

CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 26, 2013

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. 2013 Dozer Rental for Beach Leveling at PM Park. PUBLIC WORKS
 - C. One Year Janitorial Services Extension, Optional Year through April 30, 2014. ENGINEERING
 - D. City – MDOT Agreement for the Reconstruction of: Laketon Avenue from Wood to Getty. ENGINEERING
 - E. Liquor License Request – Pigeon Hill Brewing Company, LLC, 500 W. Western. CITY CLERK
 - F. Amendment to the Zoning Ordinance. PLANNING & ECONOMIC DEVELOPMENT
 - G. Detective Vehicles. PUBLIC WORKS
 - H. Acceptance of Viridian's and Terrace Point's Extensions into the City's Street System. ENGINEERING
 - I. Permission to Donate a Retired Police Cruiser to Muskegon Area Career Tech Center (MACTC). PUBLIC WORKS
 - J. Grand Trunk Launch Ramp Dredging. CITY MANAGER
- ❑ **PUBLIC HEARINGS:**
- ❑ **COMMUNICATIONS:**

❑ **CITY MANAGER'S REPORT:**

❑ **UNFINISHED BUSINESS:**

❑ **NEW BUSINESS:**

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

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

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

D. Permanent Traffic Control Orders. PUBLIC WORKS

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

F. Proclamation – School Spirit. CITY CLERK

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

390 Catherine (Area 11)

1200 Ambrosia (Area 11)

1284 Pine (Area 11)

1458 Jiroch (Area 13)

❑ **ANY OTHER BUSINESS:**

❑ **PUBLIC PARTICIPATION:**

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

❑ **CLOSED SESSION:**

❑ **ADJOURNMENT:**

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

Date: March 26, 2013
To: Honorable Mayor and City Commissioners
From: Ann Marie Cummings, City Clerk
RE: Approval of Minutes

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

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

City of Muskegon
City Commission Worksession
March 11, 2013
City Commission Chambers
5:30 PM

MINUTES

2013-19

Present: Commissioners Gawron, Spataro, German, Markowski, Hood, Turnquist, and Wierengo.

Absent: None.

Signal Warrants Study.

Mohammed Al-Shatel, City Engineer, presented the results of the traffic signals warrants' study from URS. The sight distance at each intersection has been reviewed for all signals. In locations with sight distance restrictions, documentation has been made regarding the necessary changes needed if the signal were to be removed. Some of the conditional recommendations require some on-street parking be removed.

The City Commission agreed that five signals be removed. The approximate cost for removal is \$2,000 each. The annual cost for maintenance of each signal is around \$2,000.

The following areas are being recommended:

Muskegon Avenue/7th Street
Muskegon Avenue/Jefferson Street
Muskegon Avenue/Pine Street
Muskegon Avenue/Spring Street
Webster Avenue/7th Street

By consensus, the City Commission removed the staff recommendation to remove the traffic signal at Irwin Avenue/Wood Street.

Staff will bring Traffic Control Orders for the five areas to a Commission Meeting for consideration by the City Commission.

CJ's on the Beach.

The City now has possession of the building/former restaurant at Pere Marquette. The Commission needs to decide what to do with the building.

The City Manager has received ten inquiries on the property at this time.

Some Commissioners recommended an inspection of the property before a determination is made. Staff suggested that an inspection wait until after RFP's are received stating the proposed use of the building is a determinant of the inspection.

Mayor Gawron suggested putting out a Request for Proposals out to see the interest.

An RFP will be prepared by staff asap.

City of Muskegon Vision Statement.

Under the direction of Mayor Gawron, Commissioners Turnquist and Spataro were appointed to review the City's Vision, Value, and Mission Statements.

Each statement was evaluated and it was decided that the Value Statement and Mission Statement represent the City's current values and goals.

It was decided that while the Vision Statement, "Muskegon, the Premier Shoreline City of West Michigan" be changed to the following:

The premier, vibrant, affordable, and ethnically diverse Shoreline City where citizens feel safe, enjoy their neighborhoods, and access their city government.

Some Commissioners stated their desire to shorten the statement and will bring ideas to the next Worksession Meeting.

Senior Transit.

Two companies responded to the RFP for a qualified public, private or not-for-profit agency to provide door-to-door weekday transportation services for senior citizen residents of the City. They are MATS and Wakefield Leasing Corporation.

The committee recommended paying \$40,000 for a one year contract with Wakefield Leasing Corp. Clients would be charged \$3.50 one-way per ride. This would allow for up to 8,000 rides per year within the area of the all of the City of Muskegon, out to Seminole, East Apple to Sheridan, East Sherman to Wal-Mart.

Wakefield Leasing would monitor the number of rides.

Any Other Business.

Public comments were accepted.

Adjournment.

Motion by Commissioner Hood, seconded by Commissioner Wierengo to adjourn at 7:04 p.m.

MOTION PASSES

**Ann Marie Cummings, MMC
City Clerk**

CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 12, 2013

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, March 12, 2013.

Mayor Gawron opened the meeting with a prayer from Reverend Bill Freeman from the Harbor Unitarian Universalist Congregation after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Gawron, Vice Mayor Lawrence Spataro, Commissioners Byron Turnquist, Lea Markowski, Willie German, and Sue Wierengo, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

Absent: Commissioner Eric Hood (excused).

2013-20 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes of the February 26th City Commission Meeting and the February 28th Special City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Special Event Request – Muskegon Bike Time 2013. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Family Events has filed a special event application for the annual Bike Time festival in downtown Muskegon to be held on July 18, 19, 20, and 21, 2013. Portions of their request require City Commission approval, including some items that are new for 2013, and some that are the same as in past years. They are requesting waiver of equipment rental fees, use of Bike Time's own labor pool when possible, extended beer tent hours, and variation from street closure times allowed per the special event policy.

FINANCIAL IMPACT: Request that equipment rental fees be waived.

BUDGET ACTION REQUIRED: None.

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

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

C. Implementation of Police Command Contract Retirement Changes.

FINANCE

SUMMARY OF REQUEST: The City Commission recently approved the 2013-14 contract settlement with the Police Command Unit. To fully implement the retirement provisions of this contract there are some additional steps required by MERS:

1. Step One: Close the Police Command Unit's defined benefit (DB) pension plan to new members. MERS allows each employee division to have only one open retirement plan. All new hires into the City are covered by a defined contribution (DC) plan so, over time, the DC plan will become the Command Unit's dominant retirement plan that will be open.
2. Step Two: Adopt the *Employer Resolution Establishing Uniform Transfer Provision*. This will allow promoting patrol officers who currently have a DB pension benefit to go into the Command Unit's DB plan even though it is "closed". Note: this resolution will also apply to other situations in the City where an employee may go from one unit to another. For example, in the past we have had Clerical Unit employees become police officers or non-union employees. This is not common, but does occur.
3. Step Three: Adopt the *MERS Restated Uniform Defined Contribution Program Resolution* and *MERS Restated Defined Contribution Plan Adoption Agreement* that provide for a new defined contribution (DC) retirement plan for the Police Command unit. This new plan has the same benefit levels as the current Police Patrol DC plan (6% employee contribution; 10% employer contribution). Promoting patrol members who

currently have a DC retirement benefit will go into this new plan.

The net result of these changes will be to provide the mechanisms needed to implement contract language that provides: "Effective January 1, 2013, all Patrol Unit members entering the Command Unit shall keep their pension and retirement packages from the Patrol Unit."

FINANCIAL IMPACT: No new financial impact on the City.

BUDGET ACTION REQUIRED: None at this time. Future budgets will reflect the changes made here.

STAFF RECOMMENDATION: Approval of the steps outlined above and authorization for staff to execute documents needed to make this change.

D. Water Filtration Plant Sodium Hypochlorite Feed Pump Replacement.

PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to purchase two 520US Watson-Marlow Hose pumps from the sole source bidder Mattoon-Lee for a sum of \$10,880.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to purchase two 520US Watson-Marlow Hose pumps from the sole source bidder Mattoon-Lee for a sum of \$10,880.

E. Consideration of Bids for Sanitary Sewer Lining (S-663). ENGINEERING

SUMMARY OF REQUEST: Award the City's portion of the County's bid to Layne Inliner, LLC out of Hilliard, OH for \$19,206 as per the Engineer's recommendation for award. The City's portion consists of lining 360' of 12" clay pipe in the alley south of Hackley between Beidler and Edgebrook.

FINANCIAL IMPACT: The construction cost of \$19,206 plus engineering.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Award the lining of the 12" sanitary sewer line to Layne Inliner, LLC out of Hilliard, OH.

F. Lynx Network – Request for Permit under METRO Act. ENGINEERING

SUMMARY OF REQUEST: Approve the request for a permit from the LYNX Group and authorize the Mayor to sign the unilateral permit form.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the request for a permit to install fiber optics in the City's right of way along Laketon Avenue from Getty to Creston.

G. Water Treatment Plant Sluice Gates Repair. WATER FILTRATION

SUMMARY OF REQUEST: Authorize staff to enter into a contract with Northwest Kent Mechanical Co. to repair two clearwell sluice gates for a cost of \$9,400.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To contract with the lowest responsible bidder, Northwest Kent Mechanical Co. at a cost of \$9,400, for repair of the Water Treatment Plant clearwell sluice gates.

H. State of Michigan Public Act 399 Reliability Study. WATER FILTRATION

SUMMARY OF REQUEST: Authorize staff to enter into an agreement with FTC&H for the purpose of completing a Reliability Study of the Water Filtration Plant for a cost of \$37,562.

FINANCIAL IMPACT: \$37,562.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with FTC&H, the lowest responsible bidder for a Water Plant Reliability Study for a cost of \$37,562.

I. Appointments to Various Boards and Committees. CITY CLERK

SUMMARY OF REQUEST: To approve the appointment of Nick Archer, William Muhammad, and Irene Navarro to the Citizen's Police Review Board; Matthew Tighe to the Construction Code Board of Appeals; and Steve Warmington, Sr. to the Zoning Board of Appeals.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the appointments.

COMMITTEE RECOMMENDATION: The Community Relations Committee recommended the appointments at their March 11th meeting.

Motion by Vice Mayor Spataro, second by Commissioner Wierengo to adopt the Consent Agenda as read.

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

Nays: None

MOTION PASSES

2013-21 PUBLIC HEARINGS:

A. Recommendation for Annual Renewal of Liquor Licenses. CITY CLERK

SUMMARY OF REQUEST: To adopt a resolution recommending non-renewal

of those liquor license establishments who are in violation of Section 50-146 and 50-147 of the Code of Ordinances for the City of Muskegon. These establishments have been found to be in non-compliance with the City Code of Ordinances and renewal of their liquor licenses should not be recommended by the City Commission. If any of these establishments come into compliance by March 22, 2013, they will be removed from this resolution, and recommendation for their renewal will be forwarded to the Liquor Control Commission.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Adoption of the resolution.

The Public Hearing opened to hear and consider any comments from the public. Comments were heard from Joshua Eldenbrady, 1336 Spring, and Cindy Pizunski, owner of Topsy Toad.

Motion by Commissioner Turnquist, second by Commissioner German to close the Public Hearing.

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

Nays: None

MOTION PASSES

Motion by Vice Mayor Spataro, second by Commissioner Wierengo to adopt the resolution with the exception of Express Lane, The Old Clover Bar and Topsy Toad.

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

Nays: None

MOTION PASSES

2013-22 NEW BUSINESS:

A. Special Event Request – Lakeshore Art Festival. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The Muskegon Lakeshore Chamber of Commerce has filed a special event application for the Lakeshore Art Festival to be held in downtown Muskegon on July 5 and 6, 2013. A new group has taken over the event, and this is their first year. They are requesting to partner with the City and have the City sponsor a portion of the event. This would involve the waiver of City costs associated with Public Works labor and equipment rental charges, as well as costs for police services.

FINANCIAL IMPACT: Estimated police costs are \$840; estimated DPW costs will be provided.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends if the applicant organization picks up items such as picnic tables, barricades, and trash cans for distribution at the proper locations, the City will waive the equipment rental charges. This must be coordinated with City staff. The City generally does not waive charges for police officers at events.

Motion by Vice Mayor Spataro, second by Commissioner Markowski to use the same fee schedule for Lakeshore Art Festival that we use for Bike Time.

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

Nays: None

MOTION PASSES

B. Grant Application for Sanitary Sewer Evaluation. ENGINEERING

SUMMARY OF REQUEST: Authorize Fleis & Vandenbrink (F & V) to submit S2 Planning Grant Application to the Michigan Department of Environmental Quality soliciting funds to perform studies on the City's sanitary sewer collection system in two areas within the City, Clay Hill and Oak Grove. The studies will be performed to evaluate any I/Is (inflow and infiltration) with the aforementioned areas.

Should F & V be successful in securing the grant, they would expect to be hired to perform the studies at a cost of \$465,000. 90% of the engineering cost is covered by the grant and the City's share would be \$46,500.

It is important to realize that should we proceed with the application and we get the grant that we will be obligated to implement the recommendation within three years and failure to do so will result in the City having to reimburse the state any grant funds spent.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Authorize F & V to submit the grant application on behalf of the City.

Motion by Commissioner Turnquist, second by Commissioner German to authorize F & V to submit the grant application on behalf of the City.

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

Nays: None

MOTION PASSES

C. Senior Transit.

Motion by Commissioner Markowski, second by Commissioner Turnquist to request City staff to initiate a contract up to \$40,000 with Wakefield Leasing to provide Senior Transit services to the residents of the City of Muskegon for a

date not to extend further than June 30, 2014.

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

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Vice Mayor Spataro commented on the proposed relocation of the Farmer's Market.

PUBLIC PARTICIPATION: Public comments were received.

2013-23 CLOSED SESSION: To discuss Pending Litigation.

Motion by Vice Mayor Spataro, second by Commissioner Wierengo to go into Closed Session.

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

Nays: None

MOTION PASSES

Motion by Vice Mayor Spataro, second by Commissioner German to go into Open Session.

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

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 7:09 p.m.

Respectfully submitted,

Ann Marie Cummings, MMC
City Clerk

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commission

FROM: Department of Public Works

DATE: March 26, 2013

SUBJECT: 2013 Dozer Rental for Beach Leveling at PM Park

SUMMARY OF REQUEST:

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

FINANCIAL IMPACT:

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

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approve request.

COMMITTEE RECOMMENDATION:

Memo

To: Mohammed Al-Shatel
From: Highway Department
Date: 3/26/13
Re: Dozer Rental for Annual Beach Leveling at PM Park

Below are 4 bids for the dozer rental, for a maximum of 180 hours usage per month, for the Highway Departments' beach leveling project for 2013.

Michigan CAT submitted a bid proposal of \$8,300 per month plus \$700 for delivery and pickup for a total of \$9,000.

Southeastern Equipment Co., Inc. submitted a proposal of \$8,225 per month plus \$1000 for delivery and pickup, for a total of \$9,225.

Jackson/Merkey Contractors submitted a proposal of \$7,250 per month plus \$345 for delivery and pickup, for a total of \$7,595.

Contractors Rental Corp. did not submit a proposal for dozer rental, upon request.

Based on the availability of the dozer and the tabulated bids above, **Jackson-Merkey Contractors, INC.** would be the lowest bidder *however* staff would recommend entering into a rental agreement with Michigan Cat based upon the size of the equipment utilized and its ability to get the project completed within the allotted rental time of 180 hours. Utilizing the smaller dozer from Jackson/Merkey Contractors would require a week or more extra rent to complete the project and thus would actually cost more for rental of such.

Date: March 26, 2013
To: Honorable Mayor and City Commissioners
From: Engineering
RE: One Year Janitorial Services Extension, Optional Year
through 4/30/2014

SUMMARY OF REQUEST:

Extend the current janitorial services contract with Reliant Professional Cleaning for one more year which was allowed for as an optional year at the time the contract was bid back in 2010 to clean City hall, public service building and the filtration plant areas with no change in the cost. The contractor has submitted the attached request for exercising the optional year extension and staff recommends it.

FINANCIAL IMPACT:

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

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

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

COMMITTEE RECOMMENDATION:

CITY OF MUSKEGON JANITORIAL SERVICES 2010-2013

BID TABULATION 03/16/10

CONTRACTOR ADDRESS	RELIANT PROFESSIONAL CLEANING 216 N SEVENTH ST GRAND HAVEN MI 49417				
ITEM OF WORK	YEAR 1	YEAR 2	YEAR 3	YEAR 4 (OPT)	TOTAL 3 YR CONTRACT
PUBLIC SERVICE BUILDING	\$ 12,804.00	\$ 12,804.00	\$ 12,804.00	\$ 12,804.00	\$ 38,412.00
CITY HALL	\$ 36,564.00	\$ 36,564.00	\$ 36,564.00	\$ 36,564.00	\$ 109,692.00
WATER FILTRATION PLANT	\$ 12,420.00	\$ 12,420.00	\$ 12,420.00	\$ 12,420.00	\$ 37,260.00
ALL SITES	\$ 61,788.00	\$ 61,788.00	\$ 61,788.00	\$ 61,788.00	\$ 185,364.00
CONTRACTOR ADDRESS	CSM SERVICES 3536 HIGHLAND DR. HUDSONVILLE MI 49426				
ITEM OF WORK	YEAR 1	YEAR 2	YEAR 3	YEAR 4 (OPT)	TOTAL 3 YR CONTRACT
PUBLIC SERVICE BUILDING	INFORMATION NOT PROVIDED BY CONTRACTOR				
CITY HALL					
WATER FILTRATION PLANT					
ALL SITES	\$ 70,364.00	\$ 70,364.00	\$ 70,364.00	\$ -	\$ 211,092.00
CONTRACTOR ADDRESS	PROFESSIONAL JANITORIAL SERVICES, INC 1370 WALKER RD MUSKEGON MI 49442				
ITEM OF WORK	YEAR 1	YEAR 2	YEAR 3	YEAR 4 (OPT)	TOTAL 3 YR CONTRACT
PUBLIC SERVICE BUILDING	\$ 13,335.24	\$ 14,001.96	\$ 14,702.04	\$ 14,702.04	\$ 56,741.28
CITY HALL	\$ 43,223.40	\$ 45,384.60	\$ 47,653.80	\$ 47,653.80	\$ 136,261.80
WATER FILTRATION PLANT	\$ 16,657.20	\$ 17,490.12	\$ 18,364.68	\$ 18,364.68	\$ 52,512.00
ALL SITES	\$ 73,215.84	\$ 76,876.68	\$ 80,720.52	\$ 80,720.52	\$ 230,813.04
CONTRACTOR ADDRESS	EDWARDS JANITORIAL SERVICE 661 SCENIC DR. N. MUSKEGON, MI 49445				
ITEM OF WORK	YEAR 1	YEAR 2	YEAR 3	YEAR 4 (OPT)	TOTAL 3 YR CONTRACT
PUBLIC SERVICE BUILDING	\$ 16,157.56	\$ 16,157.56	\$ 16,157.56	\$ 16,157.56	\$ 48,472.68
CITY HALL	\$ 58,208.52	\$ 58,208.52	\$ 58,208.52	\$ 58,208.52	\$ 174,625.56
WATER FILTRATION PLANT	\$ 12,712.00	\$ 12,712.00	\$ 12,712.00	\$ 12,712.00	\$ 38,136.00
ALL SITES	\$ 87,078.08	\$ 87,078.08	\$ 87,078.08	\$ 87,078.08	\$ 261,234.24
CONTRACTOR ADDRESS	GOODWILL INDUSTRIES 271 E APPLE AVE MUAKEGON MI 49442				
ITEM OF WORK	YEAR 1	YEAR 2	YEAR 3	YEAR 4 (OPT)	TOTAL 3 YR CONTRACT
PUBLIC SERVICE BUILDING	\$ 16,645.44	\$ 16,645.44	\$ 16,645.44	\$ 16,645.44	\$ 49,936.32
CITY HALL	\$ 59,558.52	\$ 59,558.52	\$ 59,558.52	\$ 59,558.52	\$ 178,675.56
WATER FILTRATION PLANT	\$ 17,745.48	\$ 17,745.48	\$ 17,745.48	\$ 17,745.48	\$ 53,236.44
ALL SITES	\$ 93,949.44	\$ 93,949.44	\$ 93,949.44	\$ 93,949.44	\$ 281,848.32
CONTRACTOR ADDRESS	HARAMBEE ENTERPRISES, INC. 450 WEST HACKLEY AVE, STE A MUSKEGON HEIGHTS MI 49444				
ITEM OF WORK	YEAR 1	YEAR 2	YEAR 3	YEAR 4 (OPT)	TOTAL 3 YR CONTRACT
PUBLIC SERVICE BUILDING	INFORMATION NOT PROVIDED BY CONTRACTOR				
CITY HALL					
WATER FILTRATION PLANT					
ALL SITES	\$ 191,404.17	\$ 191,404.17	\$ 191,404.17	\$ 191,404.17	\$ 574,212.51



Professional Cleaning Contractors, Inc.

Commercial • Industrial • Educational • Municipal
(616) 846-5296
Fax (616) 846-0595

P.O.Box 216
Spring Lake, MI 49456



216 N. Seventh
Grand Haven, MI 49417

March 14, 2013

Mr. Mohammed S. Al-Shatel, P.E.
City Engineer
City of Muskegon
P.O. Box 536
Muskegon, MI. 49443-0536

Subject: Janitorial Service Contract

Dear Mr. Al-Shatel:

Thank you for the opportunity to meet with you and to discuss the extension of the current Janitorial Service Contract for one (1) additional year. Our firm would be agreeable to such an extension from May 1, 2013 through April 30, 2014.

Further, I would like to thank you and your staff as well as all the men and women employees of the City of Muskegon for their support and cooperation over the past two contract periods. As we discussed, it our objective seek and deliver continuous improvement in our service levels and we will strive to just that. We remain eager to meet your every expectation in terms of service levels and to be a steadfast partner with the City.

I hope this information meets with your approval. Please contact me should you have any questions. Again, thank you for the opportunity to serve the City of Muskegon.

Sincerely,

Peter Murdoch, President
Reliant Professional
Cleaning Contractors, Inc.



Date: March 26, 2013
To: Honorable Mayor and City Commissioners
From: Engineering
RE: City – MDOT Agreement for the reconstruction of:
Laketon Ave. from Wood to Getty

SUMMARY OF REQUEST:

Approve the attached contract with MDOT for the reconstruction of Laketon Ave. between Wood & Getty and approve the attached resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT:

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

BUDGET ACTION REQUIRED:

none at this time

STAFF RECOMMENDATION:

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

COMMITTEE RECOMMENDATION:

RESOLUTION _____

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

Moved by _____ and supported by _____

Commissioner _____ that the following Resolution be adopted:

WHEREAS, entry by the City of Muskegon into Contract no. **13-5050** between the Michigan Department of Transportation and the City of Muskegon for the **reconstruction of Laketon Ave. between Wood & Getty** within the City is in the best interests of the City of Muskegon.

RESOLVED, that entry by the City into Contract Agreement Number **13-5050** be and the same is hereby authorized and approved and the Mayor and Clerk are authorized to execute said contract for and on behalf of the City of Muskegon.

Adopted this _____ day of _____, 2013.

BY

Stephen J. Gawron, Mayor

ATTEST

Ann Cummings, City Clerk

CERTIFICATION

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

CITY OF MUSKEGON

By _____
Ann Cummings, City Clerk

STP



DA

Control Section	STUL 61400
Job Number	114683
Project	STP 1361(013)
Federal Item No.	HH 8489
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	13-5050

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of _____, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF MUSKEGON, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Muskegon, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated February 7, 2013, attached hereto and made a part hereof:

PART A – FEDERAL PARTICIPATION

Reconstruction work along Laketon Avenue from Wood Street to Getty Street; including concrete pavement, sidewalk ramp, and pavement marking work; and all together with necessary

PART B – NO FEDERAL PARTICIPATION

Watermain and sanitary sewer work along Laketon Avenue from Wood Street to Getty Street; and all together with necessary related work.

WITNESSETH:

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

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

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

SURFACE TRANSPORTATION PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

PART A

Federal Surface Transportation Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST up to the lesser of: (1) \$313,000, or (2) an amount such that 81.85 percent, the normal Federal participation ratio for such funds, for the PART A portion of the PROJECT is not exceeded at the time of the award of the construction contract. The balance of the PART A portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART B

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

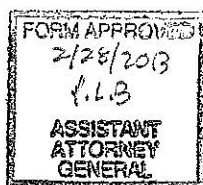
CITY OF MUSKEGON

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By _____
Title:

By _____
Department Director MDOT

By _____
Title:



APPROVED BY
[Signature]
Administrator
Real Estate

3/1/13
Date



February 7, 2013

EXHIBIT I

CONTROL SECTION	STUL 61400
JOB NUMBER	114683
PROJECT	STP 1361(013)

ESTIMATED COST

CONTRACTED WORK

	<u>PART A</u>	<u>PART B</u>	<u>TOTAL</u>
Estimated Cost	\$1,198,100	\$196,500	\$1,394,600

COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	\$1,198,100	\$196,500	\$1,394,600
Less Federal Funds*	<u>\$ 313,000</u>	<u>\$ -0-</u>	<u>\$ 313,000</u>
BALANCE (REQUESTING PARTY'S SHARE)	\$ 885,100	\$196,500	\$1,081,600

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

NO DEPOSIT

DOT

TYPE B
BUREAU OF HIGHWAYS
03-15-93

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I COMPLIANCE WITH REGULATIONS AND DIRECTIVES

SECTION II PROJECT ADMINISTRATION AND SUPERVISION

SECTION III ACCOUNTING AND BILLING

SECTION IV MAINTENANCE AND OPERATION

SECTION V SPECIAL PROGRAM AND PROJECT CONDITIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

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

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

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

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

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

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

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

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

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

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

SECTION III
ACCOUNTING AND BILLING

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

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

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

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

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

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

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

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

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

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

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

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

The agency shall submit two copies of:

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

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

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

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

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

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

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

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

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

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

B. Payment of Contracted and DEPARTMENT Costs:

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

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

C. General Conditions:

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

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

SECTION IV

MAINTENANCE AND OPERATION

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

1. All Projects:

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

2. Projects Financed in Part with Federal Monies:

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

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

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

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

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

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

SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

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

APPENDIX A

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

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

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

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

Revised June 2011

APPENDIX B TITLE VI ASSURANCE

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

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

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

Revised June 2011

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

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

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

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

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

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

Date: March 26, 2013
To: Honorable Mayor and City Commissioners
From: Ann Marie Cummings, City Clerk
RE: Liquor License Request
Pigeon Hill Brewing Company, LLC
500 W. Western Avenue, #1

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

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.



Muskegon Police Department

Jeffrey Lewis
Director of Public Safety

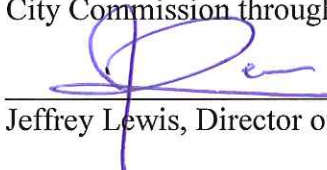
980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

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

March 11, 2013

To: City Commission through the City Manager

From:  3/12/13
Jeffrey Lewis, Director of Public Safety

Re: Liquor License Investigation – 500 W. Western Ave, #1
New Micro Brewer with Permits

The Muskegon Police Department has received notice of an application from Pigeon Hill Brewing Company, LLC for a New Micro Brewer License with Dance & Entertainment Permits to be located at 500 W. Western Ave, #1, Muskegon MI. 49440.

Pigeon Hill Brewing Company, LLC is comprised of Joel Kamp, Chad Doane and Michael Brower. A check of MPD records and Criminal History showed no reason to deny this request.

JL/kd

RECEIVED

MAR 12 2013

MUSKEGON POLICE DEPT.
CHIEF of POLICE

To: Jeff Lewis, Director of Public Safety
From: Det. Kurt Dykman
Date: 3-21-13
Re: Liquor License Investigation – Permits

Chief Lewis,

In regards to the application from Pigeon Hill Brewing Company, LLC for a New Micro Brewer License with Dance & Entertainment Permits to be located at 500 W. Western Ave, Muskegon MI. I spoke with their attorney, Michael Brower, about the Permits.

Pigeon Hill Brewing Company's plan is to only license/use the portion of the building that is labeled as Brewing Facility and Taproom; the Taproom will be the "Bar Area". Within the Taproom, in the south west corner of the room will be the Dance area which will meet the states minimum requirement of 10' x 10'. As for the Entertainment Permit they will not have any topless or mud wrestling type event but they do plan to hold "Trivia Nights" during which time small prizes will be given but will not exceed the state maximum requirement of \$250 (R 436.1435). The most they plan to give as prizes will be \$25.

The drawing of the floor plan is attached with the licensed areas being highlighted.

Respectfully submitted,



Det. Kurt Dykman

Licensed Area
↓

Brewing Facility

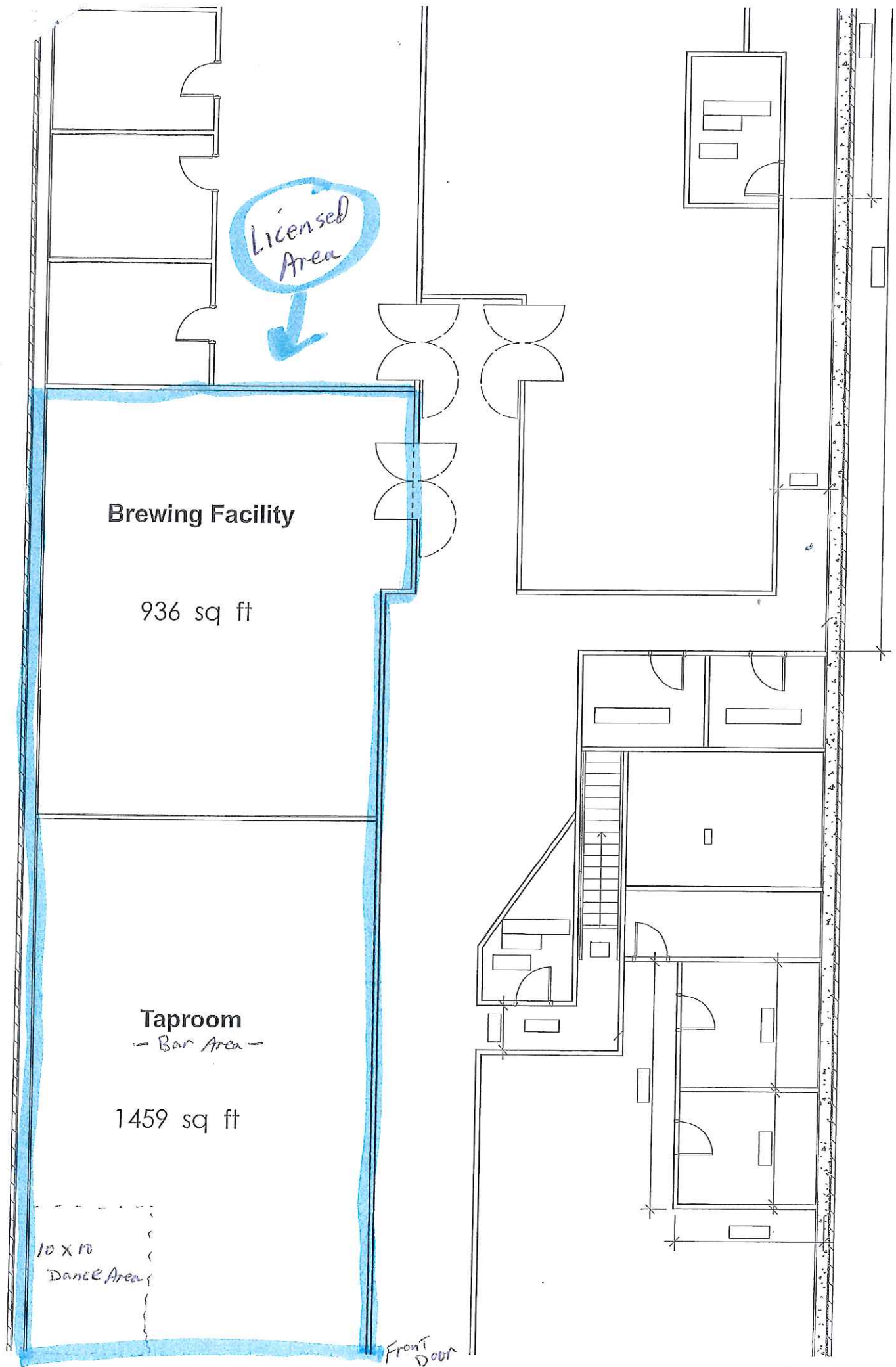
936 sq ft

Taproom
— Bar Area —

1459 sq ft

10 x 10
Dance Area

Front Door





Local Government Approval

(Authorized by MCL 436.1501)

Instructions for Applicants:

- Provide a copy of your Application for New Licenses, Permits, or Transfer of Ownership or Interest in License (form LCC-3011 for Retail or form LCC-3015 for Manufacturers and Wholesalers) to the local unit of government.

Instructions for Local Legislative Body:

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

At a _____ meeting of the _____ City _____ council/board
(regular or special) (township, city, village)
called to order by _____ on _____ at _____
(date) (time)
the following resolution was offered:

Moved by _____ and supported by _____
that the application from Pigeon Hill Brewing Company, LLC
(name of applicant)
for the following license(s): Micro Brewer
(e.g. Class C, Tavern, B-Hotel, Micro Brewer)

and the following permits, if applied for: ☒ Dance Permit ☒ Entertainment Permit ☐ Topless Activity Permit

☐ Extended Hours Dance Permit Hours Required: _____

☐ Extended Hours Entertainment Permit Hours Required: _____

to be located at 500 W. Western St. 1, Muskegon, MI 49440

be considered for _____ approval
(approval or disapproval)

Approval

Yeas: _____

Nays: _____

Absent: _____

Disapproval

Yeas: _____

Nays: _____

Absent: _____

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

approval by the Michigan Liquor Control Commission.

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

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

Signature and date of authorized clerk: _____

Phone number and e-mail of authorized officer: _____

Commission Meeting Date: March 26, 2013

Date: March 20, 2013
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Amendment to the Zoning Ordinance

SUMMARY OF REQUEST:

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

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the zoning ordinance amendment.

COMMITTEE RECOMMENDATION:

The Planning Commission unanimously recommended approval of the request at their March 14 meeting.

Staff Report (EXCERPT)
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

BACKGROUND

1. The Downtown Parking Overlay District allows for lesser parking requirements for businesses located within its boundaries. This is because of the availability of on-street spaces and public parking lots.
2. Many of the businesses that are located in older buildings downtown have grandfathered parking rights and do not have to account for today's parking standards unless there is a change of use (i.e. office to retail). However, it would be impossible for some buildings to change use and account for additional parking requirements, because the buildings are located on parcels that do not have room for additional parking. The ordinance allows for businesses to get a shared parking agreement with another parcel with extra parking spaces, as long as it is within 1,000 feet of the new business. However, this approach is often pointless, because share parking agreements are often obtained with parking spaces that are not realistically going to be used by the new business. Also, with the continued development of downtown, parcels with extra parking spaces are becoming rarer.
3. The zoning ordinance was amended 2010 to include part 12.D, which states "In the downtown parking overlay district only, new businesses that are required to provide 15 parking spaces or less may forgo the parking requirements if they are locating into a previously existing building. On-street parking and city-owned parking lots will be used to accommodate the parking requirements. However, any previously existing parking spaces included with the building space must remain in place and be used by that business."

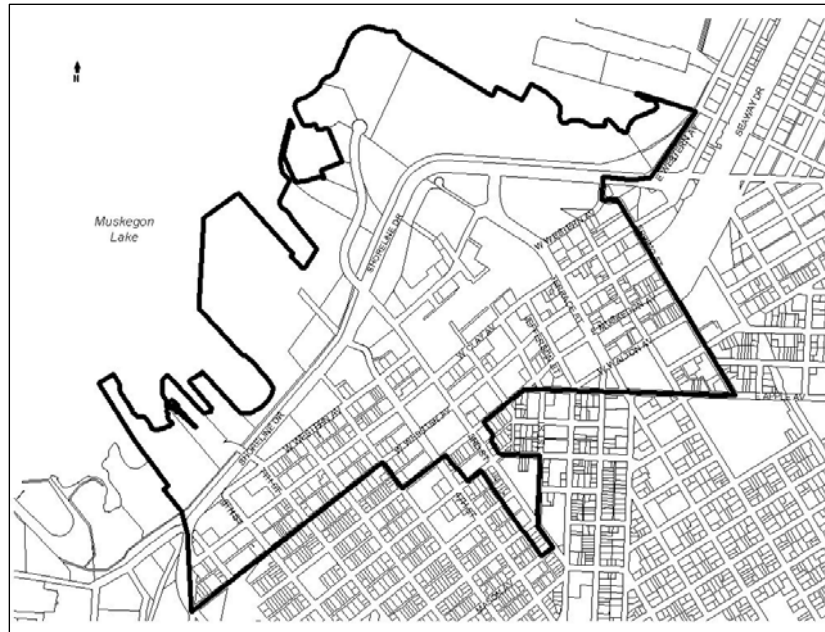
This addition has worked great, as it has allowed numerous retail businesses to locate downtown without the need to find a shared parking agreement. Also, staff has not heard of any complaints from the surrounding neighborhoods as a result of this amendment. Staff feels that it would be beneficial to allow all businesses to follow this guideline, rather than just the smaller businesses. New buildings would still be required to provide for their parking requirements.

Examples of downtown parking options, including on-street and public and private lots.





Downtown Parking Overlay District



NEW LANGUAGE

Deletions are ~~crossed-out~~ and additions are in **bold**:

12. Downtown Parking Overlay District: A downtown parking overlay district is hereby created as outlined in Figure 23-2. Within said overlay area is permitted the following: [amended 2/03] [amended 6/07]
- a. In the downtown parking overlay district only, all land uses, except residential, may use on-street parking for up to thirty percent (30%) of their required parking area.
 - b. In the downtown parking overlay district, shared parking agreements are encouraged. Parking areas for other than single or two-family residential uses may be located up to 1,000 feet from the building they are intended to serve and may be provided in any zoning district except the R-1 district.
 - c. In the downtown parking overlay district only, the required number of residential parking spaces shall be 1.5 per dwelling unit.
 - d. In the downtown parking overlay district only, ~~new businesses that are required to provide 15 parking spaces or less may forgo the parking requirements if they are locating into a previously existing building. On street parking and city owned parking lots will be used to accommodate the parking requirements. However, any previously existing parking spaces included with the building space must remain in place and be used by that business.~~ **a change of use in an existing building will not result in additional parking requirements, unless an addition is involved.**

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend Section 2326, Off-Street Parking and Loading, of the Zoning Ordinance to lessen the off-street parking requirements for existing buildings.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

NEW LANGUAGE

Deletions are ~~crossed-out~~ and additions are in **bold**:

12. Downtown Parking Overlay District: A downtown parking overlay district is hereby created as outlined in Figure 23-2. Within said overlay area is permitted the following: [amended 2/03] [amended 6/07]
- e. In the downtown parking overlay district only, all land uses, except residential, may use on-street parking for up to thirty percent (30%) of their required parking area.
 - f. In the downtown parking overlay district, shared parking agreements are encouraged. Parking areas for other than single or two-family residential uses may be located up to 1,000 feet from the building they are intended to serve and may be provided in any zoning district except the R-1 district.
 - g. In the downtown parking overlay district only, the required number of residential parking spaces shall be 1.5 per dwelling unit.
 - h. In the downtown parking overlay district only, ~~new businesses that are required to provide 15 parking spaces or less may forgo the parking requirements if they are locating into a previously existing building. On-street parking and city-owned parking lots will be used to accommodate the parking requirements. However, any previously existing parking spaces included with the building space must remain in place and be used by that business.~~ **a change of use in an existing building will not result in additional parking requirements, unless an addition is involved.**

This ordinance adopted:

Ayes: _____

Nayes: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____

Ann Cummings, MMC, City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 26th day of March, 2013, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2008, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2012.

Ann Cummings, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

Please take notice that on March 26, 2013, the City Commission of the City of Muskegon adopted an ordinance to amend Section 2326, Off-Street Parking and Loading, of the Zoning Ordinance to lessen the off-street parking requirements for existing buildings. Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten days from the date of this publication.

Published _____, 2013.

CITY OF MUSKEGON

By _____
Ann Cummings, MMC
City Clerk

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

Account No. 101-80400-5354

Date: 3/26/13

To: Honorable Mayor and City Commissioners

From: DPW/Equipment

RE: Detective Vehicles

SUMMARY OF REQUEST:

Authorize staff to purchase one (1) Chevy Malibu from Shaheen Chevrolet, the Mi Deal (state contract) awarded dealership for Chevy and one (1) Ford Fusion From Gorno Ford, the Mi Deal (state contract) awarded for Ford.

FINANCIAL IMPACT:

\$37,969.00

BUDGET ACTION REQUIRED:

None. Amount is what was budgeted.

STAFF RECOMMENDATION:

Authorize staff to purchase new detective vehicles from Shaheen Chevrolet and Gorno Ford



City of Muskegon

Bid Tabulation sheet

Requisition: Detective Vehicles

	Name of Bidder	Name of Bidder	Name of bidder	Name of Bidder
Vendor	Shaheen Chevy	Betten Chevy	Gorno Ford	Great Lakes Ford
Telephone	(517)272-6500	(231)759-3711	(313)319-3431	(231)767-4134
Location	Lansing, Mi	Muskegon, Mi	Woodhaven, Mi	Muskegon, Mi
Quoted by	Joe Tamburino	Paul Grissom	Ed Williams	Dave Caulkins

Quantity	Description	Price	Price	Price	Price
1	Chevy Malibu	\$19,340.00	\$19,929.00		
1	Ford Fusion			\$18,629.00	\$19,090.00
	Low Bid				

Bid Requested by: Joe Buckingham, Equipment Supervisor

Date: March 26, 2013
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Acceptance of Viridian's and Terrace Point's extensions into the City's Street System

SUMMARY OF REQUEST:

Adopt the attached resolution accepting the extensions of Viridian and Terrace Point Dr. into the City's street system.

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Adopt the attached resolution.

COMMITTEE RECOMMENDATION:

CITY OF MUSKEGON

RESOLUTION NO. _____

At a regular meeting of the City Commission of Muskegon, Michigan, held at the City Commission Chambers on _____, 2013

RECITALS

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY RESOLVES:

1. The City of Muskegon has a perpetual easement/ownership over certain streets known as **Viridian Dr. extended to the west by 225' and the extended 85' of Terrace Point Dr. to the north. Both measurments where field measured (wheeled) down the centerline.**
2. It is necessary to furnish certain information to the State of Michigan to place this street within the City's Local Street System for the purpose of obtaining funds under Act 51, P.a. 1951, as amended.

NOW, THEREFORE, BE IT RESOLVED:

1. That the legal descriptions of said streets are described as:

**Where field measured down the centerline of what was constructed.
Easement Property) and & B**

2. That said streets are located within a City's right-of-way, are on City controlled Properties, and are under the control of the City of Muskegon.
3. That said streets are public streets and are for public street purposes.

4. That said streets are accepted into the City Local Street System and were open to public traffic before December 31, 2012.

Resolution duly adopted.

YEAS _____

NAYS _____

CITY OF MUSKEGON

By _____

Ann Marie Cummings, City Clerk

STATE OF MICHIGAN
COUNTY OF MUSKEGON

I hereby certify that the foregoing is a true and complete copy of a resolution adopted at a meeting of the Board of Commissioners of the City of Muskegon, Michigan, held on the ____ day of _____, 20__, and that the minutes of the meeting are on file in the office of the City Clerk and are available to the public. Public notice of the meeting was given pursuant to and in compliance with Act 267, Public Acts of Michigan, 1976.

Ann Marie Cummings, City Clerk

Date: March 26, 2013
To: Honorable Mayor and City Commission
From: DPW
RE: Permission to donate a retired Police cruiser to Muskegon Area Career Tech Center (MACTC)

SUMMARY OF REQUEST:

Authorize staff to donate a retired police cruiser, valued at approximately \$3,500 to MACTC for their training program. The City's donation, if approved, would be consistent with the two (2) of the City's goals;

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

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Both DPW and the police department are recommending this donation.

COMMITTEE RECOMMENDATION:

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: March 14, 2013

RE: Grand Trunk Launch Ramp Dredging

SUMMARY OF REQUEST:

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

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

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

COMMITTEE RECOMMENDATION:

None.

Commission Meeting Date: March 26, 2013

Date: March 19, 2013

To: Honorable Mayor & City Commission

From: Community and Neighborhood Services Department

RE: Approval of Sale of City-owned home at 134 E Isabella

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

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

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENDATION: None.



MUSKEGON CITY COMMISSION

RESOLUTION TO APPROVE THE PURCHASE OF
CURRENTLY CITY-OWNED PROPERTY AT 134 E ISABELLA

WHEREAS, the City of Muskegon is dedicated to the redevelopment of its neighborhoods and;

WHEREAS, the City of Muskegon is dedicated to promoting high quality affordable single-family housing in the community and;

WHEREAS, the City of Muskegon is dedicated to promoting homeownership throughout its neighborhoods;

NOW THEREFORE, BE IT RESOLVED that the City Commission hereby approves the sale of 134 E Isabella Avenue to Michael D Kelly. Mr. Kelly will purchase the house as an owner-occupied structure.

Adopted this 26th day of March, 2013.

Ayes:

Nays:

By _____
Stephen Gawron, Mayor

By _____
Ann Marie Cummings, MMC City Clerk

Commission Meeting Date: March 26, 2013

Date: March 19, 2013

To: Honorable Mayor & City Commission

From: Community and Neighborhood Services Department

RE: Approval of Sale of City-owned home at 605 Jackson

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

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

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENDATION: None.



MUSKEGON CITY COMMISSION

RESOLUTION TO APPROVE THE PURCHASE OF
CURRENTLY CITY-OWNED PROPERTY AT 605 JACKSON AVE.

WHEREAS, the City of Muskegon is dedicated to the redevelopment of its neighborhoods and;

WHEREAS, the City of Muskegon is dedicated to promoting high quality affordable single-family housing in the community and;

WHEREAS, the City of Muskegon is dedicated to promoting homeownership throughout its neighborhoods;

NOW THEREFORE, BE IT RESOLVED that the City Commission hereby approves the sale of 605 Jackson Avenue to LaQuandra Robinson. Ms. Robinson will purchase the house as an owner-occupied structure.

Adopted this 26th day of March, 2013

Ayes:

Nays:

By _____
Stephen Gawron, Mayor

By _____
Ann Marie Cummings, MMC City Clerk

Commission Meeting Date: March 26, 2013

Date: March 20, 2013
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Amendment to the Renaissance Zone Development Agreement for
Highpoint Flats

SUMMARY OF REQUEST:

Request to amend the renaissance zone development agreement for the Highpoint Flats apartment project at 285 W Western Ave, to extend the deadline for the private investment minimums until 12/31/2015.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve renaissance zone development agreement amendment.

COMMITTEE RECOMMENDATION:

None

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

THIS **FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**, is made as of _____, 2013 (the "**First Amendment**"), by and among **CITY OF MUSKEGON**, a municipal corporation (the "**City**"), whose address is 933 Terrace Street, Muskegon, Michigan 49441, and **PARKLAND MUSKEGON, LLC**, a Michigan limited liability company, whose address is 940 Monroe Ave NW, Suite 155, Grand Rapids, Michigan 49503 and **PARKLAND MUSKEGON, INC.**, a Michigan corporation, whose address is 940 Monroe Ave NW, Suite 155, Grand Rapids, Michigan 49503 (collectively, the "**Company**").

RECITALS:

WHEREAS, Parkland Muskegon, LLC and the City are parties to a certain Development Agreement, dated as of September 4, 2007 (the "**Development Agreement**"). Unless otherwise defined herein, capitalized terms shall have the meaning given to them in the Development Agreement; and

WHEREAS, the property subject to the Development Agreement was originally acquired by Parkland Muskegon, LLC and subsequently transferred to a separate legal entity, Parkland Muskegon, Inc., in order to complete the proposed project; and

WHEREAS, the parties desire to enter into this First Amendment, for the mutual benefit of the parties, to add Parkland Muskegon, Inc. as one of the Developers subject to the Development Agreement; and

WHEREAS, Company and the Authority wish to further amend the Development Agreement on the terms and conditions set forth in this First Amendment.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **INCORPORATION OF RECITALS AND DEFINED TERMS.** The above recitals are hereby incorporated into this First Amendment as if fully set forth herein.

2. **COMPANY AGREEMENT.** The following subsections in Paragraph 2 of the Development Agreement are amended to read as follows:

- 2.1 Redevelopment of the former Hackley Bank Building, at the corner of 1st Street and Western Ave in downtown Muskegon, an 8-story structure constructed in 1916, to be renovated and adaptively reused as 48 market rate housing units, plus construction of 24 new market rate housing units added on two levels on the adjacent property, for a total of approximately 72 market rate housing units (the "Project").
- 2.2 Private investment in the Project of at least \$3,000,000 by 12/31/2015.

2.3 Unless otherwise amended by this First Amendment, the performance of all other undertakings set forth in the application.

2.4 Unless otherwise amended by this First Amendment, the Company shall improve the properties and improvements, in accordance with the Renaissance Zone proposal submitted by Parkland Muskegon, LLC.

3. **ADDITION OF DEVELOPER.** Parkland Muskegon, Inc. shall be added as a party to the Development Agreement.

4. **EVENTS OF DEFAULT.** Paragraph 4 of the Development Agreement is amended to provide the Company one hundred twenty (120) days to cure an event of default after receipt of written notice from the City of such act or failure to comply.

5. **MISCELLANEOUS.**

5.1 Improvements. The Development Plan description included in Exhibit C of the Development Agreement shall be amended to reflect the project description included in Section 2.1 above.

5.2 Construction. The terms of this First Amendment amend and modify the Development Agreement as if fully set forth in the Development Agreement.

5.3 Ratification. All other provisions of the Development Agreement not specifically modified by this First Amendment are preserved, confirmed and shall remain in full force and effect.

5.4 Counterparts. This First Amendment may be executed in counterparts, each of which shall constitute an original although not fully executed, but both of which taken together shall constitute a single instrument. The signature page of either counterpart may be detached from the other counterpart without impairing the legal effect of the signatures thereon. Counterpart signature(s) by facsimile or email, or signatures on facsimile or scanned/emailed signature page(s) of this First Amendment, are expressly permitted.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed this ____ day of _____, 2013, as follows:

CITY OF MUSKEGON,
A MUNICIPAL CORPORATION

By:
Its: Mayor

and _____
_____, Clerk

PARKLAND MUSKEGON, LLC

By: Jon Rooks
Title: Member

PARKLAND MUSKEGON, INC.

By: Jon Rooks
Title: President

Date: March 26, 2013

To: Honorable Mayor and City Commissioners

From: DPW

RE: Permanent Traffic Control Orders – Remove various current Traffic Signals and remove on-street parking on Muskegon Avenue between Jefferson and Terrace Streets and install permanent Stop Signs at adjoining cross-streets.

SUMMARY OF REQUEST:

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

FINANCIAL IMPACT:

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

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Approve request.

COMMITTEE RECOMMENDATION:

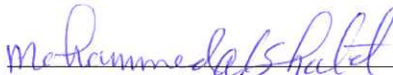
City of Muskegon Traffic Control Order No. 4-(2013)

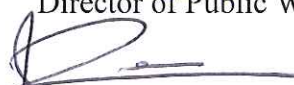
The following regulatory sign(s) shall be Installed/Removed at/from the location(s) specified below under location in accordance with the Michigan Manual of Uniform Traffic Control.

Device/Regulatory Sign(s) to be Installed/Removed: *Remove the current Traffic Signals on Muskegon Avenue @ 7th Street and install permanent Stop Signs (2) on 7th Street.*

Location: *Muskegon Avenue at 7th Street*

Recommendation:

 Date: 3 / 14 / 13
Director of Public Works

 Date: 3 / 18 / 13
Police Chief

 Date: 3 / 15 / 13
City Manager

Commission Approval (required for Permanent TCO only):

_____ Date: ____/____/____
Commission Action #

Installation/removal

Date assigned: ____/____/____ By: _____
Traffic Supervisor

Date completed: ____/____/____ By: _____
Traffic Department Employee

☐ **Temporary;** does not require Commission Action, good for 90-days from Installation/Removal Date.

☒ **Permanent;** requires Commission Action

City of Muskegon Traffic Control Order No. 5-(2013)

The following regulatory sign(s) shall be Installed/Removed at/from the location(s) specified below under location in accordance with the Michigan Manual of Uniform Traffic Control.

Device/Regulatory Sign(s) to be Installed/Removed: *Remove the current Traffic Signals on Webster Avenue @ 7th Street and install permanent Stop Signs (2) on 7th Street.*

Location: *Webster Avenue at 7th Street*

Recommendation:

Mohammed Abulil Date: 3 / 14 / 13
Director of Public Works

[Signature] Date: 3 / 18 / 13
Police Chief

Bryan J Mayade Date: 3 / 15 / 13
City Manager

Commission Approval (required for Permanent TCO only):

_____ Date: ____/____/____
Commission Action #

Installation/removal

Date assigned: ____/____/____ By: _____
Traffic Supervisor

Date completed: ____/____/____ By: _____
Traffic Department Employee

☐ **Temporary;** does not require Commission Action, good for 90-days from Installation/Removal Date.

☒ **Permanent;** requires Commission Action

City of Muskegon
Traffic Control Order
No. 6-(2013)

The following regulatory sign(s) shall be Installed/Removed at/from the location(s) specified below under location in accordance with the Michigan Manual of Uniform Traffic Control.

Device/Regulatory Sign(s) to be Installed/Removed: *Remove the current Traffic Signals on Muskegon Avenue @ Jefferson Street and remove on-street parking on Muskegon Avenue between Jefferson and Terrace Streets and install permanent Stop Signs (2) on Jefferson Street.*

Location: *Muskegon Avenue at Jefferson Street*

Recommendation:

McDonnell A. Shattell Date: 3 / 15 / 13
Director of Public Works

[Signature] Date: 3 / 18 / 13
Police Chief

Bryan J. Mayhew Date: 3 / 15 / 13
City Manager

Commission Approval (required for Permanent TCO only):

_____ Date: ____/____/____
Commission Action #

Installation/removal

Date assigned: ____/____/____ By: _____
Traffic Supervisor

Date completed: ____/____/____ By: _____
Traffic Department Employee

☐ **Temporary;** does not require Commission Action, good for 90-days from Installation/Removal Date.

☒ **Permanent;** requires Commission Action

City of Muskegon
Traffic Control Order
No. 7-(2013)

The following regulatory sign(s) shall be Installed/Removed at/from the location(s) specified below under location in accordance with the Michigan Manual of Uniform Traffic Control.

Device/Regulatory Sign(s) to be Installed/Removed: *Remove the current Traffic Signals on Muskegon Avenue @ Pine Street and install permanent Stop Signs (2) on Pine Street.*

Location: *Muskegon Avenue at Pine Street*

Recommendation:

Michael A. Schmitt Date: 3 / 14 / 13
Director of Public Works
[Signature] Date: 3 / 18 / 13
Police Chief
Bryan J. Mayeda Date: 3 / 15 / 13
City Manager

Commission Approval (required for Permanent TCO only):

_____ Date: ____/____/____
Commission Action #

Installation/removal

Date assigned: ____/____/____ By: _____
Traffic Supervisor
Date completed: ____/____/____ By: _____
Traffic Department Employee

☐ **Temporary;** does not require Commission Action, good for 90-days from Installation/Removal Date.

☒ **Permanent;** requires Commission Action

City of Muskegon Traffic Control Order No. 8-(2013)

The following regulatory sign(s) shall be Installed/Removed at/from the location(s) specified below under location in accordance with the Michigan Manual of Uniform Traffic Control.

Device/Regulatory Sign(s) to be Installed/Removed: *Remove the current Traffic Signals on Muskegon Avenue @ Spring Street and install permanent Stop Signs (2) on Spring Street.*

Location: *Muskegon Avenue at Spring Street*

Recommendation:

Mohammed A. Shabir Date: 3 / 14 / 13
Director of Public Works

[Signature] Date: 3 / 18 / 13
Police Chief

Duane L. Mayade Date: 3 / 15 / 13
City Manager

Commission Approval (required for Permanent TCO only):

_____ Date: ____/____/____
Commission Action #

Installation/removal

Date assigned: ____/____/____ By: _____
Traffic Supervisor

Date completed: ____/____/____ By: _____
Traffic Department Employee

☐ **Temporary;** does not require Commission Action, good for 90-days from Installation/Removal Date.

☒ **Permanent;** requires Commission Action

Commission Meeting Date: March 26, 2013

Date: March 15, 2013
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department
RE: S.S. Milwaukee Clipper- Letter of Support

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

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENDATION: None.



S.S. MILWAUKEE CLIPPER PRESERVATION, INC.
PO Box 1370, Muskegon, MI 49443
milwaukeeclipper@gmail.com
231-683-1590

March 2013

To Whom It May Concern:

As you may know, the S.S. Milwaukee Clipper Preservation, Inc. Board of Directors is seeking approval from the County to move the Clipper to a permanent home at Heritage Landing. We are asking for your help!

Would you please help us by writing a letter of support and mailing it to the above address no later than **March 31, 2013**. We will share these letters with the Muskegon County Board of Commissioners. If you have any questions, please contact us at the number or email above.

Thank you very much for your time and interest!

Sincerely,

Board Members

Captain Bob Priefer

Ray Hilt

Pam Babbitt

Gene Fethke - *dropped this off*

Jim Plant

John Thompson

JoAn Pietila

Connie Nesbary

RECEIVED

MAR 13 2013

CITY OF MUSKEGON
PLANNING DEPARTMENT

Date: March 26, 2013
To: Honorable Mayor and City Commissioners
From: City Clerk's Office
RE: Proclamation - School Spirit

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

FINANCIAL IMPACT: None.

STAFF RECOMMENDATION: To approve the proclamation.

PROCLAMATION SCHOOL SPIRIT CITY OF MUSKEGON

WHEREAS, the City of Muskegon seeks to showcase and promote the traditions and school spirit that surround our community; and

WHEREAS, the City of Muskegon recognizes that the wearing of school colors symbolizes the enduring bond among all those whose lives, minds, and personal achievements have been influenced by the quality and spirit of their school; and

WHEREAS, our youth are our most precious resource, and we must encourage them to become strong, productive, and caring people; and

WHEREAS, Muskegon Area Schools are rooted in our history and tradition;

NOW, THEREFORE BE IT RESOLVED that the City of Muskegon Commissioners do hereby proclaim that the citizens of the City of Muskegon be encouraged to promote community pride by wearing school colors the first Friday of each month

Witnessed this 26th day of March 2013.

Stephen J. Gawron
Mayor

DATE: 03/18/2013
TO: Honorable Mayor and Commissioners
FROM: Jeffrey Lewis, Director of Public Safety
RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN120083

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 **390 CATHERINE AVE 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: # EN120083 - 390 CATHERINE AVE

Location and ownership: This structure is located on Catherine Ave. between Ambrosia and Wood Streets and is owned by HOPE FOR LIFE INC.

Staff Correspondence: A dangerous building inspection was conducted on 7/18/2012. The Notice and Order to Repair was issued on 7/18/2012. On 9/7/2012 the HBA declared the structure substandard and dangerous.

Owner Contact: No one was present for the HBA meeting dated 9/7/2012. All notices sent certified mail have returned unclaimed. No permits have been issued and no inspections scheduled. On 9/10/2012 Mrs. Mead called stating that they are a non-profit and they don't have any money to repair.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: \$ 16,300

Estimated cost to repair: \$ 15,000 (exterior only)

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

City of Muskegon Code Compliance Unit
933 Terrace St., P.O. Box 538, Muskegon, MI 49443 (231) 724-6766

NOTICE OF HEARING BEFORE THE CITY COMMISSION

DATE: 03/13/2013

Address of Property 390 CATHERINE AVE

TO: All owners and interested parties:

HOPE FOR LIFE INC, PO BOX 10000, MORENO VALLEY, CA 92552
Owner

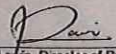
MUSKEGON COUNTY TREASURER, 173 E APPLE AVE STE 104,
MUSKEGON, MI 49442
(Other interested party)

On August 6, 2012 the Muskegon Housing Board of Appeals made a determination that the subject property is sub-standard, a public nuisance and a dangerous building under the City Code and ordered that it be repaired or demolished.

The City Commission will hold a hearing on Tuesday, March 26, 2013 to consider the above decision of the Housing Board of Appeals. You may appear at this hearing at 5:30 p.m. on Tuesday, March 26, 2013, at the Muskegon City Hall, 933 Terrace Street, Muskegon, Michigan, with counsel, if you desire, to present any relevant evidence and arguments concerning the decision to demolish the above structures.

CITY OF MUSKEGON INSPECTIONS DEPT.
FOR THE HOUSING BOARD OF APPEALS

By


Jeffrey Lewis, Director of Public Safety

03.14.2013 08:54



03.14.2013 08:54

D.B 390 Catherine 7/18 2012









DATE: 03/18/2013
TO: Honorable Mayor and Commissioners
FROM: Jeffrey Lewis, Director of Public Safety
RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN120072

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 **1200 AMBROSIA ST 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: # EN120072 - 1200 AMBROSIA ST

Location and ownership: This structure is located on Ambrosia St. between McLaughlin and Catherine Avenues and is owned by JAY DEE PROPERTIES LLC.

Staff Correspondence: A dangerous building inspection was conducted on 6/26/2012. The Notice and Order to Repair was issued on 6/26/2012. On 9/6/2012 the HBA declared the structure substandard and dangerous.

Owner Contact: No one was present for the HBA meeting dated 9/6/2012. All notices sent certified mail have returned unclaimed. No permits have been issued and no inspections scheduled.

Financial Impact: CDBG Funds

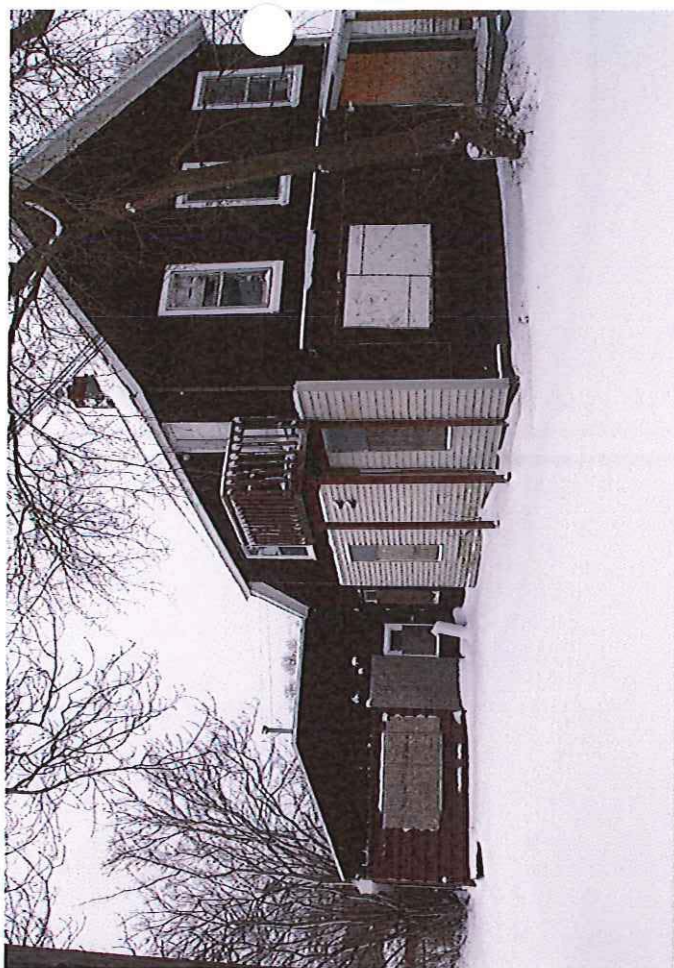
Budget action required: None

State Equalized value: \$ 10,600

Estimated cost to repair: \$ 13,600 (exterior only)

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

1200 Ambrosia
2/11/13



1200 AMBROSIA. D.B 4-unit multi







DATE: 03/18/2013
TO: Honorable Mayor and Commissioners
FROM: Jeffrey Lewis, Director of Public Safety
RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN120009

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 1284 PINE ST 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: # EN120009 - 1284 PINE ST

Location and ownership: This structure is located on Pine St. between Catherine and McLaughlin Avenues and is owned by DAVIS LELAND R TRUST.

Staff Correspondence: A dangerous building inspection was conducted on 1/30/2012. The Notice and Order to Repair was issued on 1/30/2012. On 12/06/07 the HBA declared the structure substandard and dangerous.

Owner Contact: No one was present for the HBA meeting dated 5/3/2012. All notices sent certified mail have returned unclaimed. No permits have been issued and no inspections scheduled.

Financial Impact: CDBG Funds

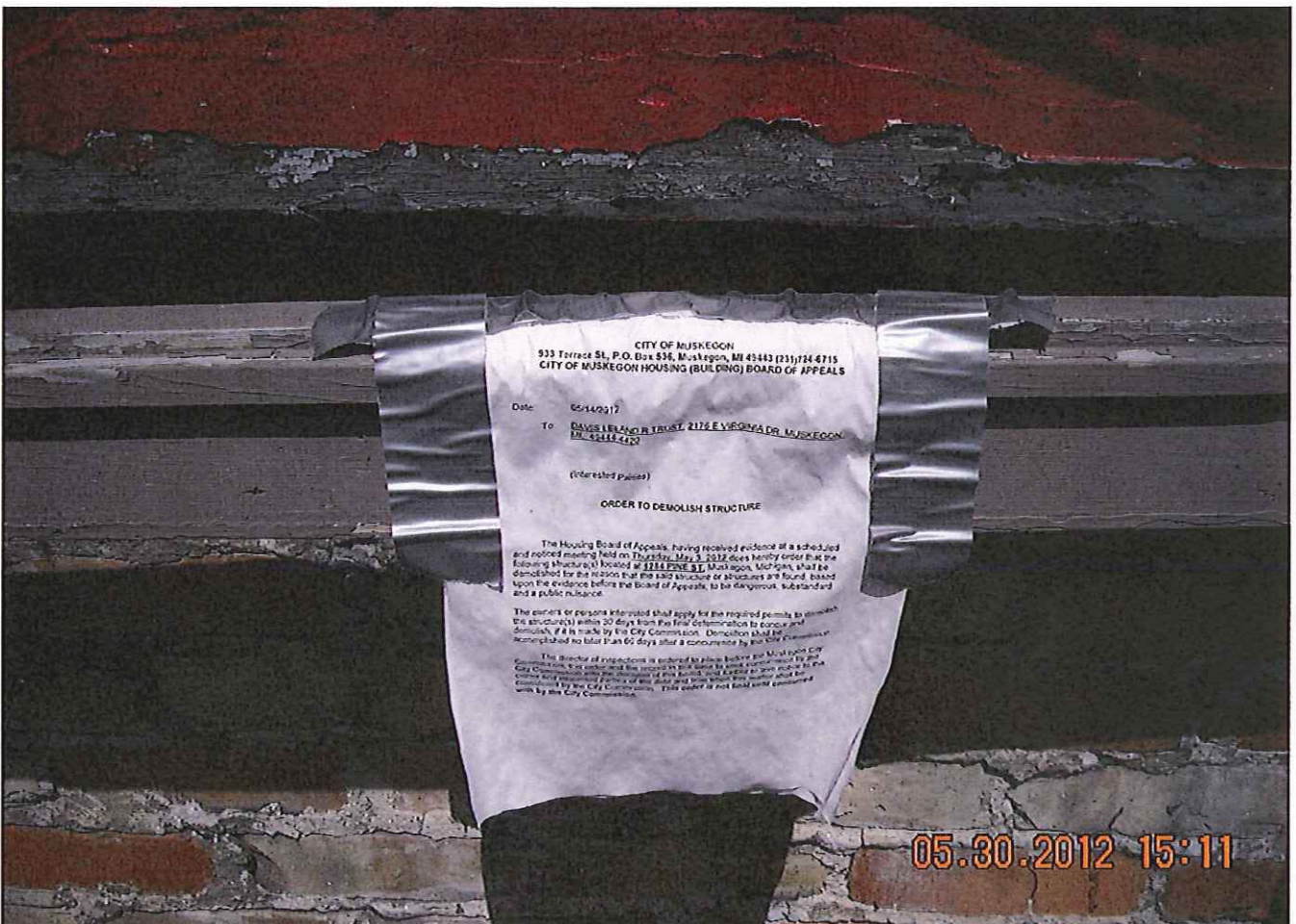
Budget action required: None

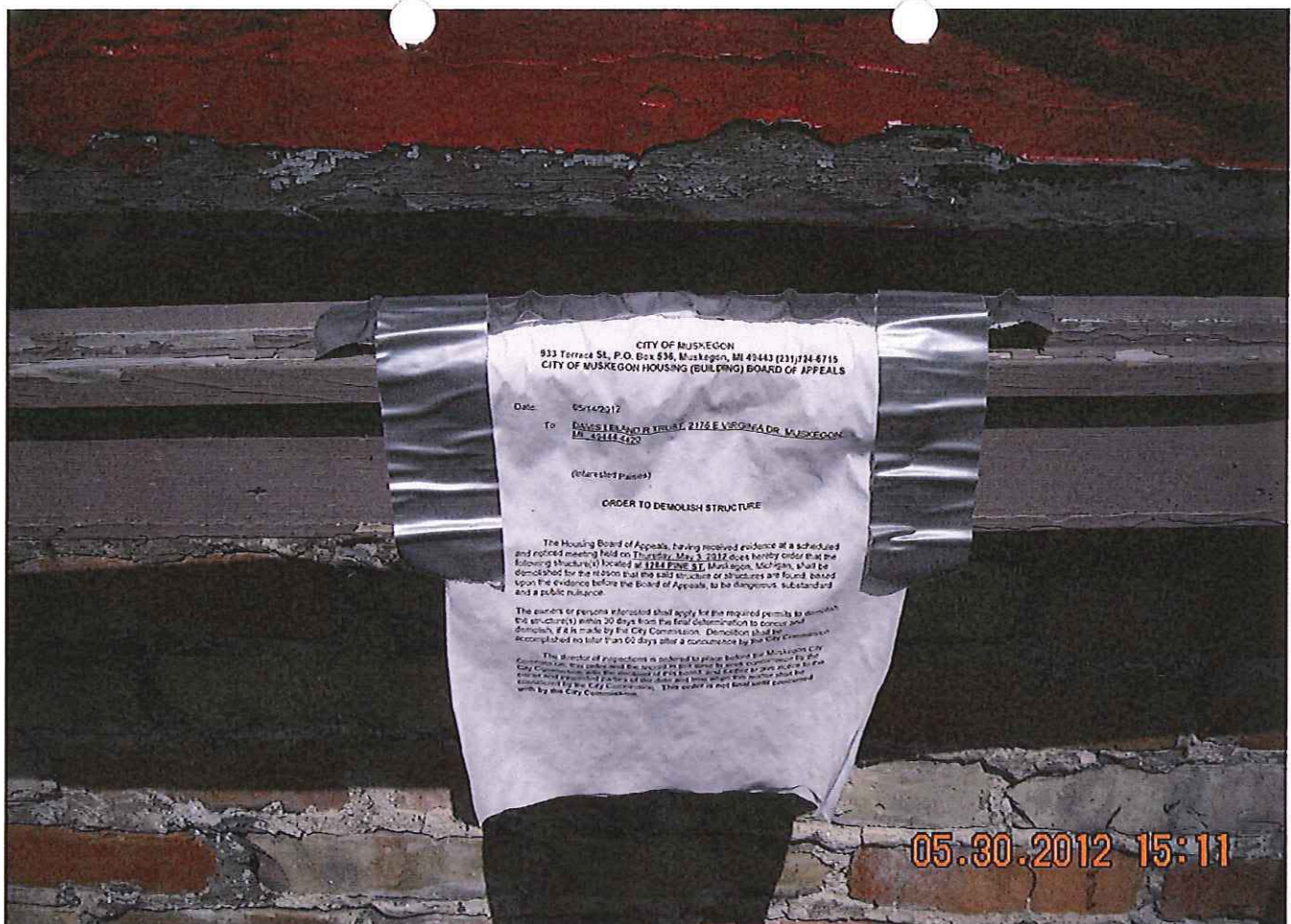
State Equalized value: \$ 14,800

Estimated cost to repair: \$ \$22,500

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

1284 PINE

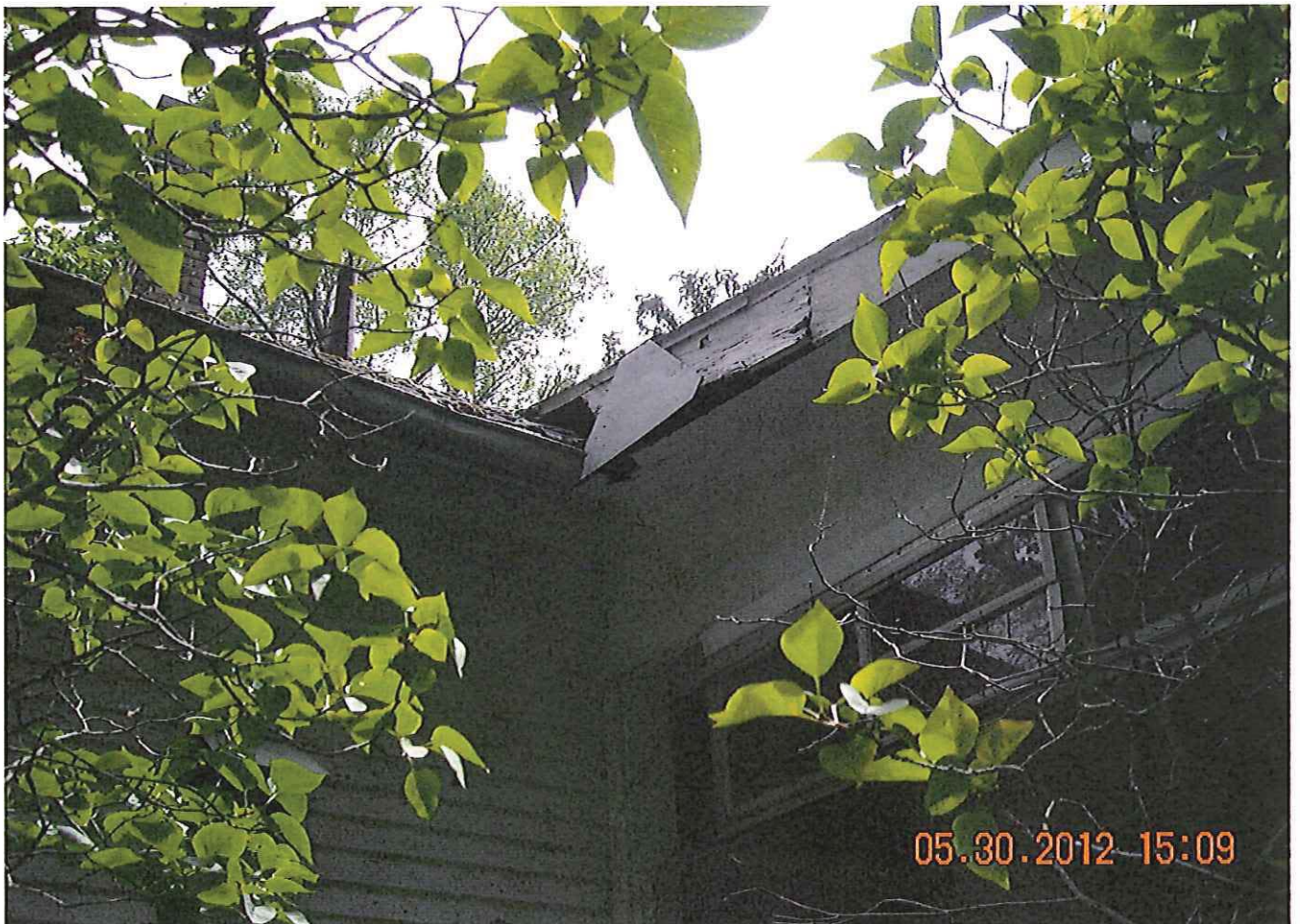
















DATE: 03/18/2013
TO: Honorable Mayor and Commissioners
FROM: Jeffrey Lewis, Director of Public Safety
RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN120098

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 1458 JIROCH ST Area 13 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: # EN120098 - 1458 JIROCH ST (All structures)

Location and ownership: This structure is located on Jiroch St. between Irwin and Grand Streets and is owned by ORCUTT BRIAN/SERENA.

Staff Correspondence: A dangerous building inspection was conducted on 9/4/2012. The Notice and Order to Repair was issued on 9/4/2012. On 2/7/2013 the HBA declared the structure substandard and dangerous.

Owner Contact: No one was present for the HBA meeting dated 2/7/2013. All notices sent certified mail have returned unclaimed. No permits have been issued and no inspections scheduled.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: \$ 12,400

Estimated cost to repair: \$ 11,300 (exterior only)

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

1458 street, 7/5/2012

