

CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 27, 2007

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. Adoption of Muskegon County Hazard Mitigation Plan Resolution.
PUBLIC SAFETY
 - C. Road Salt Procurement Authorization. PUBLIC WORKS
 - D. Beverage Vending Contract for Parks/Marina Facilities. PUBLIC WORKS
 - E. Consideration of Bids for Larch Avenue, Hudson to Barclay Watermain Replacement (W-691). ENGINEERING
 - F. Consideration of Bids for Hudson Street, Wilson to Laketon Watermain Replacement (W-692). ENGINEERING
 - G. Consideration of Bids for Alley Between Torrent Street and Mann Street South of Lakeshore Drive Sanitary Sewer Replacement (S-621).
ENGINEERING
- ❑ PUBLIC HEARINGS:
 - A. Amendments to Brownfield Plan – Hotrod Harley. PLANNING & ECONOMIC DEVELOPMENT
 - B. Michigan Natural Resources Trust Fund Grant Application for Smith-Ryerson Park. PLANNING & ECONOMIC DEVELOPMENT/LEISURE SERVICES
- ❑ COMMUNICATIONS:

❑ CITY MANAGER'S REPORT:

❑ UNFINISHED BUSINESS:

❑ NEW BUSINESS:

A. Transfer Retiree Healthcare Assets to Municipal Employees Retirement System. FINANCE

B. Army Corps of Engineers Supplemental Agreement - Pier Safety. CITY MANAGER

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

1211 Third Street (Area 10)

536 Oak - Garage (Area 11)

❑ 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: March 27, 2007
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes for the March 12th Commission Worksession, and the March 13th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 27, 2007

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, March 27, 2007.

Mayor Warmington opened the meeting with a prayer from Vice Mayor Stephen Gawron 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, Commissioner Chris Carter, Kevin Davis, Clara Shepherd, Lawrence Spataro, and Sue Wierengo, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

INTRODUCTIONS/PRESENTATION: Sister City representative Rob Schweifler introduced Deniz Tolga who is from our Sister City Kepez-Turkey. Deniz said goodbye and thanked the City for their hospitality during his stay.

Commissioner Clara Shepherd presented a resolution to Frances Day thanking her for her efforts in helping a citizen in need.

2007-27 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the March 12th Commission Worksession, and the March 13th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Adoption of Muskegon County Hazard Mitigation Plan Resolution. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is asking the Commission to consider the adoption of the Muskegon County Hazard Mitigation Plan

Resolution. The Hazard Mitigation Plan is part of the overall response plan for Muskegon County. The adoption of this resolution will ensure the continued availability of federal funding including the Pre-Disaster Mitigation Program, Hazard Mitigation Program and Fire Management Assistance Grants.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of this request.

C. Road Salt Procurement Authorization. PUBLIC WORKS

SUMMARY OF REQUEST: Authorize road salt procurement for the 2007/2008 winter season through the State of Michigan Extended Purchasing Program.

FINANCIAL IMPACT: Per ton price yet to be determined; average winter usage of 4,622 tons at the 2006/2007 extended price of \$32.99/ton totals \$152,479.

BUDGET ACTION REQUIRED: None; expense budgeted for through public works.

STAFF RECOMMENDATION: Approve request.

D. Beverage Vending Contract for Parks/Marina Facilities. PUBLIC WORKS

SUMMARY OF REQUEST: To enter into a three-year contractual agreement with Dr. Pepper/Seven Up to provide vending service throughout City Parks and Marina Facilities.

FINANCIAL IMPACT: Contract revenue is unknown at this time. Approximately \$12,000 in revenue was received from previous vendor (Pepsi) during the 2004-2006 contracts.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve request.

COMMITTEE RECOMMENDATION: The Leisure Services Board had approved the request to enter into contractual agreement with Dr. Pepper/Seven Up at their March 19th meeting.

E. Consideration of Bids for Larch Avenue, Hudson to Barclay Watermain Replacement (W-691). ENGINEERING

SUMMARY OF REQUEST: Award the contract for the watermain replacement in Larch Avenue from Hudson to Barclay to Felco Contractors, Inc. of Muskegon, MI, since they were the lowest responsible bidder with a bid price of \$128,867.80.

FINANCIAL IMPACT: The construction cost of \$128,867.80.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Award the contract to Felco Contractors, Inc.

F. Consideration of Bids for Hudson Street, Wilson to Laketon Watermain

Replacement (W-692). ENGINEERING

SUMMARY OF REQUEST: Award the contract for the watermain replacement in Hudson Street from Wilson to Laketon to Van's Contracting, Inc. of Coopersville, MI, since they were the lowest responsible bidder with a bid price of \$235,393.02.

FINANCIAL IMPACT: The construction cost of \$235,393.02.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Award the contract to Van's Contracting, Inc.

G. Consideration of Bids for Alley Between Torrent Street and Mann Street South of Lakeshore Drive Sanitary Sewer Replacement (S-621).
ENGINEERING

SUMMARY OF REQUEST: Award the contract for the sanitary sewer replacement in the alley between Torrent Street and Mann Street south of Lakeshore to Felco Contractors, Inc. of Muskegon, MI, since they were the lowest responsible bidder with a bid price of \$70,951.

FINANCIAL IMPACT: The construction cost of \$70,951.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Award the contract to Felco Contractors, Inc.

Motion by Vice Mayor Gawron, second by Commissioner Carter to approve the Consent Agenda as read.

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

Nays: None

MOTION PASSES

2007-28 PUBLIC HEARINGS:

A. Amendments to Brownfield Plan – Hotrod Harley. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To hold a public hearing and approve the resolution approving and adopting amendments for the Brownfield Plan. The amendments are for the inclusion of property owned by Muskegon Downtown Believers LLC in the Brownfield Plan.

FINANCIAL IMPACT: There is no direct financial impact in approving the Brownfield Plan amendments, although the redevelopment of the property into a commercial project will add to the tax base of the City of Muskegon.

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENDATION: The Muskegon City Commission set the public hearing for March 27, 2007, at their February 27, 2007, meeting. Since that time, a notice of the public hearing has been sent to taxing jurisdictions, and it has been published twice in the Muskegon Chronicle. In addition, the Brownfield Redevelopment Authority approved the Plan amendment on February 23, 2007, and further recommends that the Muskegon City Commission approve the Plan amendment.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to close the Public Hearing and adopt the resolution approving the amendments to the Brownfield Plan.

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

Nays: None

MOTION PASSES

B. Michigan Natural Resources Trust Fund Grant Application for Smith-Ryerson Park. PLANNING & ECONOMIC DEVELOPMENT/LEISURE SERVICES

SUMMARY OF REQUEST: To hold a public hearing for public input for the Michigan Natural Resources Trust Fund Grant Application regarding the first phase of proposed upgrades to Smith-Ryerson Park. The application has been made available for viewing prior to the public hearing at the City Clerk's Office and on the City's website. The application is to build an ADA compliant restroom with concession stand, an irrigation system through out the park, a large picnic shelter with two grills and thirty-two twelve foot picnic tables, reconstruction of the basketball courts with concrete, new poles, backboards, rims, and timed lighting system, a pedestrian trail along the creek, the rehabilitation of the existing restroom building to be for storage only, and a set of aluminum bleachers.

FINANCIAL IMPACT: There is no impact for the 2007 budget year. If the application is approved, then this would need to be budgeted for the 2008 budget year.

BUDGET ACTION REQUIRED: The total estimated cost for the upgrades is \$577,829. The City is required to have a 25% match of those costs (excluding cents) which would be \$144,458. Therefore, this would need to be budgeted in 2008.

STAFF RECOMMENDATION: To hold the public hearing, approve submittal of the grant application, the 25% match, and to have the Mayor and Clerk sign the resolution.

Public comments were heard from Leland Davis, 1148 Terrace Manor, stating

that this is a good cause.

Motion by Commissioner Carter, second by Commissioner Davis to close the Public Hearing and approve the submittal of the grant application.

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

Nays: None

MOTION PASSES

2007-29 NEW BUSINESS:

A. Transfer Retiree Healthcare Assets to Municipal Employees Retirement System. FINANCE

SUMMARY OF REQUEST: The City has now completed the transfer of all pension assets (formerly administered through the City's pension boards) to MERS (Municipal Employees Retirement System of Michigan). As you know, the City also has set aside funds (approximately \$13.5 million) for retiree healthcare benefits. Historically these funds have been "piggybacked" onto the pension assets for investment purposes. Staff is recommending that the City's retiree healthcare assets also be transferred to MERS.

FINANCIAL IMPACT: The total MERS asset base is \$6 billion which means they are able to diversify and achieve economies of scale in investments to a far greater extent than we can by ourselves. We expect that our participation in this program will improve investment returns and grow the accumulated assets so that we are better positioned to pay future retiree healthcare costs without severe disruption to the operating budget.

BUDGET ACTION REQUIRED: No current year budget impact. The expected higher returns achievable through MERS will reduce the impact on future budgets and help the City achieve full funding of these long-term liabilities.

STAFF RECOMMENDATION: Approval of the *RETIREE HEALTH FUNDING VEHICLE UNIFORM RESOLUTION* and authorization for staff to transfer the City's accumulated retiree healthcare funds to MERS.

COMMITTEE RECOMMENDATION: At its last official meeting, the City's pension boards voted to recommend to the City Commission the transfer of retiree healthcare assets to MERS.

Motion by Commissioner Carter, second by Commissioner Spataro to approve the resolution and the transfer of the City's accumulated retiree healthcare funds to MERS.

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

Nays: None

MOTION PASSES

**B. Army Corps of Engineers Supplemental Agreement - Pier Safety. CITY
MANAGER**

SUMMARY OF REQUEST: To approve Supplemental Agreement No. 1 to the Army Corps of Engineers Lease No. DACW35-1-91-3004. This supplemental agreement will incorporate the South Breakwater of the Muskegon Harbor into the lease to allow the placement of pier safety devices.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Supplemental Agreement.

Motion by Commissioner Carter, second by Vice Mayor Gawron to approve the Supplemental Agreement.

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

Nays: None

MOTION PASSES

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

1211 Third Street (Area 10)

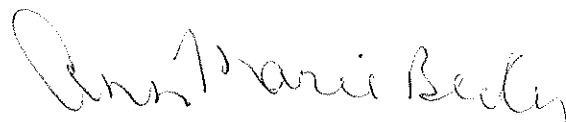
536 Oak - Garage (Area 11)

Item C has been removed per request of staff.

PUBLIC PARTICIPATION: Various comments were heard from the public.

ADJOURNMENT: The City Commission Meeting adjourned at 6:10 p.m.

Respectfully submitted,



Ann Marie Becker, MMC
City Clerk

CITY COMMISSION MEETING
March 27, 2007

TO: Honorable Mayor and City Commissioners

FROM: Anthony L. Kleibecker
Director of Public Safety

DATE: March 19, 2007

SUBJECT: Adoption of Muskegon County Hazard Mitigation Plan Resolution

SUMMARY OF REQUEST:

The Director of Public Safety is asking the Commission to consider the adoption of the Muskegon County Hazard Mitigation Plan Resolution. The Hazard Mitigation Plan is part of the overall response plan for Muskegon County. The adoption of this resolution will ensure the continued availability of federal funding including the Pre-Disaster Mitigation Program, Hazard Mitigation Program and Fire Management Assistance Grants.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATIONS:

Approval of this request.

Hazard Mitigation Plan Adoption Resolution

Resolution No. 2007-27(b)

Whereas Muskegon County, Michigan has experienced repetitive disasters that have damaged commercial, residential and public properties, displaced citizens and businesses, closed streets and bridges dividing the community both physically and emotionally, and presented general public health and safety concerns; and

Whereas the community has prepared a *Hazard Mitigation Plan* that outlines the community's options to reduce overall damage and impact from natural and technological hazards; and

Whereas the *Hazard Mitigation Plan* has been reviewed by community residents, business owners, and federal, state and local agencies, and has been revised to reflect their concerns;

Now, therefore, be it resolved that:

1. The *Hazard Mitigation Plan* is hereby adopted as an official plan of the City of Muskegon.
2. The Muskegon County Local Emergency Planning Commission (LEPC) is hereby established as a permanent community advisory body whose members are subject to the approval of the Michigan State Police. The group's duties shall be as designated in the *Hazard Mitigation Plan*.
3. The Muskegon County Emergency Services Director, Assistant Director, or designee, is charged with supervising the implementation of the Plan's recommendations within the funding limitations as provided by the City Commission or other sources.
4. The Muskegon County Emergency Services Director, Assistant Director, or designee, shall give priority attention to the following action items recommended by the *Hazard Mitigation Plan*:
 - a. _____ (Recommendation _____, page _____)
 - b. _____ (Recommendation _____, page _____)
 - c. _____ (Recommendation _____, page _____)
 - d. _____ (Recommendation _____, page _____)
 - e. _____ (Recommendation _____, page _____)
5. The Muskegon County Emergency Services Director shall convene the LEPC quarterly. The LEPC shall monitor implementation of the plan and shall submit a written progress report to Muskegon County in accordance with the following format:
 - a. A review of the original plan.
 - b. A review of any disasters or emergencies that occurred during the previous calendar year.
 - c. A review of the actions taken, including what was accomplished during the previous year.
 - d. A discussion of any implementation problems.
 - e. Recommendations for new projects or revised action items. Such recommendations shall be subject to approval by the Muskegon County Board of Commissioners.

Passed this 27th day of March, 2007.

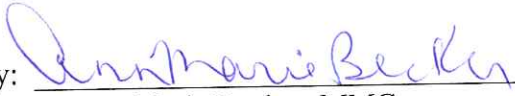
By: _____

Stephen J. Warrington, Mayor

CERTIFICATION
2007-27(b)

This resolution was adopted at a regular meeting of the City Commission, held on March 27, 2007. 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 Marie Becker, MMC
City Clerk

Affirmative Action
(231)724-6793
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

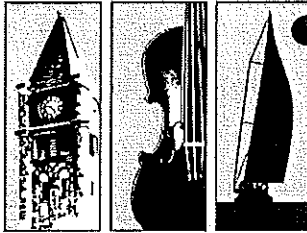
Public Works
(231)724-4100
FAX (231)722-4188

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 10, 2007

Mr. Roy Wheeler, Asst. Director
Emergency Services Department
c/o 131 E. Apple Avenue
Building H, Room 208
Muskegon, MI 49442

Dear Mr. Wheeler:

Enclosed is the Muskegon County Hazard Mitigation Plan Resolution which was adopted by the City Commission at their March 27, 2007, meeting.

Thank you,

Linda Potter
Deputy Clerk

enc.

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commission

FROM: Department of Public Works

DATE: March 16, 2007

SUBJECT: Road Salt Procurement Authorization

SUMMARY OF REQUEST:

Authorize road salt procurement for the 2007/2008 winter season through the State of Michigan Extended Purchasing Program.

FINANCIAL IMPACT:

Per ton price yet to be determined; average winter usage of 4,622 tons at the 2006/2007 extended price of 32.99/ton totals \$152,479.

BUDGET ACTION REQUIRED:

None; expense budgeted for through public works.

STAFF RECOMMENDATION:

Approve request.

COMMITTEE RECOMMENDATION:

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commission

FROM: Department of Public Works

DATE: March 21, 2007

SUBJECT: Beverage Vending Contract for Parks/Marina Facilities

SUMMARY OF REQUEST:

To enter into 3-year contractual agreement with Dr. Pepper/Seven Up to provide vending service throughout City Parks and Marina Facilities.

FINANCIAL IMPACT:

Contract revenue is unknown at this time. Approximately \$12,000 in revenue was received from previous vendor (Pepsi) during the 2004-6 contracts.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approve request.

COMMITTEE RECOMMENDATION:

The Leisure Services Board has previously approved the request to enter into contractual agreement with Dr. Pepper/Seven Up at their March 19th meeting.

LEISURE SERVICES BOARD MEETING DATE - MARCH 5, 2007

To: Leisure Services Board and Parks/Marina Staff
Date: 2/19/07
From: DPW
RE: Beverage Vending Contract for Parks/Marina Facilities

On Tuesday, February 13, 2007, three proposals were received for the request to supply beverage vending at various outdoor Parks and Marina facilities. Proposals were received from:

<u>Company</u>	<u>Address</u>	<u>Commission on Sales</u>
Coca Cola	1208 Butterworth, Grand Rapids, MI	25%
Pepsi	4900 Paul Court, Norton Shores, MI	40%
Dr. Pepper/Seven Up	900 Brooks Avenue, Holland, MI	45%

(All percentages above are based on 20 oz product size and \$1.25 vend price, minus any applicable deposits). Other sale percentages could be higher or lower based upon product, size, and vending price.

Additionally, Coca Cola did not offer an incentive, however Pepsi did offer 25 cases of free product (cans) per season and Dr. Pepper/Seven Up offered 50 free cases (cans) every year of the contract agreement.

All three proposals received are requesting a 3-year exclusive beverage vending agreement. However, staff only requested proposals for the summer of 2007 and beyond.

Staff is recommending that we award an exclusive 3-year contract to Dr. Pepper/Seven Up.

Date: March 27, 2007
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Consideration of Bids
Larch Ave., Hudson St. to Barclay St. Watermain Replacement
(W-691)

SUMMARY OF REQUEST:

Award the contract for the watermain replacement in Larch Ave. from Hudson St. to Barclay St. to Felco Contractors, Inc. of Muskegon, MI since they were the lowest responsible bidder with a bid price of **\$128,867.80**.

FINANCIAL IMPACT:

The construction cost of **\$128,867.80**

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Award the contract to Felco Contractors, Inc.

COMMITTEE RECOMMENDATION:

LARCH AVENUE, BARCLAY ST. TO HUDSON ST.
WATERMAIN IMPROVEMENTS
BID TABULATION - 03/13/07

ITEM OF WORK		CONTRACTOR	ENGINEERS		FELCO CONTRACTORS, INC		BID TABULATION - 03/31/07		DAY HOE EXCAVATING		JACKSON-MERCEY CONTR. INC		RON MEYER & ASSOC.		LEFF TRENCHING SVC. INC/ABUL STABILIZATION INC		
		ADDRESS	MUSKOGEE, MI 49441		TWIN LAKE, MI 49457		HOLLAND, MI 49424		MUSKOGEE, MI 49441		ZEELAND, MI 49464		BRYON CENTER, MI 49315		HART, MI 49480		
QTY	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	
1	ACUITY MANHOLE C&B 7'x7'	EACH	8	\$345.00	\$2,760.00	5	205.00	\$1,025.00	253.00	2,760.00	3	880.00	2,640.00	300.00	2,640.00	3	910.00
2	BEDS D.O.L. 8'x4'																

Date: March 27, 2007
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Consideration of Bids
Hudson St., Wilson Ave. to Laketon Ave. Watermain Replacement
(W-692)

SUMMARY OF REQUEST:

Award the contract for the watermain replacement in Hudson St., from Wilson Ave. to Laketon Ave. to Van's Contracting, Inc. of Coopersville, MI since they were the lowest responsible bidder with a bid price of \$235,393.02.

FINANCIAL IMPACT:

The construction cost of \$235,393.02

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Award the contract to Van's Contracting, Inc.

COMMITTEE RECOMMENDATION:

WATERMAIN IMPROVEMENTS

BIP TABULATION - 03/13/07

[illegible]

Date: March 27, 2007
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Consideration of Bids
Alley Between Torrent St. and Mann St. South of Lakeshore Dr.
Sanitary Sewer Replacement (S-621)

SUMMARY OF REQUEST:

Award the contract for the sanitary sewer replacement in the alley between Torrent St. and Mann St. south of Lakeshore Dr. to Felco Contractors, Inc. of Muskegon, MI since they were the lowest responsible bidder with a bid price of \$70,951.00.

FINANCIAL IMPACT:

The construction cost of \$70,951.00

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Award the contract to Felco Contractors, Inc.

COMMITTEE RECOMMENDATION:

SANITARY SEWER IMPROVEMENTS

[illegible]

Commission Meeting Date: March 27, 2007

Date: March 19, 2007
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department *CBE*
RE: Public Hearing for Amendments to Brownfield
Plan- Hotrod Harley

SUMMARY OF REQUEST: To hold a public hearing and approve the attached resolution approving and adopting amendments for the Brownfield Plan. The amendments are for the inclusion of property owned by Muskegon Downtown Believers LLC in the Brownfield Plan.

FINANCIAL IMPACT: There is no direct financial impact in approving the Brownfield Plan amendments, although the redevelopment of the property into a commercial project will add to the tax base of the City of Muskegon.

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENDATION: The Muskegon City Commission set the public hearing for March 27, 2007, at their February 27, 2007 meeting. Since that time, a notice of the public hearing has been sent to taxing jurisdictions, and it has been published twice in the Muskegon Chronicle. In addition, the Brownfield Redevelopment Authority approved the Plan amendment on February 23, 2007 and further recommends that the Muskegon City Commission approve the Plan amendment.

RESOLUTION APPROVING THE BROWNFIELD PLAN AMENDMENT

HOTROD HARLEY

City of Muskegon

County of Muskegon, Michigan

Minutes of a Regular Meeting of the City Commission of the City of Muskegon, County of Muskegon, Michigan (the "City"), held in the City Commission Chambers, on the 27th day of March, 2007, at 5:30 o'clock p.m., prevailing Eastern Time.

PRESENT: Members

Carter, Davis, Gawron, Shepherd, Spataro, Warmington,

and Wierengo

ABSENT: Members

None

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

WHEREAS, in accordance with the provisions of Act 381, Public Acts of Michigan, 1996, as amended ("Act 381"), the City of Muskegon Brownfield Redevelopment Authority (the "Authority") has prepared and approved a Brownfield Plan Amendment to add Hotrod Harley; and

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

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

WHEREAS, not less than 20 days has passed since the City Commission provided notice of the proposed Brownfield Plan to the taxing units; and

WHEREAS, a notice of the Public Hearing on the proposed Brownfield Plan Amendment was published twice in the Muskegon Chronicle, the first of which was not less than 20 days before the scheduled Public Hearing; and

WHEREAS, the City Commission held a public hearing on the proposed Brownfield Plan on March 27, 2007.

NOW, THEREFORE, BE IT RESOLVED, THAT:

1. Definitions. Where used in this Resolution the terms set forth below shall have the following meaning unless the context clearly requires otherwise:

"Eligible Property" means the property designated in the Brownfield Plan as the Eligible Property, as described in Act 381.

"Brownfield Plan" means the Brownfield Plan prepared by the Authority, as transmitted to the City Clerk by the Authority for approval, copies of which Brownfield Plan are on file in the office of the City Clerk.

"Taxing Jurisdiction" shall mean each unit of government levying an ad valorem property tax on the Eligible Property.

2. Public Purpose. The City Commission hereby determines that the Brownfield Plan Amendment constitutes a public purpose.

3. Best Interest of the Public. The City Commission hereby determines that it is in the best interests of the public to promote the revitalization of eligible properties in the City to proceed with the Brownfield Plan Amendment.

4. Review Considerations. As required by Act 381, the City Commission has, in reviewing the Brownfield Plan Amendment, taken into consideration whether the Brownfield Plan Amendment meets the requirements set forth in Section 13 of Act 381.

5. Approval and Adoption of Brownfield Plan Amendment. The Brownfield Plan Amendment as submitted by the Authority is hereby approved and adopted. A copy of the Brownfield Plan and all amendments thereto shall be maintained on file in the City Clerk's office.

6. No Capture of Tax Increment Revenues by Authority. The Authority shall not capture Tax Increment Revenues on the Eligible Property, as described in the Brownfield Plan Amendment.

7. Disclaimer. By adoption of this resolution and approval of the Brownfield Plan Amendment, the City assumes no obligation or liability to the owner, developer or lessor of the Eligible Property for any loss or damage that may result to such persons from the adoption of this resolution and Brownfield Plan Amendment. The City makes no guarantees or representations as to

the determinations of the appropriate state officials regarding the ability of the owner, developer or lessor to qualify for a single business tax credit pursuant to Act 228, Public Acts of Michigan, 1975, as amended, or as to the ability of the Authority to capture tax increment revenues from the State and local school district taxes for the Brownfield Plan.

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

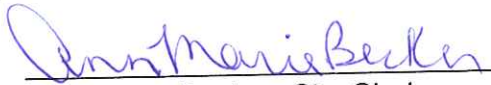
AYES: Members

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

NAYS:

Members None

RESOLUTION DECLARED ADOPTED.


Ann Marie Becker, City Clerk


Stephen J. Warmington, Mayor

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held on March 27, 2007, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.



Ann Marie Becker, City Clerk

**CITY OF MUSKEGON
BROWNFIELD REDEVELOPMENT
AUTHORITY**

BROWNFIELD PLAN AMENDMENT

“Hot Rod Harley”

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

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

CITY OF MUSKEGON
BROWNFIELD REDEVELOPMENT AUTHORITY
BROWNFIELD PLAN

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 - B. Maximum Amount of Indebtedness
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Eligible Properties
 - E. Local Site Remediation Revolving Fund
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 - B. Dilesco Corporation Property (Approved 8/11/98)
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 - G. Parmenter O'Toole Property (Approved 8/12/03)
 - H. "The WaterMark" Project (Approved 5/25/04)
 - I. Northern Machine Tool (Approved July 13, 2004)
 - J. Terrace Lots Office Building (Approved July 13, 2004)
 - K. Art Works Apartments (Approved July 27, 2004)
 - L. Former Muskegon Mall (Approved October 12, 2004)
 - M. Vida Nova at Edison Landing (Approved 10/10/06)
 - N. Western Ave. Properties LLC and Port City Development Services, LLC
(Approved 10/10/06)
 - O. Viridian Place at Edison Landing (Approved 10/24/06)
 - P. **Hot Rod Harley (Approved 3/27/07)**

I. INTRODUCTION

In order to promote the revitalization of commercial, industrial, and residential properties within the boundaries of the City of Muskegon (the "City"), the City established the City of Muskegon Brownfield Redevelopment Authority (the "Authority") pursuant to Act 381 of 1996, Public Acts of Michigan, as amended ("Act 381"), and a resolution adopted by the Muskegon City Commission on February 10, 1998.

The major purpose of this Brownfield Plan ("Plan") is to promote the redevelopment of *eligible properties* within the City that are impacted by the presence of hazardous substances in concentrations that exceed Michigan's Part 201 Generic Cleanup Criteria ("*facilities*") or that have been determined to be Functionally Obsolete or Blighted. Inclusion of property within this Plan can facilitate financing of environmental response activities, infrastructure improvements, demolition, lead or asbestos abatement, and site preparation activities at *eligible properties*; and may also provide tax incentives to eligible taxpayers willing to invest in revitalization of *eligible properties*. By facilitating redevelopment of underutilized *eligible properties*, the Plan is intended to promote economic growth for the benefit of the residents of the City and all taxing units located within and benefited by the Authority.

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

This Brownfield Plan contains the information required by Section 13(1) of Act 381, as amended. Additional information is available from the City Manager.

II. GENERAL PROVISIONS

A. Costs of the Brownfield Plan (Section 13(1)(a))

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

The Authority intends to pay for administrative costs and all of the things necessary or convenient to achieve the objectives and purposes of the Authority with any eligible tax increment revenues collected pursuant to the Plan, including, but not limited to:

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

These eligible tax increment revenues are identified in the site-specific sections of this Plan. As noted above, most costs related to the preparation of Plan amendments are borne by the person requesting inclusion of a project within the Plan.

B. Method for Financing Costs of Plan (Section 13(1)(d) and (e))

The Authority does not intend at this time to incur debt, such as through the issuance of bonds or other financing mechanisms. In the future, the City or Brownfield Authority may incur some debt on a site-specific basis. Please refer to the site-specific section of this Plan for details on any debt to be incurred by the City or Authority. When a property proposed for inclusion in the Plan is in an area where tax increment financing is a viable option, the Authority intends to enter into Development Agreements with the property owners/developers of properties included in the Plan to reimburse them for the costs of eligible activities undertaken pursuant to this Plan. Financing arrangements will be specified in the Development Agreement, and also identified in the Site Specific section of the Plan.

C. Duration of the Brownfield Plan (Section 13(1)(f))

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

D. Displacement/Relocation of Individuals on *Eligible Properties* (Section 13(1)(i, j, k, l))

At this time, *eligible properties* identified in this Plan do not contain residences, nor are there any current plans or intentions by the City for identifying *eligible properties* that will require the relocation of residences. Therefore the provisions of *Section 13(1)(i-l)* are not applicable at this time.

E. Local Site Remediation Revolving Fund (Section 8; Section 13(1)(m))

At the time this Plan includes a property for which taxes will be captured through the increment financing authority provided by Act 381, it is the Authority's intent to establish a Local Site Remediation Revolving Fund ("Fund"). The Fund will consist of tax increment revenues that exceed the costs of eligible activities incurred on an eligible property, as specified in *Section 13(5) of Act 381*. *Section 13(5)* authorizes the capture of tax increment revenue from an eligible property for up to 5 years after the time that capture is required for the purposes of paying the costs of eligible activities identified in the Plan. It is the intention of the Authority to continue to capture tax increment revenues for 5 years after eligible activities are funded from those properties identified for tax capture in the Plan. The amount of school operating taxes captured for the Revolving Fund will be limited to the amount of school operating taxes captured for eligible activities under this Plan. It may also include funds appropriated or otherwise made available from public or private sources.

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

III. SITE SPECIFIC PROVISIONS

P. HOT ROD HARLEY DAVIDSON

Eligibility and Project Summary (Sec. 13(1)(h))

The Hot Rod Harley project involves redevelopment of over 5 acres of property located between Shoreline Drive, Terrace Street, and Western Ave., an area most recently referred to as the Terrace Lots. This property was formerly part of the Teledyne Continental Motors manufacturing facility. The project is located directly south of Edison Landing, and east of the new National City Bank Building. A legal description, map and site plan is included in Attachment P-1.

Several "*eligible activities*" have already been undertaken on the property. The subject property has been determined to be "*eligible property*" as defined by Act 381 through information obtained from Phase I and II Environmental Site Assessments and a Baseline Environmental Assessment conducted by Lakeshore Environmental on August 18, 2006. Historic fill materials containing elevated concentrations of heavy metals, similar to those found to exist along the Muskegon Shoreline, have been documented in site soils, thereby defining the site as a "facility" pursuant to Part 201 of the Natural Resources and Environmental Protection Act. A Due Care Plan has been prepared to assure site redevelopment does not exacerbate these environmental conditions, and to assure that no unacceptable exposures result from the redevelopment. This *eligible property* includes all real and personal property.

Hot Rod Harley Davidson is a full-service Harley Davidson Motorcycle dealership, currently located at 590 Ottawa Street in Muskegon. They intend to relocate their business to Downtown Muskegon, to become a part of Muskegon's new revitalized downtown and Muskegon Lake shoreline area. Hot Rod Harley hopes to attract motorcyclists from throughout Michigan and the Midwest through a week-long motorcycle festival (Bike Week).

The project will include removal of the former concrete foundation and former tunnels, relocating utilities, construction of new infrastructure, and placement of fill materials to raise the site grade and serve as a cap for impacted soils. A new steel and brick 2-story 40,000 square foot building will be constructed to house the new Hot Rod Harley Davidson display showroom for Harley Davidson Motorcycles and apparel, Service Department, Parts Department, parts storage area and motorcycle storage areas. The exterior will include landscaping, parking, and drive areas, including a large parking lot to the east of the main building. Site preparation activities have been ongoing since summer of 2006; construction on the new building is planned to start in spring 2007.

Hot Rod Harley currently employs 20 with an average annual salary ranging from \$30 – \$35,000. The new location will allow them to add 10 employees. The total estimated capital investment in the project is estimated at over \$3.7 million.

Eligible Activities, Financing, Cost of Plan (Sec. 13(1)(a),(b),(c),(d),(g))

Eligible activities that have been conducted on the Property by the purchaser/developer include completion of a Phase I and II Environmental Site Assessment, and preparation

*City of Muskegon Brownfield Plan Amendment
February 2007*

of a Baseline Environmental Assessment and Section 7a (Due Care) Compliance Analysis. Due Care response activities will also be undertaken by the developer as required by the Due Care Plan, such as capping impacted soils. However, no *eligible activity* costs are proposed to be financed with tax increment revenues, since all new tax increments are already being captured through the DDA. As such, there are no costs to the City of Muskegon or its taxing jurisdictions as a result of the Hot Rod Harley Davidson project being included in this Plan.

Single Business Tax Credit

The Hot Rod Harley project is included in the Plan to enable "*qualified taxpayers*" as defined by Section 38d of Act 228 of 1975, as amended, to avail themselves of eligibility for a credit against their Michigan single business tax liability for "*eligible investments*" as defined by P.A. 228. "*Eligible Investments*" include demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on *eligible property* and the addition of machinery, equipment, and fixtures to *eligible property* after the effective date of this Plan Amendment.

Effective Date of Inclusion in Brownfield Plan

The Hot Rod Harley project was added to this Plan on 3/27/07.

ATTACHMENT P-1
LEGAL DESCRIPTION AND SITE PLAN
HOT ROD HARLEY

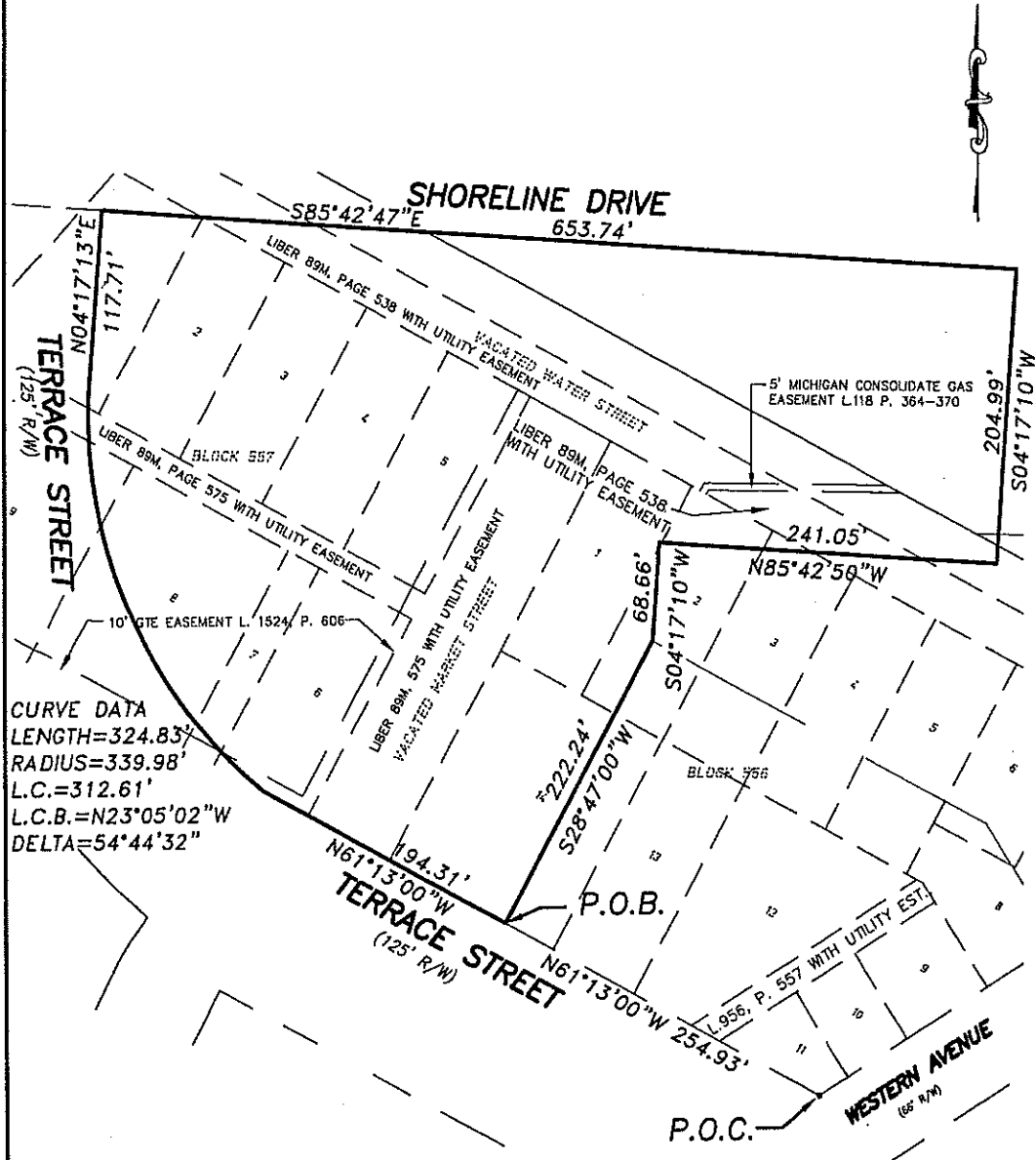


WESTSHORE CONSULTING

Engineers ■ Scientists ■ Surveyors ■ Planners

SITE MAP

FOR: SIDOCK GROUP



AS A PROFESSIONAL LAND SURVEYOR OF THE STATE OF MICHIGAN,
I DO HEREBY CERTIFY THAT TO THE BEST OF MY PROFESSIONAL
KNOWLEDGE AND BELIEF, I HAVE SURVEYED THE PROPERTY AS
DESCRIBED AND SHOWN HEREIN AND THAT THERE EXISTS NO VISIBLE
ENCROACHMENTS ON SAID PROPERTY UNLESS NOTED AND THAT
THIS SURVEY WAS PREPARED IN ACCORDANCE WITH A DESCRIPTION
FURNISHED BY OTHERS AND SHOULD BE COMPARED TO THE ABSTRACT
OF TITLE OR TITLE POLICY FOR ACCURACY, EASEMENTS, OR EXCEPTIONS.
THIS SURVEY DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT
AN EXPRESSED RECERTIFICATION BY THE SURVEYOR.

STANLEY J. KASS
P.S. NO. 34972
2534 BLACK CREEK ROAD
MUSKEGON, MI. 49444
PHONE : (231)777-3447
FAX : (231)773-3453

DATE:

FILE NO: WS-07-0040

SCALE: 1" = 100'

SURVEYED BY:

DRN BY: BJA

DEEDS PREPARED UTILIZING THIS LEGAL
DESCRIPTION FOR CONVEYANCES MUST
MEET THE REQUIREMENTS OF SECTION 109
PARAGRAPH 3 AND 4 OF P.A. 591 OF 1996.

© COPYRIGHT 2007

SHEET 1 OF 2



WESTSHORE CONSULTING

Engineers ■ Scientists ■ Surveyors ■ Planners

SITE MAP

FOR: SIDOCK GROUP

PROPERTY DESCRIPTION

THAT PART OF BLOCKS 554, 556, 557 AND THAT PART OF VACATED MARKET STREET AND WATER STREET, OF THE REVISED PLAT (OF 1903) OF THE CITY OF MUSKEGON, AS RECORDED IN LIBER 3 OF PLATS, PAGE 71, MUSKEGON COUNTY RECORDS, FURTHER DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTH MOST CORNER OF BLOCK 556 OF SAID REVISED PLAT (ALSO BEING THE INTERSECTION OF THE NORTHWESTERLY RIGHT-OF-WAY LINE OF WESTERN AVENUE AND THE NORTHERLY RIGHT-OF-WAY LINE OF TERRACE STREET);

THENCE NORTH 61 DEGREES 13 MINUTES 00 SECONDS WEST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID TERRACE STREET, A DISTANCE OF 254.93 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE NORTH 61 DEGREES 13 MINUTES 00 SECONDS WEST ALONG SAID LINE, A DISTANCE OF 194.31 FEET;

THENCE NORTHWESTERLY ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID TERRACE STREET, A DISTANCE OF 324.83 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT CURVE DATA BEING (RADIUS = 339.98 FEET, DELTA = 54 DEGREES 44 MINUTES 32 SECONDS, LONG CHORD = 312.61 FEET, LONG CHORD BEARING = NORTH 23 DEGREES 05 MINUTES 02 SECONDS WEST);

THENCE NORTH 04 DEGREES 17 MINUTES 13 SECONDS EAST ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 117.71 FEET;

THENCE SOUTH 85 DEGREES 42 MINUTES 47 SECONDS EAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SHORELINE DRIVE, A DISTANCE OF 653.74 FEET;

THENCE SOUTH 04 DEGREES 17 MINUTES 10 SECONDS WEST, A DISTANCE OF 204.99 FEET;

THENCE NORTH 85 DEGREES 42 MINUTES 50 SECONDS WEST, A DISTANCE OF 241.05 FEET;

THENCE SOUTH 04 DEGREES 17 MINUTES 10 SECONDS WEST, A DISTANCE OF 68.66 FEET;

THENCE SOUTH 28 DEGREES 47 MINUTES 00 SECONDS WEST, A DISTANCE OF 222.24 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 4.73 ACRES, MORE OR LESS.

DEEDS PREPARED UTILIZING THIS LEGAL
DESCRIPTION FOR CONVEYANCES MUST
MEET THE REQUIREMENTS OF SECTION 109
PARAGRAPH 3 AND 4 OF P.A. 591 OF 1996.

Commission Meeting Date: March 27, 2007

Date: March 16, 2007
To: Honorable Mayor & City Commission
From: Planning & Economic Development & Leisure *CBC*
Services
RE: Public Hearing for Michigan Natural Resources
Trust Fund Grant Application for Smith-Ryerson
Park.

SUMMARY OF REQUEST:

To hold a public hearing for public input for the Michigan Natural Resources Trust Fund Grant Application regarding the first phase of proposed upgrades to Smith-Ryerson Park. The application has been made available for viewing prior to the public hearing at the City Clerk's Office and on the City's website. The application is to build an ADA compliant restroom with concession stand, an irrigation system through out the park, a large picnic shelter with two grills and thirty-two twelve foot picnic tables, reconstruction of the basketball courts with concrete, new poles, backboards, rims, and timed lighting system, a pedestrian trail along the creek, the rehabilitation of the existing restroom building to be for storage only, and a set of aluminum bleachers.

FINANCIAL IMPACT:

There is no impact for the 2007 budget year. If the application is approved, then this would need to be budgeted for the 2008 budget year.

BUDGET ACTION REQUIRED:

The total estimated cost for the upgrades is \$577,829. The City is required to have a twenty-five percent (25%) match of those costs (excluding cents) which would be \$144,458. Therefore, this would need to be budgeted in 2008.

STAFF RECOMMENDATION:

To hold the public hearing, approve submittal of the grant application, the twenty-five (25%) match, and to have the Mayor and Clerk sign the attached resolution.

COMMITTEE RECOMMENDATION:

None.

RESOLUTION NO. 2007-28(b)
MUSKEGON CITY COMMISSION

RESOLUTION APPROVING THE SUBMITTAL OF THE MICHIGAN NATURAL RESOURCES TRUST FUND GRANT APPLICATION FOR SMITH-RYERSON PARK UPGRADES AND COMMITTING THE CITY TO PAY A 25% MATCH FOR THE GRANT APPLICATION

WHEREAS, after the duly noticed public hearing in the Muskegon Chronicle on March 14, 2007 for the Michigan Natural Resources Trust Fund Grant application for the Smith-Ryerson Park upgrades, and

WHEREAS, a public comment session was held March 27, 2007 at the Muskegon City Commission Chambers to provide an opportunity for citizens to express opinions, ask questions, and discuss all aspects of the grant application for Smith-Ryerson park, and

WHEREAS, the City Commission of the City of Muskegon must approve the submittal of the application, and

WHEREAS, the City Commission of the City of Muskegon must approve a resolution committing to a 25% match for the grant, and

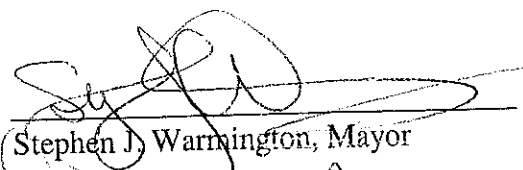
NOW, THEREFORE BE IT RESOLVED by the Muskegon City Commission of the City of Muskegon, Michigan that after holding the public hearing, the City Commission is approving the submittal of the Michigan Natural Resources Trust Fund Grant application for the Smith-Ryerson Park upgrades, committing to a 25% match for the grant, and authorizing the Mayor and Clerk to sign all documents related to the submittal and acceptance of the grant.

Adopted this 27th day of March, 2007

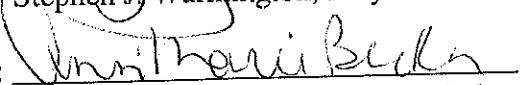
Ayes: Davis, Gawron, Shepherd, Spataro, Warmington, Wierengo,
and Carter

Nays: None

Excused: None

By: 

Stephen J. Warmington, Mayor

Attest: 

Ann Marie Becker, MMC, City Clerk

CERTIFICATION
2007-28(b)

I do hereby certify that the foregoing is a true and original copy of a resolution adopted by the City Commission of the City of Muskegon at a regular meeting thereof held on March 27, 2007.

By: Ann Marie Becker
Ann Marie Becker, MMC, City Clerk

Date: March 27, 2007

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: Transfer Retiree Healthcare Assets to MERS

SUMMARY OF REQUEST: The City has now completed the transfer of all pension assets (formerly administered through the City's pension boards) to MERS (Municipal Employees Retirement System of Michigan). As you know, the City also has set aside funds (approximately \$13.5 million) for retiree healthcare benefits. Historically these funds have been "piggybacked" onto the pension assets for investment purposes. Staff is recommending that the City's retiree healthcare assets also be transferred to MERS.

FINANCIAL IMPACT: The total MERS asset base is \$6 billion which means they are able to diversify and achieve economies of scale in investments to a far greater extent than we can by ourselves. We expect that our participation in this program will improve investment returns and grow the accumulated assets so that we are better positioned to pay future retiree healthcare costs without severe disruption to the operating budget.

BUDGET ACTION REQUIRED: No current year budget impact. The expected higher returns achievable through MERS will reduce the impact on future budgets and help the City achieve full funding of these long-term liabilities.

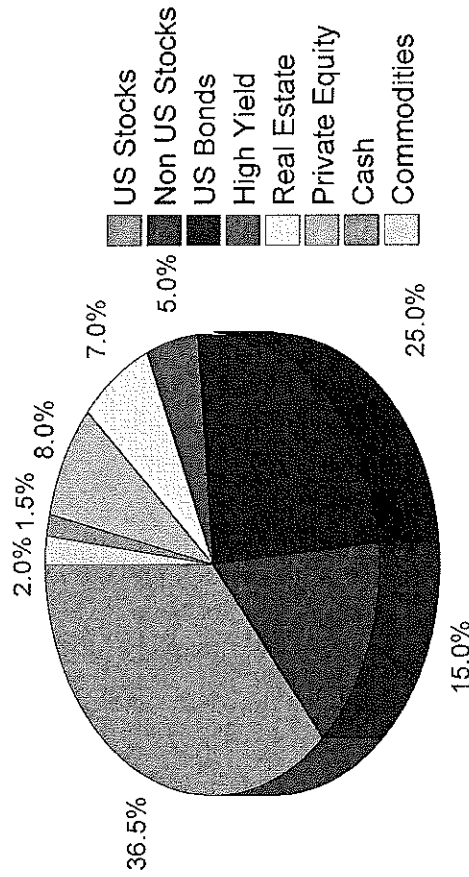
STAFF RECOMMENDATION: Approval of the attached *RETIREE HEALTH FUNDING VEHICLE UNIFORM RESOLUTION* and authorization for staff to transfer the City's accumulated retiree healthcare funds to the MERS.

COMMITTEE RECOMMENDATION: At its last official meeting, the City's pension boards voted to recommend to the City Commission the transfer of retiree healthcare assets to MERS.

Asset Allocation Comparisons with Return & Risk Projections

- Portfolio Return & Standard Deviation Forecast were developed using long-term historical market data

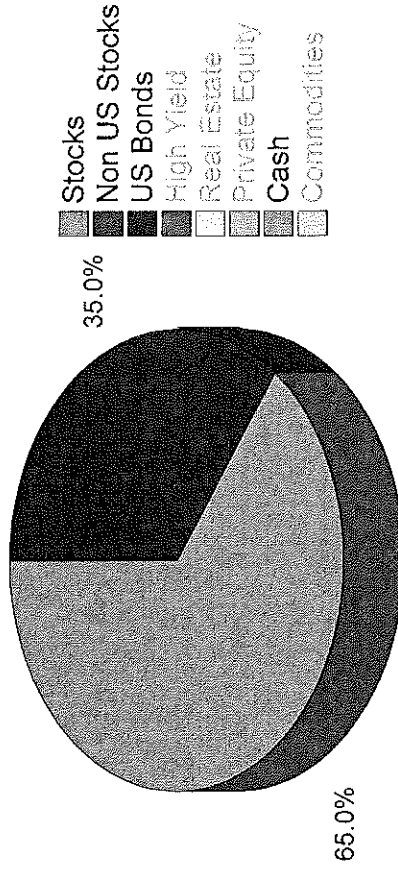
Asset Allocation Analysis MERS Total Market Portfolio



Forecasted Portfolio Return: 8.67%

Forecasted Portfolio Standard Deviation: 12.72%

Asset Allocation Analysis City of Muskegon

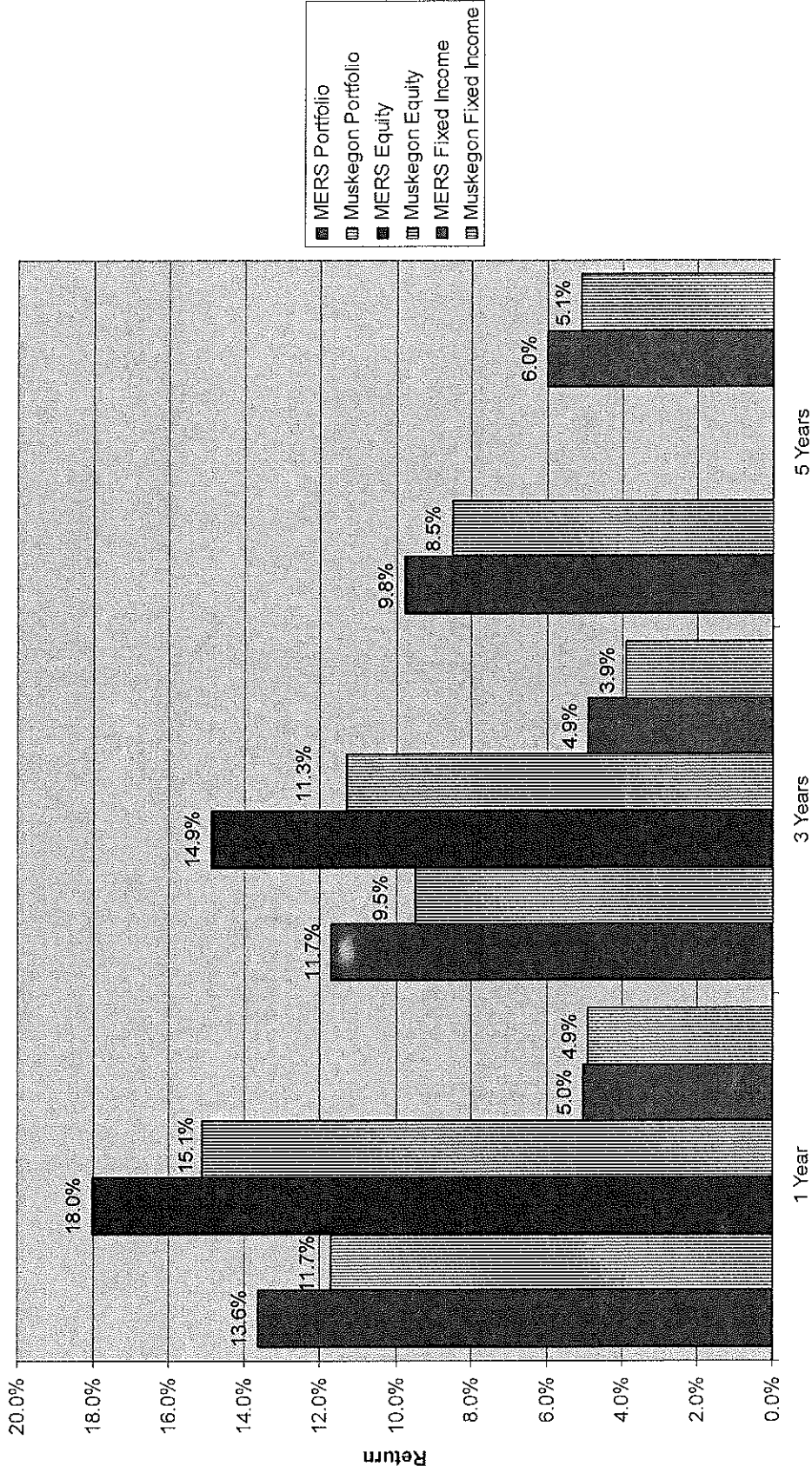


Forecasted Portfolio Return: 6.86%

Forecasted Portfolio Standard Deviation: 11.72%

MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

MERS Investment Returns versus City of Muskegon



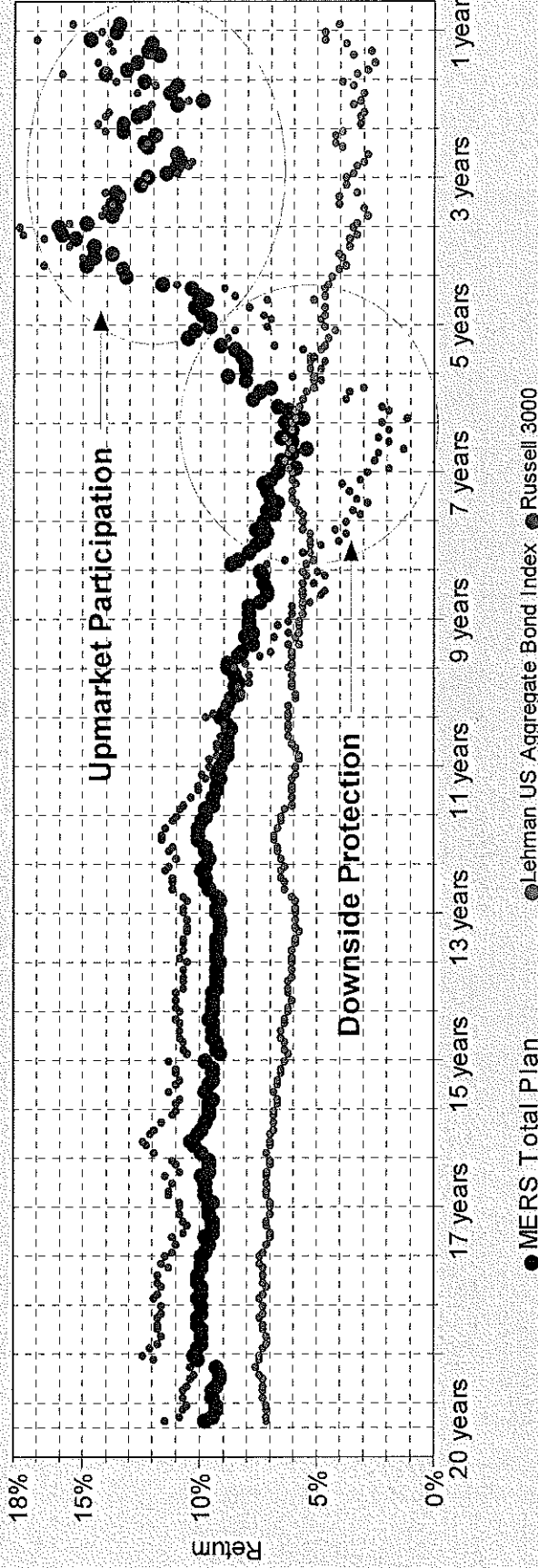
Returns are gross of fees; investment management fees are not reflected.



MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

Zephyr Style ADVISOR: Michigan Municipal ERS

MERS Total Market Portfolio as of December 2006
(not annualized if less than 1 year)



● MERS Total Plan ● Lehman US Aggregate Bond Index ● Russell 3000

MERS Total Plan Returns: Return through December 2006
(not annualized if less than 1 year)

	1 year	2 years	3 years	4 years	5 years	10 years	15 years	20 years
MERS Total Plan	13.62%	10.15%	11.71%	14.83%	9.77%	8.80%	9.43%	10.05%

MERS Total Plan: Standard Deviation through December 2006
(not annualized if less than 1 year)

	1 year	2 years	3 years	4 years	5 years	10 years	15 years	20 years
MERS Total Plan	5.04%	5.39%	5.63%	6.11%	7.48%	9.30%	8.21%	8.95%
Russell 3000	6.38%	7.53%	7.62%	8.86%	12.52%	15.46%	13.56%	14.94%
Lehman US Aggregate Bond Index	2.70%	2.88%	3.25%	3.79%	3.82%	3.56%	3.78%	4.08%

Returns are gross of fees; investment management fees are not reflected.





City of Muskegon

January 30, 2007

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SECTION 1: MERS OVERVIEW

The Municipal Employees' Retirement System of Michigan (MERS) is a statewide public employee retirement plan. MERS serves governmental entities like counties, cities, townships, villages, road commissions, hospitals, medical care facilities, libraries, community mental health boards, transportation authorities, and similar governmental entities.

MERS operated under the umbrella of state government from 1945 until Public Act 220 of 1996. This provided the system authority to hold a vote of the certified delegates of the participating municipalities to remove MERS from state government. Today, MERS provides benefits to more than 65,000 members in more than 680 municipalities.

MERS is located in Lansing Michigan. We are available for one-on-one meetings at the City's request. Additionally, regional meetings are scheduled throughout the year to bring news and information directly to our members.

SECTION 2: RETIREE HEALTH FUNDING VEHICLE OVERVIEW

MERS developed the Retiree Health Funding Vehicle as a means to help municipalities in Michigan save and grow assets within the MERS investment portfolio to offset future retiree health care liabilities using MERS economies of scale. The funding vehicle, created by a Private Letter Ruling from the IRS, provides advantages in light of the Governmental Accounting Standards Board Other Post Employment Benefits (GASB OPEB) reporting requirements.

MERS will assist the City of Muskegon in maximizing the earnings of its trust fund balance within our Internal Revenue Service (IRS) approved medical trust for Retiree Health Care costs, **MERS Retiree Health Funding Vehicle**. The City may choose to adopt the program for existing funds and new funds. The program allows public employers like the City that pro-actively set aside assets to take advantage of MERS investment returns within its portfolio of over \$5.6 billion. MERS primary investment objective is to maximize the long-term rate of return with a high degree of prudence and integrity.

All funds are invested as authorized by the Michigan Public Employee Retirement System's Investment Act, 1965 PA 314, as amended. In addition, the MERS Retirement Board shall act as the investment fiduciary (made up of a chairperson, 3 employee members, 2 office members, 2 public members and 1 retiree member). Also, to the extent permitted by law, the assets will be commingled with other funds for investment purposes only. MERS will maximize investment earnings, provide quarterly and annual reporting, and make disbursements to the City upon request.

The Retiree Health Funding Vehicle is a medical trust created by a Private Letter Ruling from the IRS Private Letter Ruling No. 2003-136326. The Municipal Employees Retirement Act of 1984, 1984 PA 427, section 36(2)(a); MCLA 38.1536(2)(a), authorizes MERS to make available benefit programs for municipal employees employed by a

participating municipality or court. The Internal Revenue Code, section 115(1) states in part that gross income does not include “income derived from...exercise of any essential governmental function and accruing to a...political subdivision” of a State. The IRS has ruled that providing health benefits by a political subdivision for its employees and retirees is an “essential governmental function” (Revenue Rulings 77-261 and 90-74). Under the Municipal Employees Retirement Act, section 2C(3), MCLA 38.1502C(3), the Legislature has provided that MERS is a public corporation, “an instrumentality of the participating municipalities and participating courts.”

The City may fund a MERS Retiree Health Funding Vehicle account on a cash or actuarial basis. The City solely determines the contribution structure. The contributions, all investments, receipts, and disbursements with regard to the trust shall be used solely for the exclusive benefit of the participants and their dependents, as applicable, under the Retiree Health Funding Vehicle and defraying the reasonable expenses of administering the trust and the program. MERS will ensure that any payment from the Retiree Health Funding Vehicle conforms to the provisions in our IRS approved Trust Agreement and Plan Document, and of any applicable law. Payments from the Retiree Health Funding Vehicle account shall be made by electronic funds transfer to the order of the City of Muskegon.

To implement the Retiree Health Funding Vehicle, the City will need to submit a Retiree Health Funding Vehicle Uniform Resolution, attached in Section 7. Once the resolutions are received, account information and contribution and reporting instructions will be provided in order to make the initial transfer and ongoing contributions.

SECTION 3: MERS INVESTMENTS

MERS Total Market Fund

MERS Total Market Fund's objective is to achieve reasonable growth and income while minimizing market volatility relative to broader equity markets. The portfolio seeks returns that exceed the actuarial assumption rate of 8% annually and that are 3.5% over the annual rate of inflation. The portfolio offers diversified exposure to all major investment asset classes within established and prudent risk parameters.

Methodology

The portfolio is managed in conformance with the Michigan Public Employee Retirement Systems Investment Act, 1965 PA 314, as amended. MERS professional investment personnel under the authority of the MERS Retirement Board oversee the portfolio. The MERS Retirement Board enforces investment guidelines that govern the portfolio. These guidelines are used to make investment decisions that maximize long-term capital gains and control the downside risk to which the assets are exposed. To achieve this goal, active management along with diversification by asset class and style are employed. Every effort is made to minimize costs without adversely affecting portfolio performance.

Performance History

Annualized returns gross of fees as of December 31, 2005

	One Year	Two Years	Three Years	Five Years	Ten Years
MERS Total Market Portfolio	6.78%	10.77%	15.24%	6.59%	8.71%
MERS Policy Benchmark	6.80%	9.12%	13.89%	5.61%	8.50%
Excess performance	-0.02%	1.65%	1.35%	.98%	.21%

SECTION 4: FEE STRUCTURE

MERS will charge an annual administration fee of 45 (.45%) basis points on the entire portfolio. Upon written notification, this fee is subject to adjustment of MERS underlying Investment Management fees increase.

SECTION 5: ACTUARIAL HEALTHCARE VALUATIONS

GASB OPEB will require most municipalities to identify and account for their future retiree health care liabilities on their financial statements. MERS has arranged for Gabriel, Roeder, Smith, & Company (GRS) to provide OPEB valuations at discounted prices.

	First Year		2nd and Later Years	
	Fully Insured	Self Insured	Fully Insured	Self Insured
Fee for 1 <i>OPEB Benefit Group</i> , 1 <i>Rate Plan</i> , and Up to 6 <i>Premium Rate Schedules</i> .	\$4,900	\$8,500	\$3,950	\$5,750
Fee for each additional OPEB Benefit Group	\$800	\$800	\$450	\$450
Fee for each OPEB Benefit Group with changes	--	--	\$150	\$150
Fee for each additional Rate Plan	\$200	\$200	\$150	\$150
Fee for each Rate Plan that has assets	\$100	\$100	\$50	\$50
Fee for each additional Premium Rate Schedule	\$250	\$500	\$250	\$350
Fee for each Premium Rate Schedule for (Dental, Vision, Retiree Life Insurance, etc.)	\$150	\$150	\$150	\$150

Notes: 1) Lower fee for 2nd and later years based on annual valuations. 2) This fee schedule covers plans with a typical amount of complexity, which should include 80% or more of MERS employers. For plans with well above average complexity, the fees will be negotiated separately at the beginning of the valuation process (after benefit summaries are submitted).

Discount Fee Schedule

OPEB provisions and consequently OPEB studies are generally more complicated than pension benefit provisions and studies. In order to understand the fee schedule, the employer needs to use three new terms: i) OPEB Benefit Group, ii) Rate Plan, and iii) Premium Rate Schedule.

An *OPEB Benefit Group* is a group of participants (active members, retirees, vested former members) that must be covered by the same OPEB provisions (benefits and eligibility), and must have the same MERS retirement and vesting conditions. In order to save on fees, an employer may combine the results of several OPEB Benefit Groups into a single set of results, called a *Rate Plan*. The valuation report will then only show the Rate Plan results, instead of showing the results separately for each OPEB Benefit Group.

A *Premium Rate Schedule* is a bit more complicated. In the typical case of an employer who is fully insured, or a self-insured employer that uses an administrator, each plan "suffix" is a Premium Rate Schedule.

In the case of other self-insured employers, a Premium Rate Schedule is defined as a unique medical/prescription drug benefit plan. It is common to have 4-6 of these schedules, which is why the base fee includes 6 schedules.

SECTION 6: RETIREE HEALTH FUNDING VEHICLE REFERENCES

City of Cadillac, Dale Walker, (231) 775-0181

CMH for Central Michigan, John Obermesik, (989) 773-6961

Lapeer County, Craig Horton, (810) 667-0245

SECTION 7: UNIFORM RESOLUTION



RETIREE HEALTH FUNDING VEHICLE

UNIFORM RESOLUTION

CITY OF MUSKEGON

(Participating Employer)

Municipal Employees' Retirement System of Michigan
1134 Municipal Way
Lansing, MI 48917
517-703-9030

Restated: November 15, 2005
(Adopted: May 14, 2003 and
amended December 17, 2004)

**UNIFORM RESOLUTION ADOPTING THE MERS
RETIREE HEALTH FUNDING VEHICLE**

(Excluding Plans Governed by Internal Revenue Code Section 401(h))

WHEREAS, the Municipal Employees' Retirement System ("MERS") Plan Document of 1996, effective October 1, 1996, authorized the Municipal Employees' Retirement Board ("Board") to establish additional programs including but not limited to defined benefit and defined contribution program (MERS Plan Document Section 36(2)(a)); and the Municipal Employees Retirement Act of 1984, Section 36(2)(a) as amended by 1996 PA 220, MCL 38.1536(2)(a);

WHEREAS, the Board has previously authorized MERS' establishment of a retiree health funding vehicle ("RHFV" or "Program"), which a participating municipality or court, or another eligible public employer that is a political subdivision of the State which constitutes a "municipality" under MERS Plan Document Section 2B(4); MCL 38.1502b(2) ("Eligible Employer"), may adopt for its Eligible Employees;

WHEREAS, the Board has established a governmental trust under Section 115 of the Internal Revenue Code (the "Trust Fund") to hold the assets of the RHFV, which Trust Fund shall be administered under the discretion of the Board as fiduciary, directly by (or through a combination of) MERS or MERS' duly-appointed Program Administrator;

WHEREAS, 1999 PA 149, the Public Employee Health Care Fund Investment Act, MCL 38.1211 *et seq.* ("PA 149") provides for the creation by a public corporation of a public employee health care fund, and its administration, investment, and management, in order to accumulate funds to provide for the funding of health benefits for retirees and beneficiaries;

WHEREAS, a MERS health care trust fund constitutes a governmental trust established by a public corporation ("municipality") as an Eligible Employer, provided that all such employers shall be the State of Michigan, its political subdivisions, and any public entity the income of which is excluded from gross income under Section 115 of the Internal Revenue Code; provided further, that the health care trust shall not accept assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code;

WHEREAS, adoption of this Uniform Resolution (the "Uniform Resolution") by the Eligible Employer is necessary and required in order that the benefits available under the MERS Retiree Health Funding Vehicle may be extended;

WHEREAS, this Uniform Resolution has been approved by the Board under the authority of 1996 PA 220, MERS Plan Document Section 36(2)(a), MCL 38.1536(2)(a), declaring that the Board "shall determine . . . and establish" all provisions of the retirement system. The MERS RHFV shall not be implemented with respect to any Eligible Employer unless in strict compliance with the terms and conditions of this Resolution, the Trust Document, and Trust Agreement.

- It is expressly agreed and understood as an integral and nonseverable part of extension or continuation of coverage under this Uniform Resolution Adopting MERS Retiree Health Funding Vehicle that Section 43B of the MERS Plan Document shall not apply to this Uniform Resolution, its administration or interpretation.
- In the event any alteration of the language, terms or conditions stated in this Uniform Resolution Adopting MERS Retiree Health Funding Vehicle is made or occurs, under MERS Plan Document Section 43B or other plan provision or other law, it is expressly recognized that MERS and the Board, as fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the MERS RHFV or its Trust Fund; or to continue administration.

NOW, THEREFORE, BE IT RESOLVED that the governing body adopts the MERS PA 149 Health Care Trust Fund as provided below.

SECTION 1. MERS RHFV PROGRAM

EFFECTIVE APRIL 1, 20 07, the MERS Retiree Health Funding Vehicle is hereby adopted by the CITY OF MUSKEGON.
(MERS municipality or court or other eligible employer)

CONTRIBUTIONS shall be made only by the Eligible Employer, remitted to MERS by the Eligible Employer, and credited to the Eligible Employer's separate fund within the trust sub-fund for MERS RHFV. As this Plan is funded solely by employer, on a cash or actuarial basis as determined by the employer, there is no requirement for a Participation Agreement establishing the schedule of contributions.

INVESTMENT of funds accumulated and held in the Fund shall be held in a separate reserve and invested on a pooled basis by MERS subject to the Public Employee Retirement System Investment Act ("PERSIA"), 1965 PA 314, as provided by MERS Plan Document Section 39; MCL 38.1539, and PA 149.

THE ELIGIBLE EMPLOYER shall abide by the terms of MERS RHFV, including all investment, administration, and service agreements, and all applicable provisions of the Code and other law. It is affirmed that no assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code shall be transferred to, or accepted by, MERS.

SECTION 2. IMPLEMENTATION DIRECTIONS FOR MERS AS RHFV INVESTMENT FIDUCIARY AND TRUSTEE

- (A) The governing body of this Eligible Employer desires that all assets placed in its MERS RHFV (as a sub-fund within all pooled Trust Funds with MERS) be administered by MERS, which shall act as investment fiduciary with all powers

provided under Public Employee Retirement System Investment Act, PA 149, all applicable provisions of the Internal Revenue Code and other relevant law.

- (B) The governing body desires, and MERS upon its approval of this Resolution agrees, that all funds accumulated and held in the MERS RHFV Trust Fund shall be invested and managed by MERS within the collective and commingled investment of all funds held in trust for all Eligible Employers.
- (C) All monies in the MERS RHFV Trust Fund (and any earnings thereon, positive or negative) shall be held and invested for the sole purpose of paying health care benefits for the exclusive benefit of "Eligible Employees" who shall constitute "qualified persons" who have retired or separated from employment with the Eligible Employer, and for any expenses of administration, and shall not be used for any other purpose, and shall not be distributed to the State.
- (D) The Eligible Employer will fund its MERS RHFV Trust sub-fund to provide funds for health care benefits for "Eligible Employees" who shall constitute "qualified persons." Participation in and any coverage under RHFV shall not constitute nor be construed to constitute an "accrued financial benefit" under Article 9 Section 24 of the Michigan Constitution of 1963, nor shall any contribution method for Eligible Employer funding other than "pay as you go" cash funding be required or imposed, and all benefits, rights, and obligations conferred by or arising under RHFV shall be as provided under the RHFV documents.
- (E) The Eligible Employer generically designates the following groups of persons as "Eligible Employees" who shall constitute "qualified persons," to receive retiree health care benefits subsidized under the MERS RHFV trust sub-fund. Groups may include any dependent(s) as specified in your bargaining agreement and/or personnel policy (provide copies of any governing agreement or other policy):
For example "non-union employees"
RETIRED FULL-TIME EMPLOYEES OF THE CITY OF MUSKEGON AND
THEIR DEPENDENTS AS DESCRIBED IN APPLICABLE AGREEMENTS.
-
- (F) CITY FINANCE DIRECTOR (Use title of official, not name) shall be the Eligible Employer's RHFV Coordinator; **shall direct payment of fund monies for the benefit of the Eligible Employees** identified in (E) under any MERS (or non-MERS) retiree health care benefit program, including, but not limited to, MERS HCSP, or MERS Premier Health; make investment allocations of the Employer's sub-trust fund within MERS-approved portfolios; receive necessary reports, notices, etc.; shall act on behalf of the Eligible Employer; and may delegate any administrative duties relating to the Fund to appropriate departments.

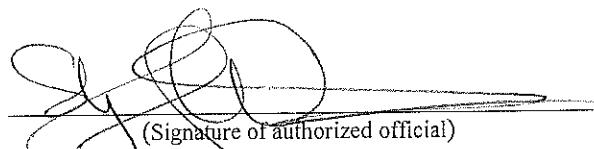
SECTION 3. EFFECTIVENESS OF THIS RESOLUTION

This Resolution shall have no legal effect until a certified copy of this adopting Resolution shall be filed with MERS, and MERS determines that all necessary requirements under MERS Plan Document Section 36(2)(a), 1999 PA 149 and other relevant laws, and this Resolution have been met. Upon MERS' determination that all necessary documents have been submitted, MERS shall record its formal approval upon this Resolution, and return a copy to the Eligible Employer's RHFV Coordinator as identified above.

In the event an amendatory resolution or other action by the Eligible Employer is required by MERS, such Resolution or action shall be deemed effective as of the date of the initial Resolution or action where concurred in by this governing body and MERS (and the Program Administrator if necessary). Section 54 of the MERS Plan Document shall apply to this Resolution and all acts performed under its authority. The terms and conditions of this Resolution supersede and stand in place of any prior resolution, and its terms are controlling.

I hereby certify that the above is a true copy of the Resolution Adopting the MERS Retiree Health Funding Vehicle adopted at the official meeting held by the governing body of this municipality:

On March 27, 20 07


(Signature of authorized official)
Stephen J. Warmington, Mayor

Please send MERS fully executed copy of:

1. Retiree Health Funding Vehicle Uniform Resolution
2. Certified minutes stating Governing Body approval; and
3. Union contract language and/or personnel policy

**RECEIVED AND APPROVED BY THE MUNICIPAL EMPLOYEES'
RETIREMENT SYSTEM OF MICHIGAN**

Dated: _____, 20_____
(Authorized MERS signatory)

MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM
RETIREE HEALTH FUNDING VEHICLE

CONTACT INFORMATION

Employer Name CITY OF MUSKEGON

Contact Person and Title TIMOTHY J. PAUL

Phone (231) 724 - 6709 Ext

Facsimile (231) 726 - 2325

E-mail TIM.PAUL@SHORELINECITY.COM

Address PO BOX 536

City MUSKEGON Zip 49443-0536

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: March 20, 2007

RE: Army Corps of Engineers Supplemental Agreement – Pier Safety

SUMMARY OF REQUEST:

To approve Supplemental Agreement No. 1 to the Army Corps of Engineers Lease No. DACW35-1-91-3004. This supplemental agreement will incorporate the South Breakwater of the Muskegon Harbor into the lease to allow the placement of pier safety devices.

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To approve the attached Supplemental Agreement.

COMMITTEE RECOMMENDATION:

None.



IN REPLY REFER TO

DEPARTMENT OF THE ARMY
DETROIT DISTRICT, CORPS OF ENGINEERS
BOX 1027
DETROIT, MICHIGAN 48231-1027

March 19, 2007

RECEIVED
MAR 19 2007
MUSKEGON
CITY MANAGER'S OFFICE

Real Estate Division

Byron L. Mazade
City Manager
The City of Muskegon
933 Terrace Street
P.O. Box 536
Muskegon, Michigan 49443-0536

Dear Mr. Mazade:

This is in reference to your request to amend Department of the Army Lease No. DACW35-1-91-3004 to include the U.S. South Breakwater of the Muskegon Harbor Federal Navigation Project as part of the leased premises along with the installation, operation and maintenance of pier safety devices on the structure.

Attached for your review are four copies of Supplemental Agreement No. 1 which will serve as a amendment to the lease. Also attached is a Certificate of Authority.

Please sign and return three copies of the agreement, sign and return the certificate. The fourth copy is for your reference until a fully executed copy is returned for your records.

In accordance with Condition 17 of the original lease, please furnish this office with an updated Certificate of Liability Insurance or statement of self insurance. If you have any questions, please contact Robert Jameson at 313-226-2767.

Sincerely,

Victor L. Kotwicki
Chief, Real Estate Division
Detroit District

Enclosures

NOTE: THE CERTIFICATE OF AUTHORITY must be executed by an individual other than by the person who signed the agreement. The individual must certify that the official who signed the agreement was authorized to act in that capacity.

CERTIFICATE OF AUTHORITY

I, Ann Marie Becker, do hereby certify that I am the
(someone other than the person signing the agreement)

City Clerk of the City of Muskegon,
(my position of responsibility within the organization)

Michigan (City) and that Stephen J. Warmington,

who signed the agreement on behalf of the City was at the

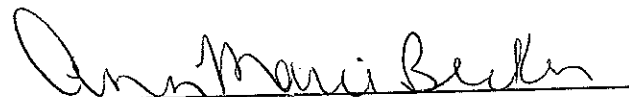
time of signature its Mayor,
(position held)

and that the person who executed the agreement on behalf

of the City acted within his/her statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification

this 27th day of March, 2007.


(Name)

Ann Marie Becker, MMC
City Clerk

(Title)



DEPARTMENT OF THE ARMY
DETROIT DISTRICT, CORPS OF ENGINEERS
BOX 1027
DETROIT, MICHIGAN 48231-1027

April 6, 2007

IN REPLY REFER TO

Real Estate Division

Byron L. Mazade
City Manager
The City of Muskegon
933 Terrace Street
P.O. Box 536
Muskegon, Michigan 49443-0536

RECEIVED

APR X 0 2007

MUSKEGON
CITY MANAGER'S OFFICE

Dear Mr. Mazade:

Attached is a fully executed copy of Supplemental Agreement No. 1 to Department of the Army Lease No. DACW35-1-91-3004 to include the U.S. South Breakwater of the Muskegon Harbor Federal Navigation Project as part of the leased premises, along with the installation, operation and maintenance of pier safety devices on the structure.

Thank you very much for your assistance on this matter. If you have any questions, please contact Robert Jameson at 313-226-2767.

Sincerely,

A handwritten signature in black ink, appearing to read "V. Kotwicki", is written over a large, stylized "1624" in the background.

Victor L. Kotwicki
Chief, Real Estate Division
Detroit District

Enclosures

**DEPARTMENT OF THE ARMY
DETROIT DISTRICT, CORPS OF ENGINEERS
SUPPLEMENTAL AGREEMENT NO. 1
TO DEPARTMENT OF THE ARMY
LEASE NO. DACW35-1-91-3004**

THIS SUPPLEMENTAL AGREEMENT entered into this 27th day of March, 2007, by and between **THE CITY OF MUSKEGON, MICHIGAN**, hereinafter called the lessee and the **SECRETARY OF THE ARMY**, hereinafter called the government.

WITNESSETH:

WHEREAS, the parties hereto entered into Department of the Army Lease No. DACW35-1-91-3004, dated 28 July 1992, which authorized the Lessee's use and improvements upon U.S. Property located at the Pere Marquette channel area, Muskegon Harbor Federal Navigation Project, Michigan, as more accurately described in the basic lease; and

WHEREAS, the lessee has requested that the leased premises be expanded to include the U.S. South Breakwater and to include pier safety devices and lighting; and

WHEREAS, the Government has no objection to this request.

NOW, THEREFORE, effective 26 March 2007, the Lease is modified in the following particulars, but in no others:

The following conditions are **ADDED** hereto and made part of the lease:

"38. SPECIAL PROVISIONS

- a. This agreement incorporates the U.S. South Breakwater to the leased premises.
- b. This lease authorizes the City of Muskegon to construct, operate and manage various passive recreational activities on the premises, including the construction, operation and maintenance of pier safety devices, such as lifesaving rings, throw bags (rescue bags), emergency call boxes, safety signs and other related devices with appurtenances.
- c. All construction activities on the leased premises, including the pier safety devices, must be coordinated with the Area Engineer, Grand Haven Area Office, 307 South Harbor Street, Grand Haven, Michigan, 49417 (telephone 616-842-5510). This coordination process is required to insure that the lessee's construction is consistent with the purpose and integrity of the Muskegon Harbor Federal Navigation Project, and is not intended as a detailed engineering review. The Federal Government assumes no responsibility or liability for the technical sufficiency of the lessee's construction.
- d. Any safety devices that include the display of lights or signals shall comply with applicable requirements as prescribed by the U.S. Coast Guard or the District Engineer.
- e. The lessee is responsible for inspection and maintenance, at intervals determined in its discretion, to assure that the safety devices are present and in good operable condition. The lessee shall also be responsible for installing replacements as necessary, in its discretion, to ensure that the safety devices are available when it deems seasonally appropriate.
- f. If the District Engineer determines that any safety devices interfere with the operations and/or maintenance of the Federal Navigation Project, the grantee shall alter, modify or remove the devices, as necessary."

Supplemental Agreement No. 1
DACW35-1-91-3004

EXCEPT AS MODIFIED ABOVE, all other terms and conditions of the lease, remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement No. 1 on the date first above written.

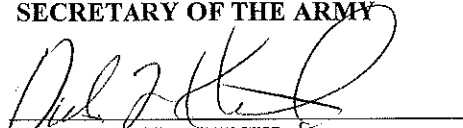
THE CITY OF MUSKEGON, MICHIGAN

 (signature)

Stephen J. Warrington (printed name)

Mayor (title)

**BY AUTHORITY OF THE
SECRETARY OF THE ARMY**


VICTOR L. KOTWICKI
Chief, Real Estate Division
Detroit District

NO. DACW35-1-91-3004



Revision to EXHIBIT "A"
through the incorporation of
Supplemental Agreement No. 1
LEASE No. DACW35-1-91-3004

EXHIBIT A

MICHIGAN MUNICIPAL RISK MANAGEMENT AUTHORITY

COVERAGE OVERVIEW

Member:	City of Muskegon	Member No: 111
Date of Original Membership:	March 01, 1986	
Overview Dates:	March 01, 2007	to March 01, 2008
Member Representative:	Timothy J. Paul	Telephone #: (231) 724-6713
Regional Risk Manager:	Ibex Insurance Agency	Telephone #: (248) 538-0470

A. Introduction

The Michigan Municipal Risk Management Authority (hereinafter "MMRMA") is created by authority granted by the laws of the State of Michigan to provide risk financing and risk management services to eligible Michigan local governments. MMRMA is a separate legal and administrative entity as permitted by Michigan laws. **City of Muskegon** (hereinafter "Member") is eligible to be a Member of MMRMA. **City of Muskegon** agrees to be a Member of MMRMA and to avail itself of the benefits of membership.

City of Muskegon is aware of and agrees that it will be bound by all of the provisions of the Joint Powers Agreement, Coverage Documents, MMRMA rules, regulations, and administrative procedures.

This Coverage Overview summarizes certain obligations of MMRMA and the Member. Except for specific coverage limits, attached addenda, and the Member's Self Insured Retention (SIR) and deductibles contained in this Coverage Overview, the provisions of the Joint Powers Agreement, Coverage Documents, reinsurance agreements, MMRMA rules, regulations, and administrative procedures shall prevail in any dispute. The Member agrees that any dispute between the Member and MMRMA will be resolved in the manner stated in the Joint Powers Agreement and MMRMA rules.

B. Member Obligation - Deductibles and Self Insured Retentions

City of Muskegon is responsible to pay all costs, including damages, indemnification, and allocated loss adjustment expenses for each occurrence that is within the Member's Self Insured Retention (hereinafter the "SIR"). **City of Muskegon's** SIR and deductibles are as follows:

Table I
Member Deductibles and Self Insured Retentions

COVERAGE	DEDUCTIBLE	SELF INSURED RETENTION
Liability	None	\$100,000
Vehicle Physical Damage	\$1,000 / Vehicle	\$15,000 / Vehicle \$30,000 / Occurrence
Property and Crime	\$1,000 / Occurrence	10% of the remaining up to \$100,000 of loss
Sewage System Overflow	N/A	N/A

The Member must satisfy all deductibles before any payments are made from the Member's SIR or by MMRMA.

The **City of Muskegon** is afforded all coverages provided by MMRMA, except as listed below:

1. Sewage System Overflow
- 2.
- 3.
- 4.

All costs including damages and allocated loss adjustment expenses are on an occurrence basis and must be paid first from the Member's SIR. The Member's SIR and deductibles must be satisfied fully before MMRMA will be responsible for any payments. The most MMRMA will pay is the difference between the Member's SIR and the Limits of Coverage stated in the Coverage Overview.

City of Muskegon agrees to maintain, at all times, on account with MMRMA, sufficient funds to pay its SIR obligations. The Member agrees to abide by all MMRMA rules, regulations, and administrative procedures pertaining to the Member's SIR.

C. MMRMA Obligations - Payments and Limits of Coverage

After the Member's SIR and deductibles have been satisfied, MMRMA will be responsible for paying all remaining costs, including damages, indemnification, and allocated loss adjustment expenses to the Limits of Coverage stated in Table II. The Limits of Coverage include the Member's SIR payments.

The most MMRMA will pay, under any circumstances, which includes payments from the Member's SIR, per occurrence, is shown in the Limits of Coverage column in Table II. The Limits of Coverage includes allocated loss adjustment expenses.

TABLE II
Limits of Coverage

Liability and Motor Vehicle Physical Damage	Limits of Coverage Per Occurrence		Annual Aggregate	
	Member	All Members	Member	All Members
1 Liability	15,000,000	N/A	N/A	N/A
2 Judicial Tenure	100,000	N/A	N/A	N/A
3 Sewage Systems Overflows	0	N/A	0	N/A
4 Volunteer Medical Payments	25,000	N/A	N/A	N/A
5 First Aid	2,000	N/A	N/A	N/A
6 Vehicle Physical Damage	1,500,000	N/A	N/A	N/A
7 Uninsured/Underinsured Motorist Coverage (per person)	100,000	N/A	N/A	N/A
Uninsured/Underinsured Motorist Coverage	250,000	N/A	N/A	N/A
8 Michigan No-Fault	Per Statute	N/A	N/A	N/A
9 Terrorism	5,000,000	N/A	N/A	5,000,000

Property and Crime	Limits of Coverage Per Occurrence		Annual Aggregate	
	Member	All Members	Member	All Members
1 Buildings and Personal Property	76,579,044	300,000,000	N/A	N/A
2 Personal Property in Transit	1,000,000	N/A	N/A	N/A
3 Unreported Property	5,000,000	N/A	N/A	N/A
4 Member's Newly Acquired or Constructed Property	5,000,000	N/A	N/A	N/A
5 Fine Arts	1,000,000	N/A	N/A	N/A
6 Debris Removal (25% of insured direct loss plus)	25,000	N/A	N/A	N/A
7 Money and Securities	1,000,000	N/A	N/A	N/A
8 Accounts Receivable	1,000,000	N/A	N/A	N/A
9 Fire Protection Vehicles, Emergency Vehicles, and Mobile Equipment (Per Unit)	1,000,000	5,000,000	N/A	N/A
10 Fire and Emergency Vehicle Rental (12 week limit)	1,000 per week	N/A	N/A	N/A
11 Structures Other Than a Building	5,000,000	N/A	N/A	N/A
12 Storm or Sanitary Sewer Back-Up	1,000,000	N/A	N/A	N/A
13 Marine Property	250,000	N/A	N/A	N/A
14 Other Covered Property	10,000	N/A	N/A	N/A
15 Income and Extra Expense	1,000,000	N/A	N/A	N/A
16 Blanket Employee Fidelity	1,000,000	N/A	N/A	N/A
17 Earthquake	5,000,000	N/A	5,000,000	100,000,000
18 Flood	5,000,000	N/A	5,000,000	100,000,000
19 Terrorism	25,000,000	25,000,000	N/A	N/A

DATE: March 20, 2007
TO: Honorable Mayor and Commissioners
FROM: Mark Kincaid, Deputy Director of Public Safety
RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN-050082



SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **1211 3rd – Area 10** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN-050082

Location and ownership: This structure is located on Third between Merrill and Mason and is owned by James G. Hightower Sr., 312 SW D Street, Bentonville, AR 72712

Staff Correspondence: A dangerous building inspection was conducted on 02/03/05. The Notice and Order to Repair was issued on 02/09/05. An interior inspection was conducted 11/02/05. Case came before HBA 10/06/05 and was tabled until November 2005 meeting to allow owners time to obtain appropriate permits and provide timeline for repairs. The HBA on 01/05/06 declared the structure dangerous, substandard and a public nuisance.

Owner Contact: Owners sent a letter to Inspection Department dated 03/22/05 stating plans to rehab structure and make home their permanent dwelling. At present owners live in Arkansas. A building permit was issued 04/11/06 but owners had problems with contractor. A electrical permit was issued and was finalized 11/07/06. The owner's brother has been acting as liaison and met with Inspection Department and provided a timeline for repairs to be completed 11/17/06. A mechanical and plumbing permit are required but have not been issued.

Financial Impact: General Funds

Budget action required: None

State Equalized value: \$30,700

Estimated cost to repair: \$5,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

City of Muskegon
933 Terrace St., P.O. Box 536, Muskegon, MI 49443

Monday, November 7, 2005

DANGEROUS BUILDING INTERIOR INSPECTION REPORT

Property Address: 1211 3RD ST **Parcel #** 24-205-386-0003-00

Owner: HIGHTOWER JAMES G SR

Inspection Type: DB Interior Inspection

Inspector:

Date completed: 11/02/2005

DEFICIENCIES:

Uncorrected

1. Wire laundry receptacle & dryer receptacle properly and maintain clearance in front of electric panels.
2. Three wire outlets to be grounded.
3. Ceiling fan to have rated box.
4. Replace missing/damaged light fixtures.
5. Mech & Plumbing by contractors to 2003 Codes.
6. Must have vac breaker style hose spigot.
7. Draft stop penetration thru floor.
8. Must have vent fan in master bathroom.
9. Must have posi temp valve for bathroom shower.
10. Vent fan in 2nd floor bathroom.
11. Must cap clean out in basement.
12. Certify furnace & hot water heater are in good working order.
13. Seal furnace vent where it penetrates wall.
14. Repair all damaged plaster.
15. Replace handrail at basement.

Please contact Inspection Services with any questions or to schedule an inspection at (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

HENRY FALTINOWSKI BUILDING INSPECTOR

DATE

CITY OF MUSKEGON
DANGEROUS BUILDING INSPECTION REPORT

1211 Third

02/03/2005

Inspection noted:

1. Home boarded.
2. Repair, replace roof covering.
3. Replace, damage soffit.
4. Scrape and paint or reside home.
5. Repair front porch.
6. Interior inspection requested.

Please contact Inspection Services with any questions at 231-724-6715.

BASED UPON MY RECENT INSPECTION OF THE ABOVE PROPERTY, I
HAVE DETERMINED THAT THE STRUCTURE MEETS THE DEFINITION OF A
DANGEROUS AND/OR SUBSTANDARD BUILDING AS SET FORTH IN
SECTION 10-61 OF THE MUSKEGON CITY CODE.

HENRY FALTINOWSKI, BUILDING INSPECTOR

DATE



1211 3rd St.

2/3/2005

DATE: March 20, 2007
TO: Honorable Mayor and Commissioners
FROM: Mark Kincaid, Deputy Director of Public Safety
RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN-060434

Removed

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **536 Oak – AREA 11** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN-060434– 536 Oak (Garage)

Location and ownership: This structure is located on Oak between Scott and Williams and is owned by Lillie Brewer.

Staff Correspondence: A dangerous building inspection was conducted 10/18/06. The Notice and Order to Repair was issued on 10/20/06. The HBA declared the structure dangerous, substandard and a public nuisance on 12/07/06.

Owner Contact: No one was present to represent case at the HBA meeting. No permits have been issued, no inspections scheduled and no owner contact.

Financial Impact: General Funds

Budget action required: None

State Equalized value: \$20,100 (Entire Property)

Estimated cost to repair: \$3,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Wednesday, October 18, 2006

Enforcement # EN060434

Property Address 536 OAK AVE

Parcel #24-205-041-0014-00

Owner BREWER LILLIE M

Inspector: Henry Faltinowski

Date completed: 10/18/2006

DEFICENCIES:

Uncorrected

1. Garage structural system collapsing -open sheathing, rafter connection, failing wall plates.
2. Missing siding.
3. Replace deteriorated roof covering.
4. Replace - repair garage doors.
5. Scrape and paint exposed wood on garage.

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

Henry Faltinowski, Building Inspector

Date

536 Oak Lane 10/18/2002

