \$20,000 to the City's Home Infill program.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, and Spataro

Nays: Warmington and Wierengo

MOTION PASSES

PUBLIC PARTICIPATION: Various comments were heard from the public.

ADJOURNMENT: The City Commission Meeting adjourned at 6:24 p.m.

Respectfully submitted,



Ann Marie Becker, MMC
City Clerk

Date: April 8, 2008
To: Mayor and City Commission
From: Robert H. Kuhn, Director of Public Works
Re: Pere Marquette Park Vendor Proposals

SUMMARY OF REQUEST:

Permission to enter in vendor contracts with Dan Etterman (Sandy Bottoms Snack Shop) and Steve Negen (MACKite Kiteboarding School and Shop).

FINANCIAL IMPACT:

Both vendors bring value added activities to Pere Marquette Park. In addition, each vendor offers a percentage of gross revenues or pay for needed park items.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Recommend approval.

COMMITTEE RECOMMENDATION:

MEMORANDUM

TO: Mayor and City Commission
FROM: Robert H. Kuhn, Director of Public Works
DATE: March 20, 2008
RE: Pere Marquette Vendor Proposals

Responding to our RFP, we received three proposals.

1. Dan Etterman – Sandy Bottoms Snack Shop. (See attached proposal.) 10.25% of gross receipts.
2. Steve Negen – MACKite Kiteboarding School and Shop. (See attached proposal.)
 - \$2500/year for 3-year lease.
 - One Porta Jon, May 1st – October 15th.
 - Install last 600' of snow fence in order to encourage a longer beach season.
 - Install all kiteboarding safety equipment and signage.
 - Establish a retail shop in City's building.
 - Provide kiteboarding school
 - Host kitesurfing competition event.
 - Five days of instruction time for local programs.
 - Advertise City of Muskegon beaches at MACKite website.
 - Lifeguard and Coast Guard rescue training for injured kiteboarders.
 - Make jet skis available for any rescue events.
3. Robert Villate (Kiteboarding Instruction)
 - Sell instruction, kite equipment.
 - In lieu of payments, offers services (See attached proposal.)
 - Proposal previously criticized existing school.
 - Very little specifics on what he would be bringing to the beach.



MACkite Rental Proposal

RFP Submission: Pere Marquette Beach Building

Doug Sayles
City of Muskegon's City Clerks Office
933 Terrace Street
Muskegon, Michigan 49443

Dear Doug Sayles

MACkite Kiteboarding School and Shop is very excited about working with the City of Muskegon in the coming years. Enclosed is our proposal for the Pere Marquette Beach building.

Muskegon is having tremendous success with their current programs of making themselves a premier tourist destination on the West Coast of Michigan.

MACkite is a long established (27years) tourist destination store that is thrilled with the opportunity to add to Muskegon's growing base.

Kiteboarding is the world's fastest growing water sport as well as one of the most visibly attractive sports anywhere.

We look forward to combining the 3 venues to generate the sustained and healthy growth of Muskegon, MACkite and kiteboarding over the next 20 years.

Thank you for considering our proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Negen", is written over a horizontal line.

Steve Negen
President



MACkite Rental Proposal

Rent

- > \$2,500.00 per year

Term of Lease

- > 3 year lease with an option for 3 more years

Grounds

- > September 15 to encourage a longer season
- > Pay for one Porta John by building May 1st – October 15
- > Be responsible for (hire contractor or put in ourselves) the last 600 feet of snow fence in front of the building. This will be complete by November 1 each year.
- > Pay for all signage and ropes to mark of a kiteboarding area (See maps page 2)
- > Develop rules for kiteboarding on beach – receive City approval. (Initial thoughts see page 3)

Shop

- > Operate store hours 11:00 AM – 5:00 PM daily all summer long, building excitement for Pere Marquette

Beach

- > Provide City of Muskegon with full insurance for the kiteboarding school

Events

- > Host King of the Great Lakes Kitesurfing Competition in early October
- > Host a Kiteboard Swap Meet 1st week of May

Promotion

- > Provide Summer Celebration and Shoreline Spectacular with demonstrations and information
- > Provide the City of Muskegon 5 days of instructor time to be used in local programs. This could include kite flying or kite building programs.
- > Continue web presence of Muskegon on MACkite website

Safety

- > Provide Life Guards with rescue training
- > Provide Coast Guard with rescue and recovery training
- > Rescue Jet Ski on beach for all students participating in water lessons
- > All MACkite instructors will be certified by appropriate organizations

Exclusivity

- > Muskegon will allow MACkite to be the only kiteboarding school on Pere Marquette Beach.

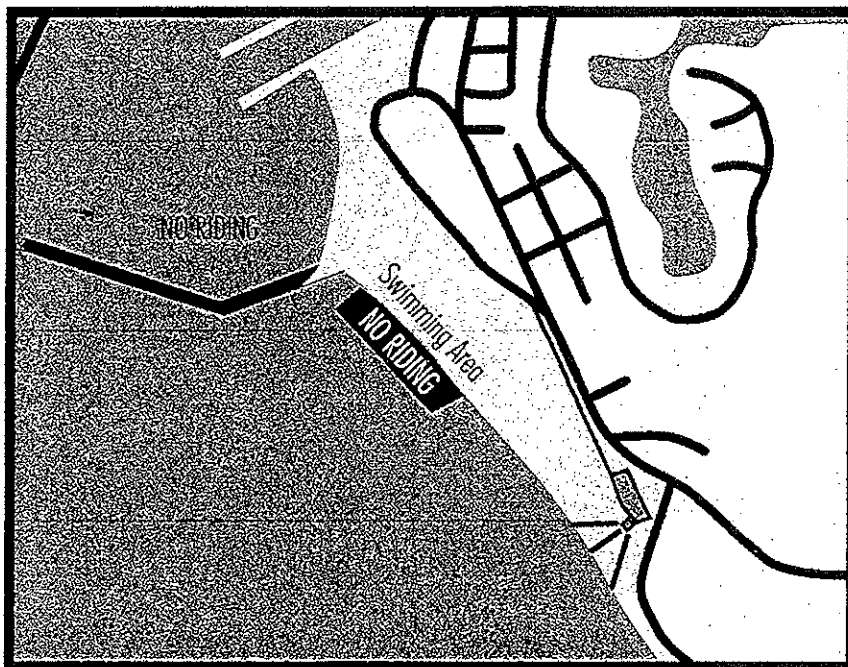


KITE ZONES

NORTH WIND KITE LAUNCH ZONES

All experienced riders launch on the north side of the red rope between the green and red ropes.

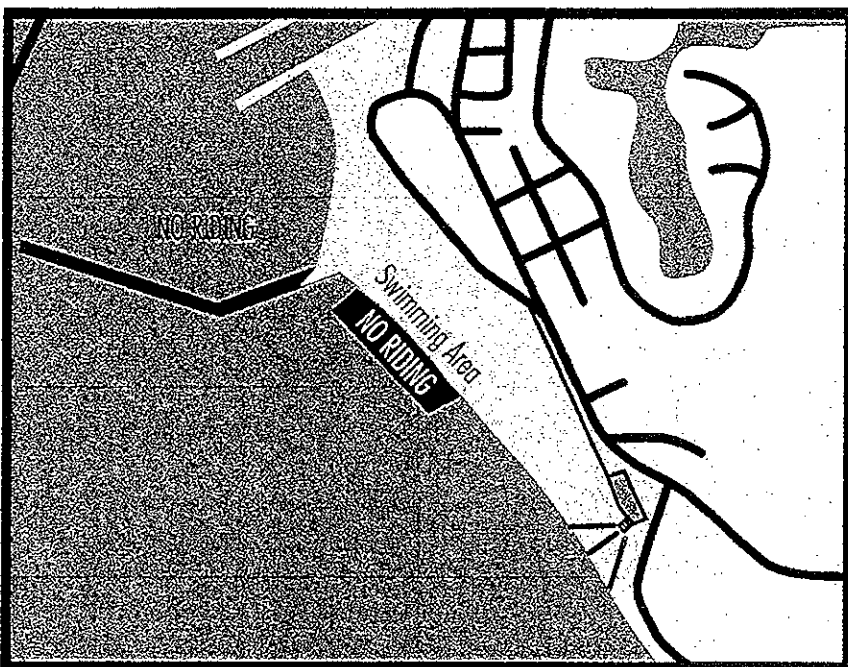
All students will be based between the 2 red ropes. School kites will have streamers so riders will know to give them space.



SOUTH WIND KITE LAUNCH ZONES

All experienced riders launch on the south side of the red rope between the green and red ropes.

All students will be based between the 2 red ropes. School kites will have streamers so riders will know to give them space.





Kiteboarding Rules: Initial Thoughts

Basic Riding Etiquette at Pier Marquette Beach

Students:

All students will be based between the 2 red ropes. School kites will have streamers so riders will know to give them space.

New riders:

Please check in with the MACkite kiteboarding building on the beach for information.

Also we ask new riders (can't stay upwind) to get their free streamer from the MACkite building.

Rider Setup

South wind:

All experienced riders launch on the south side of the red rope between the green and red ropes.

Please use assisted launches and landings when the beach is crowded.

North Wind:

All experienced riders launch on the north side of the red rope between the green and red ropes.

Please use assisted launches and landings when the beach is crowded.

MACkite will set ropes on days of anticipated crowds.

NO RIDING inside swim buoys:

All Rider must keep their KITE one line length from all swim buoys.

This rule should be followed for all of the Great Lakes Region

Jumping Zone:

All jumps must be 3 line lengths (approx 200 feet) from the beach or swim buoys

Please use common sense and care. Violators of these simple rules will be asked to leave the beach. The city of Muskegon is a tremendous host and we need to keep it that way.

PERE MARQUETTE PARK At the bath house
SNACK Shop

SALES of bottled WATER - CANNED Soda - Juice - ICE
CREAM NOVELTIES - CANDY - TOWELS - Sun SCREEN - Toys Etc.
FREE SERVICES - Tourist information, I provide hundreds
of pamphlets of things to do in Muskegon. I
provide directions to different locations within
Muskegon/WEST Mich. Examples: places to lodge -
EAT - local EVENTS. I provide money to people
in need to use the trolley or the phone. I
provide countless band-aids for minor cuts.
I explain how to read the warning flags (Red/Yellow/Green)
The signs on the beach use the right colors, but
use triangle flags, however the life guards
use the right colors on Rectangle flags. I call
the RANGERS or police for people who need
them. I provide a lost and found service.
I explain the dangers of swimming by the
breakwall and on one occasion I pulled
a drowning victim out of the water at
the breakwall playing a part in saving
his life

Open end of May to end of Sept.

7 days a WEEK weather permitting.

11:00 A.M. to 8:00 P.M. Plus/minus as needed

PERCENTAGE of gross Receipts ~~10.8%~~ 10.25%

THANK YOU

DAN ETTERMAN

Sandy bottoms SNACK shop

1659 Montague Ave

Muskegon, Mich. 49441

231-855-5872

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commission
FROM: Department of Public Works
DATE: April 8, 2008
SUBJECT: Aggregates, Highway Maintenance Materials and Concrete

SUMMARY OF REQUEST:

Award bid to supply H1 and H2 limestone chip blend to Verplank Trucking Company, PO Box 8, Ferrysburg, MI 49409

Award bid to supply road slag to Verplank Trucking Company, PO Box 8, Ferrysburg, MI 49409

Award bid to supply Sylvax patching material (CP-6 alternative) to Rieth-Riley Construction Co., PO Box 278, Ada, MI 49301

Award bid for crack sealant to ASI Manufacturing, LLC, 1805 Industrial Park Dr., Grand Haven, MI 49417

Award bid to supply bituminous asphalt product to Asphalt Paving, Inc., 1000 E. Sherman Boulevard, Muskegon MI 49444-0190

Award bid to supply Calcium Chloride 38% (road brine) and 32% (winter salting) to Liquid Dustlayer, Inc., P.O. Box 188, Manistee, MI 49660

Award bid to supply screened top soil to Felco Contractors, Inc., 965 Pulaski Ave., Muskegon, MI 49441

Award bid to supply 2NS sand to Verplank Trucking Company, PO Box 8, Ferrysburg, MI 49409

Award bid to supply 7-sack mix concrete to Consumers Concrete, 4400 E. Evanston Muskegon, MI 49442; contingent upon product availability, timely deliveries, and prices as quoted.

FINANCIAL IMPACT:

\$136,378 based on 2007 quantities at 2008 quotes.

BUDGET ACTION REQUIRED:

None; funds appropriated in several budgets.

STAFF RECOMMENDATION:

To: The City Commission Through The City Manager
From: Robert H. Kuhn, Director of Public Works
Date: April 8, 2008
Subject: 2008 Aggregates, Highway Maintenance Materials, and Concrete

Requests for bids to provide road maintenance materials were solicited in *The Chronicle* and from vendors on file. It is recommended that the vendor in bold print supply Public Works with product as needed in 2008. Funds have been appropriated for these purchases.

500 ton H1 & H2 Limestone Chip Blend (\$20.00 in 2007; \$1,084.30)

Verplank Trucking Co.	PO Box 8, Ferrysburg, MI 49409	\$17.50 per ton, delivered
------------------------------	--------------------------------	-----------------------------------

9,000 ton Road Slag 22-A Natural (\$10.15 in 2007; \$23,782.39)

Verplank Trucking Co.	PO Box 8, Ferrysburg, MI 49409	\$11.25 per ton, delivered
Yellow Rose Transport	3531 Busch Dr., Grandville, MI 49418	\$11.50 per ton, delivered

500 tons SylvaX Patching Materials – UPM-CP-7, or ASTM Specification C-136 #9 or Statite CP-6, or similar product (\$83.00 in 2007; \$15,888.32)

Rieth-Riley Construction Co.	867 Egypt Valley, Ada MI 49301	\$82.00 per ton, delivered
Asphalt Paving, Inc.	1000 E. Sherman Boulevard, Muskegon MI 49444-0190	\$85.00 per ton, delivered

50,000 pounds Crack Sealant (block form) (\$0.35 in 2007; \$15,463.80)

ASI Manufacturing, LLC	1805 Industrial Park Dr., Grand Haven, MI 49417	\$0.36 per pound, delivered
NHMS Ltd, LLC	P.O. Box 5315, Akron, OH 44334	\$0.42 per pound, delivered
Lakeshore PLM Services	6818 Harvey St., Spring Lake, MI 49456	\$0.46 per pound, delivered
NHMS Ltd, LLC	P.O. Box 5315, Akron, OH 44334	\$0.51 per pound, delivered

Note: Bid award is for product we have not tried before. Will use on a trial basis. If product does not meet our requirements, then bid goes to next lowest bidder.

200 ton Bituminous Asphalt 4:12, Base (\$49.00 in 2007; \$2,403.45)

Asphalt Paving, Inc.	1000 E. Sherman Boulevard, Muskegon MI 49444-0190	\$49.00 per ton, picked up
Rieth-Riley Construction Co.	867 Egypt Valley, Ada MI 49301	\$42.00 per ton, picked up

Note: Bid award based upon location. Requires approximately 2 hours travel time, keeping one/two employees unavailable during this time. Also do not have the equipment needed to keep the asphalt hot from Ada to Muskegon.

2008 Aggregates, Highway Maintenance Materials, and Concrete

Page 2

April 8, 2007

1,000 ton Bituminous Asphalt 4:12, Top (\$50.00 in 2007; \$37,405.00)

Asphalt Paving, Inc.	1000 E. Sherman Boulevard, Muskegon MI 49444-0190	\$50.00 per ton, picked up
Rieth-Riley Construction Co.	867 Egypt Valley, Ada MI 49301	\$42.00 per ton, picked up

85,000 gallons Calcium Chloride 38% (road brine) (\$0.42 in 2007; \$20,103.30)

Liquid Dustlayer, Inc.	P.O. Box 188, Manistee, MI 49660	\$0.42 per gallon, spread
-------------------------------	----------------------------------	----------------------------------

15,000 gallons Calcium Chloride 32% (winter salting) (\$0.35 in 2007; \$0.00)

Liquid Dustlayer Inc.	P.O. Box 188, Manistee, MI 49660	\$0.35 per gallon, stored
ASI Manufacturing, LLC	1805 Industrial Park Dr., Grand Haven, MI 49417	\$0.85 per gallon, delivered

500 yards Screened Top Soil (\$12.00 in 2007; \$1,940.00)

Felco Contractors, Inc.	856 Pulaski Ave., Muskegon, MI 49441	\$10.00 per cubic yard, delivered
Verplank Trucking Co.	PO Box 8, Ferrysburg, MI 49409	\$12.00 per cubic yard, delivered
Yellow Rose Transport	3531 Busch Dr., Grandville, MI 49418	\$13.50 per ton, delivered

500 ton 2NS Sand (\$5.50 in 2007; \$693.25)

Verplank Trucking Co.	PO Box 8, Ferrysburg, MI 49409	\$6.45 per ton, delivered
Yellow Rose Transport	3531 Busch Dr., Grandville, MI 49418	\$7.50 per ton, delivered

Concrete mix as needed (7 Sack Mix \$83.00* in 2007, \$17,613.75)

Consumers Concrete	\$81.00 per cubic yard, 7 Sack Mix, delivered
4400 E. Evanston Avenue, Muskegon MI 49442	

Port City Redi-Mix	\$90.00 per cubic yard, 7 Sack Mix, delivered
1780 Sheridan Road, Muskegon, MI 49442	

**The 7-sack mix is the most commonly used product. It should be noted that concrete purchases may include several miscellaneous charges, including, but not limited to, hot water, chloride, small loads, second drops, winter price, and extra unload time. Purchases will be made from recommended bidder, contingent upon product availability, timely deliveries, and prices as quoted.*

Date: April 1, 2009
To: Honorable Mayor and City Commission
From: Public Works
RE: Surf Muskegon

SUMMARY OF REQUEST:

To authorize use of the Water Filtration Plant as the site to host equipment to enable the creation of a "Surf Muskegon" internet website by Masana, LLC.

FINANCIAL IMPACT:

Use of electricity to power the camera, weather equipment, and cable modem located at the Water Filtration Plant.

BUDGET ACTION REQUIRED:

There is no budget action required.

STAFF RECOMMENDATION:

Staff recommends approval for use of the Water Filtration Plant to house the equipment to enable creation of the Surf Muskegon internet website by Masana, LLC.

MEMORANDUM

3/31/08

TO: R. KUHN, PUBLIC WORKS DIRECTOR
FROM: R. VENEKLASSEN, WATER FILTRATION
RE: SURF MUSKEGON

The City of Muskegon Public Works Department was approached by Mr. Mitch Dennison, Masana LLC, about the possibility of installing an internet webcam and weather equipment at the Water Filtration Plant to be utilized to create a "Surf Muskegon" website. This effort is to mimic that of the successful "Surf Grand Haven" site that has been in service since July of 2007.

HISTORY –SURF GRAND HAVEN

The Surf Grand Haven website was borne from the local surfing community that routinely telephoned Will Beaton – a meteorologist for the national weather service, lakefront resident, and fellow surfer to determine if Lake Michigan was favorable for surfing. Following retirement Will continued to predict the weather and lake conditions for area enthusiasts and his accuracy became the standard. This led to a desire to report to a greater segment of the recreational community; from which the website was created. The Surf Grand Haven site is approaching the 700,000 mark in website "hits" or visits in nine months.

MUSKEGON – SURF MUSKEGON

The proposal for Muskegon is to create a website similar to the Grand Haven site but tailored to the Muskegon waterfront activities. This will likely cater to the ever increasing sport of kiteboarding at Pere Marquette Park as the original site did to the surfers.

In addition the website will likely include local event notices, local services, and a photo gallery of the Muskegon community. It will promote the City and its award winning Pere Marquette Park. The site will also include free classified advertisement, business listings, and links to other media services.

WATER PLANT SITE

Masana will install the web camera and weather equipment on the upper roof of the Water Filtration Plant. This will provide a one-hundred eighty degree view of the Lake Michigan waterfront in Muskegon. The weather equipment will provide information for Will Beaton to make weather predictions specifically for the Muskegon area.

The City will provide electricity to power the personal computer, weather equipment, camera, and cable modem to enable the exchange of data. The City will receive the cable television signal at the Water Plant – a service discontinued this past year as result of the deregulation of cable television franchises. It is anticipated the Water Plant will be able to access the raw weather data to incorporate into the SCADA system enabling the plant operator direct access to pertinent weather information. Most importantly the City will receive international exposure displaying the attractive qualities the area has to offer.

LICENSE AGREEMENT

THIS AGREEMENT made April 8, 2008, between the **City of Muskegon**, a Michigan municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49440 ("City") and **Masana, LLC**, a Michigan limited liability company of 1600 Kooiman Avenue, Grand Haven, Michigan 49417 ("Licensee"). In consideration of the mutual promises herein contained, the parties agree:

1. **Grant of License.** City grants to Licensee a non-exclusive license to occupy and use, subject to the terms of this license, the rooftop area of the Muskegon Water Filtration Plant ("Premises") for weather data and video collection purposes.

2. **Term.** The term of this license shall commence April 12, 2008 and shall terminate December 31, 2008.

3. **Renewal.** This License shall automatically renew upon the anniversary of the Commencement Date for two (2) additional terms of one (1) year each, unless written notice of termination is given by Licensee. Licensee shall cancel, if at all, by written notice to City 60 days before this License expires. The renewal shall be on the same terms and conditions as stated in this agreement.

4. **Termination.** Either party shall have the option to terminate this License by delivering to the other party a written notice of termination. The notice shall provide that the License will terminate 60 days from the date of the notice.

5. **Use of the Premises.** The Premises shall be used and restricted as follows:

a. ***Operating of EarthCam video equipment, weather equipment and network to access the data feed.*** The Licensee is permitted to install weather equipment, a hi-speed cable and cable modem, and an EarthCam on the Premises. Additionally, Licensee may install and operate a small computer in the attic area of the Muskegon Water Filtration Plant to collect the camera images and weather data collected via cable and cable modem. Ownership of said equipment shall remain with the Licensee.

b. ***Positive Promotion of the Muskegon Lakeshore.*** The Licensee shall use the equipment and data collected to promote the Muskegon Lakeshore in a positive manner. Any negative advertising shall render this license immediately revocable at the option of the City.

c. ***Inconsistent Uses.*** Any use for purposes other than specified above, without written permission, shall render this license immediately revocable at the option of City.

6. **Utilities.** City shall provide a dedicated circuit (or circuits as required) to be installed by Licensee or a City approved contractor for the Licensee's equipment, at Licensee's cost. City shall provide electrical utility service in exchange for cable television service to be paid for by Licensee (see paragraph 7). City shall have the right to enter upon the Premises at any time for the purpose of repairing municipal utilities involved.

7. **Cable.** Licensee shall be responsible for the installation of cable and cable modem. Licensee shall provide to City cable television equipment and basic cable service in exchange for City providing Licensee with a dedicated electrical circuit.

8. **Taxes and Assessments.** Licensee shall pay all lawful fees, taxes and assessments during the term of this License which may be levied by any authority. Said taxes and assessments may include taxes on fixtures, equipment and property owned by Licensee or situated on the Premises.

9. **Signs.** Licensee shall not place any signs on the Premises. Licensee is a sub-tenant of a building owned by the City and within the area described as the Premises.

10. **Condition of the Premises.** Licensee shall exercise its best efforts to insure that the equipment does no damage to the Premises upon installation of said equipment. Licensee shall keep and maintain the Premises, and every part thereof, including improvements located upon the Premises, in good condition and repair, and shall be responsible for all maintenance to any equipment installed on the Premises.

11. **Alterations and Additions.** No alterations or additions to the Premises shall be made unless City consents in writing.

12. **Liens.** Licensee shall pay promptly for all labor or materials and shall keep the Premises free of all liens or encumbrances of any kind.

13. **Indemnification.** To the fullest extent permitted by law, Licensee agrees to defend, pay on behalf of, indemnify, and hold harmless the City, its elected and appointed officials, employees and volunteers and others working on behalf of the City against any and all claims, demands, suits, or loss, 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 in behalf of the City, by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this agreement.

14. **Default.** If Licensee defaults in any terms hereof, City may declare this license forfeited only if Licensee fails to cure such Default within 10 days after Licensee receives written notice from City of the Default. If Licensee fails to cure a Default within such 10-day period, City may exercise a right of reentry on the Premises after declaring forfeiture.

15. **Surrender of Premises on Termination of License.** At termination, Licensee shall surrender the Premises. All equipment installed on the Premises shall be removed at the sole expense of the Licensee. Licensee shall deliver the Premises back to City at the expiration of the Term in as good a condition as when received, except for reasonable use and wear thereof.

16. **Insurance.** The Licensee shall not commence occupancy until it has obtained the insurance required under this paragraph. All coverage shall be with insurance carriers acceptable to City.

a. **Commercial General Liability Insurance.** The Licensee 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: (i) Contractual Liability; (ii) Products and Completed Operations; (iii) Independent Licensees Coverage; (iv) Broad Form General Liability Extensions or equivalent; (v) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

b. **Additional Insured.** Commercial General Liability, 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.

c. **Cancellation Notice.** Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle 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
Attn: City Manager
933 Terrace Street
Muskegon, Michigan 49440

d. **Proof of Insurance Coverage.** The Licensee shall provide the City at the time the contracts are returned by him for execution, certificates and policies as listed below:

i. Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;

ii. Original Policy, or original Binder pending issuance of policy, for Owner's and Licensee's Protective Liability Insurance.

iii. If so requested, Certified Copies of all policies mentioned above will be furnished.

e. **Notice of Termination.** If any of the above coverages expire during the term of this contract, the Licensee shall deliver renewal certificates and/or policies to City at least ten (10) days prior to the expiration date.

17. **Non-Waiver.** The failure of City to enforce any of its rights hereunder shall not be deemed a waiver of subsequent enforcement.

18. **Time of the Essence.** Time is expressly declared to be of the essence of this license.

19. **Cumulative Rights and Remedies.** Every right and remedy given to the City by this License is cumulative and no right or remedy shall be exclusive of any other provided by law. The exercise of one right or remedy by City shall not impair the right of City to exercise any other.

20. **Non-Assignment.** This License may not be assigned at any time by Licensee.

21. **Inspection of Premises.** City reserves the right to enter the Premises at any reasonable time for the purpose of inspection and exercise of any and all rights hereunder.

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

23. **No Interest in Land Created.** Licensee agrees that this agreement is a license and not a lease, and that no interest or estate in real property or the improvements thereon is created by this agreement.

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

25. **Notices.** Notices under this agreement shall be mailed first class mail as follows:

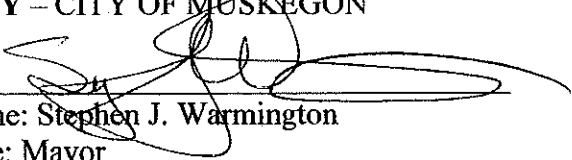
CITY OF MUSKEGON
Attn: City Manger
933 Terrace Street
Muskegon, Michigan 49440

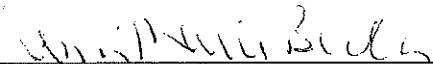
MASANA, LLC
Attn: Mitch Dennison
1600 Kooiman Avenue
Grand Haven, MI 49417

26. **Entire Agreement.** The terms contained and referenced in the Agreement constitute the ENTIRE AGREEMENT between City and Licensee. All prior or contemporaneous communications, negotiations, and representations are deemed to have been merged into these written documents.

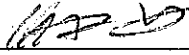
IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

CITY – CITY OF MUSKEGON

By: 
Name: Stephen J. Warmington
Title: Mayor
Date: April 10, 2008

and: 
Name: Ann Marie Becker
Title: Clerk
Date: April 10, 2008

LICENSEE – MASANA, LLC

By: 
Name: Mitch Dennison
Title: Member
Date: 3/26/08, 2008

AMENDMENT TO LICENSE

The License agreement between the **City of Muskegon**, a Michigan municipal corporation ("City") and **Masana, LLC**, a Michigan limited liability company ("Licensee") dated April 12, 2008 ("License") is amended as follows:

1. **Address.** The address for Masana, LLC is 1119 Washington Avenue, Grand Haven, MI 49417 effective April 12, 2008.
2. **Notices.** Notices under this agreement shall be mailed first class mail as follows:

CITY OF MUSKEGON

Attn: City Manger
933 Terrace Street
Muskegon, Michigan 49440

MASANA, LLC

Attn: Mitch Dennison
1119 Washington Avenue
Grand Haven, MI 49417

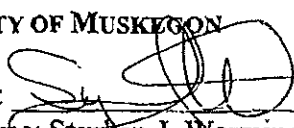
3. In all other respects, the License shall remain in full force and effect.

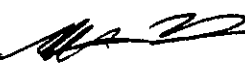
CITY:

LICENSEE:

CITY OF MUSKEGON

MASANA, LLC

By: 
Name: Stephen J. Warmington
Title: Mayor

By: 
Name: Mitch Dennison
Title: Member

Dated: April 10, 2008

Dated: 3/26/, 2008

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

3/24/08

PRODUCER

Cameron M. Wilson & Associates
5988 Venture Park Drive
Kalamazoo, MI 49009

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY LETTER A Colony Insurance Company -

COMPANY LETTER B

COMPANY LETTER C

COMPANY LETTER D

COMPANY LETTER E

INSURED

Masana, LLC
1600 Kooiman Ave
Grand Haven, MI 49417

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN TO INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR. OWNER'S & CONTRACTOR'S PROT.	GL3232615	11/01/2007	11/01/2008	GENERAL AGGREGATE \$ 2,000,000. PRODUCTS-COMP/DP AGG. \$ 1,000,000. PERSONAL & ADV. INJURY \$ 1,000,000. EACH OCCURRENCE \$ 1,000,000. FIRE DAMAGE (Any one fire) \$ 50,000. MED. EXPENSE (Any one person) \$ 1,000.
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTO SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				Auto Only Each Accident \$ Other than "Auto" Only Each Accident \$ Aggregate "Garage Operations" Other than "Auto" Only \$
	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
	WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$ DISEASE-POLICY LIMIT \$ DISEASE-EACH EMPLOYEE \$
	OTHER				

see attached forms & endorsements

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS Additional Insured effective 3/24/08

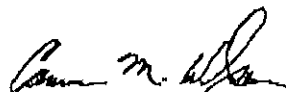
installation of Web cam: "additional Insured": The City, all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members,

including employees and volunteers thereof.
CERTIFICATE HOLDER CANCELLATION

City of Muskegon
Attn: City Manager
933 Terrace Street
Muskegon, MI 49400

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL endeavor TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



MASANA LLC

Insured:

Policy Number: GL3232615

SCHEDULE OF FORMS AND ENDORSEMENTS

Forms and Endorsements applying to and made part of this policy at the time of issuance:

NUMBER	TITLE
FORMS APPLICABLE - POLICY COMMON FORMS	
PJCG (06-(5)	COMMON POLICY JACKET
DCJ6550 (07-05)	COMMON POLICY DECLARATIONS
U001 (10-(4)	SCHEDULE OF FORMS AND ENDORSEMENTS
U002 (09-04)	MINIMUM POLICY PREMIUM
U094 (07-02)	SERVICE OF SUIT
U173 (07-02)	CANCELLATION
UCG2175 (09-04)	EXCL-CERT. ACTS OF TERRORISM AND OTHER ACTS OF TERRORISM
IL0017 (11-98)	COMMON POLICY CONDITIONS
IL0021 (04-98)	NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT
FORMS APPLICABLE - COMMERCIAL GENERAL LIABILITY	
DCJ6553 (07-02)	COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS
U003 (07-02)	HAZARDOUS MATERIALS EXCLUSION
U004 (07-07)	MISCELLANEOUS EXCLUSIONS ENDORSEMENT
U006 (07-07)	ASSAULT, BATTERY OR ASSAULT AND BATTERY EXCLUSION
U008R (07-07)	CONTRACTORS COVERAGE LIMITATIONS
U048 (09-04)	EMPLOYMENT-RELATED PRACTICES EXCLUSION
U159 (07-02)	LIMITATION OF COVERAGE TO BUSINESS DESCRIPTION
CG0001 (12-04)	COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CG0067 (03-05)	EXCLUSION - VIOLATION OF STATUTES THAT GOVERN E-MAILS, F
CG2139 (10-93)	CONTRACTUAL LIABILITY LIMITATION
CG2146 (07-98)	ABUSE OR MOLESTATION EXCLUSION
CG2167 (12-04)	FUNGI OR BACTERIA EXCLUSION
CG2299 (12-04)	PROFESSIONAL LIABILITY EXCLUSION - WEB-SITE DESIGNERS

Important notice: See the actual policy forms attached for the full title, terms and conditions.

Date: April 8, 2008
To: Mayor and City Commission
From: Robert H. Kuhn, Director of Public Works
Re: Transfer of Sewage Lift Station to County of
Muskegon (Wastewater)

SUMMARY OF REQUEST:

The City of Muskegon wishes to transfer maintenance responsibilities of the Keating Avenue Sewage Lift Station to Muskegon County (Wastewater). The County is taking over the maintenance of the major lift stations in the collection system.

FINANCIAL IMPACT:

The City should see some savings in its maintenance budget with a slight increase in the treatment budget as these maintenance costs will be charged by the County as part of its collections budget.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Recommend approval.

COMMITTEE RECOMMENDATION:

**AGREEMENT: TRANSFER OF SEWER LIFT STATION
AND SEWER LINE**

This Agreement is made on April 15, 2008, between the **City of Muskegon**, a Michigan municipal corporation, with offices located at 933 Terrace Street, Muskegon, Michigan, 49442 (City) and the **Muskegon County Public Works Board**, of 990 Terrace Street, Muskegon, Michigan, 49442 (Board).

Recitals

- A. The Muskegon County Public Works Board is responsible for the Muskegon County Wastewater Management System (System) for the County of Muskegon and for the local townships and cities that use the System; and
- B. As part of the original organization of the System, there were major sewage lift stations and connecting force mains previously owned by local townships and cities that became the responsibility of the System; and
- C. The Keating Avenue Sewage Lift Station located at 895 East Keating Avenue in the City of Muskegon is a major station and should be owned and maintained by the System; and
- D. The 755-foot 16-inch diameter force main from the Keating Avenue Sewage Lift Station to the System Q to C force main should also be owned and maintained by the System.

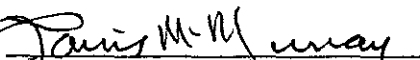
Agreement

NOW THEREFORE, THE CITY AND BOARD AGREE AS FOLLOWS:

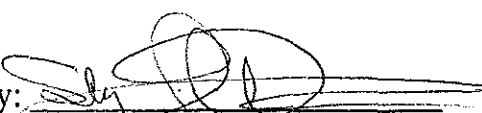
1. The City shall agree to perform the following:
 - 1.1. Maintain the lawn and premises around said lift station.
 - 1.2. Grant the County all necessary access for maintenance to the above-referenced lift station and force main.
2. The Board shall:
 - 2.1. Accept ownership of the above-referenced lift station and force main.
 - 2.2. Pay all future operations, maintenance, and upgrade costs for said lift station and force main.

3. Abandonment. If the lift station and/or the force main described above are no longer needed by the System or the City, the County shall demolish, remove, and abandon the lift station and/or force main according to the standard practices used in other parts of the System.
4. General Provisions.
- 4.1. *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. All contemporaneous or prior negotiations and representations have been merged into this agreement.
- 4.2. *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.
- 4.3. *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.
- 4.4. *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.
- 4.5. *Assignment or Delegation.* Except as otherwise specifically set forth in this agreement, neither party shall assign all or any portion of its rights or 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.

**Board – Muskegon County Board
of Public Works**

By: 
Name: Louis A. McMurray
Title: Chairman

City – City of Muskegon

By: 
Name: Stephen J. Warmington
Title: Mayor

Date: April 8, 2008
To: Mayor and City Commission
From: Robert H. Kuhn, Director of Public Works
Re: Land Purchase – 1845 Creston Street

SUMMARY OF REQUEST:

The property to the north of the Public Works storage area is available for purchase. Additional storage area is need, and this allows an alternate direct access to Laketon Avenue at a signalized intersection.

FINANCIAL IMPACT:

\$25,000 for purchase. Demolition of structure to be done by City forces.

BUDGET ACTION REQUIRED:

Cost will be absorbed by the Equipment Fund.

STAFF RECOMMENDATION:

Recommend approval.

COMMITTEE RECOMMENDATION:

M E M O R A N D U M

TO: Honorable Mayor and City Commissioners
FROM: Robert H. Kuhn, Director of Public Works
DATE: March 19, 2008
RE: Land Purchase – 1845 Creston Street

The Department of Public Works has been approached by the executor of the estate of 1845 Creston Street to purchase that property. The Public Works Department has need for additional secured storage space as additional departmental consolidations take place. In addition, the acquisition of this property allows for future access directly to the Creston Street at Laketon Avenue signalized intersection.

Although the property is appraised at \$30,000, the house will need to be razed as it is not salvageable.

The offer is for \$25,000 which takes into account the need to raze the building.

The funds will come from the Equipment Fund since this additional area will be used primarily for equipment purchased.

RHK/rsh

BRIDGE TON AVE.

HOUSE



PROPOSED
PURCHASE
{ 1845 7
{ CRESTON

CITY

NOV

1350

KEATING AVE.

Date: January 22, 2008
To: Honorable Mayor and City Commissioners
From: Engineering
**RE: City – MDOT Agreement for the resurfacing of:
Quarterline, Apple to McArthur**

SUMMARY OF REQUEST:

To approve the attached contract with MDOT for the milling & resurfacing of Quarterline between Apple & McArthur and to approve the attached resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT:

MDOT's participation is limited to the federal funds of \$663,400 & state funds of \$165,800 from the local jobs today funds for a total grant of \$829,200. The estimated total construction cost of the project is \$872,100.

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

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

COMMITTEE RECOMMENDATION:

RESOLUTION #2008-33(g)

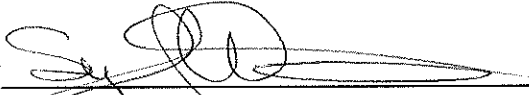
RESOLUTION FOR APPROVAL OF A CONTRACT AGREEMENT BETWEEN THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND THE CITY OF MUSKEGON FOR THE MILLING & RESURFACING OF QUARTERLINE BETWEEN APPLE AVE. (M-46) & MCARTHUR TOGETHER WITH OTHER NECESSARY RELATED WORK AND AUTHORIZATION FOR MAYOR, STEPHEN J. WARMINGTON, AND CITY CLERK, ANN BECKER, TO EXECUTE SAID CONTRACT.

Moved by Commissioner Carter and supported by Commissioner Spataro that the following Resolution be adopted:

WHEREAS, entry by the City of Muskegon into Contract no. **08-5123** between the Michigan Department of Transportation and the City of Muskegon for the **Milling & Resurfacing of Quarterline between Apple Ave. & McArthur** within the City & Muskegon TWP is in the best interests of the City of Muskegon.

RESOLVED, that entry by the City into Contract Agreement Number **08-5123** 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 8th day of April, 2008.

By 
Stephen J. Warmington

Attest 
Ann Becker, City Clerk

CERTIFICATION

This resolution was adopted at a meeting of the City Commission, held on April 8, 2008. 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 Becker, City Clerk

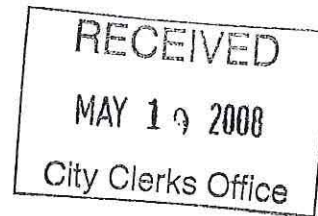


STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

KIRK T. STEUDLE
DIRECTOR

May 9, 2008



Ms. Anne M. Becker
Clerk
City of Muskegon
933 Terrace Street, P.O. Box 536
Muskegon, MI 49443-0536

Dear Ms. Becker:

RE: MDOT Contract No.: 08-5123
Control Section: HPSL 61407
Job Number: 102538

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

Sincerely,

Jackie Burch
Contract Processing Specialist
Design Support Area

Enclosure

cc: Project Accounting
M. Harbison, Design Support Area
Grand

C: Engineering

HPSL & LJT

CAB

Control Section	HPSL 61407
Job Number	102538
Project	HPSL 0861(383)
Federal Item No.	RR 6325
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	08-5123

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of MAY 07 2008, 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, 2008, attached hereto and made a part hereof:

PART A – FEDERAL AND STATE PARTICIPATION

Reconstruction work along Quarterline Road from Apple Avenue (Highway M-46) to McArthur Road; including concrete curb and gutter, drainage structure adjustments, concrete sidewalk, sidewalk ramps, hot mix asphalt paving, and pavement marking work; and all together with necessary related work.

PART B – NO FEDERAL OR STATE PARTICIPATION

Watermain work along Quarterline Road from Apple Avenue (Highway M-46) to McArthur Road; and all together with necessary related work.

WITNESSETH:

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

WHEREAS, the PROJECT has been approved for financing in part with State Local Jobs Today Program Funds; 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:

HIGH PRIORITY PROJECTS PROGRAM - SAFETEA LU

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 costs incurred by the DEPARTMENT and the REQUESTING PARTY for construction engineering, construction materials testing, and inspection for the PART A portion of the PROJECT and any other costs incurred by the DEPARTMENT as a result of this contract.

Costs for construction engineering, construction materials testing, and inspection incurred by the REQUESTING PARTY for the PART A portion of the PROJECT shall be limited to the lesser of: (1) 100 percent of the actual costs for construction engineering, construction materials testing, and inspection for the PART A portion of the PROJECT, or (2) 15 percent of the actual contracted physical construction costs for the PART A portion of the PROJECT.

The costs incurred by the REQUESTING PARTY for construction engineering, construction materials testing, and inspection for the PART B portion of the PROJECT, preliminary engineering, 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, under the terms of this contract, shall:

- A. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.
- B. At PROJECT COST, perform or cause to be performed the construction engineering, construction material testing, and inspection necessary for the completion of the PART A portion of the PROJECT.
- C. At no cost to the PROJECT
 - (1) Design or cause to be designed the plans for the PROJECT.
 - (2) Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PART B portion 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.

The method of performing the work will be indicated on the work authorization. The REQUESTING PARTY will comply with PART II, Section IIF, when applicable.

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

PART A

The PART A portion of the PROJECT COST shall be met in part by contributions from the Federal High Priority Project Program – SAFETEA LU and the State Local Jobs Today Program.

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Subtitle G - High Priority Projects, authorizes Federal High Priority Project funding and establishes the maximum amount of funding for the PART A portion of the PROJECT and associated phases under SAFETEA-LU Number 2959 to be \$2,800,000. It is understood that this amount is subject to obligational authority limitation and after applying that estimated limitation only \$2,436,000 may be available for the PART A portion of the PROJECT and associated phases. It is further understood that according to SAFETEA-LU, funds for the PART A portion of the PROJECT and associated phases are to be allocated over a period of 5 years.

Federal High Priority Project – SAFETEA LU Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST up to the lesser of:
(1) \$720,000 subject to obligational authority limitation, or (2) an amount such

that 80 percent, the normal Federal participation ratio for such funds, is not exceeded at the time of the award of the construction contract. State Local Jobs Today Grant Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST up to the lesser of: (1) \$180,000, or (2) an amount such that 20 percent 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 and State 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 or State 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 or State Funds shall be the sole responsibility of the REQUESTING PARTY.

6. No working capital deposit will be required from the REQUESTING PARTY 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 available Federal Funds and State Local Jobs Today Grant Funds as the PROJECT progresses.

Failure to make such payments within 30 days of receipt of billings from the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold without further notice an equal amount from the REQUESTING PARTY'S share of any future Act 51 monthly allocations.

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.

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

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

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

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

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

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT and 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 and 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 and its agents is assuming any liability, control or jurisdiction.

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

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

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

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

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

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

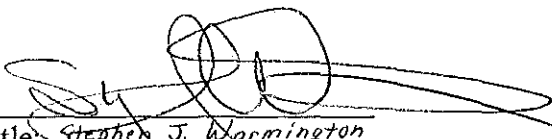
17. The DEPARTMENT shall require the contractor who is awarded the contract for the construction of the PROJECT to provide insurance in the amounts specified and in accordance with the DEPARTMENT'S current standard specifications for construction, and to:

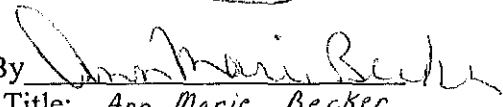
- A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.
- B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other 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 resolution 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.

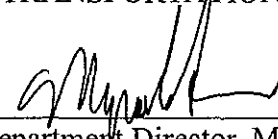
IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CITY OF MUSKEGON

By 
Title: Stephen J. Warmington
Mayor

By 
Title: Ann Marie Becker
City Clerk

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By 
Department Director MDOT
for



3/17/08


March 4, 2008

EXHIBIT I

CONTROL SECTION	HPSL 61407
JOB NUMBER	102538
PROJECT	HPSL 0861(383)

ESTIMATED COST

CONTRACTED WORK

	<u>PART A</u>	<u>PART B</u>	<u>TOTAL</u>
Estimated Cost	\$721,100	\$42,900	\$764,000
CONSTRUCTION ENGINEERING, CONSTRUCTION MATERIALS TESTING, AND INSPECTION (REQUESTING PARTY)	\$108,100	\$ -0-	\$108,100
GRAND TOTAL	\$829,200	\$42,900	\$872,100

COST PARTICIPATION

Grand Total Estimated Cost	\$829,200	\$42,900	\$872,100
Less Federal High Priority Project – SAFETEA LU Funds	\$663,400	\$ -0-	\$663,400
Less State Local Jobs Today Grant Funds*	<u>\$165,800</u>	<u>\$ -0-</u>	<u>\$165,800</u>
BALANCE (REQUESTING PARTY'S SHARE)	\$ -0-	\$42,900	\$ 42,900

*State Local Jobs Today Grant Funds for the PART A portion of the PROJECT are limited to an amount as described in Section 5.

**Federal High Priority Project-SAFETEA LU 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 twenty percent (20%) the final engineer's estimate therefor. If such rejection of the bids is not received in writing within two (2) weeks after letting, the DEPARTMENT will assume concurrence. The DEPARTMENT may, upon request, readvertise the PROJECT. Should the REQUESTING PARTY so request in writing within the aforesaid two (2) week period after letting, the PROJECT will be cancelled and the DEPARTMENT will refund the unused balance of the deposit less all costs incurred by the DEPARTMENT.
- C. The DEPARTMENT will perform such inspection services on PROJECT work performed by the REQUESTING PARTY with its own forces as is required to ensure compliance with the approved plans & specifications.
- D. On those projects funded with Federal monies, the DEPARTMENT shall as may be required secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.
- E. All work in connection with the PROJECT shall be performed in conformance with the Michigan Department of Transportation Standard Specifications for Construction, and the supplemental specifications, Special Provisions and plans pertaining to the PROJECT and all materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. No extra work shall be performed nor changes in plans and specifications made until said work or changes are approved by the project engineer and authorized by the DEPARTMENT.

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

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

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

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

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

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

SECTION III

ACCOUNTING AND BILLING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Payment of Contracted and DEPARTMENT Costs:

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

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

C. General Conditions:

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

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

SECTION IV

MAINTENANCE AND OPERATION

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

1. All Projects:

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

2. Projects Financed in Part with Federal Monies:

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

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

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

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

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

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

SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

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

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

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

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

March, 1998

APPENDIX B

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

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

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

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

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

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

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

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

Commission Meeting Date: April 8, 2008

Date: April 1, 2008
To: Honorable Mayor & City Commission
From: Cathy Brubaker-Clarke, Director of Planning & Economic Development
RE: Set Public Hearing for Amendments to Brownfield Plan – Betten Auto Dealerships Project

SUMMARY OF REQUEST: To approve the attached resolution setting a public hearing for amendments to the City of Muskegon Brownfield Plan, and notifying taxing jurisdictions, Michigan Department of Environmental Quality, and Michigan Economic Growth Authority of the Brownfield Plan Amendments, including the opportunity to express their views and recommendations regarding the proposed amendments at the public hearing. The amendments are for the inclusion of the Betten Auto Dealerships Project in the Brownfield Plan.

FINANCIAL IMPACT: Brownfield Tax Increment Financing would be used to reimburse the developer and the City for Act 381 “eligible expenses” incurred in association with development of the Betten properties, starting in 2008. The developers/owners estimate that full development of the Betten properties will involve over \$13 million in private investment (in addition to property acquisition), resulting in a substantial increase in the city income, and local and school property taxes generated by the property.

“Eligible expenses” would be reimbursed to Betten starting in 2008, commencing for either 15 years, or up to \$3 million, whichever occurs first. After reimbursement of “eligible expenses” to Betten, tax capture would continue to reimburse the City for its infrastructure costs involved in resurfacing Henry Street between Sherman and Hackley, which will enhance the Betten project. The estimated tax capture schedule is included as Attachment S-3 in the proposed Brownfield Plan Amendment. The City is also authorized by law to capture up to \$75,000/year to pay for “reasonable and actual administrative and operating costs of the Brownfield Redevelopment Authority. As such, \$10,000/year of the local tax increment will be captured to reimburse the Brownfield Authority.

After all eligible costs incurred by the parties are reimbursed, the BRA is authorized to continue to capture local taxes for five more years for deposit into a Local Site Remediation Revolving Fund. Current tax capture estimates indicate that approximately

\$998,500 could be captured from the taxes on the Betten properties for deposit into this local fund.

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

COMMITTEE RECOMMENDATION: The Brownfield Redevelopment Authority (BRA) met on April 1, 2008, and approved the Brownfield Plan Amendment adding the Betten Auto Dealership properties to the Brownfield Plan. The BRA requests that the Muskegon City Commission set a public hearing on the Plan Amendments, and requests notification of the taxing jurisdictions, MDEQ, and MEGA of the proposed amendment and its financial impact on each jurisdiction.

**RESOLUTION NOTIFYING TAXING UNITS,
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY, &
MICHIGAN ECONOMIC GROWTH AUTHORITY;
AND CALLING PUBLIC HEARING REGARDING
APPROVAL OF AMENDMENTS TO THE BROWNFIELD PLAN OF THE
CITY OF MUSKEGON BROWNFIELD REDEVELOPMENT AUTHORITY**

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 8th day of April, 2008, at 5:30 p.m., prevailing Eastern Time.

PRESENT:

Members Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski,
and Carter

ABSENT: Members

None

The following preamble and resolution were offered by Member Carter and supported by Member Spataro:

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 the Betten Holdings, LLC, BC Real Estate Holdings, LLC, Betten Associates, and South Henry Street Properties, LLC, site Auto Dealerships Project, 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, the Michigan Department of Environmental Quality (MDEQ), and the Michigan Economic Growth Authority (MEGA) 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, MDEQ, and MEGA 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 22nd of April, 2008 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 20 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 April 22, 2008, 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:

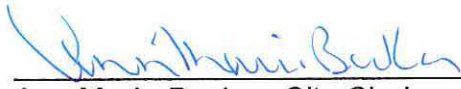
Betten Holdings, LLC, BC Real Estate Holdings, LLC, Betten
Associates, and South Henry Street Properties, LLC
Betten Auto Dealerships Project
2410, 2474, 2477, & 2501 South Henry Street
Muskegon, Michigan 49441

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 Becker, 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

Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

NAYS: Members

None

RESOLUTION DECLARED ADOPTED.


Ann Marie Becker, 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 8, 2008, 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.


City Clerk

Date: April 8, 2008
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Liquor License Transfer Request
Applebee's, 1825 E. Sherman

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Applebee's of Michigan, Inc. to transfer ownership of the 2007 Class C Resort licensed business located at 1825 E. Sherman to Applebee's Restaurants Mid-Atlantic LLC.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.



Muskegon Police Department

Anthony L. Kleibecker
Director of Public Safety

980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

Phone: 231-724-6750
FAX: 231-722-5140

March 19, 2008

To: City Commission through the City Manager

From: 
Anthony L. Kleibecker, Director of Public Safety

Re: Liquor License Transfer – 1825 E. Sherman Ave.
Transfer of 2007 Class C Resort Licensed Business with Official Permit (Food

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation from applicant Applebee's Restaurants Mid-Atlantic, LLC (A Delaware Limited Liability Company).

Applebee's Restaurants Mid-Atlantic, LLC is requesting to transfer ownership of 2007 Class C Resort licensed business Issued under MCL436.1531 (4), Non-Transferable, with Official Permit (Food) from Applebee's of Michigan, Inc. located at 1825 E. Sherman, Muskegon, MI. 49444.

The Muskegon Police Department finds no reason to deny this request.

ALK/kd

PLEASE COMPLETE ENCLOSED RESOLUTION AND RETURN
TO THE LIQUOR CONTROL COMMISSION AT ABOVE ADDRESS

2008-33(i)

Request ID #434546

Z-29-08 744

RESOLUTION

At a Regular meeting of the City Commission
(Regular or Special) (Township Board, City or Village Council)

called to order by Mayor Warmington on April 8, 2008 at 5:30 P.M.

The following resolution was offered:

Moved by Commissioner Carter and supported by Commissioner Spataro

That the request for REQUEST TO TRANSFER OWNERSHIP 2007 CLASS C RESORT LICENSED BUSINESS,
ISSUED UNDER MCL436.1531(4), NON-TRANSFERABLE, LOCATED AT 1825 E SHERMAN, MUSKEGON
MICHIGAN, 49444, MUSKEGON COUNTY, FROM APPLEBEE'S OF MICHIGAN, INC. TO APPLEBEE'S
RESTAURANTS MID-ATLANTIC LLC (A DELAWARE LIMITED LIABILITY COMPANY)

be considered for Approval
(Approval or Disapproval)

APPROVAL

Yeas: 7

Nays: 0

Absent: 0

DISAPPROVAL

Yeas: _____

Nays: _____

Absent: _____

It is the consensus of this legislative body that the application be:

Recommended for issuance
(Recommended or Not Recommended)

State of Michigan _____)

County of Muskegon _____)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the City Commission at a Regular
(Township Board, City or Village Council) (Regular or Special)

meeting held on April 8, 2008.
(Date)

SEAL

(Signed) Ann Marie Becker
(Township, City or Village Clerk)

Ann Marie Becker, City Clerk
933 Terrace, Muskegon, MI 49440
(Mailing address of Township, City or Village)



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

FOR MLCC USE ONLY

Request ID # 434546

Business ID # 203813

2-29-08 TMA

Please conduct your investigation as soon as possible, complete all four sections of this report and return the completed report and fingerprint cards to the MLCC

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

APPLEBEE'S RESTAURANTS MID-ATLANTIC LLC (A DELAWARE LIMITED LIABILITY COMPANY)
REQUESTING TO TRANSFER OWNERSHIP 2007 CLASS C RESORT LICENSED BUSINESS, ISSUED UNDER
MCL436.1531(4), NON-TRANSFERABLE, WITH OFFICIAL PERMIT (FOOD), FROM APPLEBEE'S OF MICHIGAN,
INC. LOCATED AT 1825 E SHERMAN, MUSKEGON MICHIGAN, 49444, MUSKEGON COUNTY

Section 1. APPLICANT INFORMATION

APPLICANT #1: APPLEBEE'S ENTERPRISES, LLC
(A DELAWARE LIMITED LIABILITY COMPANY)
2711 CENTERVILLE ROAD, SUITE 400
WILMINGTON, DE 19808
CONTACT: CARIN L. STUTZ
(B.P. 302-636-5401)

APPLICANT #2:

DATE FINGERPRINTED: FINGERPRINTS NOT REQUIRED

DATE FINGERPRINTED:

DATE OF BIRTH:

Is the applicant a U.S. Citizen: ☐ Yes ☐ No*

DATE OF BIRTH:

Is the applicant a U.S. Citizen: ☐ Yes ☐ No*

*Does the applicant have permanent Resident Alien status?

☐ Yes ☐ No*

*Does the applicant have permanent Resident Alien status?

☐ Yes ☐ No*

*Does the applicant have a Visa? Enter status:

*Does the applicant have a Visa? Enter status:

Attach the fingerprint card and \$30.00 for each card and mail to the Michigan Liquor Control Commission

ARREST RECORD: ☐ Felony ☐ Misdemeanor

Enter record of all arrests & convictions (attach a signed and dated report if more space is needed)

ARREST RECORD: ☐ Felony ☐ Misdemeanor

Enter record of all arrests & convictions (attach a signed and dated report if more space is needed)

Section 2. INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

Does applicant intend to have dancing, entertainment, topless activity, or extended hours permit?

☒ No ☐ Yes, complete LC-1636

Are gas pumps on the premises or directly adjacent? ☒ No ☐ Yes, explain relationship:

Section 3. LOCAL AND STATE CODES AND ORDINANCES, AND GENERAL RECOMMENDATIONS

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? ☒ Yes ☐ No

If you are recommending approval subject to certain conditions, list the conditions: (attach a signed and dated report if more space is needed)

Section 4. RECOMMENDATION

From your investigation:

1. Is this applicant qualified to conduct this business if licensed?

☒ Yes ☐ No

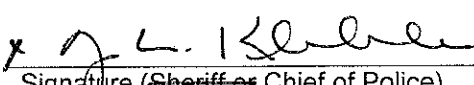
2. Is the proposed location satisfactory for this business?

☒ Yes ☐ No

3. Should the Commission grant this request?

☒ Yes ☐ No

4. If any of the above 3 questions were answered no, state your reasons: (Attach a signed and dated report if more space is needed)


Signature (Sheriff or Chief of Police)

3-19-08

Date

MUSKEGON POLICE DEPARTMENT



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

LAW ENFORCEMENT RECOMMENDATION

[Authorized by MCL 436.1916, R 436.1105(2)(d) and R 436.1403]

FOR MLCC USE ONLY

Request ID # 434546

Business ID # 203813

2-29-08 TJA

TO: MUSKEGON POLICE DEPARTMENT

Re: APPLEBEE'S RESTAURANTS MID-ATLANTIC LLC
(A DELAWARE LIMITED LIABILITY COMPANY)

We have received a request from the above licensee for the type of permit indicated below. Please make an investigation and submit your report and/or recommendation to the offices of the MLCC at the above address. Questions about this request should be directed to the MLCC Licensing Division at (517) 322-1400.

☒ OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR: (FOOD)

Weekdays _____ A.M. to _____ A.M./P.M.

Sundays 10:00 A.M. to NOON

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

NOTE: If the applicant is requesting two separate extended hours permits and the permits are for **different hours** you must complete the box below. If additional space is needed please use reverse side of this form.

☐ OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR:

Weekdays _____ A.M. to _____ A.M./P.M.

Sundays _____ A.M. to _____ A.M./P.M.

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ DANCE PERMIT

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ ENTERTAINMENT PERMIT

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ TOPLESS ACTIVITY PERMIT

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

434546
2-29-08
TMA

☐ OUTDOOR SERVICE

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ PARTICIPATION PERMIT

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ ADDITIONAL BAR PERMITS

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

☐ OTHER

☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

Signed:

Anthony L. Kleibacker, Chief

Signature and Title

Muskegon Police Department

ANTHONY L. KLEIBACKER

Print Name and Title CHIEF OF POLICE

Date: 3-19-08

jr



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

434546
2-29-08
THA

POLICE INVESTIGATION REQUEST

[Authorized by MCL 436.1201(4)]

February 8, 2008

Muskegon Police Department
Chief of Police
980 Jefferson Avenue, PO Box 536
Muskegon, MI 49443-0536

MUSKEGON POLICE DEPT.
CHIEF OF POLICE
MAR 9 4 2008
DETROIT POLICE DEPT.

Request ID #434546

Applicant: APPLEBEE'S RESTAURANTS MID-ATLANTIC LLC (A DELAWARE LIMITED LIABILITY COMPANY) REQUESTING TO TRANSFER OWNERSHIP 2007 CLASS C RESORT LICENSED BUSINESS, ISSUED UNDER MCL436.1531(4), NON-TRANSFERABLE, WITH OFFICIAL PERMIT (FOOD), FROM APPLEBEE'S OF MICHIGAN, INC. LOCATED AT 1825 E SHERMAN, MUSKEGON MICHIGAN, 49444, MUSKEGON COUNTY

CONTACT: ATTORNEY SCOTT D. EDWARDS (248-816-3205) & PATRICK HOWE (248-816-3175) (BOTH)
(CARLIN, EDWARDS, BROWN & HOWE, PLLC) 2855 COOLIDGE HIGHWAY, SUITE 203
TROY MI, 48084)

Please make an investigation of the application. If you do not believe that the applicants are qualified for licensing, give your reasons in detail. Complete the Police Inspection Report on Liquor License Request, LC-1800, or for Detroit Police, the Detroit Police Investigation of License Request, LC-1802. If there is not enough room on the front of the form, you may use the back.

Forward your report, along with fingerprint cards (if requested) and \$30.00 for each card to the Michigan Liquor Control Commission.

If you have any questions, contact the appropriate unit (On Premises, Off Premises or Manufacturers & Wholesalers) at (517) 322-1400.

jr



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

LOCAL APPROVAL NOTICE

[Authorized by MCL 436.1501]

FOR MLCC USE ONLY

Request ID # 434546

Business ID # 203813

2-29-08 *TLK*

February 8, 2008

TO: Muskegon City Council
Clerk
933 Terrace Street, PO Box 536
Muskegon, MI 49443-0536

APPLICANT: APPLEBEE'S RESTAURANTS MID-ATLANTIC LLC
(A DELAWARE LIMITED LIABILITY COMPANY)

Home Address and Telephone No. or Contact Address and Telephone No:

MEMBER:
APPLEBEE'S ENTERPRISES, LLC (A DELAWARE LIMITED LIABILITY COMPANY)
2711 CENTERVILLE ROAD, SUITE 400, WILMINGTON, DE 19808
(CONTACT CARIN L. STUTZ 302-636-5401)

ATTORNEY SCOTT D. EDWARDS (248-816-3205) & PATRICK HOWE (248-816-3175) (BOTH)
(CARLIN, EDWARDS, BROWN & HOWE, PLLC) 2855 COOLIDGE HIGHWAY, SUITE 203,
TROY MI, 48084)

The MLCC cannot consider the approval of an application for a new or transfer of an on-premises license without the approval of the local legislative body pursuant to the provisions of MCL 436.1501 of the Liquor Control Code of 1998. For your information, local legislative body approval is also required for DANCE, ENTERTAINMENT, DANCE-ENTERTAINMENT AND TOPLESS ACTIVITY PERMITS AND FOR OFFICIAL PERMITS FOR EXTENDED HOURS FOR DANCE AND/OR ENTERTAINMENT pursuant to the provisions of MCL 436.1916 of the Liquor Control Code of 1998.

For your convenience a resolution form is enclosed that includes a description of the licensing application requiring consideration of the local legislative body. The clerk should complete the resolution certifying that your decision of approval or disapproval of the application was made at an official meeting. **Please return the completed resolution to the MLCC as soon as possible.**

If you have any questions, please contact the On-Premises Section of the Licensing Division at (517) 636-4634.

jr

3-7-08

LIQUOR LICENSE REVIEW FORM

MAR 10 2008

Business Name: Applebee's

MUSKEGON POLICE DEPT.
CHIEF OF POLICE

AKA Business Name (if applicable): _____

RECEIVED

Operator/Manager's Name: _____

MAR 10 2008

Business Address: _____

1825 E. Sherman

Muskegon Police Dept.

Muskegon, MI 49444

Reason for Review:

New License ☐

Transfer of Ownership ☒

Dance Permit ☐

Drop/Add Name on License ☐

Transfer Location ☐

Drop/Add Stockholder Name ☐

New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety

Approved ☒

Denied ☐

No Action Needed ☐

Income Tax

Approved ☐

Owing ☐

Amount: _____

Treasurer

Approved ☐

Owing ☐

Amount: _____

Zoning

Approved ☐

Denied ☐

Pending ZBA ☐

Clerk's

Approved ☐

Owing ☐

Amount: _____

Fire/Inspections

Approved ☐

Denied ☐

Remaining Defects ☐

Department Signature

J. C. Blaker

3-12-08

Please return to the City Clerk's Office

LIQUOR LICENSE REVIEW FORM

Business Name: Applebee's

AKA Business Name (if applicable): _____

Operator/Manager's Name: _____

Business Address: 1825 E. ShermanMuskegon, MI 49444

Reason for Review:

New License ☐ Transfer of Ownership ☒ Dance Permit ☐Drop/Add Name on License ☐ Transfer Location ☐Drop/Add Stockholder Name ☐ New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety Approved ☐ Denied ☐ No Action Needed ☐Income Tax Approved ☒ Owing ☐ Amount: _____Treasurer Approved ☐ Owing ☐ Amount: _____Zoning Approved ☐ Denied ☐ Pending ZBA ☐Clerk's Approved ☐ Owing ☐ Amount: _____Fire/Inspections Approved ☐ Denied ☐ Remaining Defects ☐Department Signature 

Please return to the City Clerk's Office

3-7-08

LIQUOR LICENSE REVIEW FORM

☐ FAXED ☐ RECEIVED ☐

MAR - 7 2008

Business Name: Applebee's

☐ APPROVED ☐ POSTED ☐
CITY OF MUSKEGON TREASURY

AKA Business Name (if applicable): _____

Operator/Manager's Name: _____

Business Address: 1825 E. Sherman

Muskegon, MI 49444

Reason for Review:

New License ☐ Transfer of Ownership ☒ Dance Permit ☐

Drop/Add Name on License ☐ Transfer Location ☐

Drop/Add Stockholder Name ☐ New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety Approved ☐ Denied ☐ No Action Needed ☐

Income Tax Approved ☐ Owing ☐ Amount: _____

Treasurer Approved ☒ Owing ☐ Amount: _____

Zoning Approved ☐ Denied ☐ Pending ZBA ☐

Clerk's Approved ☐ Owing ☐ Amount: _____

Fire/Inspections Approved ☐ Denied ☐ Remaining Defects ☐

Department Signature R. Gier 03/07/08

Please return to the City Clerk's Office

LIQUOR LICENSE REVIEW FORMBusiness Name: Applebee's

AKA Business Name (if applicable): _____

Operator/Manager's Name: _____

Business Address: 1825 E. ShermanMuskegon, MI 49444

Reason for Review:

New License ☐Transfer of Ownership ☒Dance Permit ☐Drop/Add Name on License ☐Transfer Location ☐Drop/Add Stockholder Name ☐New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety

Approved ☐Denied ☐No Action Needed ☐

Income Tax

Approved ☐Owing ☐

Amount: _____

Treasurer

Approved ☐Owing ☐

Amount: _____

Zoning

Approved ☒Denied ☐Pending ZBA ☐

Clerk's

Approved ☐Owing ☐

Amount: _____

Fire/Inspections

Approved ☐Denied ☐Remaining Defects ☐Department Signature [Signature]

Please return to the City Clerk's Office

LIQUOR LICENSE REVIEW FORMBusiness Name: Applebee's

AKA Business Name (if applicable): _____

Operator/Manager's Name: _____

Business Address: 1825 E. ShermanMuskegon, MI 49444

Reason for Review:

New License ☐ Transfer of Ownership ☒ Dance Permit ☐Drop/Add Name on License ☐ Transfer Location ☐Drop/Add Stockholder Name ☐ New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety Approved ☐ Denied ☐ No Action Needed ☐Income Tax Approved ☐ Owing ☐ Amount: _____Treasurer Approved ☐ Owing ☐ Amount: _____Zoning Approved ☐ Denied ☐ Pending ZBA ☐Clerk's Approved ☐ Owing ☐ Amount: _____Fire/Inspections Approved ☒ Denied ☐ Remaining Defects ☐

Department Signature

Please return to the City Clerk's Office

3-7-08

LIQUOR LICENSE REVIEW FORM

Business Name: Applebee's

AKA Business Name (if applicable): _____

Operator/Manager's Name: _____

Business Address: 1825 E. Sherman

Muskegon, MI 49444

Reason for Review:

New License ☐ Transfer of Ownership ☒ Dance Permit ☐

Drop/Add Name on License ☐ Transfer Location ☐

Drop/Add Stockholder Name ☐ New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety Approved ☐ Denied ☐ No Action Needed ☐

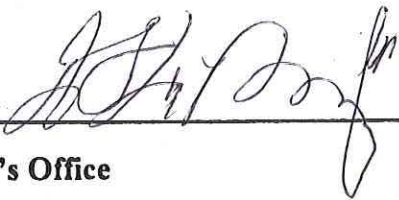
Income Tax Approved ☐ Owing ☐ Amount: _____

Treasurer Approved ☐ Owing ☐ Amount: _____

Zoning Approved ☐ Denied ☐ Pending ZBA ☐

Clerk's Approved ☐ Owing ☐ Amount: _____

Fire/Inspections Approved ☒ Denied ☐ Remaining Defects ☐

Department Signature 

Please return to the City Clerk's Office

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

Assessor
(231)724-6708
FAX (231)726-5181

Cemetery
(231)724-6783
FAX (231)726-5617

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

Civil Service
(231)724-6716
FAX (231)724-4405

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

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

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

Finance
(231)724-6713
FAX (231)724-6768

Fire Department
(231)724-6792
FAX (231)724-6985

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

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

Inspection Services
(231)724-6715
FAX (231)728-4371

Leisure Services
(231)724-6704
FAX (231)724-1196

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

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

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

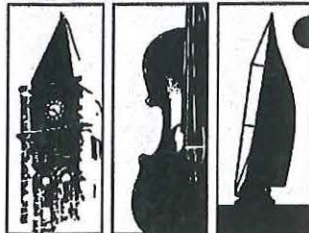
Public Works
(231)724-4100
FAX (231)722-4188

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

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

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

MUSKEGON



West Michigan's Shoreline City
www.shorelinecity.com

April 11, 2008

Liquor Control Commission
7150 Harris
PO Box 30005
Lansing, MI 48909-7505

REF: Req ID #434546
Applebee's Restaurants Mid-Atlantic LLC
1825 E. Sherman Avenue
Muskegon, MI 49444

To Whom It May Concern:

Enclosed is Form LC-1800, LC-1636, and LC-1305 for Applebee's Restaurants.
This was recommended for approval by the City Commission at their April 8,
2008, City Commission Meeting.

Please do not hesitate to call me at (231) 724-6705 if you have any questions.

Sincerely,

Linda Potter
Deputy Clerk

enc.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the back of this card so that we can return the card to you.
- Attach this card to the back of the envelope or on the front if space permits.

1. Article Addressed to:

Liquor Control Commission
7150 Harris
PO Box 30005
Lansing, MI 48909-7505

2. Article Number
(Transfer from service label)

PS Form 3811, February 2004

U.S. Postal ServiceTM CERTIFIED MAILTM RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



Sent To

Street, Apt. No.,
or PO Box No.

City, State, ZIP+4

PS Form 3800, June 2002
Domestic Return Receipt

See Reverse for Instructions

102595-02-M-1

City of Muskegon, 933 Terrace Street, P.O. Box 536, Muskegon, MI 49443-0536
<http://www.shorelinecity.com>

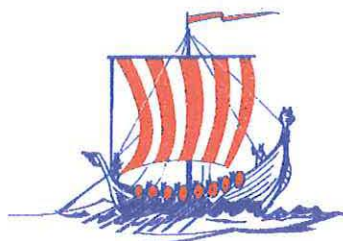
Date: April 8, 2008
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Request to Fly the Norwegian Flag

SUMMARY OF REQUEST: The Sons of Norway is requesting permission to fly the Norwegian Flag at City Hall on Friday, May 16th to Monday, May 19th to celebrate Norway's Constitution Day.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the request.



Sons of Norway

Sognefjord Lodge No. 523



420 Harvey Street, Muskegon, Michigan 49442, (231) 777-1451

Muskegon City Council

I am requesting permission to have the Norwegian flag flown at city hall on Saturday May 17. May 17 (Syttende Mai) is Norway's Constitution Day (independence day). If the Saturday date is not possible, would Friday May 16 be OK?. The Sons of Norway lodge will supply the flag.

If there are any questions you can contact me at 744-9101. Thank you very much.

Merle Hanson
Sognefjord Lodge Vice President.

Commission Meeting Date: April 8, 2008

Date: March 31, 2008
To: Honorable Mayor & City Commission
**From: Community and Neighborhood Services
Department**
**RE: ~~Public Hearing~~ ^{New Business} Lease with Option to Purchase
Pilot Program**

SUMMARY OF REQUEST: To have the Commission approve the pilot program developed by the Community and Neighborhood Services office for a Lease with Option to Purchase Pilot Program for the houses owned by CNS.

The lessee will have a three-year period (36 months) to obtain a mortgage. If the lessee is able to obtain a mortgage after the first year, the purchaser will be able to receive a nine percent decrease in the purchase price. If it takes two years to qualify for a mortgage, the property will be sold at a five percent decrease from the original asking price. If it takes the three-year period for the lessee to obtain the mortgage, the sale price would be the original price. The lessee would be responsible for all the utilities and upkeep of the property.

Because of the current economic environment, as it relates to housing, the department feels we can assist the market by implementing this program.

Two homes are eligible for this pilot program: 435 Monroe and 867 Williams.

FUNDING IMPACT: This will eliminate some of the overhead costs the City has because of the length of time these houses have been on the market. Costs include utilities, alarm system, grass cutting, snow removal, etc.

BUDGET ACTION REQUIRED: None at this time

STAFF RECOMMENDATION: To approve the request.

COMMITTEE RECOMMENDATION: The program has been reviewed by the Citizen's District Council.

**CITY OF MUSKEGON
LEASE WITH OPTION TO PURCHASE
PILOT PROGRAM**

The City of Muskegon Community and Neighborhood Services department has developed a pilot program to offer the opportunity to lease a designated rehabbed house from the City of Muskegon with an option to purchase.

The lessee will have a three-year period to obtain a mortgage. If the lessee is able to receive a mortgage within the first year, they will receive approximately a nine percent decrease in the purchase price. For example, if the original asking price is \$69,000, then the purchase price would be \$62,500. If it took the lessee two years to qualify for the mortgage, the buyer would receive a five percent decrease in cost. In that same example, the purchase price would be \$65,500. If it takes the entire three-year period to get the mortgage, then the buyer would be required to get a mortgage for the original price. In the same example that would be \$69,000.

The lessee would be responsible for all the utilities and upkeep of the property. Our staff would inspect the structure twice a year.

Because of the current economic environment as it relates to housing, the department feels we can jump start the market by implementing this program. We plan on charging between \$700 - &750 per month. The annual revenue brought in would be between \$8,400 - \$9,000.

Before the potential lessee will be eligible for the program, they would be required to meet with the bank and go over their current credit situation. This will make them totally knowledgeable of what they need to do to get a mortgage and how much time it should take to meet the goal. It is hoped that the lessee would be able to obtain the mortgage within the first two-year period.

In order to be eligible, first you must be refused a mortgage by a local bank. Second, we would require that the bank develop a plan for the lessee to develop a strategy on how the lessee can set themselves up in the position to obtain a mortgage.

This program will start with two houses eligible for the program: 827 William Street and 435 Monroe Avenue. Both structures are anticipated to bring in approximately \$17,000 per year, which should cover the insurance cost for these two homes and any other unexpected expenses. The house at 451 East Isabella Avenue may be added later.

The department sees this pilot project as being positive for several reasons. First, it will eliminate significant costs that we currently have at the homes; items like utilities, security alarm, snow removal, grass cutting, etc. Second, by having someone in the house, it cuts down on the staff time used to visit the properties. Third, the occupied structures are an excellent mechanism to advertise our work. Lastly, the revenues brought in through the lease will be needed Program Income and also an excellent way of getting long time homebuyers from a market that is extremely fractured at this time.

At the end of the three-year period and the lessee still does not have mortgage approval, we would like to extend the period for an additional six months. If, after that extension the lessee still does not have a mortgage, we will have to ask the lessee to vacate the premises within thirty days. If they do not leave within thirty days, then we will have to start eviction proceedings. It is our hope we will not have to do this as we are looking for people who want to buy our homes and become a part of the community. Of course all this would be covered in a very tight lease agreement so there will be no surprises to the lessee.

We would like to implement this program as soon as possible after it has been reviewed by the Citizen's District Council and approved by the City Commission, if necessary. A copy of this proposal was also sent to our HUD rep, Ellen Chung, for review.

Commission Meeting Date: April 9, 2008

Date: March 31, 2008

To: Honorable Mayor and City Commission

**From: Community and Neighborhood Services
Department**

RE: Approval of the 2008-2009 Action Plan

SUMMARY OF REQUEST: To approve the 2008-2009 Action Plan for the City of Muskegon Community Development Block Grant/HOME Partnership Program activity. If the Action Plan is approved, the Community and Neighborhood Services office will continue the comment period of the Action Plan as amended, if needed, until April 17, 2008.

On or after April 17, 2008, the Community and Neighborhood Services office will deliver the Action Plan to the United States Department of Housing and Urban Development as required in order to request the Release of Funds for the 2008-2009 fiscal year.

FINANCIAL IMPACT: Action Plan establishes the 2008-2009 Community Development and HOME budgets.

BUDGET ACTION REQUIRED: None at this time. Budget established by Action Plan.

STAFF RECOMMENDATION: To approve the Action Plan as is or as amended.

COMMITTEE RECOMMENDATION: The Commission received both the Citizen District Council and the Administration recommendations.

THIRD PROGRAM YEAR ACTION PLAN

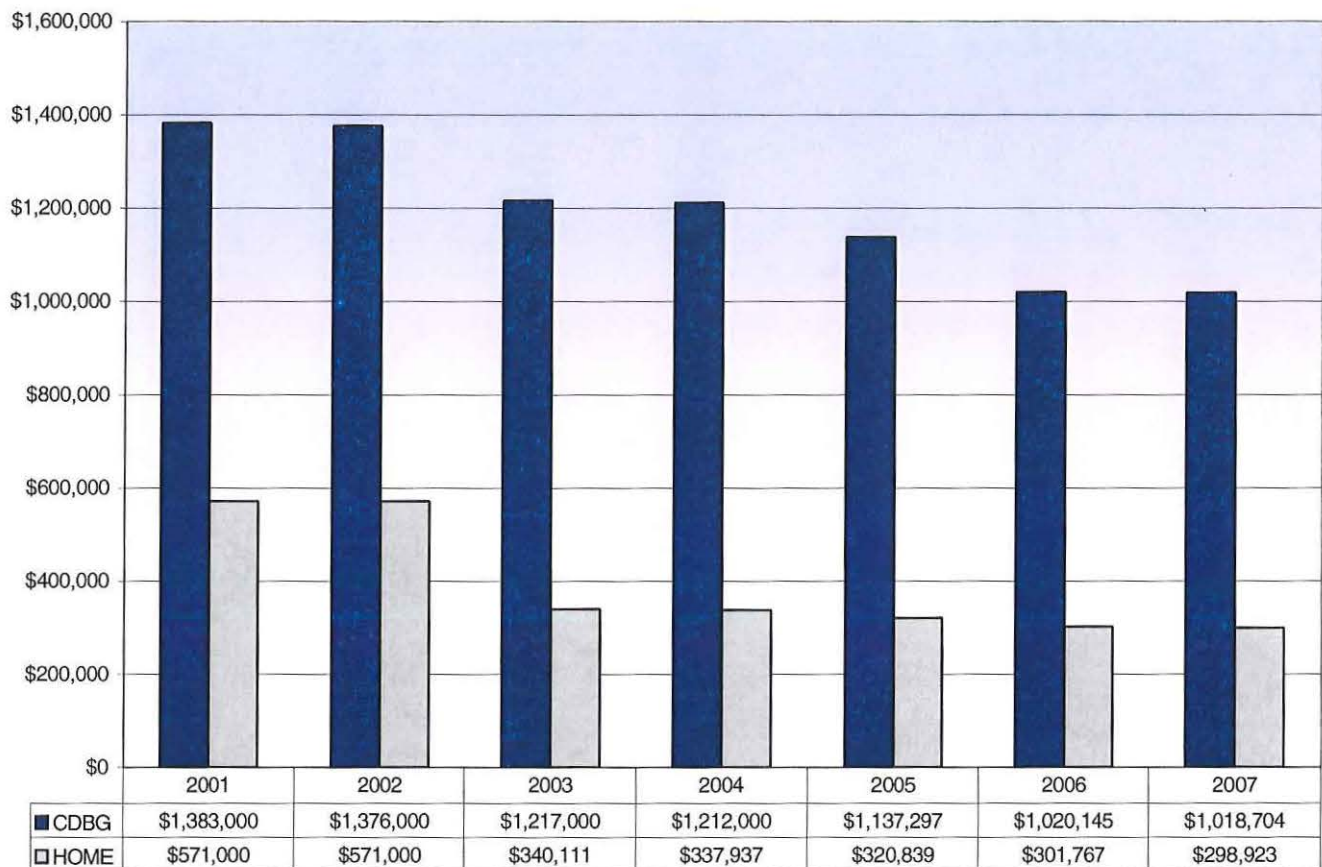
GENERAL

EXECUTIVE SUMMARY

The Executive Summary is required. Include the objectives and outcomes identified in the plan and an evaluation of past performance.

The 2008 – 2009 fiscal year will be the fourth year of the City of Muskegon's activity under the approved 2005 – 2010 Consolidated Plan. The City is attempting to continue what we consider our program of multi-faceted community revitalization efforts. This targets five specific areas: new construction, housing rehabilitation, infrastructure replacement, blight flight and elimination and public service support.

Muskegon Entitlement Funding (01-07)



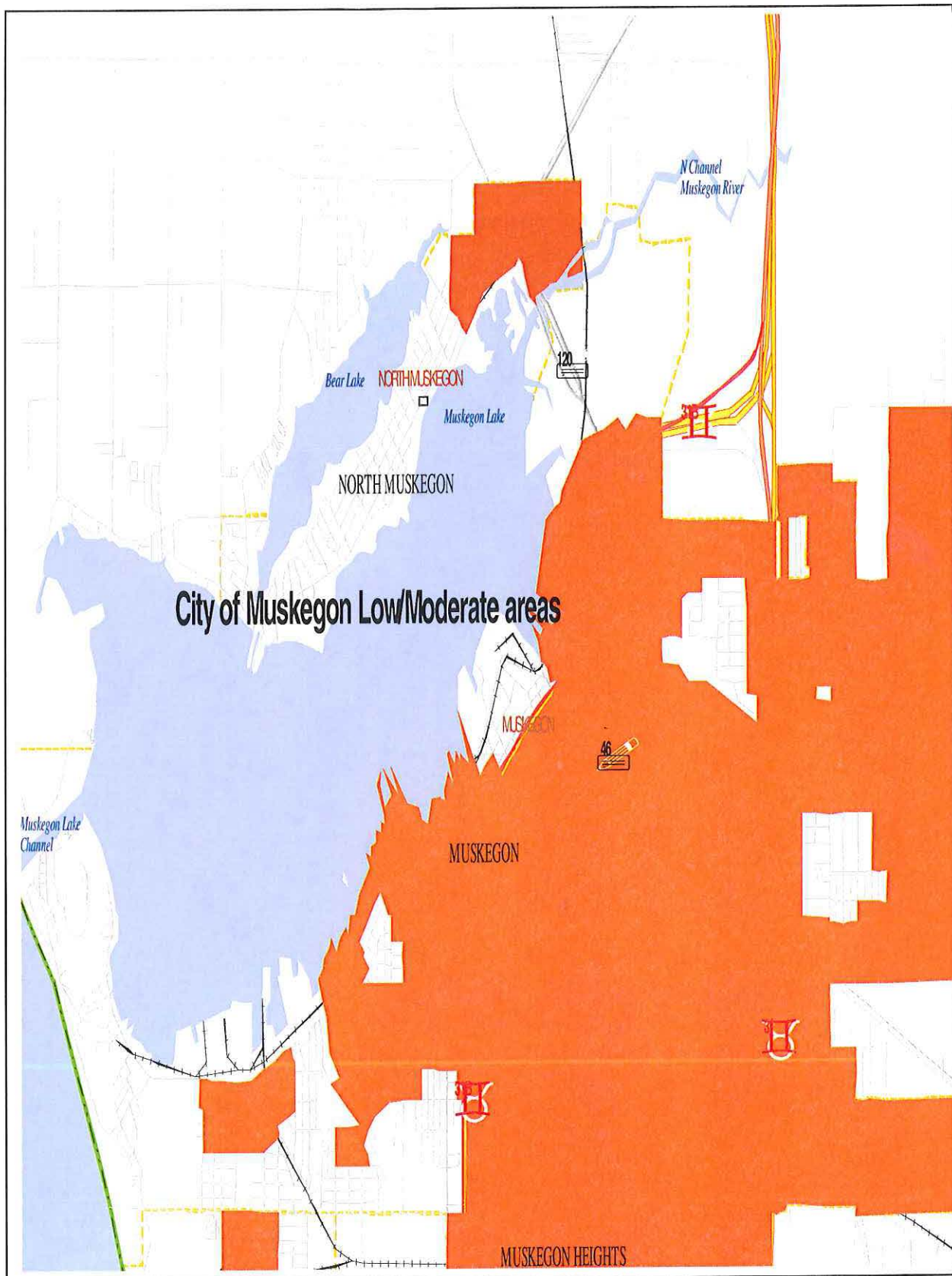
The City has experienced a significant amount of success and satisfaction in its Community Development Block Grant and HOME program. In addition, during this current fiscal year, the City was awarded a Lead Reduction grant that will assist the community in eliminating blight from the community.

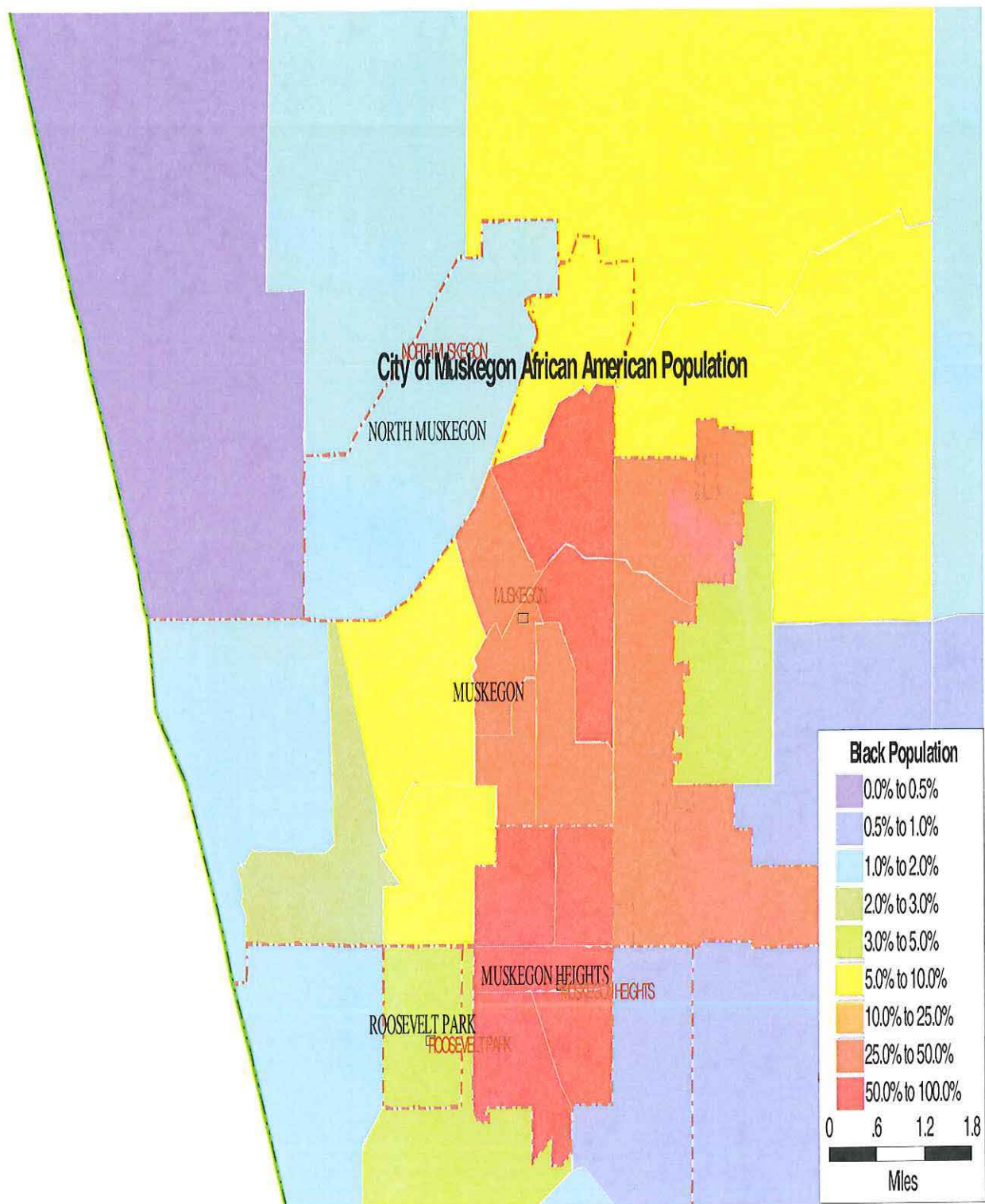
The City has experienced many successes during the last few years, it as relates to its CDBG and HOME activities. However, the City, like most other older core communities, is wrestling with a continuous decrease in funding. In addition to the decreasing entitlement funding, the City is also battling with the same issues that are attempting to stagnate many other communities; not just in Michigan but throughout the entire country. Some of those issues are an increasing, unemployed population, a 'mushrooming' number of foreclosed properties, not just in the low/moderate income areas, but throughout the City and county. Other pertinent issues are an abandonment of housing, severe infrastructure improvement needs and an overall feeling of uncertainty by a significant portion of the community.

GENERAL QUESTIONS

1. Describe the geographic areas of the jurisdiction (including areas of low income families and/or racial/minority concentration) in which assistance will be directed during the next year. Where appropriate, the jurisdiction should estimate the percentage of funds the jurisdiction plans to dedicate to target areas.

Since 2000, the majority of the City has been declared a low/moderate income eligible area, roughly 11 square miles of a City that is 18 square miles in total dimension. The City is classified as a low/moderate income area. In other words, these areas within the City of Muskegon have at least 51% low/moderate income residents living in the specific neighborhoods of the City (see maps below).





2. Describe the basis for allocating investments geographically within the jurisdiction (or within the EMSA for HOPWA) (91.215(a)(1)) during the next year and the rational for assigning the priorities.

a. The distribution of funding in the City of Muskegon is not targeted to a particular area or neighborhood. The funding is allocated on an availability basis and need.

b. The anticipated CDBG funding for the 2008 – 2009 year is the following:

**CDBG PROJECTS/ACTIVITIES – 2008
2008 – 2009 ACTIVITIES – By RANKING**

REHABILITATION – HOUSING	\$ 432,500	42%
Emergency Repair		
Vinyl Siding		
Service Delivery		
BOND REPAYMENT	\$ 128,169	13%
Fire Station		
PUBLIC FACILITIES – ASSESSMENTS	\$ 53,500	5%
Street		
Commercial Facade Improvement		
GENERAL ADMINISTRATION	\$ 172,500	17%
General Administration		
Affirmative Action		
PUBLIC SERVICES	\$ 151,600	15%
Recreation Programs		
Senior Transit		
CBO Grants Program		
CODE ENFORCEMENT – HOUSING	\$ 83,500	8%
Code Inspections		
Residential Clearance		
TOTAL	\$1,021,769	

3. Describe actions that will take place during the next year to address obstacles to meeting underserved needs.

The City will continue to allocate funding to the underserved population of the City through several different mechanisms. The first mechanism is the programs that are offered inside the Community and Neighborhood Services office, which include the Emergency Repair and Vinyl Siding programs. Both of these activities address low/moderate income housing. The second mechanism or component is the funding allocated to other City of Muskegon departments that target the underserved population of the community. The departments are Leisure Services, which offers recreational activities to low/moderate income youngsters and their families; the Department of Public Works, which offers a Senior Transit Program for low income seniors; Inspection Department, which assists neighborhoods with the demolition and securing of blighted and accessible structures; and the Engineering Department, in collaboration with the CNS department offers special Assessment relief for low income residents who are having street reconstruction done near their home and are being assessed for their portion.

Lastly, the City of Muskegon allocates funding to community-based organizations, when funding is available, to address many of the obstacles that the underserved in the community are in conflict with, many in the same areas that were listed in the City's 2005 – 2010 Consolidated Plan. Those areas are health awareness, senior services, legal assistance, employment assistance and youth services.

4. Identify the federal, state and local resources expected to be made available to address the needs identified in the plan. Federal resources should include Section 8 funds made available to the jurisdiction, Low-Income Housing Tax Credits, and competitive McKinney-Vento Homeless Assistance Act funds expected to be available to address priority needs and specific objectives identified in the strategic Plan.

CDBG 2008 – 2009 funding is \$984,207 plus Expected Program Income of \$40,000, for a total of \$1,024,207. The HOME 2008 – 2009 funding is \$290,049 plus Expected Program Income of \$100,000, for a total of \$390,049. Other expected federal funding is WEMET for \$36,825; bullet Proof Vest for \$8,893; Lead Based Paint elimination for \$666,690*; Emergency Shelter Funding for \$60,000.

* This is a three-year grant.

The City's Community and Neighborhood Services office is the Lead Office for administering the 2005 – 2010 Consolidated Plan. During the development of the Consolidated Plan, surveys were distributed to community agencies and meetings were held to obtain information as well as two small town hall meetings were held with residents.

The City of Muskegon will continue to use the same process to coordinate activities with other agencies and organizations as well as get input from the public.

MANAGING THE PROCESS

1. Identify the lead agency, entity, and agencies responsible for administering programs covered by the consolidated plan.

The City of Muskegon's Community and Neighborhood Services is the administering entity of the City of Muskegon's CDBG/HOME program and, as of November 1, 2007, the City's Healthy Homes Lead Abatement Grant.

2. Identify the significant aspects of the process by which the plan was developed, and the agencies, groups, organizations, and others who participated in the process.

The development of the initial plan consisted of town hall meetings, surveys, neighborhood meetings and demographic research.

3. Describe actions that will take place during the next year to enhance coordination between public and private housing, health, and social service agencies.

The City of Muskegon Community and Neighborhood Services office has representatives on several different coalitions within the county. Those coalitions include:

- a. Continuum of Care
- b. Call 2-1-1
- c. Housing Affordability Committee
- d. Main Street Program Economic Restructure Committee
- e. West Michigan Sustainability Committee
- f. 21 Century
- g. Operation R & R

It is the goal of the City to gather information and to coordinate services in juxtaposition with community needs.

CITIZEN PARTICIPATION

1. Provide a summary of the citizen participation process.

The City of Muskegon citizen participation process begins in November of each year, when the CNS department begins soliciting proposals for activities for the next fiscal year. During the first week of January, the proposals are qualified and

during late January and February, the proposals are reviewed by the Citizen's District Council. This is a volunteer board made up of local citizens who represent different sections of the City. In March, there is a public hearing to gather comments from the public concerning the proposed activities for the upcoming fiscal year. In August, the CNS office holds a public hearing to discuss the activities and accomplishments of the past fiscal year, which ended May 31.

2. Provide a summary of citizen comments or views on the plan.

Need Summary.

3. Provide a summary of efforts made to broaden public participation in the development of the consolidated plan, including outreach to minorities and non-English speaking persons, as well as persons with disabilities.

The City of Muskegon attempts to outreach to the minority community through several media outlets which include the local radio, local newspapers and through different on-site workshops, open houses, housing and community fairs, etc.

4. Provide a written explanation of comments not accepted and the reasons why these comments were not accepted.

There were no comments that were not accepted.

INSTITUTIONAL STRUCTURE

1. Describe actions that will take place during the next year to develop institutional structure.

The CNS office is continuing to develop its institutional structure by reviewing its policies and procedures and revising them when needed and updating them in order to assure quality service to the public and consistency in delivery of services.

MONITORING

1. Describe actions that will take place during the next year to monitor its housing and community development projects and ensure long-term compliance with program requirements and comprehensive planning requirements.

All subrecipients are required to submit quarterly reports throughout the fiscal year. If a serious occurrence is discovered, by reviewing the quarterly report, then a telephone call is made immediately to the subrecipient to discuss the

issue. If the issue/s cannot be corrected through a telephone call, a special monitoring visit will be scheduled with the subrecipient to 'clear' the issue as promptly as possible. If no issues arise during the fiscal year, a monitoring visit is scheduled in April of each year for all subrecipients.

LEAD-BASED PAINT

1. Describe the actions that will take place during the next year to evaluate and reduce the number of housing units containing lead-based paint hazards in order to increase the inventory of lead-safe housing available to extremely low-income, low-income and moderate-income families, and how the plan for the reduction of lead-based hazards is related to the extent of lead poisoning and hazards.

In October 2007, it was announced that the City of Muskegon was the recipient of a Safe Healthy Homes grant from the U.S. Department of Housing and Urban Development. Through the City's Lead S.A.F.E (Support Abatement Family Education) program, the city anticipates completing 30 units for abatement of lead, five (5) of the units will be vacant city-owned structures, 15 units will be rental units and 10 will be owner-occupied structures.

HOUSING

SPECIFIC HOUSING OBJECTIVES

1. Describe the priorities and specific objectives the jurisdiction hopes to achieve during the next year.

Objectives and Goals

Objectives 1: New construction – To either develop alone or in partnership with Community Housing Development Organizations, members of the financial community or private developers new single family affordable housing.

Goal: Ten new single family houses completed by May 31, 2010.

Objective 2: Total Rehabilitation of previously vacant, blighted single-family housing – To either total rehabilitate alone or in partnership with Community Housing Development Organizations, other social agencies and or a member or members of the financial community.

Goal: Ten totally rehabilitated single family homes by May 31, 2010.

Objective 3: Emergency or Vinyl Siding Assistance – To assist eligible City of Muskegon residents with emergency housing repairs and/or vinyl siding installation.

Goal: 250 houses assisted with either emergency repair and or vinyl siding (150 emergency repairs/100 vinyl siding by May 31, 2010)

Objective 4: Rehabilitation of Rental Units – To assist rental units within the city by rehabilitating rental housing in compliance with housing quality standards.

Goals: 16 rehabilitated rental units by May 31, 2010.

Objectives 5: To use the City's available resources to eliminate blight in the community. The City would allocate several different departments resources to eliminate blight in the community.

Goals: To demolish 20 dangerous structures, remove rubbish and blight from 250 sites throughout the city and remove 50 blight-creating inoperable automobiles from throughout the city.

Objective 6: To assist and promote public service community in attacking the social ills of the community in a plethora of areas.

Goal: To assist 10,000 persons through the public service community by May 31, 2010.

Objective 7: To allocate available funding to replace and improve the city's infrastructure.

Goal: To upgrade community infrastructure as required.

Objective 8: To use available funding to improve the city's overall economic status, by creating a physical infrastructure to attract new businesses and by creating a network to promote economic development.

Goal: To complete the redevelopment of the city's downtown area and to attract 400 new jobs by May 31, 2010.

2. Describe how Federal, State, and local public and private sector resources that are reasonably expected to be available will be used to address identified needs for the period covered by this Action Plan.

The majority of the expected funding will be directed in a variety of ways to attack the issues of serious concern to the Muskegon community. The main areas that will be targeted are areas that are in correlation with the established objectives created by the assemblage of the 2005 – 2010 Consolidated Plan. The main areas will be housing and housing maintenance, senior citizen services, education related needs, health related needs, crime prevention and youth services.

NEEDS OF PUBLIC HOUSING

1. Describe the manner in which the plan of the jurisdiction will help address the needs of the public housing and activities it will undertake during the next year to encourage public housing residents to become more involved in management and participate in homeownership.

The Muskegon Public Housing Agency is not on HUD's current 'Troubled' list.

2. If the public housing agency is designated as "troubled" by HUD or otherwise is performing poorly, the jurisdiction shall describe the manner in which it will provide financial or other assistance in improving its operations to remove such designation during the year.

BARRIERS TO AFFORDABLE HOUSING

1. Describe the actions that will take place during the next year to remove barriers to affordable housing.

The CNS office will continue to offer new housing and totally rehabilitated housing at significantly reduced prices. The department will also work with several non-profits in the community to assist citizens in jeopardy of foreclosure. In addition, as long as funding is available, we will assist low/medium income residents with expensive housing repairs.