

CITY OF MUSKEGON

CITY COMMISSION MEETING

FEBRUARY 25, 2020 @ 5:30 P.M.

**MUSKEGON CITY COMMISSION CHAMBERS
933 TERRACE STREET, MUSKEGON, MI 49440**

AGENDA

- ☐ **CALL TO ORDER:**
- ☐ **PRAYER:**
- ☐ **PLEDGE OF ALLEGIANCE:**
- ☐ **ROLL CALL:**
- ☐ **HONORS AND AWARDS:**
- ☐ **A. USS Silversides Summer Programming with Boys & Girls Club – Informational Presentation – Peggy Maniates, Executive Director**
- ☐ **B. Informational Presentation on expansion plans for The Deck**
- ☐ **PUBLIC COMMENT ON AGENDA ITEMS:**
- ☐ **CONSENT AGENDA:**
 - A. Approval of Minutes City Clerk**
 - B. NEZ Certificate – 658 Terrace Point Planning**
 - C. NEZ Certificate – 326 Terrace Point Planning**
 - D. Tax Incentive Policy and Guidelines Economic Development**
 - E. Resolution of Intent to Bond Sanitary Sewer and Water Supply Revenue Bonds Finance**
 - F. Seaway Railroad Bridge Painting Public Works**
 - G. Pere Marquette Park – Grant Declaration Public Works**
 - H. Emergency Sewer Repairs Public Works**
 - I. MANA, LLC Revolving Loan City Manager**
- ☐ **PUBLIC HEARINGS:**
- ☐ **UNFINISHED BUSINESS:**
- ☐ **NEW BUSINESS:**
- ☐ **ANY OTHER BUSINESS:**
- ☐ **PUBLIC COMMENT ON NON-AGENDA ITEMS:**

- ▶ **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:**

A. Lawsuit Settlement

□ **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 MEISCH, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TTY/TDD DIAL 7-1-1-22 TO REQUEST A REPRESENTATIVE TO DIAL (231) 724-6705.



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: February 25, 2020	Title: Approval of Minutes
Submitted By: Ann Marie Meisch, MMC	Department: City Clerk
Brief Summary: To approve the minutes of the February 10, 2020 Worksession meeting and the February 11, 2020 regular meeting.	
Detailed Summary: N/A	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: To approve the minutes.	
For City Clerk Use Only: Commission Action:	

CITY OF MUSKEGON
CITY COMMISSION WORKSESSION
Monday, February 10, 2020
5:30 p.m.
City Commission Chambers

MINUTES

Present: Mayor Stephen Gawron and Commissioners Hood, Emory, Johnson, German, Rinsema-Sybenga, and Ramsey.

Absent: None.

Informational Presentation of MATS Route Study and Comprehensive Operational Analysis - Robert M. Lukens - Muskegon Community Development Director

Jim Koens, Transit Systems Manager, presented the MATS Route Study and Operational Analysis Report.

Mark Eisenbarth, Director of Muskegon County Administrator, indicated he welcomed questions and feedback from the City Commissioners.

Currently MATS partners with the City of Muskegon, Muskegon Heights, Roosevelt Park, Muskegon Township, and Norton Shores.

Commissioners asked for several clarifications regarding the micro-transit system that is being proposed because of the reduction in proposed routes. Municipalities will also be asked to contribute more for the service going forward because the County can no longer cover the difference in cost not covered by the local municipalities.

Paid Beach Parking - Planning

Staff is requesting approval to move forward with paid parking at the beach. The request is to purchase 20 kiosks from Flowbird and to allow staff to draft the appropriate ordinances to initiate paid parking requirements.

The proposal includes 17 kiosks for beach parking and 3 kiosks for boat launch permits. The 17 beach parking kiosks will accept credit cards/coins and the 3 kiosks for boat launch permits will only accept credit cards.

The fees collected will go towards the maintenance of the beach including the operations and maintenance of the beach/sand, parking lot, bath houses, various playgrounds, and boardwalk as well as trash clean-up and removal, police beach patrols, misc. Equipment costs, and administration costs. In 2016/17 these costs were estimated to be \$475,000 for a total cost to a homeowner of .848 mills.

Cost to park at the beach is suggested to be \$7 on Saturdays and \$5 for the rest of the week. The yearly pass is \$20 and resident passes are free.

Commissioners asked several questions of Mr. Franzak.

The City Commission will consider this request at its February 11, 2020 Commission Meeting.

Carol Olson, 1658 Beach, concerned about the financial impact.

Nancy Hulka, 3020 Country Club, in favor.

Ned Carter, 1741 Edgewater, against.

Shirley Green, 2574 Morton, asked for clarification if paid parking was needed for sunset. No. Also asked about accessible parking and paying.

Bill, 3358 Wilcox, asked about those who use the dog beach and Kruse Park.

Michael Haueisen, 903 Turner, against.

Kim Lang, 1431 Beach, has a non-profit on the beach for the lighthouse tower. Concerned about the additional fee for those visitors.

Lead Service Lines - Public Works

Leo Evans, Public Works Director, updated staff on the changes required within the water department to comply with the updated Lead and Copper Rules issued by the State and to seek feedback on a direction moving forward on the topic.

Commissioner German left at 8:20 pm.

Mobile Food Vending Ordinance Updates - City Clerk

Support adding food trucks in Lakeside Business District and Glade Street.

City Manager suggested allowing staff to allow temporary approval while waiting for upcoming meeting for approval.

Lorraine Samples, 1930 Lakeshore Drive, grateful for quick action, believes they should be allowed overnight.

Morning Bear, 592 W. Muskegon, wants to see the food truck stay open at Southern and Glade.

Presentation of Multi-Family Housing Study - Economic Development

For several months the department has been working on a study of the existing market conditions and the needs of the multi-family housing sector in the city limits. This work is complete and ready to review with the city commission.

Revolving Loan Fund Requests

Commissioner Rinsema-Sybenga removed himself from discussion stating a financial interest.

The city has an opportunity to assist multiple entities by approving some revolving fund loans. There was discussion regarding the proposed loans and a revolving fund application will be on the agenda at the next city commission meeting for consideration for Unruly Brewing.

Frank explained requests that may be made by sports teams.

Development Options Discussion

Discussion took place regarding development options. An idea was presented by Jon Rooks, who owns Wharf arena in downtown Grand Haven, he is suggesting a dry-rack storage area. Mr. Rooks would like the city to quit claim deed the easement to Parkland to develop for dry-rack storage.

Adjourned at 11:22 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk

CITY OF MUSKEGON

CITY COMMISSION MEETING

FEBRUARY 11, 2020 @ 5:30 P.M.

**MUSKEGON CITY COMMISSION CHAMBERS
933 TERRACE STREET, MUSKEGON, MI 49440**

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, February 11, 2020, Pastor Wally Reames, Central Assembly, opened the meeting with a prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen J. Gawron, Vice Mayor Eric Hood, Commissioners Ken Johnson, Dan Rinsema-Sybenga, Willie German, Jr., Teresa Emory, and Michael Ramsey, City Manager Frank Peterson, City Attorney John Schrier, and City Clerk Ann Meisch.

HONORS AND AWARDS:

A. Success Story – Marquette Neighborhood-Enhanced Neighborhood Grant

Lashaun Turner, Community and Neighborhood Services staff, presented certificates to two women that painted over 100 fire hydrants in their neighborhood as part of the Marquette Neighborhood Enhancement Grant Program.

PUBLIC COMMENT ON AGENDA ITEMS: Public Comments were received.

2020-09 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the January 28, 2020 regular meeting.

STAFF RECOMMENDATION: Approval of the minutes.

B. Nelson Neighborhood Market Donation Proposal City Clerk

SUMMARY OF REQUEST: The Muskegon Farmers Market received a donation proposal from the Nelson Neighborhood Association. The Association is proposing five annual donations of \$1,000 beginning April 1, 2020. They will install and maintain a sign promoting the efforts of the Association at their own expense. This would be treated as a Branch Level Friend of the Market

Sponsorship for the five years of the commitment.

STAFF RECOMMENDATION: To accept the proposed Friend of the Market annual sponsorship of \$1,000 each year, for five years, from the Nelson Neighborhood Association.

C. Mobile Food Vending Ordinance Updates City Clerk

SUMMARY OF REQUEST: There is interest to add the Lakeside Business District and the commercial areas of the 1600 block of Glade to permit food trucks under the current food truck ordinance.

STAFF RECOMMENDATION: To amend the resolution to add the commercial areas of the 1600 block of Glade and the Lakeside Business District to the areas currently permitted to host food trucks.

D. Rescue Mission Property Transfer Development Services

SUMMARY OF REQUEST: Staff is seeking approval of a quit claim deed to transfer property at 1747 7th Street to the Muskegon Rescue Mission.

The Muskegon Rescue Mission would like to acquire remaining vacant land behind the men's shelter for expansion of the services they offer in our community. The concept includes a community resource center, a job training facility, and family housing. The rescue mission will be responsible to record the deed and obtain title insurance, a property survey, environmental review, and soils investigation. Closing costs will be split between the parties. Staff has prepared a quit claim deed to transfer the property to the MRM and request your approval of the property transfer. The Planning Department will continue to work the MRM on the development of the site plan.

STAFF RECOMMENDATION: Approve the transfer of property at 1747 7th Street to the Muskegon Rescue Mission and authorize the mayor and clerk to sign the quit claim deed.

I. Arena Wall Padding City Manager

SUMMARY OF REQUEST: Staff is seeking authorization to purchase 72 dasher board pads at a cost of \$29,284.00 from Sportsfield Specialties, and eight storage carts at a cost of \$2,497.14 from Uline. The total cost of the combined purchase, including shipping is \$31,781.14.

2020 will mark the 5th season that Mercy Health Arena has hosted professional indoor football. When the team was initially created, the city acquired used turf and used dasher board padding as we worked to determine if indoor football would be sustainable in Muskegon. A new field turf was purchased three years ago. Staff is now requesting permission to purchase new dasher board padding. The new padding will better meet safety standards, and will also use significantly less storage space at the arena. Storage capacity continues to be an issue since the arena lost its storage garage during a storm four years ago. As part of

the negotiation process of the Mercy Health naming rights agreement, staff committed to ensuring that all of the arena's teams benefitted from the investment. The West Michigan Ironmen identified this as their top need. This investment represents approximately 1.98% of the \$1.6 Million sponsorship. The ownership group accepts this as the only direct investment from those funds into the team's needs. The city will own the equipment and make it available to the team at no cost.

STAFF RECOMMENDATION: Authorize the purchase at an amount not to exceed \$37,781.14.

K. Amendment to Wireless Communication Support Facilities Ordinance

SECOND READING Planning

SUMMARY OF REQUEST: Request to amend Section 2321 of the Zoning Ordinance to allow Wireless Communication Support Facilities as a special use permitted in the overlay district at 770 Terrace Street.

The current ordinance only allows for these types of facilities in six locations around the City. The Commission recently amended the ordinance last year to allow for them at Marsh Field and the Filtration Plant. This new location would be behind the Central Fire Station and would only include a monopole for emergency communications. The Planning Commission unanimously recommended approval at their January 16 meeting. They also voted in favor of the special use permit for the monopole, contingent upon approval of this amendment by the City Commission.

STAFF RECOMMENDATION: To approve the amendment to Section 2321 of the Zoning Ordinance.

L. Rezoning of 372 Morris Avenue - SECOND READING Planning

SUMMARY OF REQUEST: Staff initiated request to rezone the property at 372 Morris Avenue from Form Based Code, Downtown to Form Based Code, Mainstreet.

The Planning Commission unanimously recommended approval at their January 16 meeting.

STAFF RECOMMENDATION: To approve the rezoning request for 372 Morris Avenue.

M. 4th of July Fireworks City Clerk

SUMMARY OF REQUEST: Melrose Pyrotechnics is requesting approval of a fireworks display permit for July 4, 2020 in downtown Muskegon. The fire marshall will inspect the fireworks on the day of the event. Staff will be working with the Lakeshore Chamber of Commerce to solicit sponsorships as well as to organize a food truck rally. We expect this to be cost neutral to the city.

STAFF RECOMMENDATION: To approve the fireworks contingent upon

inspection and approval of insurance.

N. Community Relations Committee Recommendations City Clerk

SUMMARY OF REQUEST: To accept the resignation of Jackie Hilt from the Historic District Commission. To accept the appointments of Steve Radtke and Timothy Painter to the Historic District Commission and Bonnie Lipan to the Community Development Block Grant/Citizen's District Council.

STAFF RECOMMENDATION: To concur with the recommendations of the Community Relations Committee and approve the resignation and appointments.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to accept the consent agenda as presented, except items E, F, G, H, and J.

ROLL VOTE: Ayes: Hood, Ramsey, German, Rinsema-Sybenga, Emory, Johnson, and Gawron

Nays: None

MOTION PASSES

2020-10 ITEMS REMOVED FROM CONSENT AGENDA:

E. 1601 Beach Lease Amendment Development Services

SUMMARY OF REQUEST: Staff is requesting approval of an amendment to the existing lease and option agreements with 1601 Beach LLC to extend the boundary of the land being leased for The Deck at Pere Marquette Park and to modify the area to which 1601 Beach, LLC has an option and first right of refusal to develop, lease, or purchase.

The owners of 1601 Beach LLC are planning an expansion to their restaurant, The Deck. The expansion is south of the existing building and will include a patio and additional bar space to accommodate more patrons. In order to proceed with the expansion, the lease agreement needs to be modified to account for the additional land associated with the expansion. The city took the opportunity to clarify the option area with the owners and make requested adjustments.

STAFF RECOMMENDATION: Approve the amendment to the lease and option agreement with 1601 Beach, LLC at Pere Marquette Park and authorize the mayor and clerk to sign.

Motion by Commissioner Johnson, second by Commissioner German, to approve the amendment to the lease and option agreement with 1601 Beach LLC at Pere Marquette Park and authorize the mayor and clerk to sign.

Motion by Commissioner Johnson, second by Commissioner German, to amend the motion to remove the option agreement.

ROLL VOTE: Ayes: Johnson

Nays: Ramsey, German, Rinsema-Sybenga, Emory, Gawron, and Hood

MOTION FAILS

Vote on Original Motion

ROLL VOTE: Ayes: Ramsey, German, Rinsema-Sybenga, Emory, Gawron, and Hood

Nays: Johnson

MOTION PASSES

F. Paid Beach Parking Planning

SUMMARY OF REQUEST: Staff is requesting approval to move forward with paid parking at the beach. The request is to purchase 20 kiosks from Flowbird and to allow staff to draft the appropriate ordinances to initiate paid parking requirements.

STAFF RECOMMENDATION: To approve staff to execute the purchase order for the 20 kiosks from Flowbird as proposed and to direct staff to draft the appropriate ordinances to initiate paid parking requirements at the beach.

Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to approve staff to execute the purchase order for the 20 kiosks from Flowbird as proposed and to direct staff to draft the appropriate ordinances to initiate paid parking requirements at the beach.

Motion by Vice Mayor Hood, second by Commissioner Rinsema-Sybenga, to call the question.

ROLL VOTE: Ayes: Emory, Gawron, Hood, Ramsey, and Rinsema-Sybenga

Nays: Johnson and German

MOTION PASSES

Vote on Original Motion

ROLL VOTE: Ayes: Rinsema-Sybenga, Emory, Gawron, Hood, and Ramsey

Nays: Johnson and German

MOTION PASSES

G. Unruly Brewing Revolving Fund Application Economic Development

SUMMARY OF REQUEST: A recommendation to the City Commission to approve an economic development loan for Unruly Brewing.

Unruly Brewing has finished their mass production system and started brewing for large scale kegging distribution. However, their distributors and their cash flow projections indicate that they should also build out and begin production on a

canning system so that they can enter the retail space to avoid some of the negative market forces that have recently been impacting micro-breweries across the state. They have exhausted their ability to privately finance this portion of the project and are requesting a loan from the City's Economic Development Revolving Fund.

STAFF RECOMMENDATION: To approve the terms and documents of the loan to Unruly Brewing in the amount of \$80,000 as presented.

Motion by Commissioner German, second by Commissioner Johnson, to approve the terms and documents of the loan to Unruly Brewing in the amount of \$80,000 as presented.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Ramsey, German, and Emory

Nays: None

Abstain: Rinsema-Sybenga

MOTION PASSES

H. Arena Change Order City Manager

SUMMARY OF REQUEST: Staff is seeking approval of Changer Order 1 to the contract with the Platinum Contracting for work being completed under Phase 2 of the arena restroom renovation project.

On December 10 2019, the City Commission approved a contract with Platinum Contracting to remodel the existing restrooms at the Mercy Health Arena. The original contract amount was \$266,173.69. A number of issues/changes have arisen since the project commenced. Some of the major issues include the presence of asbestos, an immediate need for increased restroom fixtures, and deterioration of a number of windows that now require replacement. The additional work will raise the contract cost by \$177,981.38, however, the additional work will result in six additional women's toilets, two additional men's urinals, and 14 additional "flex" toilets that can be used as either men's or women's water closets, depending on event type/attendance. The previous plan left the arena slightly short on both men's and women's facility counts, but the new plan exceeds both.

STAFF RECOMMENDATION: To approve the Agreement and authorize the city manager to sign.

Motion by Commissioner Johnson, second by Commissioner German, to approve the Agreement and authorize the City Manager to sign.

ROLL VOTE: Ayes: Gawron, Hood, Ramsey, German, Rinsema-Sybenga, Emory, and Johnson

Nays: None

MOTION PASSES

J. MDEGLE Grant Agreement City Manager

SUMMARY OF REQUEST: The City was previously awarded a grant from MDEGLE to address PFAS contamination at the convention center construction site. The original \$500,000 grant is being increased to \$700,000 to address additional environmental cleanup associated with a recently uncovered abandoned oil well.

In addition to the \$700,000 in grant proceeds, MDEGLE will also directly incur the costs associated with filling and capping the oil well. The construction project should have little-to-no out-of-pocket costs associated with these environmental issues.

STAFF RECOMMENDATION: Authorize the City Manager to sign the grant agreement and incur the costs associated with the environmental cleanup as part of the convention center construction project.

Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to authorize the City Manager to sign the grant agreement and incur the costs associated with the environmental cleanup as part of the convention center construction project.

ROLL VOTE: Ayes: Hood, Ramsey, German, Rinsema-Sybenga, Emory, Johnson, and Gawron

Nays: None

MOTION PASSES

2020-11 NEW BUSINESS:

A. Arena Related Agreements City Manager

SUMMARY OF REQUEST: Staff is seeking simultaneous approval of the First Amendment to the Naming Rights and Sponsorship Agreement between the City of Muskegon, Mercy Health Partners, and WC Hockey, and Third Amendment to the Shared Use Agreement between the City of Muskegon and WC Hockey.

WC Hockey and Mercy Health Partners have agreed to modify the Naming Rights and Sponsorship Agreement to allow for more opportunities for healthcare-related sponsorships within the arena and with various tenants of the facility. As part of these execution of the original naming Rights and Sponsorship Agreement, a number of changes to the Shared Use Agreement became necessary. The amendment will accomplish the following:

1. Formally update Exhibit A
2. Finalize the capital investments of WC Hockey and set the repayment schedule.
3. Update the City's marketing participation with WC Hockey to account for

required gameday-related deliverables owed to Mercy Health as part of the Naming Rights and Sponsorship Agreement.

4. Allow for the accommodation of WZZM at the arena.

STAFF RECOMMENDATION: Approve the agreements and authorize the Mayor and Staff to execute the agreements.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to approve the agreements and authorize the Mayor and Staff to execute the agreements.

ROLL VOTE: Ayes: Rinsema-Sybenga, Gawron, and Hood

Nays: German, Emory, and Johnson

Abstain: Ramsey

MOTION FAILS

PUBLIC COMMENT ON NON-AGENDA ITEMS: No public comments were received.

ADJOURNMENT: The City Commission meeting adjourned at 8:17 p.m.

Respectfully Submitted,

Ann Marie Meisch – MMC, City Clerk

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 2/25/2020	Title: NEZ Certificate – 658 Terrace Point
Submitted By: Mike Franzak	Department: Planning
Brief Summary: An application for a Neighborhood Enterprise Zone (NEZ) certificate has been received from James Starr for the new construction of a home at 658 Terrace Point. The applicant has met local and state requirements for the issuance of the NEZ certificate.	
Detailed Summary:	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the NEZ certificate at 658 Terrace Point for a duration of 12 years.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

Resolution No. _____

MUSKEGON CITY COMMISSION

**RESOLUTION TO APPROVE THE ISSUANCE
OF A NEIGHBORHOOD ENTERPRISE ZONE CERTIFICATE**

WHEREAS, an application for a Neighborhood Enterprise Zone Certificate has been filed with the City Clerk by James Starr to construct a new home at 658 Terrace Point in the Terrace Point Condominium neighborhood, and;

WHEREAS, the applicant has satisfied both the local and state eligibility criteria for a Neighborhood Enterprise Zone Certificate;

WHEREAS, the local unit of government is allowing the six (6) month grace period after construction commencement to apply, which is allowed under the law;

WHEREAS, the Neighborhood Enterprise Zone Certificate has been approved for twelve (12) years;

NOW, THEREFORE, BE IT RESOLVED that the application for a Neighborhood Enterprise Zone Certificate for the new construction of a home by James Starr be approved.

Adopted this 25th day of February, 2020.

Ayes:

Nays:

Absent:

By: _____
Stephen J. Gawron, Mayor

Attest: _____
Ann Meisch
City Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on February 25, 2020.

By: _____
Ann Meisch
City Clerk

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 2/25/2020	Title: NEZ Certificate – 326 Terrace Point
Submitted By: Mike Franzak	Department: Planning
Brief Summary: An application for a Neighborhood Enterprise Zone (NEZ) certificate has been received from Timothy Koeze for the new construction of a home at 326 Terrace Point. The applicant has met local and state requirements for the issuance of the NEZ certificate.	
Detailed Summary:	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the NEZ certificate at 326 Terrace Point for a duration of 12 years.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

Resolution No. _____

MUSKEGON CITY COMMISSION

**RESOLUTION TO APPROVE THE ISSUANCE
OF A NEIGHBORHOOD ENTERPRISE ZONE CERTIFICATE**

WHEREAS, an application for a Neighborhood Enterprise Zone Certificate has been filed with the City Clerk by Timothy Koeze to construct a new home at 326 Terrace Point in the Terrace Point Condominium neighborhood, and;

WHEREAS, the applicant has satisfied both the local and state eligibility criteria for a Neighborhood Enterprise Zone Certificate;

WHEREAS, the local unit of government is allowing the six (6) month grace period after construction commencement to apply, which is allowed under the law;

WHEREAS, the Neighborhood Enterprise Zone Certificate has been approved for twelve (12) years;

NOW, THEREFORE, BE IT RESOLVED that the application for a Neighborhood Enterprise Zone Certificate for the new construction of a home by Timothy Koeze be approved.

Adopted this 25th day of February, 2020.

Ayes:

Nays:

Absent:

By: _____
Stephen J. Gawron, Mayor

Attest: _____
Ann Meisch
City Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on February 25, 2020.

By: _____
Ann Meisch
City Clerk



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 2/25/2020	Title: Tax Incentive Policy and Guidelines
Submitted By: Jake Eckholm	Department: Economic Development
Brief Summary: The Tax Incentive Committee has created a policy document for Commission approval that reflects the findings and recommendations in the previously reviewed committee report.	
Detailed Summary: In an effort to standardize and control the rate and term of tax abatements granted in the City of Muskegon, the Tax Incentive Committee (comprised of staff from Economic Development, Planning, and Finance) has created the attached policy to guide our recommendations to the City Commission when tax abatements are requested. This system incentivizes companies that reflect community goals and values, while keeping Muskegon competitive in the region for attraction and expansion of business base.	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s):	Fund(s) or Account(s): N/A
Recommended Motion: Motion to approve the Tax Incentive Policy and Guidelines as presented.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	



TAX INCENTIVES POLICY

INFORMATION PACKET AND GUIDELINES

OVERVIEW:

A company that is in the planning phase of a major business attraction or expansion project that will include a capital investment in real and/or personal property may be eligible for a number of statutorily provided and locally approved tax incentives or abatements. The City of Muskegon strives to apply these incentives with maximum return on investment for the developer and community. The process for requesting and receiving an eligible tax incentive for a development or expansion project has been simplified in the following policy guidelines and forms.

The City of Muskegon maintains this policy with the objectives of:

- increasing employment opportunities for our residents,
- diversifying and stabilizing the tax base of the community,
- reducing functional obsolescence of existing buildings and lots,
- encouraging expansion of our existing business base,
- providing for improved housing and commercial amenities for the community,
- encouraging attractive, viable building sites and
- enhancing our economic development tools to attract and retain businesses

POLICY ELIGIBILITY CRITERIA:

1. A tax abatement shall not be granted until there is compliance with the associated state statute; and
2. Leasehold property shall not qualify for a real property tax abatement unless applicant is responsible for payment of the property taxes, and can demonstrate timely payment of property taxes upon the City's request; and
3. A tax abatement shall be issued for a term reflective of the points earned in the City's scoring matrix; and
4. A tax abatement shall not be issued unless an Applicant completes the attached application form and provides all necessary documents to ensure accurate scoring by the Tax Incentive Review Committee.

APPLICATION PROCESS:

Once a company has determined that it meets the minimum criteria for consideration of a tax abatement, then a company may begin the process of formally applying for the relevant incentive. The process is as follows:

1. Letter of Intent submitted on applicant's letterhead to the Planning Director (No improvements shall be considered for abatement if made or permitted prior to the approval of the abatement application).
2. Complete any relevant Michigan Department of Treasury Forms. Include with the form:
 - a. Cost Sheet for anticipated improvements in real property.
 - b. Lease Agreement showing building terms and applicants' tax liability (if applicable).
3. Submit application form and attachments to the City of Muskegon Planning Department.

4. Tax Incentive Review Committee verifies completion and eligibility of Applicant's documents for submission and makes recommendation to the City Commission regarding approval and length of the requested abatement
5. City Commission Public Hearings are scheduled.
6. City Commission votes on establishment of the District and approval of the associated abatement (City Commission may also vote to reject any application for abatement).
7. Resolution submitted to State Tax Commission for final approval and issuance of certificates where necessary.
8. Projected investment must be complete within two years or risk liability for any abated values

LENGTH OF THE TAX ABATEMENT:

The City Commission has approved the use of the following matrices to calculate the length of the associated tax abatement. The points in this scoring system are tied to community goals endorsed by elected officials and staff, thereby rewarding and incentivizing specific development types and values with additional potential years of abatement:

Cognate	Value	Cognate	Value
PA 198		PA 210, 255, 146	
Taxable Value	0-5	Taxable Value	0-5
Job Creation	0-3	Location	0-2
Resident Hiring	0-1	New Business	0-1
Minority Hiring	0-1	Minority Owned/Managed	0-2
TOTAL	0-10	TOTAL	0-10

PA 198 IFEC Scoring Guide

0-7 Points: 9-Year 50% Abatement

7-10 Points: 12 Year 50% Abatement

PA 210 Tax Abatement Scoring Guide

0-5 Points: 3 Years frozen taxable values

6-8 Points: 6 Years frozen taxable values

9-10 Points: 10 Years frozen taxable values

PA 255 Tax Abatement Scoring Guide

0-5 Points: 4 Year Abatement

6-8 Points: 8 Year Abatement

9-10 Points: 12 Year Abatement

PA 146 Tax Abatement Scoring Guide

0-5 Points: 4 Years frozen taxable values

6-8 Points: 8 Years frozen taxable values

9-10 Points: 12 Years frozen taxable values

TAX ABATEMENT APPLICATION FEE:

The City Commission has authorized the implementation of a non-refundable application fee of \$1000.00 for Public Act 146, Public Act 255, and Public Act 210 abatement applications. Public Act 198 tax abatement applications carry a non-refundable application fee equal to 2% of the abated taxes, not to exceed \$1,722.

REQUIREMENTS AFTER TAX ABATEMENT IS APPROVED:

By December 31 that is two years after the December 31 of the year that the abatement is approved, the applicant will supply the Planning Director with a letter confirming that the purchases, employment numbers, renovations, and/or other applicable cognates are complete. If these figures have not been reached, a letter of explanation must be submitted to the Planning Director, for review by City Commission, which may then cancel the abatement, or offer a new abatement with reduced values and years.

For assistance with your business attraction and retention needs, please contact the City Economic Development Office at 231-724-6870. For assistance with the associated process and application, please contact the City Planner's Office at 231-724-6702.



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: February 25, 2020	Title: Resolution of Intent to Bond Sanitary Sewer and Water Supply Revenue Bonds
Submitted By: Beth Lewis	Department: Finance
Brief Summary: This resolution authorizes the publication of a Notice of Intent relating to issuing bonds for the purpose of paying all or part of the cost to acquire, construct, furnish and equip improvements to the Sanitary Sewer and Water Supply System.	
Detailed Summary: To approve two Notices of Intent Resolutions to bond for Sanitary Sewer System bonds for up to \$15,000,000 over the next 5 years and Water Supply System bonds for up to \$20,000,000 over the next 5 years. This is the first step in the bonding process. These bonds will be issued through the State of Michigan's SRF (Sewer Revolving Loan Fund) and the DWRF (Drinking Water Revolving Loan Fund). The interest rate charged by the State is very favorable and additionally they offer loan forgiveness for a portion of the loan. The Commission will be asked at a later date to approve the issuance of bonds once the State has approved our projects and we know the loan details.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s): 590 & 591	Fund(s) or Account(s): 590 & 591
Recommended Motion: Approve the Notices of Intent Resolutions for Sanitary Sewer System Revenue Bonds not to exceed \$15,000,000 and Water Supply System Revenue Bonds not to exceed \$20,000,000.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

PATRICK F. MCGOW
TEL (313) 496-7684
FAX (313) 496-8450
E-MAIL mcgow@millercanfield.com

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Detroit, Michigan 48226
TEL (313) 963-6420
FAX (313) 496-7500
www.millercanfield.com

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CHINA: Shanghai

MEXICO: Monterrey

POLAND: Gdynia

Warsaw • Wrocław

February 19, 2020

Ms. Elizabeth Lewis
City of Muskegon
933 Terrace Street
Muskegon MI 49443-0536

Re: City of Muskegon
Sanitary Sewer System Revenue Bonds, Series 2020 (SRF Project)
Water Supply System Revenue Bonds, Series 2020 (DWRP Project)

Dear Beth:

As we discussed over the past weeks, I have enclosed two separate Notice of Intent Resolutions for consideration by the City Commission at its meeting on February 25th, one for the Sewer Bonds and one for the Water Bonds. The Resolutions authorize the publication of a Notice of Intent relating to the City's bonds to be issued through the Michigan Finance Authority's ("MFA") State Revolving Fund Program ("SRF") and the Drinking Water Revolving Fund Program ("DWRP"). Each series of bonds will be sold to MFA and issued in 20 principal installments at an interest rate of 2.00%.

The enclosed SRF Resolution and Notice indicates the City's intent to issue Sanitary Sewer System Revenue Bonds in an amount not to exceed \$15,000,000 to pay the cost to acquire, construct, furnish and equip improvements to the Sanitary Sewer System of the City (the "Sewer System"), including sewer system rehabilitation and replacement of existing sewer lines, together with pump station improvements and all related appurtenances and attachments (the "Sewer Project"). It is expected that the City will issue a few series of Bonds over the next few years through the SRF to finance the Sewer Projects, and the amount in the Notice of Intent Resolution is expected to cover the total cost of the Sewer Projects over the next few years.

The enclosed DWRP Resolution and Notice indicates the City's intent to issue Water Supply System Revenue Bonds in an amount not to exceed \$20,000,000 to pay the cost to acquire, construct, furnish and equip improvements to the Water Supply System of the City (the "Water System"), including distribution system improvements, replacement of water mains and service lines and treatment plant improvements, together with all related appurtenances and attachments (the "Water Project", together with the Sewer Project are referred to as the "Projects"). It is expected that the City will issue a few series of Bonds over the next few years

Ms. Elizabeth Lewis

-2-

February 19, 2020

through the DWRF to finance the Water Projects, and the amount in the Notice of Intent Resolution is expected to cover the total cost of the Water Projects over the next few years.

The proceeds of the Bonds may be used to pay for the construction of the Projects as well as reimburse the City for the engineering, design and other preliminary costs related to the Projects. The Bonds will also be used to pay issuance costs related to the Bonds. Each Notice provides that the City will pledge the net revenues of the respective System as security for the Bonds. In addition, the City has the ability to pledge its limited tax full faith and credit as security for the Bonds or pledge its state revenue sharing, if necessary, in order to satisfy MFA's investment grade credit requirements. The City intends to pay the debt service on the Sewer Bonds solely from the user charges of the Sewer System and to pay the debt service on the Water Bonds solely from the user charges of the Water System.

The size of the Bond issues will be reduced at the time of issuance to the amounts that are required based on the actual bids and final costs. The City can reduce the amount of the Bonds for the Projects from the amount indicated in the notice, but the City would not be able to increase the size of the Bonds for the Projects over the amount in the notice without republishing a new notice for the increased amount. The MDEQ will require the Bonds to be sized based on the actual bids and costs after the bids have been received.

The Revenue Bond Act requires the City to notify the electors of the City of its intent to issue the bonds by publishing a notice which gives the voters a referendum right on the issuance of the bonds. The Bonds can be issued without a vote of the City electors unless a petition is filed with the City Clerk within 45 days of publication of the notice signed by at least 10% of the registered electors of the City. The form of Notice of Intent is included in each Resolution as Exhibit A. Each Notice of Intent must be published as a display advertisement at least one-quarter (1/4) page in size in a newspaper of general circulation in the City.

Paragraph 4 of the Resolutions contains language which authorizes the City to reimburse itself from bond proceeds for certain costs relating to the project incurred prior to issuance of the bonds, including costs for engineering and design. The language of the Resolutions is taken from the IRS regulations and, not surprisingly, it therefore reads as tax jargon. This is intended to provide you with flexibility relating to the use of the Bond proceeds if you spend money on project costs before the bond closing.

If approved by Commission and the Notice of Intent is published shortly thereafter, the 45 day referendum period will expire in April. The City is currently included in the SRF 4th Quarter Financing Pool and it is currently anticipated that the DWRF Bonds would be on the same timetable, which requires construction bids to be received in June in anticipation of MDEQ approval in early August with the loan closing on August 28th. The City Commission would be asked to approve a bond authorizing ordinance for each series of Bonds in late June or July around the time of the receipt of bids for the Projects.

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Ms. Elizabeth Lewis

-3-

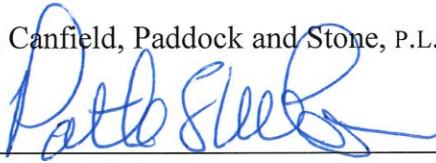
February 19, 2020

We would appreciate receiving three (3) certified copies of each Resolution upon adoption by the City Commission as well as three (3) Affidavits of Publication from the *Muskegon Chronicle*. **Please remind the newspaper that each Notice must be a quarter page ad.**

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By: 

Patrick F. McGow

Enclosures

Cc: Franklin Peterson
Leo Evans
Warren Creamer
Michael McCarty
Barbara Marczak

35276358.1\063684-00050

**NOTICE OF INTENT RESOLUTION
WATER SUPPLY SYSTEM REVENUE BONDS, SERIES 2020
(DRINKING WATER REVOLVING FUND PROJECT)**

CITY OF MUSKEGON
County of Muskegon, State of Michigan

Minutes of a regular meeting of the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, held on the 25th day of February, 2020, at 5:30 p.m., prevailing Eastern Time.

PRESENT: Members _____

ABSENT: Members _____

The following preamble and resolution were offered by Member: _____
and supported by Member: _____:

WHEREAS, the City of Muskegon, County of Muskegon, State of Michigan (the "City"), has determined that it is necessary for the public health, safety and welfare of the City to acquire, construct, furnish and equip improvements to the Water Supply System of the City (the "System"), including distribution system improvements, replacement of water mains and service lines, pump station and water filtration plant improvements, together with all related appurtenances and attachments (the "Project"); and

WHEREAS, the City has been advised by the Michigan Department of Environment, Great Lakes and Energy ("EGLE") that financial assistance to accomplish the acquisition and construction of all or a portion of the Project is available through the Drinking Water Revolving Fund ("SRF") loan program administered by the EGLE and the Michigan Finance Authority; and

WHEREAS, the City has made application for participation in the SRF loan program; and

WHEREAS, the Revenue Bond Act, Act 94, Public Acts of Michigan, 1933, as amended ("Act 94"), provides a means for financing the purchase, acquisition, construction, improvement, enlargement, extension and repair of public improvements such as the Project through the issuance of revenue bonds; and

WHEREAS, the issuance of bonds payable from revenues of the System under Act 94 in a total amount not to exceed Twenty Million Dollars (\$20,000,000) (the "Bonds") for the purpose of financing all or part of the Project represents the most practical means to that end; and

WHEREAS, a notice of intent to issue revenue bonds must be published before the issuance of the Bonds in order to comply with the requirements of Section 33 of Act 94; and

WHEREAS, the City intends at this time to state its intentions to be reimbursed from

proceeds of the Bonds for any expenditures undertaken by the City for the Project prior to issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is authorized and directed to publish a notice of intent to issue bonds in the *Muskegon Chronicle*, a newspaper of general circulation in the City.

2. The notice of intent shall be published as a display advertisement not less than one quarter (1/4) page in size in substantially the form attached to this resolution as Exhibit A.

3. The City Commission does hereby determine that the foregoing form of Notice of Intent to Issue Bonds, and the manner of publication directed, is adequate notice to the electors of the City and users of the System, and is the method best calculated to give them notice of the City's intent to issue the Bonds, the purpose of the Bonds, the security for the Bonds, and the right of referendum of the electors with respect thereto, and that the provision of forty-five (45) days within which to file a referendum petition is adequate to insure that the City's electors may exercise their legal rights of referendum, and the newspaper named for publication is hereby determined to reach the largest number of persons to whom the notice is directed.

4. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

- (a) As of the date hereof, the City reasonably expects to reimburse itself for the expenditures described in (b) below with proceeds of debt to be incurred by the City.
- (b) The expenditures described in this paragraph (b) are for the costs of acquiring the Project which were paid or will be paid subsequent to sixty (60) days prior to the date hereof from the Water Supply System funds of the City.
- (c) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is \$20,000,000.
- (d) A reimbursement allocation of the expenditures described in (b) above with the proceeds of the borrowing described herein will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the related Project are placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the debt to be issued for the Project to reimburse the City for a capital expenditure made pursuant to this resolution.

5. Miller, Canfield, Paddock and Stone, P.L.C. is hereby confirmed as Bond Counsel to the City in connection with the issuance of the Bonds.

6. Robert W. Baird & Co., Inc. is hereby confirmed as the registered municipal advisor to the City in connection with the issuance of the Bonds.

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

AYES: Members: _____

NAYS: Members: _____

RESOLUTION DECLARED ADOPTED.

Ann Marie Meisch, MMC
City Clerk

I hereby certify that the attached is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held on the 25th day of February, 2020, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976 and that minutes of the meeting were kept and will be or have been made available as required by said Act.

Ann Marie Meisch, MMC
City Clerk City Clerk

EXHIBIT A

NOTICE TO TAXPAYERS AND ELECTORS OF THE CITY OF MUSKEGON AND TO USERS OF THE CITY'S WATER SUPPLY SYSTEM OF INTENT TO ISSUE REVENUE BONDS AND THE RIGHT OF REFERENDUM RELATING THERETO

PLEASE TAKE NOTICE that the City Commission of the City of Muskegon, Muskegon County, Michigan, intends to issue and sell revenue bonds pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in one or more series in a total amount not to exceed Twenty Million Dollars (\$20,000,000), for the purpose of paying all or part of the cost to acquire, construct, furnish and equip improvements to the Water Supply System of the City (the "System"), including distribution system improvements, replacement of water mains and service lines, pump station and water filtration plant improvements, together with all related appurtenances and attachments.

SOURCE OF PAYMENT OF REVENUE BONDS

THE PRINCIPAL OF AND INTEREST ON THE REVENUE BONDS SHALL BE PAYABLE from the revenues received by the City from the operations of the Water Supply System except as provided below in the case of bonds sold to the Michigan Finance Authority in connection with the State of Michigan's Drinking Water Revolving Fund program. The revenues will consist of rates and charges billed to the users of the system, a schedule of which is presently on file in the office of the City Clerk. The rates and charges may from time to time be revised to provide sufficient revenues to provide for the expenses of operating and maintaining the system, to pay the principal of and interest on the bonds and to pay other obligations of the system.

BOND DETAILS

THE REVENUE BONDS will be payable in annual installments not to exceed twenty (20) in number and will bear interest at the rate or rates to be determined at public or private sale but in no event to exceed such rates as may be permitted by law on the unpaid balance from time to time remaining outstanding on said bonds.

ADDITIONAL SOURCES OF PAYMENTS FOR BONDS SOLD TO MICHIGAN FINANCE AUTHORITY

IN THE EVENT THAT THE REVENUE BONDS ARE SOLD TO THE MICHIGAN FINANCE AUTHORITY, THE CITY MAY PLEDGE FOR THE PAYMENT OF THE BONDS MONEY RECEIVED OR TO BE RECEIVED BY THE CITY DERIVED FROM IMPOSITION OF TAXES BY THE STATE AND RETURNED OR TO BE RETURNED TO THE CITY AS PROVIDED BY LAW, except for money the use of which is prohibited for such purposes by the State Constitution. The City may enter into an agreement providing for the payment of taxes, which taxes are collected by the State and returned to the City as provided by law, to the Michigan Finance Authority or a trustee, and such funds may be pledged for the payment of the revenue bonds.

IN THE EVENT THAT THE REVENUE BONDS ARE SOLD TO THE MICHIGAN FINANCE AUTHORITY, THE CITY MAY PLEDGE ITS LIMITED TAX FULL FAITH AND CREDIT AS SECURITY FOR THE REVENUE BONDS, IN WHICH EVENT DEBT SERVICE ON THE BONDS SHALL BE PAYABLE EITHER FROM REVENUES OF THE SYSTEM OR FROM AD VALOREM TAXES THAT MAY BE LEVIED ON ALL TAXABLE PROPERTY IN THE CITY, SUBJECT HOWEVER, TO CONSTITUTIONAL, STATUTORY AND CHARTER TAX RATE LIMITATIONS.

RIGHT OF REFERENDUM

THE REVENUE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A PETITION REQUESTING SUCH A VOTE SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS OF THE CITY IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER PUBLICATION OF THIS NOTICE. IF SUCH PETITION IS FILED, THE BONDS MAY NOT BE ISSUED WITHOUT AN APPROVING VOTE OF A MAJORITY OF THE QUALIFIED ELECTORS OF THE CITY VOTING THEREON.

THIS NOTICE is given pursuant to the requirements of Section 33, Act 94, Public Acts of Michigan, 1933, as amended.

ADDITIONAL INFORMATION will be furnished at the office of the City Clerk upon request.

Ann Marie Meisch, MMC
City Clerk, City of Muskegon

35214053.1\063684-00049

**NOTICE OF INTENT RESOLUTION
SANITARY SEWER SYSTEM REVENUE BONDS, SERIES 2020
(STATE REVOLVING FUND PROJECT)**

CITY OF MUSKEGON
County of Muskegon, State of Michigan

Minutes of a regular meeting of the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, held on the 25th day of February, 2020, at 5:30 p.m., prevailing Eastern Time.

PRESENT: Members _____

ABSENT: Members _____

The following preamble and resolution were offered by Member: _____
and supported by Member: _____:

WHEREAS, the City of Muskegon, County of Muskegon, State of Michigan (the "City"), has determined that it is necessary for the public health, safety and welfare of the City to acquire, construct, furnish and equip improvements to the Sanitary Sewer System of the City (the "System"), including sewer system rehabilitation and replacement of existing sewer lines, together with pump station improvements and all related appurtenances and attachments (the "Project"); and

WHEREAS, the City has been advised by the Michigan Department of Environment, Great Lakes and Energy ("EGLE") that financial assistance to accomplish the acquisition and construction of all or a portion of the Project is available through the State Revolving Fund ("SRF") loan program administered by the EGLE and the Michigan Finance Authority; and

WHEREAS, the City has made application for participation in the SRF loan program; and

WHEREAS, the Revenue Bond Act, Act 94, Public Acts of Michigan, 1933, as amended ("Act 94"), provides a means for financing the purchase, acquisition, construction, improvement, enlargement, extension and repair of public improvements such as the Project through the issuance of revenue bonds; and

WHEREAS, the issuance of bonds payable from revenues of the System under Act 94 in a total amount not to exceed Fifteen Million Dollars (\$15,000,000) (the "Bonds") for the purpose of financing all or part of the Project represents the most practical means to that end; and

WHEREAS, a notice of intent to issue revenue bonds must be published before the issuance of the Bonds in order to comply with the requirements of Section 33 of Act 94; and

WHEREAS, the City intends at this time to state its intentions to be reimbursed from

proceeds of the Bonds for any expenditures undertaken by the City for the Project prior to issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is authorized and directed to publish a notice of intent to issue bonds in the *Muskegon Chronicle*, a newspaper of general circulation in the City.

2. The notice of intent shall be published as a display advertisement not less than one quarter (1/4) page in size in substantially the form attached to this resolution as Exhibit A.

3. The City Commission does hereby determine that the foregoing form of Notice of Intent to Issue Bonds, and the manner of publication directed, is adequate notice to the electors of the City and users of the System, and is the method best calculated to give them notice of the City's intent to issue the Bonds, the purpose of the Bonds, the security for the Bonds, and the right of referendum of the electors with respect thereto, and that the provision of forty-five (45) days within which to file a referendum petition is adequate to insure that the City's electors may exercise their legal rights of referendum, and the newspaper named for publication is hereby determined to reach the largest number of persons to whom the notice is directed.

4. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

- (a) As of the date hereof, the City reasonably expects to reimburse itself for the expenditures described in (b) below with proceeds of debt to be incurred by the City.
- (b) The expenditures described in this paragraph (b) are for the costs of acquiring the Project which were paid or will be paid subsequent to sixty (60) days prior to the date hereof from the Sanitary Sewer System funds of the City.
- (c) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is \$15,000,000.
- (d) A reimbursement allocation of the expenditures described in (b) above with the proceeds of the borrowing described herein will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the related Project are placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the debt to be issued for the Project to reimburse the City for a capital expenditure made pursuant to this resolution.

5. Miller, Canfield, Paddock and Stone, P.L.C. is hereby confirmed as Bond Counsel to the City in connection with the issuance of the Bonds.

6. Robert W. Baird & Co., Inc. is hereby confirmed as the registered municipal advisor to the City in connection with the issuance of the Bonds.

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

AYES: Members:_____

NAYS: Members:_____

RESOLUTION DECLARED ADOPTED.

Ann Marie Meisch, MMC
City Clerk

I hereby certify that the attached is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, at a regular meeting held on the 25th day of February, 2020, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976 and that minutes of the meeting were kept and will be or have been made available as required by said Act.

Ann Marie Meisch, MMC
City Clerk City Clerk

EXHIBIT A

NOTICE TO TAXPAYERS AND ELECTORS OF THE CITY OF MUSKEGON AND TO USERS OF THE CITY'S SANITARY SEWER SYSTEM OF INTENT TO ISSUE REVENUE BONDS AND THE RIGHT OF REFERENDUM RELATING THERETO

PLEASE TAKE NOTICE that the City Commission of the City of Muskegon, Muskegon County, Michigan, intends to issue and sell revenue bonds pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in one or more series in a total amount not to exceed Fifteen Million Dollars (\$15,000,000), for the purpose of paying all or part of the cost to acquire, construct, furnish and equip improvements to the Sanitary Sewer System of the City (the "System"), including sewer system rehabilitation and replacement of existing sewer lines, together with pump station improvements and all related appurtenances and attachments.

SOURCE OF PAYMENT OF REVENUE BONDS

THE PRINCIPAL OF AND INTEREST ON THE REVENUE BONDS SHALL BE PAYABLE from the revenues received by the City from the operations of the Sanitary Sewer System except as provided below in the case of bonds sold to the Michigan Finance Authority in connection with the State of Michigan's State Revolving Fund program. The revenues will consist of rates and charges billed to the users of the system, a schedule of which is presently on file in the office of the City Clerk. The rates and charges may from time to time be revised to provide sufficient revenues to provide for the expenses of operating and maintaining the system, to pay the principal of and interest on the bonds and to pay other obligations of the system.

BOND DETAILS

THE REVENUE BONDS will be payable in annual installments not to exceed twenty (20) in number and will bear interest at the rate or rates to be determined at public or private sale but in no event to exceed such rates as may be permitted by law on the unpaid balance from time to time remaining outstanding on said bonds.

ADDITIONAL SOURCES OF PAYMENTS FOR BONDS SOLD TO MICHIGAN FINANCE AUTHORITY

IN THE EVENT THAT THE REVENUE BONDS ARE SOLD TO THE MICHIGAN FINANCE AUTHORITY, THE CITY MAY PLEDGE FOR THE PAYMENT OF THE BONDS MONEY RECEIVED OR TO BE RECEIVED BY THE CITY DERIVED FROM IMPOSITION OF TAXES BY THE STATE AND RETURNED OR TO BE RETURNED TO THE CITY AS PROVIDED BY LAW, except for money the use of which is prohibited for such purposes by the State Constitution. The City may enter into an agreement providing for the payment of taxes, which taxes are collected by the State and returned to the City as provided by law, to the Michigan Finance Authority or a trustee, and such funds may be pledged for the payment of the revenue bonds.

IN THE EVENT THAT THE REVENUE BONDS ARE SOLD TO THE MICHIGAN

FINANCE AUTHORITY, THE CITY MAY PLEDGE ITS LIMITED TAX FULL FAITH AND CREDIT AS SECURITY FOR THE REVENUE BONDS, IN WHICH EVENT DEBT SERVICE ON THE BONDS SHALL BE PAYABLE EITHER FROM REVENUES OF THE SYSTEM OR FROM AD VALOREM TAXES THAT MAY BE LEVIED ON ALL TAXABLE PROPERTY IN THE CITY, SUBJECT HOWEVER, TO CONSTITUTIONAL, STATUTORY AND CHARTER TAX RATE LIMITATIONS.

RIGHT OF REFERENDUM

THE REVENUE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A PETITION REQUESTING SUCH A VOTE SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS OF THE CITY IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER PUBLICATION OF THIS NOTICE. IF SUCH PETITION IS FILED, THE BONDS MAY NOT BE ISSUED WITHOUT AN APPROVING VOTE OF A MAJORITY OF THE QUALIFIED ELECTORS OF THE CITY VOTING THEREON.

THIS NOTICE is given pursuant to the requirements of Section 33, Act 94, Public Acts of Michigan, 1933, as amended.

ADDITIONAL INFORMATION will be furnished at the office of the City Clerk upon request.

Ann Marie Meisch, MMC
City Clerk, City of Muskegon

35214066.1\063684-00050

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: February 25, 2020	Title: Seaway Railroad Bridge Painting
Submitted By: Leo Evans	Department: Public Works

Brief Summary:

Staff is requesting authorization to approve a contract to clean and paint the railroad bridge over US-31 BR (Seaway Drive) between Hackley Avenue and Laketon Avenue in the City of Muskegon.

Detailed Summary:

Staff solicited bids to paint two railroad bridges that cross over Seaway Drive (US-31 BR), one in the City of Muskegon and one in Norton Shores. After receiving the initial bids (listed below), it was determined that the cost was too high to continue with the painting of both bridges. Staff has reached out to the lowest bidder (Seaway Painting) to inquire about only painting the northerly bridge within the City limits and Department of Public Works has agreed to provide traffic control for the work. Seaway Painting has agreed to clean and paint the bridge at the price listed below.

A complete breakdown of the original bids is attached.

The original bid totals for cleaning and painting of two bridges, including traffic control:

Seaway Painting: \$161,771.00
Civil Coatings: \$208,800.00
Abhe & Svoboda: \$293,985.00

Bridge X02 of 61151 Cleaning and Coating + Mobilization (only):

Seaway Painting: \$68,385.00
Civil Coatings: \$125,600.00
Abhe & Svoboda: \$126,135.00

Work will include cleaning the existing structure and painting to a neutral base color in preparation for placement of a mural in the future.

Staff recommends the contract be awarded to Seaway Painting to clean and paint one railroad bridge over US-31 BR between Hackley Ave and Laketon Ave in the City of Muskegon. A portion of the costs will be reimbursed through the Community Foundation. Some fundraising efforts have already begun with more expected to take place once a notice to proceed is issued.

Amount Requested: \$68,385.00	Amount Budgeted: \$0
Fund(s) or Account(s): 101-91914-5346	Fund(s) or Account(s): 101-91914-5346
Recommended Motion: Award the contract to Seaway Painting for the cleaning and coating of the railroad bridge over Seaway Drive between Hackley Avenue and Laketon Avenue.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

BID TABULATION (as read)												
City of Muskegon Engineering Department				Project Engineer:	JDB	Date:					1/28/2020	
				Project Number:		SP 91914						
				Project description:		SEAWAY BRIDGE PAINTING						
					Seaway Painting LLC		Civil Coatings & Construction		Abhe & Svoboda Inc			
Line Item	Pay Code	Description	Units	Quantity	Unit Price	Total	Unit Price	Total	Unit Price	Total		
1	1500001	Mobilization, Max \$8,000.00	LSUM	1	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00		
2	7137051	X02 of 61151 - Partial Cleaning & Coating	LSUM	1	\$ 64,385.00	\$ 64,385.00	\$ 117,600.00	\$ 117,600.00	\$ 118,135.00	\$ 118,135.00		
3	7137051	X03 of 61151 - Partial Cleaning & Coating	LSUM	1	\$ 54,001.00	\$ 54,001.00	\$ 67,200.00	\$ 67,200.00	\$ 98,875.00	\$ 98,875.00		
4	8127051	Traffic Control	LSUM	1	\$ 35,385.00	\$ 35,385.00	\$ 16,000.00	\$ 16,000.00	\$ 68,975.00	\$ 68,975.00		

= APPEARNT LOW BIDDER

Total:

\$ 161,771.00

\$ 208,800.00

\$ 293,985.00

BID TABULATION (REVISED)											
City of Muskegon Egineering Department				Project Engineer: JDB		Date: 1/28/2020					
				Project Number: SP 91914							
				Project description: SEAWAY BRIDGE PAINTING							
						Seaway Painting LLC		Civil Coatings & Construction		Abhe & Svoboda Inc	
Line Item	Pay Code	Description	Units	Quantity	Unit Price	Total	Unit Price	Total	Unit Price	Total	
1	1500001	Mobilization, Max \$8,000.00	LSUM	1	\$ 4,000.00	\$ 4,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	
2	7137051	X02 of 61151 - Partial Cleaning & Coating	LSUM	1	\$ 64,385.00	\$ 64,385.00	\$ 117,600.00	\$ 117,600.00	\$ 118,135.00	\$ 118,135.00	
3	7137051	X03 of 61151 - Partial Cleaning & Coating	LSUM	1		\$ -		\$ -		\$ -	
4	8127051	Traffic Control	LSUM	1		\$ -		\$ -		\$ -	

= APPEARNT LOW BIDDER

Total:

\$ 68,385.00

\$ 125,600.00

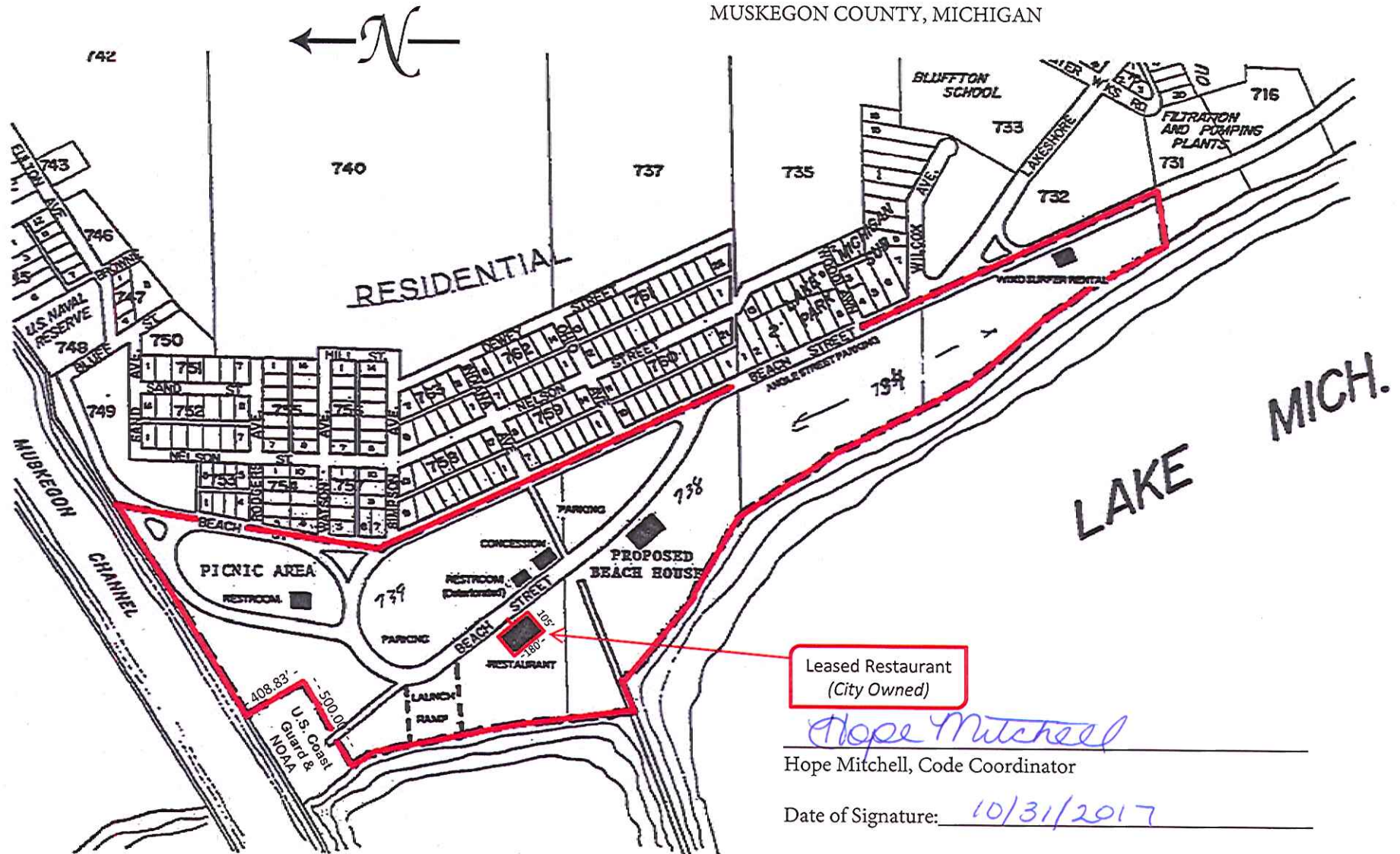
\$ 126,135.00

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 02/25/2020	Title: Pere Marquette Park – Grant Declaration
Submitted By: Leo Evans	Department: Public Works
Brief Summary: MDNR requires completion of a Declaration and Notice to receive reimbursement of the grant funds that were awarded for the playground and bathhouse improvements at Pere Marquette Park.	
Detailed Summary: The completion of the attached Declaration and Notice is a requirement of MDNR to reimburse the city for the grant portion (\$220K) of funding that was allocated for the playground and bathhouse improvements at Pere Marquette Park. The declaration is intended to reiterate the grant obligations that were included in the original agreement signed in 2017. Staff is requesting to have the Mayor sign the declaration	
Amount Requested: \$0	Amount Budgeted: \$0
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: Authorize the Mayor to sign the attached Declaration and Notice with the Michigan DNR.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

PERE MARQUETTE PARK RECREATION IMPROVEMENTS
CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN



WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 02/25/2020	Title: Emergency Sewer Repairs
Submitted By: Leo Evans	Department: Public Works

Brief Summary: During the Thanksgiving Holiday a section of sanitary sewer collapsed under a parking lot along Henry Street near Sherman Plaza. DPW contracted under emergency circumstances to provide temporary and long term solutions to repair the collapse. The invoices for these repairs exceed staff authorization levels and require commission approval.

Detailed Summary: On Friday, November 29th a sinkhole formed in the parking lot of Sherman Plaza along Henry Street just north of Sherman Boulevard. After investigation by DPW crews it was determined that the sanitary sewer line had collapsed approximately 27 FT below the parking lot surface. The sanitary sewer line that collapsed served as an outlet for nearly all of the Campbell Field neighborhood. Staff notified Commission of the situation on December 2nd.

The first operation performed was a temporary pump and haul where the sewage was pumped into trucks and hauled away for disposal. This took place on 11/29/19 – 12/03/19 and was provided primarily by Northern A-1, Muskegon County DPW and with our own City crews. The cost for A-1's services through this stage was \$18,276.64 and is included as Attachment 1. The cost for Muskegon County DPW services through this stage was \$10,248.47. All other entities that assisted were less than \$5,000.

Starting on December 3rd a temporary bypass pump that had been installed by Jackson-Merkey was put into place. The bypass pump provided a more manageable temporary solution that included installation of a hydraulic pump and approximately 1,500 FT of piping to temporarily bypass the collapsed sewer. The temporary bypass pumping remained in place until the permanent solution was in place on January 16th, 2020. The cost for Jackson-Merkey's services to install the temporary bypass pump was \$17,814.00 and is included as Attachment 2.

While the temporary bypass pumping was in place DPW explored several options for a long term repair. Several options were eliminated based on the infeasibility to complete the repairs. DPW identified a feasible repair option and worked with the Contractor to begin the repairs. Work on the permanent repairs was started December 30th, 2019 and concluded with a successful installation on January 16th, 2020 at a cost of \$97,478.80 and is included as Attachment 3.

No basements were flooded and no damage to private property occurred as a result of this sewer break. No sewage was lost or discharged into the lakes/streams as a result of this break.

Amount Requested: \$143,817.91	Amount Budgeted: \$0
Fund(s) or Account(s): 590	Fund(s) or Account(s): 590
Recommended Motion: Authorize staff to pay the invoices to Northern A-1, Jackson-Merkey Contractors and Midwest Trenchless Services for the emergency sewer repairs.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	



PO Box 1030
Kalkaska, Michigan 49646
www.northerna1.com
Phone (231) 258-9961
Fax (231) 258-9971

Account Number 590-60559-5346
Work Order No. _____
Description PUMP & HAUL HENRY ST.
Date 1-9-20 Initials MH SINK
HOLE

Invoice 76870

Bill to: City of Muskegon 1350 East Keaton Street Muskegon, MI 49442	Job: 198087 Lift Station MI RECEIVED DEC 18 2019 D.P.W.
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Invoice #: 76870 Payment Terms: Net 30 Customer Code: 10130	Date: 12/03/19 Customer P.O. #:
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Remarks: Lift Station

Quantity	U/M	Description	Unit Price	Extension
Mike Hannan				
11/29/19 Work Order #5020-1977				
6.750	HRS	Vacuum Tanker w/Operator	175.0000	1,181.25
5.500	HRS	Overtime, Regular	25.0000	137.50
1.000	EA	PPE	7.5000	7.50
1.000	EA	Fuel Surcharge	119.9000	119.90
Provide equipment/personnel to vacuum water at Pulaski St, unload tanker at Division St. 40,000 gallons of waste.				
11/30/19 Work Order #5020-1979, Manifest #20914, Transaction #142446				
13.500	HRS	Combo Unit	295.0000	3,982.50
7.500	HRS	Laborer	55.0000	412.50
21.000	HRS	Overtime, Saturday	25.0000	525.00
2,524.000	GA	Disposal, Non-Haz Liquids	0.0800	201.92
1.000	EA	PPE	42.3000	42.30
1.000	EA	Surcharge, Fuel	404.2200	404.22
Provide equipment/personnel to jet sanitary sewer lines on Henry Street sink hole.				
11/30/19 Work Order #5020-1978				
9.250	HRS	Vacuum Tanker w/Operator	175.0000	1,618.75
9.250	HRS	Overtime, Saturday	25.0000	231.25
1.000	EA	PPE	7.5000	7.50
1.000	EA	Surcharge, Fuel	164.3000	164.30
Provide equipment/personnel to load water at Pulaski St, transport to Division St. to dispose of 72,000 gallons of waste.				
12/1/19 Work Order #5020-1980, Manifest #20916, Transaction #142447, Transaction #142450				
8.500	HRS	Combo Unit	295.0000	2,507.50

Continued on next page . . .



PO Box 1030
Kalkaska, Michigan 49646
www.northerna1.com
Phone (231) 258-9961
Fax (231) 258-9971

Invoice 76870

Bill to: City of Muskegon 1350 East Keaton Street Muskegon, MI 49442	Job: 198087 Lift Station MI
--	-----------------------------------

Invoice #: 76870	Date: 12/03/19	Customer P.O. #:
Payment Terms: Net 30		
Customer Code: 10130		

Remarks: Lift Station

Quantity	U/M	Description	Unit Price	Extension
<i>Continued from previous page . . .</i>				
7.250	HRS	Pickup/Support Truck w/Driver	95.0000	688.75
15.750	HRS	Overtime, Sunday	50.0000	787.50
5,112.000	GA	Disposal, Non-Haz Liquids	0.0800	408.96
1.000	EA	PPE	50.8000	50.80
1.000	EA	Surcharge, Fuel	324.4200	324.42
Provide equipment/personnel to jet 12" sanitary line on Henry St., transport for disposal.				
12/1/19 Work Order #5020-1989				
8.000	HRS	Vacuum Tanker w/Operator	175.0000	1,400.00
8.000	HRS	Overtime, Sunday	50.0000	400.00
1.000	EA	PPE	7.5000	7.50
1.000	EA	Surcharge, Fuel	142.1000	142.10
Provide equipment/personnel to transport water from site to Division St. drain. 54,000 gallons of waste.				
12/2/19 Work Order #60724				
5.250	HRS	Vacuum Tanker w/Operator	175.0000	918.75
1.000	EA	PPE	7.5000	7.50
1.000	EA	Surcharge, Fuel	93.2500	93.25
Provide equipment/personnel to transport 4 loads of sewage				
12/2/19 Work Order #5020-1990				
2.000	HRS	Vacuum Tanker w/Operator	175.0000	350.00
2.000	HRS	Overtime, Regular	25.0000	50.00
1.000	EA	Surcharge, Fuel	35.5300	35.53

Continued on next page . . .



PO Box 1030
Kalkaska, Michigan 49646
www.northerna1.com
Phone (231) 258-9961
Fax (231) 258-9971

Invoice 76870

Bill to: City of Muskegon 1350 East Keaton Street Muskegon, MI 49442	Job: 198087 Lift Station MI
--	-----------------------------------

Invoice #: 76870	Date: 12/03/19	Customer P.O. #:
Payment Terms: Net 30		
Customer Code: 10130		

Remarks: Lift Station

Quantity	U/M	Description	Unit Price	Extension
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Continued from previous page . . .

Provide equipment/personnel to transfer 2 loads from manhole sewer system to another city manhole for disposal.

12/3/19 Work Order #60765

5.500	HRS	Vacuum Tanker w/Operator	175.0000	962.50
1.000	EA	PPE	7.5000	7.50
1.000	EA	Surcharge, Fuel	97.6900	97.69

Provide equipment/personnel to transport 5 loads sewage for disposal.

Subtotal: 18,276.64

Total: 18,276.64



3947 U.S. 1312 North PO Box 1030
Kalkaska, Michigan 49646
Ph. 231-258-9961 Toll Free 1-800-544-2663

5020 - 1979
Job# 198087
PO# _____

KALKASKA HARRISON MANISTEE KALAMAZOO WHITEHALL PENNSYLVANIA

Name CITY OF MUSKOGEE Lease _____
Address _____ City _____ State _____ Zip _____
Customer Representative _____ Phone _____

Field Work Performed: LET SANITARY Sewer Lines on HARRY STREET
SINK HOLE

Leave Shop 630 am/pm Arrive Site 745 am/pm Leave Site 730 am/pm Arrive Shop 800 am/pm

Employee Name	Position	Equip #	Vehicle Description	Total Hours	Cost/Hr
CS Campbell	Driver	303	Vector Comb Unit		
Byron W.	Labourer	Personal		1200pm - 730pm	

Time for Product Unloading & Equipment Clean Up: _____ (Hours, if not included above)

Disposals
Pickup Box #: X Material Requiring Disposal: Sanitary Sewer
Deliver Box #: X Qty: 3000 UOM: BBL, Yd, Gal, Ton, Drum, Dirt, Trash, Other
Liners: Y/N Qty: X Disposal Site: new Used CITY OF MUSKOGEE MANISTEE
Disposal Tkt#: _____ Manifest #: 20914 BOL #: _____

Supplies Used	Qty	UOM	Supplies Used	Qty	UOM
Gloves - Rubber	<u>3</u>	EA	SCBA		EA
Gloves - Leather		EA	Harness/Lifeline/Lanyard		EA
Gloves - Nitrile	<u>8</u>	EA	Tripod/Harness/Winch		EA
Tyvek - White		EA	Duct Tape	<u>2</u>	RL
Tyvek - Blue		EA	6" Hose		FT
Tyvek - Yellow		EA	4" Hose		FT
Full Face Respirator		EA	Degreaser		GA
Half Face Respirator		EA	Sorbent Pads		BAG
Cartridges		PR	Bridge/Road Tolls		EA
NORM Meter		EA	Lodging		DAY
4 Gas Air Monitor		EA	Per Diem		DAY

Additional Equipment/Supplies Used: _____

Customer Comments _____

CUSTOMER SIGNATURE _____

DATE 11/30/19

Mileage: _____

Billed Inv # 76870

WO Closed: Yes/No Scanned: Yes/No

Muskegon County Wastewater

After Hours 231-722-6575
231-724-3440

Transaction Number: 142446
Transaction Date: November 30, 2019
Transaction Date: 4:23 pm
Transaction Time Out: 4:46 pm
Completed By: Unattended

Customer: NA1M - Northern A-1 Services, Ir
Vehicle: NA1M-14
Product ID: 4

Gross Weight: 74020 lb
Tare Weight: 52960 lb
Net Weight: 21060 lb



3947 U.S. 1312 North PO Box 1030
Kalkaska, Michigan 49646
Ph. 231-258-9961 Toll Free 1-800-544-2663

5020 - 1978

Job# 198087

PO# 11-3019

KALKASKA HARRISON MANISTEE KALAMAZOO WHITEHALL PENNSYLVANIA

Name City of Muskegon Lease _____
Address _____ City Muskegon State MI Zip _____
Customer Representative _____ Phone _____
Field Work Performed: Load water from Pelee St. - Transport
to D'Arcy St. 72000 Gall

Leave Shop 7:45 am/pm Arrive Site _____ am/pm Leave Site _____ am/pm Arrive Shop 5:00 am/pm

Employee Name	Position	Equip #	Vehicle Description	Total Hours	Cost/Hr
<u>Mike English</u>	<u>DRIVER</u>	<u>1230 223</u>	<u>Truck</u>		

Time for Product Unloading & Equipment Clean Up: _____ (Hours, if not included above)

Disposals
Pickup Box #: _____ Material Requiring Disposal: _____
Deliver Box #: _____ Qty: _____ UOM: BBL, Yd, Gal, Ton, Drum Dirt, Trash, Other
Liners: Y/N Qty: _____ Disposal Site: _____
Disposal Tkt#: _____ Manifest #: _____ BOL #: _____

Supplies Used	Qty	UOM	Supplies Used	Qty	UOM
Gloves - Rubber	<u>1</u>	EA	SCBA		EA
Gloves - Leather		EA	Harness/Lifeline/Lanyard		EA
Gloves - Nitrile		EA	Tripod/Harness/Winch		EA
Tyvek - White		EA	Duct Tape		RL
Tyvek - Blue		EA	6 " Hose		FT
Tyvek - Yellow		EA	4" Hose		FT
Full Face Respirator		EA	Degreaser		GA
Half Face Respirator		EA	Sorbent Pads		BAG
Cartridges		PR	Bridge/Road Tolls		EA
NORM Meter		EA	Lodging		DAY
4 Gas Air Monitor		EA	Per Diem		DAY

Additional Equipment/Supplies Used: _____

Customer Comments _____
CUSTOMER SIGNATURE [Signature] DATE 11-30-19
Mileage: _____ Billed Inv # 76870 WO Closed: Yes/No Scanned: Yes/No



3947 U.S. 1312 North PO Box 1030
Kalkaska, Michigan 49646
Ph. 231-258-9961 Toll Free 1-800-544-2663

5020 - 1980

Job# 198087

PO# _____

KALKASKA HARRISON MANISTEE KALAMAZOO WHITEHALL PENNSYLVANIA

Name City of Muskegon Lease _____

Address _____ City _____ State _____ Zip _____

Customer Representative _____ Phone _____

Field Work Performed: Set 12" Sanitary line on Henry St.

Leave Shop 630 am/pm Arrive Site 845 am/pm Leave Site 115 am/pm Arrive Shop 300 am/pm

Employee Name	Position	Equip #	Vehicle Description	Total Hours	Cost/Hr
CJ Campbell	Driver	303	Combo Unit	030-300	
Cody Moorman	Helper	826	Support	745-300	

Time for Product Unloading & Equipment Clean Up: _____ (Hours, if not included above)

Disposals	
Pickup Box #: <u>X</u>	Material Requiring Disposal: <u>Sanitary Sewer</u>
Deliver Box #: <u>X</u>	Qty: <u>3000</u> UOM: BBL, Yd, Gal, Ton, Drum Dirt, Trash, Other
Liners: Y/N Qty: <u>X</u>	Disposal Site: <u>MCWW</u>
Disposal Tkt#: <u>X</u>	Manifest #: <u>20916</u> BOL #: <u>X</u>

Supplies Used	Qty	UOM	Supplies Used	Qty	UOM
Gloves - Rubber	<u>2</u>	EA	SCBA		EA
Gloves - Leather		EA	Harness/Lifeline/Lanyard		EA
Gloves - Nitrile		EA	Tripod/Harness/Winch		EA
Tyvek - White	<u>2</u>	EA	Duct Tape	<u>2</u>	RL
Tyvek - Blue		EA	6" Hose		FT
Tyvek - Yellow		EA	4" Hose		FT
Full Face Respirator		EA	Degreaser		GA
Half Face Respirator		EA	Sorbent Pads		BAG
Cartridges		PR	Bridge/Road Tolls		EA
NORM Meter		EA	Lodging		DAY
4 Gas Air Monitor		EA	Per Diem		DAY

Additional Equipment/Supplies Used: _____

Customer Comments _____

CUSTOMER SIGNATURE _____

DATE 12-1-19

Mileage: _____

Billed Inv # 76870

WO Closed: (Yes/No)

Scanned: (Yes/No)

Muskegon County Wastewater

After Hours 231-722-6575
231-724-3440

Transaction Number: 142447
Transaction Date: December 01, 2019
Transaction Date: 8:04 am
Transaction Time Out: 8:22 am
Completed By: Unattended

Customer: NA1M - Northern A-1 Services, Ir
Vehicle: NA1M-14
Product ID: 4

Gross Weight: 73080 lb
Tare Weight: 50940 lb
Net Weight: 22140 lb

Muskegon County Wastewater

After Hours 231-722-6575
231-724-3440

Transaction Number: 142450
Transaction Date: December 01, 2019
Transaction Date: 1:30 pm
Transaction Time Out: 1:59 pm
Completed By: Unattended

Customer: NA1M - Northern A-1 Services, Ir
Vehicle: NA1M-14
Product ID: 44

Gross Weight: 64460 lb
Tare Weight: 43940 lb
Net Weight: 20520 lb



3947 U.S. 1312 North PO Box 1030
Kalkaska, Michigan 49646
Ph. 231-258-9961 Toll Free 1-800-544-2663

5020 - 1989

Job# 198087

PO#

12-1-19

KALKASKA HARRISON MANISTEE KALAMAZOO WHITEHALL PENNSYLVANIA

Name City of Muskegon Lease _____
Address _____ City Muskegon State MI Zip _____

Customer Representative _____ Phone _____

Field Work Performed: Transport water from site to Division St. Drain

54,000 gal

Leave Shop 8:15 am/pm Arrive Site _____ am/pm Leave Site _____ am/pm Arrive Shop 4:15 am/pm

Employee Name	Position	Equip #	Vehicle Description	Total Hours	Cost/Hr
<u>Mike English</u>	<u>DRIVER</u>	<u>1250-223</u>	<u>TAMBA</u>		

Time for Product Unloading & Equipment Clean Up: _____ (Hours, if not included above)

Disposals

Pickup Box #: _____ Material Requiring Disposal: _____
Deliver Box #: _____ Qty: _____ UOM: BBL, Yd, Gal, Ton, Drum Dirt, Trash, Other
Liners: Y/N Qty: _____ Disposal Site: Division St. Drain musk
Disposal Tkt#: _____ Manifest #: _____ BOL #: _____

Supplies Used	Qty	UOM	Supplies Used	Qty	UOM
Gloves - Rubber	<u>1</u>	EA	SCBA		EA
Gloves - Leather		EA	Harness/Lifeline/Lanyard		EA
Gloves - Nitrile		EA	Tripod/Harness/Winch		EA
Tyvek - White		EA	Duct Tape		RL
Tyvek - Blue		EA	6" Hose		FT
Tyvek - Yellow		EA	4" Hose		FT
Full Face Respirator		EA	Degreaser		GA
Half Face Respirator		EA	Sorbent Pads		BAG
Cartridges		PR	Bridge/Road Tolls		EA
NORM Meter		EA	Lodging		DAY
4 Gas Air Monitor		EA	Per Diem		DAY

Additional Equipment/Supplies Used: _____

Customer Comments _____

CUSTOMER SIGNATURE [Signature]

DATE 12-1-19

Mileage: _____

Billed Inv # 76870

WO Closed: ☒ Yes/No Scanned: ☒ Yes/No



3947 US 131 North PO Box 1030
Kalkaska, Michigan 49646
Ph. (231) 258-9961 Toll Free 1-800-544-2663

Work Order: 60724
Job Number: 198087
Bill To: 10130
Date: 12/2/19
Job Location:

KALKASKA HARRISON MANISTEE KALAMAZOO WHITEHALL PENNSYLVANIA

City of Muskegon
1350 East Keaton Street
Muskegon, MI 49442

Lease _____ PO# _____
Customer Representative _____
Phone _____

Directions:

Description of Services: Vacuum Lift Station, transport for Disposal.

Special Instructions:

Field Work Performed: Transport sewage 4 loads
7/5.618 pre-trip

Leave Shop 8 am/pm Arrive Site 830 am/pm Leave Site 1230 am/pm Arrive Shop 1230 am/pm

Employee Name	Position	Equip #	Equipment Description	Total Hrs	Cost
N Swift	oper	847/159			

Time for Product Unloading & Equipment Clean Up: _____ (Hours, if not included above)

DISPOSALS:

Pickup Box #: _____

Deliver Box #: _____

Liners: Y/N Qty: _____

Disposal Tkt#: _____

Material Requiring Disposal: _____

Qty: _____ UOM: BBL, Yd, Gal, Ton, Drum Dirt, Trash, Other

Disposal Site: _____

Manifest #: _____ BOL#: _____

Supplies Used:	Qty	UOM
Gloves - Rubber		EA
Gloves - Leather	1	EA
Gloves - Nitrile		EA
Tyvek - White		EA
Tyvek - Yellow		EA
Tyvek - Blue/FR		EA
Full Face Respirator		EA
Half Face Respirator		EA
Cartridges		EA
NORM Meter		EA
4 Gas Air Monitor		EA

Supplies Used:	Qty	UOM
SCBA		EA
Harness/Lifeline/Lanyard		EA
Tripod/Harness/Winch		EA
Duct Tape		RL
6" Hose		FT
4" Hose		FT
Degreaser		GA
Absorbent Pads		BAG
Bridge/Road Tolls		EA
Lodging		DAY
Per Diem		DAY

Additional Equipment/Supplies Used: _____

Customer Comments _____

CUSTOMER SIGNATURE

DATE: 12-2-19

Mileage: _____ Billed Inv# 116870 WO Closed: ☒ Yes/No Scanned: ☒ Yes/No

Created by SMT as of 12/02/19 7:23AM



3947 U.S. 1312 North PO Box 1030
Kalkaska, Michigan 49646
Ph. 231-258-9961 Toll Free 1-800-544-2663

5020 - 1990

Job# 198087

PO# _____

KALKASKA HARRISON MANISTEE KALAMAZOO WHITEHALL PENNSYLVANIA

Name City of Muskegon Lease _____

Address _____ City _____ State _____ Zip _____

Customer Representative _____ Phone _____

Field Work Performed: Drive to Site and Transfer (2) Loads from man hole (sewer system) to another city man hole for disposal.

Leave Shop 5:15 am/pm Arrive Site _____ am/pm Leave Site _____ am/pm Arrive Shop 7:15 am/pm

Employee Name	Position	Equip #	Vehicle Description	Total Hours	Cost/Hr
<u>Roger L.</u>	<u>Operator</u>	<u>744/160</u>	<u>TRUCK & TANKER</u>	<u>2.0</u>	

Time for Product Unloading & Equipment Clean Up: _____ (Hours, if not included above)

Disposals

Pickup Box #: _____ Material Requiring Disposal: _____
Deliver Box #: _____ Qty: _____ UOM: BBL, Yd, Gal, Ton, Drum Dirt, Trash, Other
Liners: Y/N Qty: _____ Disposal Site: _____
Disposal Tkt#: _____ Manifest #: _____ BOL #: _____

Supplies Used	Qty	UOM	Supplies Used	Qty	UOM
Gloves - Rubber		EA	SCBA		EA
Gloves - Leather		EA	Harness/Lifeline/Lanyard		EA
Gloves - Nitrile		EA	Tripod/Harness/Winch		EA
Tyvek - White		EA	Duct Tape		RL
Tyvek - Blue		EA	6" Hose		FT
Tyvek - Yellow		EA	4" Hose		FT
Full Face Respirator		EA	Degreaser		GA
Half Face Respirator		EA	Sorbent Pads		BAG
Cartridges		PR	Bridge/Road Tolls		EA
NORM Meter		EA	Lodging		DAY
4 Gas Air Monitor		EA	Per Diem		DAY

Additional Equipment/Supplies Used: _____

Customer Comments _____

CUSTOMER SIGNATURE _____

DATE 12-2-79

Mileage: _____

Billed Inv # 76870

WO Closed: (Yes)/No Scanned: (Yes)/No



3947 US 131 North PO Box 1030
Kalkaska, Michigan 49646
Ph. (231) 258-9961 Toll Free 1-800-544-2663

Work Order: 60765
Job Number: 198087

Bill To: 10130
Date: 12/3/19

Job Location:

KALKASKA HARRISON MANISTEE KALAMAZOO WHITEHALL PENNSYLVANIA

City of Muskegon
1350 East Keaton Street
Muskegon, MI 49442

Lease PO#

Customer Representative

Phone

Directions:

Description of Services: Vacuum Lift Station, transport for disposal

Special Instructions:

Field Work Performed: transport sewage 5-loads

Leave Shop 430 am/pm Arrive Site 9 am/pm Leave Site 130 am/pm Arrive Shop 2 am/pm

Employee Name	Position	Equip #	Equipment Description	Total Hrs	Cost
N Swift	oper	847/159			

Time for Product Unloading & Equipment Clean Up: (Hours, if not included above)

DISPOSALS:

Pickup Box #:

Deliver Box #:

Liners: Y/N Qty:

Disposal Tkt#:

Material Requiring Disposal:

Qty: UOM: BBL, Yd, Gal, Ton, Drum Dirt, Trash, Other

Disposal Site:

Manifest #:

BOL#:

Supplies Used:	Qty	UOM
Gloves - Rubber		EA
Gloves - Leather	1	EA
Gloves - Nitrile		EA
Tyvek - White		EA
Tyvek - Yellow		EA
Tyvek - Blue/FR		EA
Full Face Respirator		EA
Half Face Respirator		EA
Cartridges		EA
NORM Meter		EA
4 Gas Air Monitor		EA

Supplies Used:	Qty	UOM
SCBA		EA
Harness/Lifeline/Lanyard		EA
Tripod/Harness/Winch		EA
Duct Tape		RL
6" Hose		FT
4" Hose		FT
Degreaser		GA
Absorbent Pads		BAG
Bridge/Road Tolls		EA
Lodging		DAY
Per Diem		DAY

Additional Equipment/Supplies Used:

Customer Comments

CUSTOMER SIGNATURE

DATE:

12-3-19

Mileage:

Billed Inv#

76870

WO Closed:

Yes/No

Scanned:

Yes/No

Created by SMT as of 12/03/19 7:22AM

Mike Hannan

From: Leo Evans
Sent: Wednesday, January 8, 2020 4:14 PM
To: Mike Hannan
Subject: RE: Sink Hole

Yes.

Leo Evans, PE

Director of Public Works
City of Muskegon
Office: 231-724-6920
Cell: 231-750-6369
www.shorelinecity.com

WATCH MUSKEGON

From: Mike Hannan <mike.hannan@shorelinecity.com>
Sent: Wednesday, January 8, 2020 8:49 AM
To: Leo Evans <leo.evans@shorelinecity.com>
Subject: Sink Hole

Leo

Can I get an approval to pay Northern- A -1 for pumping and hauling of sewage and for cleaning a sewer line? The 5 day total was \$18,276.64.

Thank you

Mike Hannan
Public Utilities Supervisor
City of Muskegon
231-724-6989

www.shorelinecity.com

WATCH MUSKEGON



INVOICE

County of Muskegon

Muskegon County Treasurer's Office
173 East Apple Avenue
Suite 104
Muskegon, MI 49442

To: CITY OF MUSKEGON DPW HIGHWAY DEPARTMENT

1350 EAST KEATING AVENUE
Muskegon, MI 49442

Account #: 5920-001210
Invoice Number: 0000177569
Invoice Date: 02/15/2020
Due Date: 03/16/2020
Purchase Order No:

Remaining Unapplied Credits: 0.00

Quantity	Description	Unit Price	Amount
1.000	OFF-/ON-SITE WW SERVICES	10,248.4700	10,248.47

Line Break/Collapse on Sherman

Vactor Truck Pump & Dump Services Performed by Wastewater 11/29 through 12/3/2019

3 Wastewater Operations Personnel @\$41.43/hr Regular Time x 59 hours = \$2,444.37
3 Wastewater Operations Personnel @\$62.15/hr Overtime x 49 hours = \$3,045.35
2 Wastewater Operations Personnel @\$.25/hr Shift Differential x 27 hours = \$6.75
1 Vactor Truck \$99/hr x 48 hours = \$4,752.00

\$2,444.37

\$3,045.35

\$6.75

\$4,752.00

\$10,248.47 total due

	Total Invoice:	10,248.47
FINANCE CHARGE: All accounts past due may be subject to monthly finance charge, not to exceed the maximum allowable by the Muskegon County Board of Commissioners.	Credits Applied:	0.00
	Payments Applied:	0.00
	Invoice Balance:	10,248.47

Please detach and return this portion with your payment.

Account #: 5920-001210
Invoice Number: 0000177569
Invoice Date: 02/15/2020
Due Date: 03/16/2020

CITY OF MUSKEGON DPW HIGHWAY DEPARTMENT REMIT TO: MUSKEGON COUNTY TREASURER'S OFFICE
1350 EAST KEATING AVENUE 173 EAST APPLE AVENUE
Muskegon, MI 49442 SUITE 104
MUSKEGON, MI 49442

Amount Paid: _____



**JACKSON-MERKEY
CONTRACTORS, INC.**

Jackson-Merkey Contractors Inc
3430 Lund Avenue
Muskegon, MI 49442-6300

INVOICE

Invoice No: 20-009

Date: 2/11/2020

Due Date: 2/25/2020

CITY OF MUSKEGON - DPW
DAVE BAKER
1350 E. KEATING AVE.

MUSKEGON, MI 49442

Description	Quantity	Unit of Measure	Unit Price	Extended Price
Bypass Pumping Henry St Sanitary Sewer				
4" Hydraulic pump and diesel power unit rental				
Start: 11/29/2019				
Shut Off: 1/17/2020	2.00	MONTH	2,750.00	5,500.00
4" PE discharge pipe inc. fittings: rental				
Start: 12/3	1,115.00	LF	1.40	1,561.00
4" discharge hose - rental 500 ft				
Start: 12/3	1.00		1,400.00	1,400.00
Fusion machine rental	1.00	DAY	225.00	225.00
Bobcat T-650	5.00	HRS	55.00	275.00
Pick-up with pipe trailer	2.00	DAY	190.00	380.00
Cat 950 M loader	3.00	HRS	98.00	294.00
Pickup truck with tiltbed trailer	1.00	DAY	190.00	190.00
Pickup truck with tools	2.00	DAY	175.00	350.00
Supervision:				
Regular	18.50	HRS	90.00	1,665.00
Overtime	19.50	HRS	110.00	2,145.00
Operator:				
Regular	27.00	HRS	60.00	1,620.00
Overtime	6.50	HRS	77.00	500.50
Laborers:				
Regular	28.50	HRS	50.00	1,425.00
Overtime	4.50	HRS	63.00	283.50

Thank You For Your Business!

Jackson-Merkey Contractors Inc
(231) 728-9344

Amount Now Due: 17,814.00

Terms: NET 15

How to Use The Force Account Template

STEP ONE

Click on the tab that reads "COVER." Enter the project information (i.e. project number, county/route/section, contractor, month of force account work) into the yellow boxes at the top of the page. This information will be carried over automatically to each page of this template.

RULES TO REMEMBER

- 1. Never type anything into a cell that has a formula entered into it.**
- 2. Only enter information into a yellow or highlighted cell.**

LABOR SUM PAGE

This page will keep track of the names, class, regular hours, overtime hours of the people that worked on the force account work. The names, class, and total monthly hours will be carried onto the next page, titled "Labor Cost."

1. Enter the name and class of each employee that worked on the force account work during that particular month into the white boxes under **"Employee"** and **"Class."**
2. Enter the daily hours worked for each of those employees under the appropriate day of the month. Enter regular hours in the yellow boxes and overtime hours into the grey boxes. The "total hours worked per month" are calculated automatically and carried over onto the "Labor Cost" page.

LABOR COST PAGE

This page will automatically retrieve the information that you entered on the "Labor Summary" page and calculate the labor and fringe cost for the force account work during that particular month.

**The name, class, and total monthly hours of each employee on the force account work should appear on this page.*

1. Enter the hourly rate for each employee beside his/her name under the yellow highlighted column, titled "Reg.Rate." The overtime rate is automatically calculated by multiplying the hourly rate by 1.5.
2. Enter the breakdown of fringes that are allowed in the 38% mark-up beside each employee under the yellow highlighted columns titled "Fringe Rates." The number should be a dollar figure! The total dollar amount of fringes will be automatically calculated and appear under the column titled "Fringe Cost." Repeat this same procedure for the "Administrative Fees", highlighted in yellow that are not included in the allowable 38% mark-up.
3. These costs are automatically calculated into total labor costs, fringe costs, and administrative costs at the bottom of the page. These totals are automatically carried to the "TOTALS" page where the cost of the entire force account is summed.

Payroll Tax Page

This page will automatically retrieve the labor cost and calculate the payroll taxes. There are 3 options that can be used, therefore you will have to determine which option is the correct one to use for this force account work.

1. Depending on the time of year the work was performed or whether the contractor is choosing the allowable 22% of paid wages as per Spec. 109.05 will determine the total payroll taxes paid. You will need to determine the time of year that the work was performed to choose the correct option.

a. If Option #1 is chosen, then the work was performed during the months of January 1-June 30. If Option #2 is chosen then the work was performed July 1-December 31. If the contractor is choosing the allowable 22% without a breakdown of taxes, then this will be automatically calculated for you. **However, if the contractor is choosing Option #1 or #2, you will need to delete the amount that is calculated automatically in Option #3 "TOTAL PAY ROLL TAXES" to ensure that the automatic payroll tax total of 22% is not being carried to the "TOTALS" page.**

If the contractor is choosing Option #1 or #2, enter the percentage that the contractor is paying into each tax into the yellow highlighted box under each tax.

NOTE: The "X" in the box means that a percentage cannot be typed into that box due to the time of year that the work was performed.

2. The payroll total will be automatically carried to the "TOTALS" page where the cost of the entire force account is summed.

Equip Sum

This page will keep track of the equipment, operating hours, and idle hours of each contractor owned equipment used on force account. This page works the same way that the "Labor Sum" page works. You will enter the equipment type, fuel type, mounting type, and hours operated/idled for each day of the month.

1. Enter the "Equipment No." (if known), "year of equipment", "manufacturer" or make, and "size" of equipment in each of the appropriate boxes.
2. Under the type of equipment that you entered, you will see a box that reads "Fuel Type: G or D." In the box next to this enter a "G" for gasoline or "D" for diesel.
3. You will do the same thing for the box that reads "Mounting: R or T." Enter "R" for rubber and "T" for track in the empty box next to it.
4. Enter the hours that the equipment was in operation in the yellow boxes next to the equipment type under the appropriate day of the month. You will enter the idle hours into the grey highlighted boxes.
5. The "Total Hours per Month" will be calculated automatically and carried onto the "Equip Cost" page.

Equip Cost

This page will automatically retrieve the information entered on the "Equip Sum" page and calculate the equipment cost of the force account.

**The equipment, fuel type, and mounting that you entered on the "Equip Sum" page should be listed on this page under "Equipment Type."*

1. Enter the hourly blue book rate in the yellow highlight column beside each equipment under "Hourly Blue Book Rate." Do the same for the operating rate column. The hourly/monthly idle time will calculate on its own. The only information that you need to enter on this page is in the yellow highlighted section because everything else is automatically calculated.

Please submit Equipment Watch pages to back up the rates being entered.

2. The equipment cost is totaled at the bottom of the page and carried over automatically to the "TOTALS" page where the entire force account is summed

3. For equipment brought to the project exclusively for force account work and on the project for less than a month, Manually calculate the factor from Table 109.05-1 and enter it into the column titled Table 109.05-1 Conv. Factor.

Table 109.05-1

Working Hours	Factor
Less than or equal to 8.0	2.00
8.1 to 175.9	2.048 - (hours/168)
176 or greater	1.00

Rent Equip

This page works the same as "Equip Sum." Enter the rented equipment onto the page just as you did the contractor owned equipment.

Rent Eq Cost

This page will retrieve the information that you entered on the "Rent Equip" page and will calculate the cost of rental equipment.

**The equipment, fuel type, and mounting that you entered on the "Rent Equip" page should be listed on this page under "Equipment Type."*

1. Enter the amount that the contractor is charged for this rented equipment in the yellow highlighted columns. You will need to determine if the rate they charged is a monthly, hourly, or daily rate.
2. Enter the amount charged to the contractor for sales tax in the yellow column beside titled "Sales Tax where Applicable."
3. Enter the operating costs for the rented equipment in the yellow highlighted column titled "Hourly Operating Rate."
4. The rented equipment cost is totaled at the bottom of the page and carried over automatically to the "TOTALS" page where the entire force account is summed together.

Include a copy of the actual invoice

Material

This page will keep track of the material used and calculate the total used on the force account work.

1. Under "Material Description" enter the type of material (i.e. #4 Stone)
2. Enter the quantity beside the material under the column titled "quantity."
3. Enter the "Unit" (i.e., tons, cy, sy, lump sum, each)
4. Enter the cost per unit under "unit cost." The "Total Amount" will be calculated automatically.
5. The Total Material cost and 15% markup will calculate automatically at the bottom of the page as each material is entered into the database. This total will then be carried over to the "TOTALS" page automatically.

Include a copy of the actual invoice

3rd Party (Professional and Specialized Work)

Mark-up: 8% on the first \$10,000 of work and 5% for work in excess of \$10,000.

Trucking

Trucking that is not subject to prevailing wage will be paid a markup of 8% on the first \$10,000 of work and 5% for work in excess of \$10,000.

Include a copy of the actual invoice

Allowable Rates

Allowable Rates for Owned Equipment Not Listed in Blue Book In accordance with CMS 109.05.C.4.a

The following rates are for Contractor owned equipment used on force account or for cost analysis to establish an agreed unit price or lump sum for extra work. These costs include the labor and equipment to deliver these items to the project. The labor and equipment required to erect, maintain, move and remove these items are not included in these rates. The Contractor is not entitled to a mark up on these rates. The prime is entitled to the subcontractor mark up allowed in CMS 109.05.C.6., if the traffic control is performed by a subcontractor.

Allowable Rates 4/11/2019

Drum	Without light	\$0.57/ day	Concrete Barrier 32"	Maximum 12 months payment	\$2.09/ foot/ month
Type A flasher		\$ 0.51/ day	Concrete Barrier 50"	Maximum 12 months payment	\$2.47/ foot/ month
Type B flasher		\$1.71/day	Trench Box	7,200 lbs or 6'x 20'	\$68.47/day
Grabber Cone 42"		\$ 0.51/ day	Trench Box	12,000 lbs or 8' x 20'	\$126.07/day
Sign 48"	Includes cost of drive post support	\$3.13/ day	Steel Plate	½" thick	\$0.06/day/S.F.
Sign 36"	Includes cost of drive post support	\$1.89/ day	Steel Plate	1" thick	\$0.14/day/S.F.
Sign 48" roll-up sign and support		\$1.24/day	Saw Blade	Supported by invoice	cost per blade
Sign 36" roll-up sign and support		\$1.09/day	Milling Machine Tooth - Regula	Per cutting tooth replaced, supported t	\$3.27 each
Tripod support	Sign 1' above pavement	\$0.63/ day	Milling Machine Tooth - Carbid	Per cutting tooth replaced, supported t	\$5.35 each
Four leg support	Sign 5'or 7' above pavement	\$2.52/ day	Work Zone Impact Attenuator All types		\$4.41/day
Type III barricade		\$2.41/day	Truck Mounted Impact Attenuator With or without arrow board		\$43.34/day

TOTALS

This page retrieves all the totals from each page to form a grand total for the force account work. When you have reached this page, the only item that needs to be entered is sub-contractor force account.

If there is a line that is blank, you will need to go back and review that page to discover the problem.

****All cells which contain a formula have been locked or protected with a password. In the event that certain cells should be unlocked, you should follow these steps to unlock the sheet:**

- 1- On the **Review** menu, click on **Unprotect Sheet**
- 2- A box will pop up prompting you to enter a password to unlock the sheet. This password is **"construction"** (Note: Be sure that the caps lock is turned off, as the password is case sensitive and should be in all lower case letters.
- 3- Click **Ok**. You should now be able to type anywhere you point within that sheet.
- 4- Each sheet is protected with this same password. You will have to repeat Steps 1-3 for each sheet that you want to unlock.

Enter the following information:

Contractor	Midwest Trenchless Services
SubContractor	
County/Route/Section	City of Muskegon
Project Number	2012
Force Account ID Number	
Force Account Description	Beidler Trunk Sewer Repair-2019
Month	Jan-20

Month: **January-20**

Project No.: 2012

Co./Rt./Sec.: City of Muskegon

Contractor: **Midwest Trenchless Services**

Force Acct ID: _____

Force Acct Description: Beidler Trunk Sewer Repair-2019

Sub Contractor: _____

[illegible]

Force Account ~ Monthly Labor Cost

Month: _____

Project No.: 2012

Co./Rt./Sec.: City of Muskegon

Contractor: Midwest Trenchless Services

Force Acct ID: _____

Force Acct Description: Beidler Trunk Sewer Repair-2019

Sub Contractor: _____

<i>Employee</i>	<i>Class</i>	<i>Reg. Hours</i>	<i>Reg. Rate</i>	<i>OT Hours</i>	<i>OT Rate</i>	<i>Labor Cost</i>	<i>Fringe Rates</i>								<i>Fringe Cost</i>	<i>Adminstration Fees</i>				<i>Adm. Cost</i>
							<i>H&W</i>	<i>Pen.</i>	<i>Train*</i>	<i>Ann</i>	<i>Vac</i>	<i>E&S</i>	<i>LECET</i>	<i>Totals</i>		<i>Admin</i>	<i>OCA</i>	<i>OCIA</i>	<i>Totals</i>	
Jon Snyder	SUP	117.50	\$37.50	2.00	\$56.25	\$4,518.75								\$0.00	\$0.00				\$0.00	\$0.00
Tyrone Huff	LAB	112.00	\$21.00	0.50	\$31.50	\$2,367.75								\$0.00	\$0.00				\$0.00	\$0.00
Dave Stockwell	OP	43.50	\$25.00		\$37.50	\$1,087.50								\$0.00	\$0.00				\$0.00	\$0.00
Kevin Jordan	LAB	59.50	\$21.00		\$31.50	\$1,249.50								\$0.00	\$0.00				\$0.00	\$0.00
Buddy VanDyke	OP	117.50	\$21.00	1.00	\$31.50	\$2,499.00								\$0.00	\$0.00				\$0.00	\$0.00
Jeremy Rogers	LAB	54.50	\$20.00		\$30.00	\$1,090.00								\$0.00	\$0.00				\$0.00	\$0.00
Rory Spira	LAB	49.00	\$18.00		\$27.00	\$882.00								\$0.00	\$0.00				\$0.00	\$0.00
Alonzo Huff	LAB	21.00	\$18.00		\$27.00	\$378.00								\$0.00	\$0.00				\$0.00	\$0.00

Total Labor Cost: \$14,072.50

Total Fringes: \$0.00

\$0.00

* Includes Training & Apprenticeship and Tri-Fund

Force Account ~ Monthly Payroll Tax

Month: January-20

Project No.: 2012

Co./Rt./Sec.: City of Muskegon

Contractor: Midwest Trenchless Services

Force Acct ID: _____

Force Acct Description: Beidler Trunk Sewer Repair-2019

Sub Contractor: _____

Total Labor Cost: \$14,072.50

Option 1 ~ January 1st thru June 30th

Overall Labor Cost	FUTA % / \$	SUTA % / \$	Medicare % / \$	SS % / \$	Workers Comp % / \$
	0	0	0	0	0
\$14,072.50					

Total Payroll Taxes: \$0.00

Option 2 ~ July 1st thru December 31th

Overall Labor Cost	FUTA % / \$	SUTA % / \$	Medicare % / \$	SS % / \$	Workers Comp % / \$
	X	X			
\$14,072.50	X	X			

Total Payroll Taxes: \$0.00

Option 3 ~ 22% of Paid Wage (as per CMS 109.05-C-2 ~ Revised)

Overall Labor Cost	FUTA % / \$	SUTA % / \$	Medicare % / \$	SS % / \$	Workers Comp % / \$
	X	X	X	X	X
\$14,072.50	X	X	X	X	X

Total Payroll Taxes: \$3,095.95

Force Account ~ Equipment Monthly Summary

Month: January-20

Project No.: 2012

Co./Rt./Sec.: **City of Muskegon**

Contractor: **Midwest Trenchless Services**

Force Acct ID:

Force Acct Description: **Beidler Trunk Sewer Repair-2019**

Sub Contractor:

Equipment Type		Total Hours Per Mnth	January-20																																
			30	31	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Vermeer 36x50		48.00								5.0	8.0	8.0	8.0				9.0	7.0	3.0																
Fuel Type G or D:	D	Mounting R or T:	T	Idle	55.00	8.5	8.5		9.5	8.0				5.0	3.0	3.0	2.0				2.0	5.5													
Mcelroy 6/18 Fusion Machine		17.50				9.5	8.0																												
Fuel Type G or D:	G	Mounting R or T:	R	Idle	93.50	8.5	85.0																												
4140 LS Tractor		54.30				9.5	8.0				5.0	5.5	5.5	5.0				5.5	6.3	4.0															
Fuel Type G or D:	D	Mounting R or T:	R	Idle	49.80	8.5	8.5							5.0	5.5	5.5	5.0				5.5	6.3													
Yanmar Vio35		54.30				9.5	8.0				5.0	5.5	5.5	5.0				5.5	6.3	4.0															
Fuel Type G or D:	D	Mounting R or T:	T	Idle	49.80	8.5	8.5							5.0	5.5	5.5	5.0				5.5	6.3													
2017 Ford F-250		119.50	8.5	8.5		9.5	8.0				10.0	11.0	11.0	10.0				11.0	12.5	12.0	7.5														
Fuel Type G or D:	D	Mounting R or T:	R	Idle	0.00																														
2014 Ford F-250		119.50	8.5	8.5		9.5	8.0				10.0	11.0	11.0	10.0				11.0	12.5	12.0	7.5														
Fuel Type G or D:	G	Mounting R or T:	R	Idle	0.00																														
2016 Ford F-250		50.00	8.5	8.5			5.5							4.0				11.0	12.5																
Fuel Type G or D:	D	Mounting R or T:	R	Idle	0.00																														
2008 Freightliner Mix Truck		51.00								5.0	8.0	8.0	8.0					9.0	7.0	3.0	3.0														
Fuel Type G or D:	D	Mounting R or T:	R	Idle	55.00	8.5	8.5		9.5	8.0				5.0	3.0	3.0	2.0				2.0	5.5													
Smith Compressor		21.00									5.0	5.5	5.5	5.0																					
Fuel Type G or D:	G	Mounting R or T:	R	Idle	21.00									5.0	5.5	5.5	5.0																		
2019 McLaughlin VX-50-500		47.00										8.0	8.0					9.0	10.0	12.0															
Fuel Type G or D:	D	Mounting R or T:	R	Idle	9.50								3.0	2.0				2.0	2.5																
2012 F750 Dump		6.00																	3.0	3.0															
Fuel Type G or D:		Mounting R or T:		Idle	0.00																														

Force Account ~ Monthly Equipment Cost

Month: January-20

Project No.: 2012

Co./Rt./Sec.: City of Muskegon

Contractor: Midwest Trenchless Services

Force Acct ID: _____

Force Acct Description: Beidler Trunk Sewer Repair-2019

Sub Contractor: _____

<i>Equipment Type</i>	<i>Monthly Rate</i>	<i>X</i>	<i>Regional Factor</i>	<i>X</i>	<i>Age Factor</i>	<i>MR/176 Hourly Rate</i>	<i>Brought to the project exclusively for FA Work?</i>	<i>Table 109.05-1 Conv. Factor</i>	<i>Operating Hours for Month</i>	<i>Hourly Rate Operating</i>	<i>Monthly Cost</i>	<i>Idle Time Hours for Month</i>	<i>Hourly Rate Idle</i>	<i>Idle Monthly Cost</i>
Vermeer 36x50	\$18,000.00	X	1.762	X	1.000	\$180.20	yes	1.762	48.00	\$15.00	\$15,960.60	55.00	\$90.10	\$4,955.50
Mcelroy 6/18 Fusion Machine	\$2,000.00	X	1.944	X	1.000	\$22.09	yes	1.944	17.50	\$2.00	\$786.50	93.50	\$11.05	\$1,033.18
4140 LS Tractor	\$1,800.00	X	1.725	X	1.000	\$17.64	yes	1.725	54.30	\$5.00	\$1,923.79	49.80	\$8.82	\$439.24
Yanmar Vio35	\$3,500.00	X	1.725	X	1.000	\$34.30	yes	1.725	54.30	\$8.00	\$3,647.20	49.80	\$17.15	\$854.07
2017 Ford F-250	\$2,200.00	X	1.337	X	1.000	\$16.71	yes	1.337	119.50	\$2.00	\$2,908.78	0	\$8.36	
2014 Ford F-250	\$2,200.00	X	1.337	X	1.000	\$16.71	yes	1.337	119.50	\$2.00	\$2,908.78		\$8.36	
2016 Ford F-250	\$2,200.00	X	1.750	X	1.000	\$21.88	yes	1.750	50.00	\$2.00	\$2,014.50		\$10.94	
2008 Freightliner Mix Truck	\$7,500.00	X	1.744	X	1.000	\$74.32	yes	1.744	51.00	\$4.00	\$6,814.32	55.00	\$37.16	\$2,043.80
Smith Compressor	\$1,500.00	X	1.923	X	1.000	\$16.39	yes	1.923	21.00	\$2.00	\$703.88	21.00	\$8.20	\$172.20
2019 McLaughlin VX-50-500	\$4,000.00	X	1.768	X	1.000	\$40.18	yes	1.768	47.00		\$3,338.80	9.50	\$20.09	\$190.86
2012 F750 Dump	\$3,500.00	X	2.000	X	1.000	\$39.77	yes	2.000	6.00		\$477.24		\$19.89	
		X		X				1.000						
		X		X				1.000						
		X		X				1.000						

Equipment Sub Totals:

Operating= \$41,484.39

Idle= \$9,688.85

Table 109.05-1:

For equipment brought to the project exclusively for force account work and on the project for less than a month.

Working Hours Per Month	Conversion Factor
Less than or equal to 8.0	2
8.1 to 175.9	2.048 - (hours/168)
176 or greater	1

Select

yes

no

Force Account ~ Monthly Material Summary

Month: January-20Project No.: 2012Co./Rt./Sec.: City of MuskegonContractor: Midwest Trenchless Services

Force Acct ID: _____

Force Acct Description: Beidler Trunk Sewer Repair-2019

Sub Contractor: _____

<i>Material Description</i>	<i>Quantity</i>	<i>Units</i>	<i>Unit Cost</i>	<i>Total Amount</i>
12 in IPS HDPE Pipe	360.00		\$30.23	\$10,882.80
50 POUNDS W-10 WATERSTOPPER	15.00		\$68.90	\$1,033.50
MDOT 21AA Gravel	8.00		\$14.84	\$118.72
4" HDPE for bypass extension	30.00		\$3.80	\$114.00
Fast-Set Cement - Menards 01/16/20	5.00		\$12.01	\$60.05
Redi-Mix Cement - Home Depot 01/14/20	50.00		\$3.80	\$190.00
Redi-Mix Cement/Block Home Depot 01/14/20	50.00		\$5.20	\$260.00

Total Material Cost: \$12,659.07

15% Markup: \$1,898.86

Total: \$14,557.93

Force Account ~ Monthly Subcontractor

Month: January-20

Project No.: 2012

Co./Rt./Sec.: City of Muskegon

Contractor: Midwest Trenchless Services

Force Acct ID: _____

Force Acct Description: Beidler Trunk Sewer Repair-2019

Sub Contractor: _____

	Quantity	Unit Cost	Total Amount
<i>Subcontractor invoice</i>			
West Michigan Cable - Vac Truck 01/06/20	6.50	\$190.00	\$1,235.00
West Michigan Cable - Vac Truck 01/08/20	6.50	\$190.00	\$1,235.00
West Michigan Cable - Vac Truck 01/09/20	8.25	\$190.00	\$1,567.50
West Michigan Cable - Vac Truck 01/13/20	11.00	\$190.00	\$2,090.00
West Michigan Cable - Vac Truck 01/13/20	10.00	\$190.00	\$1,900.00

Trucking Total: \$8,027.50

Markup Amount \$1,204.13

Total \$9,231.63

Force Account ~ Overall Summary

Month: January-20

Project No.: 2012

Co./Rt./Sec.: City of Muskegon

Contractor: Midwest Trenchless Services

Force Acct ID: _____

Force Acct Description: Beidler Trunk Sewer Repair-2019

Sub Contractor: _____

LABOR MONTHLY COST SUMMARY

Labor Cost...see sheet 2 \$14,072.50

Fringes...see sheet 2 + \$0.00

Subtotal \$14,072.50

38% Profit and Overhead + \$5,347.55

Administration Fees...see sheet 2 + \$0.00

Payroll Tax...see sheet 3 + \$3,095.95

Total Labor Cost \$22,516.00

MONTHLY FORCE ACCOUNT SUMMARY

Total Labor Cost \$22,516.00

Total Owned Equipment Cost \$51,173.24

Total Rented Equipment Cost \$0.00

Total Material Cost \$14,557.93

Total Third Party Billing

Total Trucking \$0.00

Allowable Rate Cost \$0.00

Sub Contractor Force Account Cost \$8,027.50

15% Sub Contractor Mark-up \$1,204.13

Total Monthly FA Cost \$97,478.80

Please sign affidavit to the Estimated cost analysis stating:

"Labor rates shown are the actual rates paid for labor, unit prices for materials and rates for owned and rented equipment have been estimated on the basis they are not in excess of those charged in the area in which the work will be performed."


Title: Member

Please sign affidavit to the Actual cost stating:

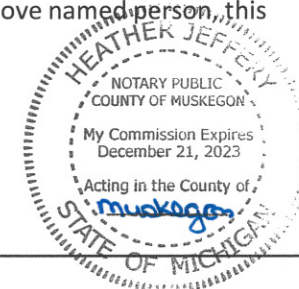
"The name, classification, total hours worked and rates paid each person listed on the Summary of Actual Cost are substantiated by actual records of persons employed on the force account work. All unit prices for materials and rates for owned and rented equipment listed on the Summary of Actual Costs are substantiated by actual records of materials and equipment actually used in performance of the force account work and the price of any owned equipment not previously agreed upon does not exceed prices charged for similar equipment in the area in which the work was performed."


Title: Member

Subscribed and duly sworn before me according to law by the above named person, this

20th day of January, 2020 at 4:01pm.
County of Muskegon, and State of Michigan
Official Seal of Notary


Signature of Notary Public



WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: February 25, 2020	Title: MANA Sports, LLC Revolving Loan
Submitted By: Frank Peterson	Department: City Manager
Brief Summary: Staff is seeking of the revolving loan fund application by MANA Sports, LLC in the amount of \$30,000. The loan would be repaid based on a 36-month amortization schedule and a 7.5% interest rate.	
Detailed Summary: 2020 will mark the 5 th season that Mercy Health Arena has hosted professional indoor football. As part of our collective efforts to increase attendance, the West Michigan Ironmen are endeavoring to make significant upfront investments in marketing services, equipment, and gameday operations. This will include purchasing goods and services in advance of the team's opening date. The team has developed \$305,000 operating budget for the 2020 season. Much of the income will be realized during the later portions of the season as the team hosts home game events at Mercy Health Arena. Staff is recommending the \$30,000 loan to assist with those initial costs.	
Amount Requested: \$30,000	Amount Budgeted: \$0
Fund(s) or Account(s): Revolving Loan Fund	Fund(s) or Account(s): N/A
Recommended Motion: Approve the agreements and authorize the Mayor and Clerk to sign.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

TERM LOAN AGREEMENT

This Agreement is made on _____, 2020 ("Effective Date"), between **MANA Sports, LLC**, a Michigan limited liability company, of PO Box 281, Fruitport, Michigan 49415 ("Borrower"), and the **City of Muskegon**, a Michigan municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49440 ("City"), with reference to the following facts:

Background

A. Borrower has requested a term loan of \$30,000.00 for the purpose of purchasing goods and services necessary for the start of the 2020 football season at Mercy Health Arena.

B. The City has agreed to make the loan subject to the terms and conditions set forth below.

Therefore, for good and valuable consideration, the parties agree as follows:

1. Conditions of loan.

a. **The Loan.** The City agrees to make a loan to Borrower of \$30,000.00 subject to the following conditions:

- i. Fulfillment of all conditions contained in Section 3;
- ii. The Loan Agreement must be closed on or before March 31, 2020.
- iii. Delivery to the City of a promissory note ("Note") in form and substance acceptable to the City, a copy of which is attached as **Exhibit A**; and
- iv. At the time of borrowing no Event of Default as defined in Section 7 exists and no event exists which with notice and/or the passage of time could become an Event of Default.

b. **Payments.** The principal amount of the Note shall be payable in monthly installments of \$933.19, each to be paid on the 1st of each month, beginning on April 1, 2020, and continuing until March 1, 2023, when the entire balance of principal and interest shall be due and payable in full.

c. **Interest.** The Note shall bear interest on the outstanding balance at the rate of 7.50% per annum.

d. **Prepayments.** The Borrower may at any time prepay without penalty all or any portion of the principal, and any such payments shall be applied to the principal installments last coming due.

2. Security.

a. **Security Agreement.** To secure the full and timely performance of Borrower's covenants set out in this Agreement and to secure the repayment of the loans and advances made and to be made (the "Indebtedness"), Borrower agrees to execute and deliver to the City a security agreement ("Security Agreement") in form and

substance satisfactory to the City, a copy of which is attached as **Exhibit B**, giving the City a valid lien and security interest in the personal property described in the Security Agreement.

b. **Personal Guaranty.** As additional security, Mario Flores, and any other member of MANA SPORTS, LLC, will jointly and severally personally guarantee repayment of the Indebtedness, as well as any members of successor entities of MANA SPORTS, LLC.

3. **Conditions Precedent to Obligations of City.** The obligations of the City under this Agreement are subject to the occurrence, prior to or simultaneously with the Borrower's receipt of the loan of each of the following conditions, any or all of which may be waived in whole or in part by the City in writing:

a. **Documents Executed.** Borrower shall have executed and delivered to the City all documents required to consummate this transaction.

b. **Hazard Insurance.** Borrower shall have furnished to the City, in a form satisfactory to the City, hazard insurance policies, with loss payable clauses in favor of the City as its interest appears, relating to the properties of Borrower described in Section 2, in an amount equal to the full replacement cost of such properties.

c. **Personal Guarantee.** Jeff Jacobson shall execute and deliver to the City an agreement of guarantee of the Indebtedness ("Personal Guaranty") in form and substance satisfactory to the City, a copy of which is attached as **Exhibit C**.

d. **Certified Resolutions.** Borrower shall have furnished to the City a copy of the resolution of Borrower authorizing the execution, delivery, and performance of this Agreement, the borrowing of \$30,000.00 from the City, the Note, and any other documents contemplated by this Agreement.

e. **Certificate of Good Standing.** Borrower shall have furnished to the City a certificate of good standing from the Michigan Department of Commerce with respect to the Borrower, as of a recent date.

4. **Warranties and Representations.** Borrower represents and warrants to the City that, as of the date of the borrowing:

a. **Corporate Existence and Power.** Borrower represents and warrants that:

i. Borrower is duly organized, validly existing, and in good standing under the laws of the State of Michigan;

ii. Borrower has the power and authority to enter into and perform its obligations under this Agreement; and

iii. The Agreement, the Note, the Security Agreement, the Personal Guaranty, and all other documents referred to in this Agreement, when executed on behalf of Borrower will be valid and binding obligations of Borrower, legally enforceable in accordance with their terms.

b. ***Actions, Suits, or Proceedings.*** There are no actions, suits, or proceedings, and no proceedings before any arbitrator or by or before any governmental commission, board, bureau or other administrative agency, pending, or, to the best of Borrower's knowledge, threatened, against or affecting Borrower or any properties or rights of Borrower which, if adversely determined, could materially impair the right of Borrower to carry on business substantially as now conducted or could have a materially adverse effect upon the financial condition of Borrower.

c. ***No Liens, Pledges, Mortgages or Security Interests.*** Except for liens of the City, none of Borrower's assets are subject to any mortgage, pledge, lien, security interest or other encumbrance of any kind or character, except the security interest of the parties listed on Exhibit B in the personal property of Borrower described in Section 2 pursuant to the Security Agreement.

d. ***Accounting Principles.*** Balance sheets, earning statements, and other financial data are furnished to the City, for the purposes of, or in connection with this Agreement and the transactions contemplated by this Agreement have been prepared in accordance with generally accepted accounting principles, consistently applied and do or will fairly present the financial condition of the Borrower as of the dates, and the results of their operations for the period, for which the same are furnished to the City.

e. ***Conditions Precedent.*** As of the date of this Agreement, all conditions precedent referred to in Section 3 have been satisfied.

5. ***Affirmative Covenants.*** Until the principal and interest on the Note is paid in full, Borrower covenants and agrees that it will:

a. ***Annual Financial Reports.*** Furnish to the City, in form satisfactory to the City, not later than 90 days after the close of each fiscal year of Borrower, beginning with Borrower's fiscal year ending December 31, 2020, a balance sheet as of the close of each such fiscal year, statements of income and retained earnings and changes in financial position for each such year, and such other comments and financial details as are usually included in similar reports. The reports shall be prepared in accordance with generally accepted accounting principles consistently applied.

b. ***Adverse Events.*** Promptly inform the City of the occurrence of any Event of Default or of any event which, with notice and/or the passage of time would become an Event of Default, or of any occurrence which has or could reasonably be expected to have a materially adverse effect upon Borrower's business, properties, financial condition or ability to comply with its obligations under this Agreement.

c. ***Other Information Upon Request.*** Promptly furnish to the City such other information regarding the operations, business affairs, and financial condition of Borrower as the City may reasonably request from time to time and permit the City and its employees, attorneys and agents, to inspect all of the books, records, and properties of Borrower at any reasonable time.

d. ***Non-Discrimination.*** Ensure that no person in the United States shall on the grounds of race, creed, color, national origin or sex be excluded from participating in, be denied the benefits of, or be otherwise subject to discrimination in connection with Borrower's activities as recipient of the financial assistance provided by this Loan.

e. **Insurance.** Keep its insurable properties adequately insured and maintain:

- i. insurance against fire and other risks customarily insured against by businesses engaged in the same or similar activities as that of Borrower;
- ii. necessary worker's compensation insurance;
- iii. public liability and product liability insurance; and
- iv. such other insurance as may be required by law or as may be reasonably required in writing by the City.

All such insurance shall be in amounts, contain terms, in a form, for such purposes and written by such companies as may be satisfactory to the City. Borrower will deliver to the City, at its request, evidence satisfactory to the City that such insurance has been procured and showing the City as additional insured or loss payee, as the case may be.

f. **Affirmative Action Program.** Comply with all applicable Affirmative Action Programs, if any, approved by the City of Muskegon.

g. **Maintain Business Entity and Property.** Do or cause to be done all things necessary to preserve and keep in full force and effect its own existence, rights and franchises and comply with all applicable laws; continue to conduct and operate its business substantially as conducted and operated during the present and preceding calendar year; at all times maintain and preserve all of the remainder of its property used or useful in the conduct of its business and keep the same in good repair, working order and condition, and from time to time make, or cause to be made, all needed and proper repairs, renewals, replacements, betterments and improvements thereto so that the Borrower's business may be properly and advantageously conducted at all times.

h. **Use of Loan Proceeds.** Use the proceeds of the loan for the purpose set forth in the Background to this Agreement.

6. **Negative Covenants.** From the date of this Agreement until the Note is paid in full, Borrower covenants and agrees that Borrower will not, without the prior written consent of the City:

a. **Liens.** Create, incur, assume, or allow to exist any mortgage, pledge, encumbrance, security interest, lien, or charge of any kind (including any charge upon property purchased under a conditional sale or other title retaining agreement) upon any of its property or assets, whether now owned or hereafter acquired, other than in favor of the City, except: (i) as required or permitted in this Agreement; (ii) liens for taxes not delinquent, or being contested in good faith, and, if requested by the City, bonded in a manner satisfactory to the City; and (iii) liens not delinquent created by statute in connection with worker's compensation, unemployment insurance, social security, and similar statutory obligations.

b. **Indebtedness.** Incur, create, assume, or permit to exist any indebtedness or liability on account of deposits or advances or any indebtedness or liability for borrowed money, or any other indebtedness or liability evidenced by notes, bonds, debentures, or similar obligations, indebtedness required or permitted under this

Agreement or indebtedness subordinated to the prior payment in full of Borrower's Indebtedness to the City upon the terms and conditions approved in writing by the City.

c. ***Extension of Credit.*** Make loans, advances or extensions of credit to any Person, except for sales on open account and in the ordinary course of business. For the purpose of this Agreement, the word "Person" means any individual, corporation, limited liability company, partnership, trust, unincorporated association, joint stock company, or other entity.

d. ***Guarantee Obligations.*** Guarantee or otherwise in any way become or be responsible for obligations of any other Person, whether by agreement to purchase the indebtedness of any other Person, or agreement for the furnishing of funds to any other Person through the purchase of goods, supplies, or services (or by way of stock purchase, capital contribution, advance, or loan) for the purpose of paying or discharging the indebtedness of any other Person, or otherwise, except for the endorsement of negotiable instruments by Borrower in the ordinary course of business for collection.

e. ***Subordinate Indebtedness.*** Subordinate any indebtedness due Borrower from any Person to the indebtedness of other creditors of the obligor.

f. ***Sale of Assets.*** Sell, lease, or otherwise dispose of any of its assets except in the ordinary course of business.

g. ***Merger.*** Enter into any merger, consolidation, reorganization, or recapitalization or purchase or otherwise acquire all or substantially all of the assets of any other Person.

h. ***Compensation.*** Without the prior written consent of the City, permit the compensation of any manager, member, or proprietor to be excessive, taking into consideration the financial circumstances of Borrower and the position and qualification of the Person.

7. **Default.**

a. ***Events of Default.*** Should any of the following events (an "Event of Default") occur, Borrower shall be in default under this Agreement:

i. **Misrepresentation.** If any warranty or representation of Borrower in connection with or contained in this Agreement, or if any financial data or other information now or later furnished to the City by or on behalf of Borrower, shall prove to be false or misleading in any material respect;

ii. **Failure to Pay Monies Due.** If any principal of or interest on the Indebtedness shall not be paid within ten days after the same becomes due;

iii. **Noncompliance with City Agreement.** If Borrower shall fail to perform any of its obligations and covenants hereunder, or shall fail to comply with any of the provisions of this Agreement or any other agreement with the City to which it may be a party;

iv. **Other Defaults.** If Borrower shall default in the due payment of any of its indebtedness (other than the Indebtedness) or in the observance or

performance of any term, covenant, or condition in any agreement or instrument evidencing, securing, or relating to such other indebtedness, and such default shall be continued for a period sufficient to permit acceleration of such indebtedness;

v. Judgments. If there shall be rendered against Borrower one or more judgments or decrees involving an aggregate liability of \$10,000.00 or more, which has or have become nonappealable and shall remain undischarged, unsatisfied by insurance and unstayed for more than 20 days, whether or not consecutive; or if a writ of attachment or garnishment against the property of Borrower shall be issued and levied in an action claiming \$10,000.00 or more, and not released or appealed and bonded in a manner satisfactory to the City;

vi. Business Suspension, Bankruptcy, Etc. If Borrower shall voluntarily suspend transaction of Borrower's business or make a general assignment for the benefit of creditors; or shall be adjudicated a bankrupt; or shall file a voluntary petition in bankruptcy or for a reorganization or to effect a plan or other arrangement with Borrower's creditors; or shall file an answer to a creditor's petition or other petition against Borrower (admitting the material allegations thereof) for an adjudication in bankruptcy or for a reorganization; or shall apply for or permit the appointment of a receiver, trustee, or custodian for any substantial portion of the properties or assets of Borrower; or if any order shall be entered by any court approving an involuntary petition seeking reorganization; or if a receiver, trustee, or custodian shall be appointed for Borrower or if any substantial bankruptcy, reorganization, or liquidation proceedings are instituted against Borrower and remain undismissed for 30 days; or if Borrower becomes unable to meet Borrower's obligations as they mature; or if Borrower commits an act of bankruptcy;

vii. Change of Control or Management. If Borrower or a controlling portion of its membership or a substantial portion of its assets comes under the practical, beneficial or effective control of one or more persons, whether by reason of death, merger, consolidation, sale or purchase of interest or assets or otherwise; and if any such change of control adversely impacts, in the sole judgment of the City, upon the ability of Borrower to carry on its business as previously conducted;

b. ***Acceleration of Indebtedness.*** Upon the occurrence of any of the Events of Default described in Sections 7(a)(i) or 7(a)(ii) or upon the occurrence of any of the Events of Default described in Sections 7(a)(iii) through 7(a)(vii) inclusive, which is not cured by Borrower or waived by the City within 30 days after notice to Borrower by the City, all Indebtedness shall be immediately due and payable in full at the option of the City without presentation, demand, protest, notice of dishonor, or other notice of any kind, all of which are expressly waived. Unless all of the Indebtedness is then fully paid, the City shall have and may exercise any one or more of the rights and remedies for which provision is made for a secured party under the Uniform Commercial Code or under any mortgage, security agreement, pledge agreement, assignment or any other related document, including, without limitation, the right to take possession and sell, lease, or otherwise dispose of any or all of the Collateral. Borrower agrees, upon request of the City, to assemble the Collateral and make it available to the City at any place designated by the City which is reasonably convenient to the City and Borrower.

c. **Cumulative Remedies.** The remedies provided for by this Agreement are cumulative to the remedies for collection of the Indebtedness as provided by law or by any mortgage, security agreement, or any related document. Nothing in this Agreement is intended, nor should it be construed, to preclude the City from pursuing any other remedy for the recovery of any other sum to which the City may be or become entitled for the breach of this Agreement by Borrower.

d. **Written Waivers.** No default shall be waived by the City except in writing signed by an officer of the City, and no waiver of any default shall operate as a waiver of any other default or of the same default on a future occasion.

8. **Miscellaneous.**

a. **Governing Law.** This Agreement will be governed by and interpreted in accordance with the laws of the state of Michigan.

b. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties and supersedes any other agreements, written or oral, that may have been made by and between the parties with respect to the subject matter of this Agreement. All contemporaneous or prior negotiations and representations have been merged into this Agreement.

c. **Amendment.** This Agreement shall not be modified or amended except in a subsequent writing signed by all parties.

d. **Binding Effect.** This Agreement shall be binding upon and enforceable by the parties and their respective legal representatives, permitted successors, and assigns.

e. **Counterparts.** This Agreement may be executed in counterparts, and each set of duly delivered identical counterparts which includes all signatories, shall be deemed to be one original document.

f. **Full Execution.** This Agreement requires the signature of all parties. Until fully executed, on a single copy or in counterparts, this Agreement is of no binding force or effect and if not fully executed, this Agreement is void.

g. **Non-Waiver.** No waiver by any party of any provision of this Agreement shall constitute a waiver by such party of any other provision of this Agreement.

h. **Severability.** Should any one or more of the provisions of this Agreement be determined to be invalid, unlawful, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be impaired or affected.

i. **No Reliance.** Each party acknowledges that it has had full opportunity to consult with legal and financial advisors as it has been deemed necessary or advisable in connection with its decision to knowingly enter into this Agreement. Neither party has executed this Agreement in reliance on any representations, warranties, or statements made by the other party other than those expressly set forth in this Agreement.

j. **Assignment or Delegation.** Except as otherwise specifically set forth in this Agreement, neither party shall assign all or any portion of its rights and obligations contained in this Agreement without the express or prior written approval of the other party, in which approval may be withheld in the other party's sole discretion.

k. **Venue and Jurisdiction.** The parties agree that for purposes of any dispute in connection with this Agreement, the Muskegon County Circuit Court shall have exclusive personal and subject matter jurisdiction and that Muskegon County is the exclusive venue.

CITY – CITY OF MUSKEGON

By: _____
Name: Steven Gawron
Title: Mayor
Dated: _____, 2020

By: _____
Name: Ann Meisch
Title: City Clerk
Dated: _____, 2020

MANA SPORTS, LLC

By: _____
Name: Mario Flores
Title: _____
Dated: _____, 2020

Exhibit A

Promissory Note

Exhibit B

Security Agreement

Exhibit C

Personal Guaranty

PROMISSORY NOTE

\$30,000.00

Muskegon, Michigan
February 25, 2020

FOR VALUE RECEIVED, **MANA SPORTS, LLC**, a Michigan limited liability company, of PO Box 281, Fruitport, Michigan 49415 ("Maker"), promises to pay to the **City of Muskegon**, a Michigan municipal corporation, at 933 Terrace Street, Muskegon, Michigan 49440 ("City"), or at such other place as directed by the City, the principal sum of Thirty Thousand and 00/100 Dollars (\$30,000.00), together with interest from the date hereof at the rate of 7.50% per annum on the unpaid balance remaining due from time to time. This Note shall be payable as follows:

Equal and consecutive monthly installments of principal and interest of \$933.19 shall be made from the Maker to the City commencing April 1, 2020 and continuing on the 1st of each month thereafter until March 1, 2023, when the entire balance of principal and interest shall be due and payable in full. An amortization schedule is attached as **Exhibit A**, for reference only.

The Maker may prepay without penalty all or any portion of the principal at any time. Any partial prepayment shall not eliminate the obligation of the Maker to pay all subsequent installments on their normal due dates. All payment of any nature shall be applied first to accrued interest and the balance to principal. The Maker shall maintain their business location commonly known as Mercy Health Arena in the City of Muskegon. A move out of the City is a default under this Note.

This Note is secured by a certain security agreement of even date between the Maker and the City ("Security Agreement"). This Note is personally guaranteed by Mario Flores, ("Personal Guaranty"). The terms of the Security Agreement and Personal Guaranty are incorporated in this Note by reference. The City shall have all of the rights and powers set forth in the Security Agreement and Personal Guaranty as though the same were set forth fully in this Note. A default in the Security Agreement or Personal Guaranty shall constitute a default of this Note.

Upon any default, including, but not limited to, any failure to make payments when due, the City may, upon ten (10) days written notice to the Maker, declare the entire remaining balance of principal and interest to be immediately due and payable. No delay by the City in exercising any right hereunder shall be considered a waiver of such right.

The Maker (i) waives protest, presentment, demand for payment, and notice of dishonor; (ii) agrees that any extension of the time for any payment, reduction of any payments, acceptance by the City of a renewal note, or release or non-enforcement of any security, whether with or without notice, shall not release or offset the obligations of the Maker; (iii) agrees to reimburse the City for any and all costs and expenses (including but not limited to, reasonable and actual attorney fees) incurred in attempting to collect any and all principal and interest on this Note.

MAKER: MANA SPORTS, LLC

By: _____

Name: Mario Flores

Title: _____

Date: _____, 2020

Exhibit A

Date	Interest	Principal	Balance
Apr, 2020	\$188	\$746	\$29,254
May, 2020	\$183	\$750	\$28,504
Jun, 2020	\$178	\$755	\$27,749
Jul, 2020	\$173	\$760	\$26,989
Aug, 2020	\$169	\$765	\$26,225
Sep, 2020	\$164	\$769	\$25,455
Oct, 2020	\$159	\$774	\$24,681
Nov, 2020	\$154	\$779	\$23,902
Dec, 2020	\$149	\$784	\$23,119
2020	\$1,517	\$6,881	\$23,119
Jan, 2021	\$144	\$789	\$22,330
Feb, 2021	\$140	\$794	\$21,536
Mar, 2021	\$135	\$799	\$20,738
Apr, 2021	\$130	\$804	\$19,934
May, 2021	\$125	\$809	\$19,125
Jun, 2021	\$120	\$814	\$18,312
Jul, 2021	\$114	\$819	\$17,493
Aug, 2021	\$109	\$824	\$16,669
Sep, 2021	\$104	\$829	\$15,840
Oct, 2021	\$99	\$834	\$15,006
Nov, 2021	\$94	\$839	\$14,167
Dec, 2021	\$89	\$845	\$13,322
2021	\$1,402	\$9,797	\$13,322
Jan, 2022	\$83	\$850	\$12,472
Feb, 2022	\$78	\$855	\$11,617
Mar, 2022	\$73	\$861	\$10,756
Apr, 2022	\$67	\$866	\$9,890

Date	Interest	Principal	Balance
May, 2022	\$62	\$871	\$9,019
Jun, 2022	\$56	\$877	\$8,142
Jul, 2022	\$51	\$882	\$7,260
Aug, 2022	\$45	\$888	\$6,372
Sep, 2022	\$40	\$893	\$5,479
Oct, 2022	\$34	\$899	\$4,580
Nov, 2022	\$29	\$905	\$3,675
Dec, 2022	\$23	\$910	\$2,765
2022	\$641	\$10,557	\$2,765
Jan, 2023	\$17	\$916	\$1,849
Feb, 2023	\$12	\$922	\$927
Mar, 2023	\$6	\$927	\$0
2023	\$35	\$2,765	\$0

SECURITY AGREEMENT

This Security Agreement is entered into on _____, 2020 ("Effective Date"), between **MANA SPORTS, LLC**, a Michigan limited liability company, of PO Box 281, Fruitport, Michigan, 49415 ("Debtor"), and the **City of Muskegon**, a Michigan municipal corporation, at 933 Terrace Street, Muskegon, Michigan 49440 ("City"), with reference to the following facts:

Background

A. Debtor has received from City a loan in the amount of \$30,000.00 pursuant to the terms and conditions of a certain term loan agreement between City and Debtor of even date ("Loan Agreement").

B. Debtor has agreed to grant a security interest in all of its assets as security for payment of the loan pursuant to the terms of a certain promissory note between Debtor and City of even date ("Note").

Therefore, for good and valuable consideration, the parties agree as follows:

1. **Definitions.** As used in this Security Agreement, the following definitions (in addition to other terms and provisions set forth in Article IX of the Michigan Uniform Commercial Code, MCL 440.9101 et seq.) shall apply:

a. **Collateral.** The collateral shall consist of all of the personal property of Debtor, wherever situated, whether now owned or later acquired, including: Accounts; Chattel paper; Deposit Accounts; Documents; Equipment; Farm Products; General Intangibles, including payment intangibles; Goods; Instruments, including promissory notes; Inventory; Investment Property; Letters of Credit and Letters of Credit Rights; Supporting Obligations. To the extent not listed above as original Collateral, proceeds and products of the foregoing, including all Inventory repossessed or returned; and, in addition, as used in this Agreement, Inventory includes goods held for sale or lease or furnished or to be furnished under contracts of service, or goods being processed for sale in Debtor's business, as now or later conducted, including raw materials, work in process, finished goods, and materials and supplies used or consumed in Debtor's business. All of the above shall be referred to as the "Collateral".

b. **Obligations.** This Security Agreement secures the following (collectively, the "Obligations"):

i. Debtor's obligations and liabilities under the Loan Agreement, including any agreements or instruments referred to therein, the Note and this Agreement;

ii. The repayment of (1) any amounts that City may advance or spend for the maintenance or preservation of the Collateral, and (2) any other expenditures that City may make under the provisions of this Security Agreement or for the benefit of Debtor;

iii. All amounts owed under any modifications, renewals, or extensions of any of the foregoing items; and

iv. Any of the foregoing that arises after the filing of a petition by or against Debtor under the Bankruptcy Code, even if the obligations due do not accrue because of the automatic stay under the Bankruptcy Code Section 362 or otherwise.

c. **Term.** A period of time commencing on the date of this Agreement and ending on the Termination Date.

d. **Termination Date.** The date when all Obligations owed by Debtor to City have been satisfied.

e. **UCC.** Any term used in the Uniform Commercial Code as adopted from time to time in the State of Michigan ("UCC") and not defined in this Security Agreement has the meaning given to the term in the UCC.

2. **Grant of Security Interest.** As security for the payment or performance of the Obligations, Debtor grants a Security Interest in the Collateral to City.

3. **Perfection of Security Interests.**

a. **Filing of Financing Statement.** Debtor authorizes City to file a financing statement (the "Financing Statement") describing the Collateral.

b. **Possession.** Debtor shall have possession of the Collateral, except where otherwise expressly provided in this Security Agreement.

c. **Control.** Debtor will cooperate at all times with City in obtaining control with respect to the Collateral.

4. **Post-Effective Date Covenants and Rights Concerning the Collateral.**

a. **Inspection.** The parties to this Security Agreement may inspect any Collateral in the other party's possession or control at any time upon reasonable notice.

b. **Personal Property.** The Collateral shall remain personal property at all times; and Debtor shall not affix any of the Collateral to any real property in any manner that would change its nature from that of personal property to real property or to a fixture.

c. **City Collection Rights.** City shall have the right at any time to enforce Debtor's rights against the account debtors and obligors.

d. **Limitations on Duties Concerning Maintenance of Collateral.**

i. Debtor has the risk of loss of the Collateral; and

ii. City has no duty to collect any income accruing on the Collateral or to preserve any rights relating to the Collateral.

e. **Inventory.** Debtor has the power to sell Debtor's Inventory in the ordinary course of Debtor's business, provided that Debtor is not in default. In addition, the parties agree as follows:

i. A sale of Debtor's Inventory not in the ordinary course of business shall constitute a default; and

ii. The interest of City shall continue in all proceeds of sales and all dispositions of Debtor's Inventory.

5. **Covenants, Warranties and Representations of Debtor.** Debtor, as an inducement to City to extend credit to Debtor, covenants, represents, and warrants to City the following:

a. **Title to and Transfer of Collateral.** Debtor has rights in or the power to transfer the Collateral, and its title to the Collateral is free of all adverse claims, liens, security interests, and restrictions on transfer or pledge.

b. **Location of Collateral.** Debtor will maintain the Collateral at, and will not remove the Collateral from, Debtor's business address of 2221 Lemuel Street, Muskegon Heights, Michigan 49444, without the prior written consent of City. Debtor will promptly notify City in writing of any change in the location of any place of business or establishment of any new place of business of Debtor.

c. **Organization and Name.** Debtor is duly organized and operating a business under the laws of the State of Michigan; and, further, until the Obligations are paid in full, Debtor agrees that Debtor will:

i. Preserve its existence in good standing and not, in one transaction or a series of related transactions, merge into or consolidate with any other entity, or sell all or substantially all of Debtor's assets;

ii. Not change Debtor's name without the written consent of City. Debtor's exact legal name is as set forth in the first paragraph of this Security Agreement; and

iii. Not change its location as that term is defined in UCC 9-307 (MCL 440.9307).

d. **Use.** The Collateral will be used primarily for Debtor's business.

e. **Records.** Debtor will at all times during this Agreement keep accurate and complete records of Debtor's Collateral, and will, at any time at the request of City, deliver to City a schedule specifically identifying all of the Collateral.

f. **Insurance.** Debtor will keep the Collateral continuously insured with insurance carriers in amounts and against risks that shall be reasonably satisfactory to City, with the loss payable clause in favor of City.

g. **Indemnification.** Debtor agrees to indemnify and hold harmless City from any loss or damage caused by the Collateral or its use, and immediately to give written notice to City of any loss of or damage to the Collateral occasioned by any cause.

h. **Impairment of Collateral.** If the Collateral becomes unsatisfactory to City or deteriorates in market or actual value, Debtor will, after written demand given by City to Debtor, promptly reduce the debt to City to the extent specified by City or, in the alternative, increase the Collateral to the amount affixed by City.

i. **Financial and Other Statements.** During the term of this Agreement, Debtor will deliver to City as soon as practicable upon request by City (and in any event, within 90 days thereafter), the following:

i. Debtor's balance sheet at the end of such year;

ii. Debtor's tax return for such fiscal year; and

iii. A certificate of good standing or similar document from the Office of the Secretary of State affirming that Debtor remains duly organized under the laws of the State of Michigan.

6. **Events of Default.** The occurrence of any of the following shall, at the option of City, be an Event of Default:

a. Any default, Event of Default as defined under the Agreement, this Security Agreement, or any of the other Obligations;

b. Debtor's failure to comply with any of the provisions of, or the incorrectness of any representation or warranty contained in, this Security Agreement or in any of the other Obligations;

c. Transfer or disposition of any of the Collateral, except as expressly permitted by this Security Agreement;

d. Attachment, execution, or levy on any of the Collateral;

e. Debtor voluntarily or involuntarily becoming subject to any proceeding under (i) the Bankruptcy Code or (ii) any similar remedy under state statutory or common law; or

f. Debtor shall fail to comply with, or become subject to any administrative or judicial proceeding under any federal, state, or local (i) hazardous waste or

environmental law, (ii) asset forfeiture or similar law which can result in the forfeiture of property, or (iii) other law, where noncompliance may have any significant effect on the Collateral.

7. **Default Costs.** Should an Event of Default occur, Debtor will pay to City all costs reasonably incurred by City for the purpose of enforcing its rights hereunder, including:

- a. Costs of foreclosure;
- b. Costs of obtaining money damages; and
- c. A reasonable fee for the services of attorneys employed by City for any purpose related to this Security Agreement or the Obligations, including consultation, drafting documents, sending notices, or instituting, prosecuting, or defending litigation or arbitration.

8. **Remedies Upon Default.**

a. **General.** Upon any Event of Default, City may pursue any remedy available at law (including those available under the provisions of the UCC), or in equity, to collect, enforce, or satisfy any Obligations then owing, whether by acceleration or otherwise.

b. **Conformer Remedies.** Upon any Event of Default, City shall have the right to pursue any of the following remedies separately, successively, or simultaneously:

i. File suit and obtain judgment and, in conjunction with any action, City may seek any ancillary remedies provided by law, including levy of attachment and garnishment;

ii. Take possession of any Collateral not already in its possession without demand and without legal process. Upon City's demand, Debtor will assemble and make the Collateral available to City as City may direct. Debtor grants to City the right, for this purpose, to enter into or on any premises where Collateral may be located; and

iii. Without taking possession, sell, lease, or otherwise dispose of the Collateral at public or private sale in accordance with the UCC.

9. **Foreclosure Procedures.**

a. **No Waiver.** No delay or omission by City to exercise any right or remedy accruing upon any Event of Default shall: (i) impair any right or remedy, (ii) waive any default or operate as an acquiescence to the Event of Default, or (iii) affect any subsequent default of the same or of a different nature.

b. **Notices Regarding Sale.** City shall give Debtor such notice of any private or public sale as may be required by the UCC.

c. **Condition of Collateral.** City has no obligation to clean-up or otherwise prepare the Collateral for sale.

d. **No Obligation to Pursue Others.** City has no obligation to attempt to satisfy the Obligations by collecting them from any other person liable for them and City may release, modify, or waive any Collateral provided by any other person to secure any of the Obligations, all without affecting City's rights against Debtor. Debtor waives any right it may have to require City to pursue any third person for any of the Obligations.

e. **Compliance with Other Laws.** City may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral, and compliance will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

f. **Warranties.** City may sell the Collateral without giving any warranties as to the Collateral. City may specifically disclaim any warranties of title or the like. This procedure will not be considered to adversely affect the commercial reasonableness of any sale or other disposition of the Collateral.

g. **Sales on Credit.** If City sells any of the Collateral upon credit, Debtor will be credited only with payments actually made by the purchaser, received by City, and applied to the indebtedness of the purchaser. If the purchaser fails to pay for the Collateral, City may resell the Collateral, and Debtor shall be credited with the proceeds of the sale.

h. **Purchases by City.** If City purchases any of the Collateral being sold, City may pay for the Collateral by crediting some or all of the Obligations of Debtor.

i. **No Marshaling.** City shall have no obligation to marshal any assets in favor of Debtor, or against or in payment of any of the Obligations or any other obligation owed to City by Debtor or any other person.

10. **Miscellaneous.**

a. **Assignment.** This Security Agreement shall bind and shall inure to the benefit of the heirs, legatees, executors, administrators, successors, and assigns of City and shall bind all persons who become bound as a debtor to this Security Agreement. City does not consent to any assignment by Debtor except as expressly provided in this Security Agreement. City may assign its rights and interests under this Security Agreement. If an assignment is made, Debtor shall render performance under this Security Agreement to the assignee. Debtor waives and will not assert against any assignee any claims, defenses, or set-offs that Debtor could assert against City except defenses that cannot be waived.

b. **Severability.** Should any provision of this Security Agreement be found to be void, invalid, or unenforceable by a court or panel of arbitrators of competent

jurisdiction, that finding shall only affect the provisions found to be void, invalid, or unenforceable and shall not affect the remaining provisions of this Security Agreement.

c. **Notices.** Any notices required by this Security Agreement shall be deemed to be delivered when a record has been (i) deposited in any United States postal box if postage is prepaid, and the notice properly addressed to the intended recipient, (ii) received by fax, (iii) received through the Internet, and (iv) when personally delivered.

d. **Headings.** Section headings used in this Security Agreement are for convenience only. They are not a part of this Security Agreement and shall not be used in construing it.

e. **Governing Law.** This Security Agreement is being executed and delivered and is intended to be performed in the State of Michigan and shall be construed and enforced in accordance with the laws of the State of Michigan.

f. **Waiver.** Any party to this Security Agreement may waive the enforcement of any provision to the extent the provision is for its benefit.

g. **Further Assurances.** Debtor agrees to execute any further documents, and to take any further actions, reasonably requested by City to evidence or perfect the security interest granted herein, to maintain the priority of the security interests, or to effectuate the rights granted to City herein.

The parties have signed this Security Agreement on the date set forth below their names, to be effective as of the date set forth above.

City – City of Muskegon

By: _____
Name: Steven Gawron
Title: Mayor
Dated: _____, 2020

By: _____
Name: Ann Meisch
Title: City Clerk
Dated: _____, 2020

Debtor – MANA SPORTS, LLC

By: _____
Name: Mario Flores
Title: _____
Dated: _____, 2020

PERSONAL GUARANTY

This Personal Guaranty ("Guaranty") is given _____, 2020 ("Effective Date"), by **Mario Flores** ("Flores") to the **City of Muskegon** ("City"), with reference to the following facts:

Background

- A. The City has extended to **MANA SPORTS, LLC**, a Michigan limited liability company ("West Michigan Ironmen"), the principal sum of \$30,000.00 represented by a promissory note of even date ("Debt").
- B. Flores is financially interested in the West Michigan Ironmen and he will receive valuable consideration for the Debt to West Michigan Ironmen.
- C. Therefore, Flores agrees that he will guarantee payment of the Debt to the full extent of any property or interest held or owned by him under any form of legal or beneficial ownership. Flores desires to enter into this Guaranty to induce the City to engage in transactions in which West Michigan Ironmen may make, extend, renew, or refinance the Debt to the City.

Therefore, for good and valuable consideration, Flores agrees as follows:

1. **Guaranty.** Flores guarantees to the City, its successors and assigns, the prompt payment when due, whether by acceleration or otherwise, of the Debt, together with interest at the rate stated in any document evidencing such liability, and any attorney fees, costs and expenses of collection incurred by the City in connection with any liability covered by this Guaranty. Such Guaranty shall extend to any property or interest held or owned by Flores individually or jointly or under any other form of legal or beneficial ownership.
2. **Duration.** The obligation of Flores shall continue until full payment is made of the Debt of West Michigan Ironmen to the City now due or hereafter to become due and until payment is made of any loss or damage incurred by the City with respect to any liability covered by this Guaranty.
3. **Successors and Assigns Bound.** Flores agrees that this Guaranty shall be enforceable against his heirs, successors, and assigns.
4. **Guaranty to be Supplemental.** Flores agrees that this Guaranty shall supplement and be in addition to any other guaranty, indemnity, pledge, security agreement, mortgage, hypothecation, or any other form of collateral to secure any liability of West Michigan Ironmen.
5. **Consent.** Flores consents, without affecting his obligations to the City, that the City may, without notice to or the consent of Flores, in its sole discretion, deal in any manner with the Debt and any collateral therefor, including, but not limited to, the following powers, in addition to any powers granted by law:
 - a. To extend, in whole or in part, by renewal, refinancing or otherwise, the time of payment of the Debt;

b. To release, surrender, exchange, modify, impair or extend the period or duration or the time for performance or payment of any collateral securing the Debt;

c. To settle or compromise any claim of the City against West Michigan Ironmen, or against any other person, firm or corporation, whose obligation is held by the City as collateral security for payment of the Debt;

d. In the event of nonpayment when due, by acceleration or otherwise, of the Debt, to realize on the collateral or any part thereof, in whole or in such parcels or subdivided interests as the City may elect, at any public or private sales, on such terms and conditions as the City may accept, without demand, advertisement or notice of the time and place of sale or any adjournment thereof, or by foreclosure or otherwise, or to forbear from realizing thereon, all as the City in its sole discretion may deem proper, and to purchase all or any part of the collateral for its own account. At any such sale or foreclosure, such powers are to be exercised only to the extent permitted by law; and

e. To modify or otherwise change any terms of all or any part of the Debt or the rate of interest thereon.

Flores ratifies and affirms any such extension, renewal, release, surrender, exchange, modification, impairment, settlement, compromise, purchase at a foreclosure or other sale, and all such actions shall be binding upon Flores who waives all defenses, counterclaims, or offsets which he might have by reason thereof.

6. **Waiver.** Flores waives: (a) notice of acceptance of this Guaranty by the City; (b) notice of presentment, demand for payment, protest, or other default of any of West Michigan Ironmen's liabilities or the obligation of any person, firm, or corporation held by the City as collateral security for West Michigan Ironmen's obligation; (c) notice of the failure of any person, firm, or corporation to pay to the City any indebtedness held by the City as collateral security for payment of the Debt; and (d) all defenses, offsets, and counterclaims that Flores may at any time have to any claim of the City against West Michigan Ironmen.

7. **Discharge.** The obligation of Flores and the rights of the City in collateral securing repayment of the Debt shall not be released, discharged, or in any way affected, nor shall Flores have any rights against the City by reason of the fact that: (a) collateral may be in default at the time of acceptance by the City or subsequent to such date; (b) a valid lien or security interest in any of the collateral may not be created in favor of or conveyed to the City; (c) any of the collateral may be subject to equities or defenses or claims in favor of others or may be invalid or defective in any way; (d) the financial condition of Borrower or Flores may not have been correctly estimated or may have changed; and (e) any collateral may have deteriorated, wasted or been lost by fire, theft, casualty, or otherwise unless such deterioration, waste, or loss shall be caused by willful act of the City.

8. **Remedies.** The City may at its option proceed against Flores to collect any obligation covered by this Guaranty, without first proceeding against West Michigan Ironmen, or any other person, firm, corporation, or guarantor, and without first resorting to any property at any time held by the City as collateral security. The City may proceed against Flores as if such amounts due are the direct and primary obligation of Flores. Flores shall have no right of subrogation, indemnification, or contribution with respect to the Debt or the collateral unless and until the City shall have received full payment of the Debt.

9. **Choice of Law.** This Guaranty is established and accepted by the City under the laws of the State of Michigan and all questions concerning its validity and construction shall be determined under such laws.

10. **Severability.** If any clause, provision, or paragraph of this Guaranty is ruled invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of such clause, provision, or paragraph shall not affect any of the remaining clauses, provisions, or paragraphs.

This Guaranty has been executed on the day and year above written.

Mario Flores, individually
Dated: _____, 2020