

CITY OF MUSKEGON

CITY COMMISSION MEETING

JANUARY 13, 2009

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ CALL TO ORDER:
- ❑ PRAYER:
- ❑ PLEDGE OF ALLEGIANCE:
- ❑ ROLL CALL:
- ❑ HONORS AND AWARDS:
- ❑ INTRODUCTIONS/PRESENTATION:
- ❑ CONSENT AGENDA:
 - A. Approval of Minutes. CITY CLERK
 - B. Risk Avoidance Program (RAP) Grant. PUBLIC SAFETY
 - C. Rezoning Request for Properties Located at 1264 Terrace Street and 185 E. Isabella Avenue. PLANNING & ECONOMIC DEVELOPMENT
 - D. Amendment to the Zoning Ordinance – Temporary Buildings, Structures and Uses. PLANNING & ECONOMIC DEVELOPMENT
 - E. Metro PCS Tower Lease Agreement. PUBLIC WORKS
 - F. Response Agreement-Department of Veteran Affairs Police. PUBLIC SAFETY
 - G. Budgeted Vehicle Replacement – Two 2009 Ford F-150s. PUBLIC WORKS
 - H. Budgeted Vehicle Replacement – Seven 2009 Crown Victorias. PUBLIC WORKS
 - I. Special Events – Multiple Liquor License Request for Racquets Downtown Grill. LEISURE SERVICES
 - J. Recommendations for the Various Boards and Committees. CITY CLERK
 - K. Gaming License Request for USS LST 393 Preservation Association. CITY CLERK

L. Liquor License Transfer Request for CJ's on the Beach, LLC, 1601 Beach Street. CITY CLERK

❑ PUBLIC HEARINGS:

A. Request for an Industrial Facilities Exemption Certificate for AFI Machining. PLANNING & ECONOMIC DEVELOPMENT

B. Request for an Industrial Facilities Exemption Certificate for AFI Hole Drill. PLANNING & ECONOMIC DEVELOPMENT

❑ COMMUNICATIONS:

❑ CITY MANAGER'S REPORT:

❑ UNFINISHED BUSINESS:

❑ NEW BUSINESS:

A. Liquor License Request for Muskegon Athletic Club, LLC, 333 Western, Suite B. CITY CLERK

❑ ANY OTHER BUSINESS:

❑ PUBLIC PARTICIPATION:

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

❑ CLOSED SESSION:

❑ ADJOURNMENT:

ADA POLICY: THE CITY OF MUSKEGON WILL PROVIDE NECESSARY AUXILIARY AIDS AND SERVICES TO INDIVIDUALS WHO WANT TO ATTEND THE MEETING UPON TWENTY FOUR HOUR NOTICE TO THE CITY OF MUSKEGON. PLEASE CONTACT ANN MARIE BECKER, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TDD: (231) 724-4172.

Date: January 13, 2009
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes for the December 8th Commission Worksession, and the December 9th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

City of Muskegon
City Commission Worksession
December 8, 2008
City Commission Chambers
5:30 PM

MINUTES

2008-106

Present: Commissioners Wierengo, Wisneski, Gawron, Carter (arrived 5:35 p.m.), Spataro (arrived 5:37 p.m.), and Clara Shepherd (arrived 5:40 p.m.).

Absent: Mayor Warmington.

Indian Cemetery Request. John McGarry

Mr. McGarry is in possession of Indian remains and is seeking permission to lay the remains to rest at the Old Indian Cemetery.

The City Commission can give formal approval contingent that all legal ramifications are met.

Motion by Commissioner Wisneski, seconded by Commissioner Wierengo, to proceed with the burial of Indian remains in the possession of the Muskegon County Museum at the Old Indian Cemetery contingent upon all legal ramifications being met.

ROLL CALL VOTE:

Ayes: Spataro, Wierengo, Wisneski, Carter, Gawron, and Shepherd.

Nays: None.

MOTION PASSES.

2009 User Fee Update. Finance

Tim Paul, Finance Director, presented the proposed 2009 User Fees. Few changes are proposed for 2009.

It is recommended that the fee for the hanging of banners be raised from \$50 to \$450. Commissioner Carter suggested that the City continue charging \$50 to hang banners, but the organization contract with a private source to hang the banners.

Commissioner Carter suggested to raise the fee to \$450 until a policy can be developed to privatize the service.

2009 Salary Schedule and Fringe Benefits for Non-Represented Employees and the 2009 Salary Schedule for Part-Time and Limited-Term Employees. City Manager

City Manager, Bryon Mazade, presented the 2009 proposed salary schedule for non-represented employees, part-time, and limited-term employees.

Final Amendments to 2008 Budget. Finance

Income Tax revenue will be higher than projected. Building permits were strong as well. We did not need \$300,000 transfer from budget stabilization fund. \$250,000 will be transferred to the budget stabilization fund.

Large expenses are expected in the future from pension and health insurance costs.

Adjournment

Motion by Commissioner Carter, seconded by Commissioner Wierengo to adjourn at 6:05 p.m.

MOTION PASSES.

**Ann Marie Becker, MMC
City Clerk**

CITY OF MUSKEGON

CITY COMMISSION MEETING

DECEMBER 9, 2008

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, December 9, 2008.

Mayor Warmington opened the meeting with a prayer from Pastor Tim Cross from the Living Word Church of Muskegon after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioners Sue Wierengo, Steve Wisneski, Chris Carter, Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

2008-101 HONORS AND AWARDS:

A. Muskegon High School Big Reds Football Team.

B. Muskegon Catholic Central Crusaders Football Team.

Mayor Warmington and the Commission congratulated Coach Holmes and Coach Fairfield and their teams for the championships. He thanked them for their sportsmanship, enthusiasm, and hard work and presented them with a Certificate of Recognition and a sign.

2008-102 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the November 18th Commission Worksession, and the November 25th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

C. SECOND READING: Adoption of the 2006 Building Code. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is requesting that the City Commission adopt the 2006 Michigan Building Code and repeal all other

ordinances and parts of the ordinances that may conflict with the new code.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the request.

E. Service Agreement with Professional Med Team Inc. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is requesting approval to enter into a service agreement (calendar year 2009) with Professional Med Team (Pro-Med) to provide a paramedic for the purpose of performing a blood draw, when needed, of suspected intoxicated drivers. The paramedic will be dispatched directly to the jail to perform the draw. This service will be utilized by all law enforcement agencies within Muskegon County.

FINANCIAL IMPACT: The cost to the department will be \$75 per blood draw.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the agreement.

F. Adding Property to the Lease with Option to Purchase Program.
COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To have the Commission approve the CNS office request to add the City-owned home at 451 Isabella to the Lease with Option to Purchase program. The lessee will have a three-year period (36 months) to obtain a mortgage. If the lessee is able to obtain a mortgage after the first year, the purchaser will be able to receive a nine percent decrease in the purchase price. If the lessee is able to obtain a mortgage in the second year, the property will be sold at a five percent decrease from the present asking price. If the lessee is not able to obtain a mortgage until the third year, the home will sell for the current asking price. The lessee will be responsible for all the utilities and upkeep of the property. The current price of 451 Isabella is \$60,000.

Two homes owned by the City are currently in this program: 435 Monroe and 867 Williams. Both are currently occupied.

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

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the request.

COMMITTEE RECOMMENDATION: The activity has been approved by the Citizen's District Council.

G. Combining of Liens. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To have the Commission approve for the CNS office to

begin combining liens on Emergency Repair and Vinyl Siding projects that aggregate costs total \$3,500 or more. Currently the CNS office only establishes liens on Emergency Repair and/or Vinyl Siding projects if the individual activity meets or exceeds \$3,500. Because of the age of some of the housing and lack of long-term maintenance, some clients have received multiple assistance. The individual cost of the repair may be less than \$3,500; but the combined cost may exceed the established threshold. In order to insure the citizens' investment in the property, the City would like to combine the cost and establish a lien on the property under the CNS office established guidelines.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the request.

COMMITTEE RECOMMENDATION: This request was approved by the Citizen's District Council.

H. Elimination of First-Time Home-Buyer Requirement for CNS Home-Buyer Program. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To have the Commission approve for the CNS office to eliminate the First-Time Home-Buyer requirement from both the CNS office Infill and Total Rehabilitation Home-Buyer programs. Currently, to be eligible for the City's home-buyer program, an individual or family could not have owned a home in the last three years. Because of the current fragileness of the local economy, especially as it related to the housing market, the CNS office would like to eliminate the first-time home-buyer requirement, although the stipulation that the home be owner-occupied is not being eliminated.

All of the homes in the CNS office inventory have been on the market for at least 8-12 months.

FINANCIAL IMPACT: Hopefully, this will increase the market of potential home-buyers for the City-owned homes, eliminating the overhead and maintenance cost that the City and CNS are trying to maintain.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the change to the current policy.

COMMITTEE RECOMMENDATION: The change was presented to the Citizen's District Council and was approved.

I. Appointment to the Local Development Finance Authority. CITY CLERK

SUMMARY OF REQUEST: To appoint Andrew Cirner to the Local Development Finance Authority.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

COMMITTEE RECOMMENDATION: The Community Relations Committee recommended the appointment at their November 18th meeting.

J. Consideration of Bids/Contract Award – Remodeling of Men's Locker Room for MPD. ENGINEERING

SUMMARY OF REQUEST: Authorize staff to enter into an agreement with Buck Construction, of Muskegon, to completely remodel the men's locker room in the Police Department since they were the lowest responsible bidder with a bid price of \$26,614 unless the City removes the existing lockers at which time the price would be \$25,498.

FINANCIAL IMPACT: The construction cost of \$26,614.

BUDGET ACTION REQUIRED: None. This project was budgeted for in the 2009 CIP.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with Buck Construction to remodel the locker room.

Motion by Commissioner Carter, second by Commissioner Wierengo to approve the Consent Agenda as read minus items K, D, and B.

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

Nays: None

MOTION PASSES

2008-103 ITEMS REMOVED FROM THE CONSENT AGENDA:

D. SECOND READING: Amend Chapter 30 of the Code of Ordinances – Fire Prevention. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is requesting that the City Commission amend Chapter 30 of the Code of Ordinances concerning Fire Prevention and Protection. This includes the adoption of the 2006 International Fire Code.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the request.

Motion by Commissioner Carter, second by Commissioner Wierengo to approve the second reading to amend Chapter 30 of the Code of Ordinances for fire prevention.

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

Nays: None

MOTION PASSES

K. 2009 User Fee Update. FINANCE

SUMMARY OF REQUEST: City departments have reviewed and updated their user fees and these have been incorporated into the Master Fee Resolution.

New fees and fee changes proposed for 2009 include the following:

- Adjustments to certain sanitation fees;
- Adjustments to cat license fees to maintain consistency with County dog license fees;
- Increase in the fee to hang street banners to reflect our actual costs;
- New marina fees for storage of boats and kayaks and other miscellaneous services not previously provided;
- Increases in some recreation fees to reflect increased officiating charges;
- Increases in certain treasury fees to reflect our increased costs;
- Increases in certain zoning fees to reflect our increased costs;
- Elimination of taxi licensing fees.

FINANCIAL IMPACT: Increased revenue for fee supported activities.

BUDGET ACTION REQUIRED: None at this time. Adoption of the 2009 Master Fee Resolution will help the City attain its budgeted revenue estimates.

STAFF RECOMMENDATION: Approval.

Motion by Commissioner Carter, second by Commissioner Spataro to approve the 2009 User Fee update.

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

Nays: None

MOTION PASSES

B. SECOND READING: Vacant Building Registration Ordinance Amendments. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend the Code of Ordinances Chapter 10, Section 107, Annual Registration of Vacant Buildings and Registration Fees, for the purpose of making the ordinance easier for property owners to comply with and easier for staff to administer.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of Chapter 10, Section 107 Annual Registration of Vacant Buildings and Registration Fees, specifically to amend sub-section (b)(2) Applicability, sub-section (b)(3) Registration statement and fees; local agent, sub-section (b)(4) Appeal rights, sub-section (b)(6) Two-Year waiver, subsection (b)(7)(d) Exceptions.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the second reading of the Vacant Building Registration Ordinance amendments.

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

Nays: None

MOTION PASSES

2008-104 UNFINISHED BUSINESS:

A. Concurrence with the Housing Board of Appeals Notice and Order to Demolish 254 Amity Avenue. PUBLIC SAFETY

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structure located at 254 Amity Ave. is unsafe, substandard, a public nuisance and that it be demolished within 30 days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds.

BUDGET ACTION REQUIRED: None.

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

Motion by Commissioner Carter, second by Commissioner Spataro to concur with the Housing Board of Appeals notice and order to demolish 254 Amity Avenue.

Motion by Commissioner Shepherd, second by Commissioner Spataro to table the concurrence of the Housing Board of Appeals notice and order to demolish 254 Amity to the second meeting in January, 2009.

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

Nays: None

MOTION TO TABLE PASSES

2008-105 NEW BUSINESS:

A. 2009 Salary Schedule and Fringe Benefits for Non-Represented Employees and the 2009 Salary Schedule for Part-Time and Limited-Term Employees.
CITY MANAGER

SUMMARY OF REQUEST:

1. To establish the 2009 salary ranges for part-time and limited-term employees;
2. To approve and adopt the proposed salary ranges and salary schedules for the non-represented administrative, technical, professional, and supervisory employees for 2009 (2.5% increase);
3. Increase the lifetime major medical health plan maximum from \$325,000 to \$500,000 per covered individual.

FINANCIAL IMPACT:

1. Minimal. There are minor changes to steps and pay grades;
2. The salary increases will cost approximately \$68,500 plus approximately \$17,125 in added fringe benefit costs;
3. Minimal cost.

BUDGET ACTION REQUIRED: To authorize the necessary 2009 budgetary amendments and transfer of money from the affected City funds (Contingency Account for General Fund) to the appropriate salary and fringe benefit accounts to accommodate the salary increases and fringe benefit adjustments.

STAFF RECOMMENDATION:

1. To approve the proposed 2009 salary ranges for part-time and limited-term employees;
2. To approve and adopt the proposed 2009 salary ranges, salary schedules, and fringe benefit changes for non-represented employees.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the 2009 Salary Schedule and Fringe Benefits for Non-Represented Employees and the 2009 Salary Schedule for Part-Time and Limited-Term Employees.

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

Nays: None

MOTION PASSES

B. Final Amendments to 2008 Budget. FINANCE

SUMMARY OF REQUEST: Provided under separate cover are proposed year-end amendments to the City's 2008 Budget to assure compliance with the State *Uniform Budget Act*. The state requires that final budget amendments (as reported in the annual CAFR) be formally adopted by the governing body prior to the end of the fiscal year (December 31). As there will only be one meeting in December, it is necessary to approve final 2008 budget amendments at this time.

FINANCIAL IMPACT: These budget amendments establish the final 2008 revenue estimates and authorized spending limits for the various City departments and funds.

BUDGET ACTION REQUIRED: Self-explanatory.

STAFF RECOMMENDATION: Approval.

Motion by Vice Mayor Gawron, second by Commissioner Carter to approve the final amendments to the 2008 Budget.

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

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Various comments were made.

ADJOURNMENT: The City Commission Meeting adjourned at 6:35 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk

City Commission Meeting
Tuesday January 13, 2009

TO: Honorable Mayor and City Commissioners

FROM: Anthony L. Kleibecker, Director of Public Safety

DATE: December 8, 2008

SUBJECT: Risk Avoidance Program (RAP) Grant

Summary of Request:

The Director of Public Safety is requesting approval to accept a Risk Avoidance Grant (RAP) in the amount of \$2,625. This grant will be utilized to purchase Ready Buckle Restraints for all of the marked police cruisers. This grant represents 50% of the funding for the restraint system.

The Ready Buckle Restraint system makes it easier and is safer for the police officers when they are securing a handcuffed individual in the rear seat of a police cruiser.

Financial Impact:

The remainder of the funds will be drawn from the Equipment Fund.

Budget Action Required:

None

Staff Recommendation:

Approval of the agreement.



MICHIGAN MUNICIPAL
RISK MANAGEMENT
A U T H O R I T Y

November 12, 2008

Dennis Lord
City of Muskegon
933 Terrace Street
Muskegon, MI 49440

RE: RAP

Dear Mr. Lord:

I am pleased to inform you that your RAP application was approved. The Committee authorized 50% funding up to \$2,625 for your purchase of Ready Buckle Restraints.

Payment will be based upon confirmation from the City of Muskegon of their payment of their portion of the expense. Please send a copy of your paid invoice or other documentation of the expenditure. Such documentation is needed in order to verify that the grant allotted is being used for the project described in your application.

Payment of RAP funds are contingent upon the City of Muskegon remaining a Member of MMRMA and in compliance with the Joint Powers Agreement. Your reimbursement is valid for six months from the date of this letter.

Sincerely,

Charles Schwab
Director of Risk Management

CS/clc

cc: Timothy Paul, Finance Director
Ibex Insurance Agency

BOARD OF DIRECTORS

JAMES KOHMESCHER Chair City of Wyoming	JAMES SCHARRET Vice Chair City of Southfield	MICHAEL WELSCH Secretary Au Sable Valley Mental Health	MICHAEL BOSANAC Monroe County	RICHARD BURKE City of Ishpeming	MICHAEL DORNAN City of Wixom	CINDY KING Charter Township of Van Buren	LEONARD PETERS Eaton County	ROBERT SEETERLIN Charter Township of Waterford	THOMAS YACK Charter Township of Canton
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MICHAEL L. RHYNER, Executive Director

Commission Meeting Date: January 13, 2009

Date: January 2, 2009
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *CBC*
RE: Rezoning request for properties located at 1264 Terrace Street and 185 E. Isabella Avenue

SUMMARY OF REQUEST:

Request to rezone the properties located at 1264 Terrace Street and 185 E. Isabella Avenue, from R, One Family Residential District to OSR, Open Space Recreation District.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the request.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the request at their 12/11 meeting. The vote was unanimous, with B. Mazade, B. Smith and John Aslakson absent.

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend the zoning map of the City to provide for a zone change for a certain properties from R "One Family Residential" district to OSR "Open Space Recreation" district.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

The zoning map of the City of Muskegon is hereby amended to change the zoning of the following described property from R, "One Family Residential" district to OSR "Open Space Recreation" district:

CITY OF MUSKEGON REVISED PLAT OF 1903 N 40 FT LOT 2 & LOT 1 BLK 252

And

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 12 BLK 252

This ordinance adopted:

Ayes: _____

Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____
Ann Marie Becker, MMC
City Clerk

CERTIFICATE (Rezoning of 1264 Terrace & 185 E. Isabella from R to OSR)

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 13th day of January, 2009, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2008, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2009.

Ann Marie Becker, MMC
Clerk, City of Muskegon

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

CITY OF MUSKEGON
NOTICE OF ADOPTION

Please take notice that on January 13, 2009, the City Commission of the City of Muskegon adopted an ordinance amending the zoning map to provide for the change of zoning of the following property from to R "One Family Residential" district to OSR "Open Space Recreation" district:

CITY OF MUSKEGON REVISED PLAT OF 1903 N 40 FT LOT 2 & LOT 1 BLK 252

And

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 12 BLK 252

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

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

Published _____, 2009

CITY OF MUSKEGON

By _____
Ann Marie Becker, MMC
City Clerk

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

Account No. 101-80400-5354

Staff Report [EXCERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

December 11, 2008

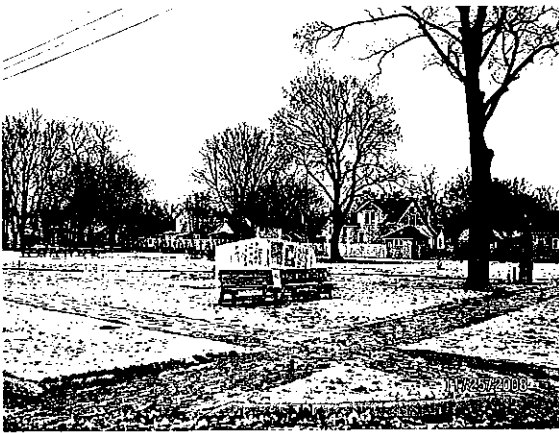
Hearing; Case 2008-31: Request to rezone the properties located at 1264 Terrace Street and 185 E. Isabella Avenue from R-1, Single Family Residential District to OSR, Open Space Recreation District, by Tom Pastoor, 1291 Terrace Street, McLaughlin Neighborhood Association.

BACKGROUND

<u>Applicant:</u>	Tom Pastoor, McLaughlin Neighborhood Association
<u>Property Address/Location:</u>	1264 Terrace Street and 185 E. Isabella Avenue
<u>Request:</u>	Rezone from R-1, Single Family Residential District to OSR, Open Space Recreation District
<u>Present Land Use:</u>	Vacant
<u>Zoning:</u>	R-1, Single Family Residential District

STAFF OBSERVATIONS

1. The properties that are the subject of this request are presently vacant, but being used by the McLaughlin Neighborhood Association for neighborhood gatherings. They have a long term lease with the City for 1264 Terrace, and a maintenance agreement with the City for 185 E. Isabella.
2. Since the McLaughlin Neighborhood does not have their own park, they wish to develop the property into a neighborhood park. Their plans include erecting a picnic shelter, as well as adding other upgrades to the property. Since those improvements aren't allowed on a lot zoned R-1 without a principal structure, rezoning to OSR seems to be a good solution for them.
3. The Zoning Ordinance allows "parks, playgrounds and playfields" in the OSR zoning district as principal uses, and the district language states that these districts "are intended for permanent open spaces in the City".
4. The 1997 Master Plan Future Land Use Map identified this property as "Residential", however since parks are meant to serve residential area, this use is complementary.
5. Minimum size for a lot in OSR is 21,780 square feet, with 75 feet of frontage on a street. These two lots together are 22,704 square feet, and has more than the required frontage.
6. The areas surrounding these two properties are all zoned R-1. However, Staff does not believe this request would result in a spot zone, since it isn't inconsistent with other uses in the area, and it would not benefit an individual land owner rather than the broad public interest.
7. Staff has received no comments regarding this request.

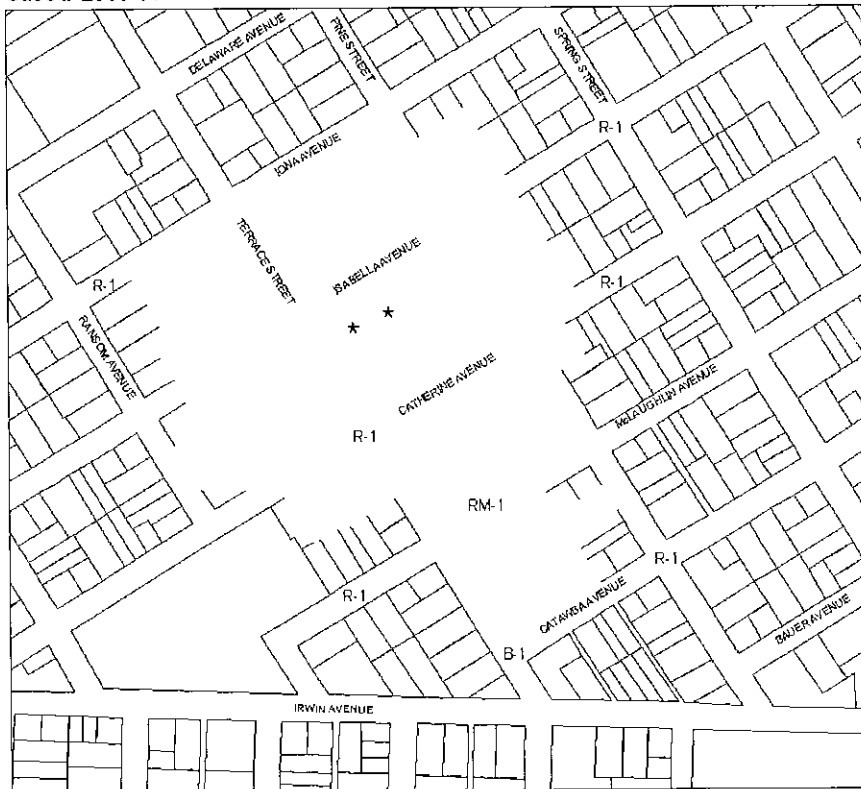


View of 1264 Terrace Street.



View of 185 E. Isabella Street.

City of Muskegon
Planning Commission
Case # 2008-31



★ Selected Property
Properties w/in 300 ft

R-1 = Single-Family Residential
RM-1 = Low-Density Multi-Family Residential
B-1 = Limited Business



STAFF RECOMMENDATION

Staff recommends approval of the request to rezone the subject property from R-1, Single Family Residential district to OSR, Open Space Recreation district, because the request conforms to the goals and recommendation of the City's 1997 Master Plan and Future Land Use Plan and zoning district intent.

DELIBERATION

Criteria-based questions typically asked during a rezoning include:

1. **What**, if any, identifiable **conditions** related to the petition **have changed which justify** the petitioned **change in zoning**.
2. **What** are the **precedents and the possible effects** of precedent that might result from the approval **or denial** of the petition?
3. What is the **impact** of the amendment on the ability of the city to provide **adequate public services and facilities and/or programs** that might reasonably be required in the future if the petition is approved?
4. Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?
5. Does the petitioned zoning change generally **comply with the adopted Future Land Use Plan of the City**?
6. Are there any **significant negative environmental impacts** which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:
 - a. **Surface water** drainage problems
 - b. **Waste water** disposal problems
 - c. Adverse effect on surface or subsurface **water quality**
 - d. The **loss of valuable natural resources** such as **forest, wetland, historic sites, or wildlife areas**.
7. Is the proposed zoning change a “**Spot Zone**”?
 - a. Is the parcel **small in size relative to its surroundings**?
 - b. Would the zoning change allow uses that are **inconsistent with those allowed in the vicinity**?
 - c. Would the zoning change confer a **benefit to the property owner** that is **not generally available to other properties** in the area?
 - d. A spot zone is **appropriate if it complies with the Master Plan**.

DETERMINATION

The following motion is offered for consideration:

I move that the request to rezone the properties located at 1264 Terrace Street and 185 E. Isabella Avenue from R-1, Single Family Residential district to OSR, Open Space Recreation district, as described in the public notice, be recommended for (approval/denial) to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of (compliance/lack of compliance) with the intent of the City Master Land Use and zoning district intent.

Commission Meeting Date: January 13, 2009

Date: January 2, 2009
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *cbc*
RE: Amendment to the Zoning Ordinance – Temporary Buildings, Structures and Uses

SUMMARY OF REQUEST:

Request to amend Section 2334, #1 (Temporary Buildings, Structures, and Uses) of Article XXIII (General Provisions) to include “movie production” structures as permitted temporary buildings.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends amendment of the Zoning Ordinance to include “movie production” structures as permitted temporary buildings.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the request at their 12/11 meeting. The vote was unanimous with B.Mazade, B. Smith, and J. Aslakson absent.

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

December 11, 2008

Hearing; Case 2008-33: Staff-initiated request to amend Section 2334, #1 (Temporary Buildings, Structures, and Uses) of Article XXIII, to include “movie production” structures as permitted temporary buildings.

BACKGROUND

With recent tax abatements passed by the State of Michigan, Muskegon, along with all of West Michigan is beginning to experience much movie industry interest in working in the City. For example, the Watermark is in the planning process for a large movie studio.

When movie companies come to a location to shoot films, they often need to erect temporary buildings of one sort or another as part of their sets, or to provide shelter and protection for equipment. Our present zoning ordinance does allow for temporary buildings for many kinds of temporary uses, such as classrooms, Christmas tree sales, and real estate offices. It doesn't provide for temporary buildings for movie production.

Temporary structures require a “Temporary Zoning Permit”, which is issued by the Zoning Administrator, and signed by either the property owner, the property lessee, or in this case someone authorized to sign from the production company.

NEW LANGUAGE

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

Changes to Section 2324, #1, of Article XXIII, General Provisions:

- g. **Movie Production: Temporary buildings which are part of a movie production project are allowed. All conditions of the City's “Film & Music Events Policy” must be met before the temporary buildings are put in place. The buildings must be removed from the site within fifteen (15) days of the completion of the project. Maximum time allowed shall be approved by the Zoning Administrator on a case by case basis.**

DELIBERATION

I move that the amendment to Section 2324, #1, of Article XXIII, General Provisions, of the City of Muskegon Zoning Ordinance to include “movie production” structures as permitted temporary buildings, be recommended to the City Commission for (approval/denial).

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend Section 2334, #1 (Temporary Buildings, Structures, and Uses) of Article XXIII (General Provisions), to include “movie production” structures as permitted temporary buildings.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

Amendment to Article XXIII, Section 2334, #1: Temporary Buildings, Structures, and Uses

NEW LANGUAGE

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

- g. **Movie Production:** Temporary buildings which are part of a movie production project are allowed. All conditions of the City’s “Film & Music Events Policy” must be met before the temporary buildings are put in place. The buildings must be removed from the site within fifteen (15) days of the completion of the project. Maximum time allowed shall be approved by the Zoning Administrator on a case by case basis.

This ordinance adopted:

Ayes: _____

Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____
Ann Marie Becker, MMC, City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 13th day of January, 2009, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2008, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2009.

Ann Marie Becker, MMC
Clerk, City of Muskegon

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

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

Please take notice that on January 13, 2009, the City Commission of the City of Muskegon adopted an ordinance to amend Section 2334, #1 (Temporary Buildings, Structures, and Uses) of Article XXIII (General Provisions) amending language to include “movie production” structures as permitted temporary buildings.

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

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

Published _____, 2009.

CITY OF MUSKEGON

By _____
Ann Marie Becker, MMC
City Clerk

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

Account No. 101-80400-5354

Date: January 5th, 2009

To: Honorable Mayor and City Commission

From: Department of Public Works

RE: Metro PCS Tower Lease Agreement

SUMMARY OF REQUEST: Metro PCS Michigan, Inc. a Delaware Corporation and the Department of Public Works have been in negotiations to enter into agreement to allow Metro PCS to lease space and install antennas and communication equipment on the Nims Street Water Tower.

FINANCIAL IMPACT: Monthly rental will begin at \$1,200 per month to be escalated at the rate of 3% per year starting in 2009, including any renewal terms. Revenue generated from the rental of the space shall be used to offset Water Tank Maintenance Projects.

BUDGET ACTION REQUIRED: None:

STAFF RECOMMENDATION: To approve of the Lease Agreement and to authorize the Mayor and Clerk to sign the agreement.

COMMUNICATIONS SITE LEASE AGREEMENT

THIS COMMUNICATIONS SITE LEASE AGREEMENT ("Lease Agreement") dated as of _____, is made by and between MetroPCS Michigan, Inc., a Delaware corporation ("Lessee") and **City of Muskegon**, a Michigan municipal corporation ("Lessor").

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Grant of Lease.** Lessor leases to Lessee, and Lessee hires from Lessor, on the terms and subject to the conditions contained herein, space at the top of an existing water tower located at 715 Nims Street, Muskegon, Michigan ("Water Tower"), and the use of a 240 square foot area at the base of the Water Tower which is required for an equipment shelter, together with a nonexclusive use for cable runs to connect Lessee's equipment and an easement for the right of access thereto and for a suitable service of electricity, telephone and other utility facilities under the property described on attached **Exhibit A** (collectively, the "Premises"). The parties acknowledge and agree that Lessor's execution of this Lease constitutes a permit for Lessee to use the Premises and that Lessee intends to locate at the Premises shown on the attached **Exhibit A**, the equipment listed on the attached **Exhibit B** ("Lessee's Facilities," as defined below). Lessee may locate up to six antennas on the Water Tower, so long as there is adequate space on the Water Tower, and Lessee's antennas do not interfere with other third party antennas.

2. **Permitted Uses.**

a. The Premises may be used by Lessee for the operation of a wireless communications site. Under this Lease Agreement, Lessee may install, place, use and operate on the Premises such antennas, radio transmitting and receiving equipment, conduits, wires, batteries, back-up generators, utility lines and facilities, supporting structures, storage facilities, and related equipment (collectively, "Lessee's Facilities") as Lessee deems necessary for the operation of its wireless communications site at the Premises or as required by any county, state or federal agency or department. Further, Lessee may perform construction, maintenance, and repairs of Lessee's Facilities as necessary and appropriate for its ongoing business to accommodate Lessee's Facilities and as required for Lessee's communications operations at the Premises.

b. Lessee may update or replace the Lessee's Facilities from time to time provided that the replacement facilities do not increase the number or size of the antennas on the Water Tower and that any change in their location on the Water Tower and/or the Premises is satisfactory to Lessor. Lessee, at Lessee's sole expense, shall submit to Lessor a detailed proposal for any such replacement facilities and any supplemental materials as may be requested for Lessor's evaluation and approval. Any upgrades to Lessee's Facilities that do not exceed the dimensions of the Premises or do not increase the loading on the Water Tower, do not constitute a change in Lessee's use of the Premises requiring the renegotiation of Rent indicated above. Notwithstanding the foregoing, nothing contained herein shall prohibit Lessee from making repairs or replacements in the ordinary course of Lessee's business, provided that such changes do not increase the loading on the Water Tower or exceed the dimensions of the Premises.

3. **Conditions Precedent: Prior Approvals.** This Lease Agreement is conditioned upon Lessee obtaining all governmental licenses, permits and approvals enabling Lessee to construct and

operate wireless communications facilities at the Water Tower and on the Premises. Lessor agrees to cooperate with Lessee's reasonable requests for Lessor's signatures as real property owner on permit applications, for allowing site inspections by governmental agencies required in connection with reviewing permit applications, and for assistance in obtaining such necessary approvals, provided that such cooperation and assistance shall be at no expense to Lessor.

4. **Term.** The term of this Lease Agreement ("Term") shall be five (5) years commencing on the date that Lessee commences the construction of the Lessee Facilities at the Premises or six (6) months from the date of full execution of this Lease Agreement, whichever occurs first ("Commencement Date"). Lessee shall promptly deliver written notice to Lessor of the Commencement Date. Lessee shall have the right to extend the Term of this Lease Agreement for four (4) additional terms (each a "Renewal Term") of five (5) years each. The terms and conditions for each Renewal Term shall be the same terms and conditions as in this Lease Agreement, except that the Rent shall be increased as set forth hereinbelow. This Lease Agreement shall automatically be extended for each successive five (5) year Renewal Term(s) unless Lessee notifies Lessor in writing of Lessee's intention not to extend this Lease Agreement at least ninety (90) days prior to the expiration of the first five (5) year Term or any successive Renewal Term.

5. **Rent.** Within fifteen (15) days of the Commencement Date, Lessee shall pay Lessor, as rent, the sum of ONE THOUSAND TWO HUNDRED and 00/100 Dollars (\$ 1200.00) ("Rent") per month. Rent shall be payable on the first day of each month, in advance, to Lessor or Lessor's alternate payee specified in Section 22, Notices and Deliveries. If the Commencement Date of this Lease Agreement is other than the first day of a calendar month, Lessee may pay on the first day of the Term the prorated Rent for the remainder of the calendar month in which the Term commences, and thereafter Lessee shall pay a full month's Rent on the first day of each calendar month, except that payment shall be prorated for the final fractional month of this Lease Agreement, or if this Lease Agreement is terminated before the expiration of any month for which Rent should have been paid. Rent shall increase 3% per year for each year of the Term and any Renewal Terms.

6. **Due Diligence Contingency and Pre-Commencement Date Access to Premises.** Lessee shall have the right (but not the obligation) at any time following the full execution of this Lease Agreement and prior to the Commencement Date, to enter the Premises for the purpose of making necessary inspections, taking measurements and conducting engineering surveys (and soil tests where applicable) and other reasonably necessary tests to determine the suitability of the Premises for Lessee's Facilities ("Due Diligence"), and for the purpose of preparing the Premises for the installation or construction of Lessee's Facilities. During any Due Diligence activities or pre-construction work, Lessee shall have insurance which covers such activities as set forth in Section 16, Insurance. Lessee will notify Lessor of any proposed tests, measurements or pre-construction work and will coordinate the scheduling of such activities with Lessor. If, in the course of its Due Diligence, Lessee determines that the Premises are unsuitable for Lessee's contemplated use, then Lessee shall have the right to terminate this Lease Agreement prior to the Commencement Date by delivery of written notice thereof to Lessor as set forth in Section 13, Termination, but shall remain responsible for all payments under Section 23, Attorney Fees.

7. **Ongoing Access to Premises.** Throughout the Term and any Renewal Term of this Lease Agreement, Lessee shall have the right of access to the Premises for its employees and agents twenty-four (24) hours a day, seven (7) days per week, at no additional charge to Lessee. In exercising its right of access to the Premises herein, Lessee agrees to cooperate with any reasonable security

procedures utilized by Lessor at Lessor's Real Property and further agrees not to unduly disturb or interfere with the business or other activities of Lessor or of other tenants or occupants of the Water Tower and Lessor's Real Property. Lessor shall maintain all existing access roadways or driveways extending from the nearest public roadway to the Premises in a manner sufficient to allow for Lessee's commercially reasonable access to the Premises. Lessor shall be responsible for maintaining and repairing such roadways and driveways at Lessor's sole expense, except for any damage caused by Lessee's use of such roadways or driveways. If Lessee causes any such damage, Lessee shall promptly repair the same at its sole expense.

8. **Lessee's Work, Maintenance and Repairs.** All of Lessee's construction and installation work at the Premises shall be performed at Lessee's sole cost and expense and in a good and workmanlike manner. Notwithstanding anything contained herein to the contrary, in order to protect the health, welfare and safety of its residents, Lessor shall have the right to have a technician and/or inspector witness all work done, excepting immediate emergency repairs to its equipment not atop the Water Tower, necessary to ensure continuous operation of Lessee's Facilities. Lessee shall exercise reasonable precaution to avoid damage to the Water Tower and/or Premises, including contamination of the water supply; and, hereby assumes all responsibility for any and all loss or damage to such facilities caused by Lessee. Lessee shall maintain Lessee's Facilities and the Premises in neat and safe condition in compliance with all applicable codes and governmental regulations. Lessee shall be required to make any repairs to the Premises caused by Lessee, its employees, agents, contractors or subcontractors. Should Lessee cause or have cause to terminate this Lease, Lessor shall have the right to cause Lessee to remove any foundation supports for Lessee's Facilities or conduits which have been installed by Lessee, according to the terms of Section 13, Termination.

9. **Title to Lessee's Facilities.** Title to Lessee's Facilities and any equipment placed on the Premises by Lessee shall be held by Lessee. All of Lessee's Facilities shall remain the property of Lessee. Lessor waives any and all lien rights it may have, statutory or otherwise, concerning the Lessee Facilities or any portion thereof and Lessee has the right to remove all or any portion of the Lessee's Facilities at its sole expense on or before the expiration or termination of this Lease Agreement, provided that Lessee repairs any damage caused to the Premises or Water Tower by Lessee's removal. Lessor acknowledges that Lessee may enter into financing arrangements including promissory notes and financial and security agreements for the financing of Lessee's Facilities (the "Collateral") with a third party financing entity and may in the future enter into additional financing arrangements with other financing entities. In connection therewith, Lessor (i) consents to the installation of the Collateral to the extent that the Collateral is part of the approved Lessee's Facilities;; and (ii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any Rent due or to become due.

10. **Utilities.** Electrical power and utilities for use by Lessee at the Premises shall be separately metered for Lessee's account at Lessee's expense. Lessee shall be responsible for the timely payment of all charges for the electrical power and other utilities metered to Lessee, and Lessee shall hold Lessor wholly harmless from any such charges. The costs to maintain, repair, operate and replace the electric facilities and utilities, upgrades, extensions or meters on the Premises requested by Lessee shall be paid by Lessee. Lessee shall promptly repair at Lessee's expense any damage occasioned by said construction or maintenance on the Premises, and Lessee shall hold Lessor wholly harmless from any such charges.

11. Interference with Communications. Lessee warrants and represents to Lessor that Lessee's Facilities and operations shall not interfere with the communications configurations, frequencies or operating equipment which exist at the Water Tower and Lessor's Real Property on the effective date of this Lease Agreement ("Pre-existing Communications"), and Lessee's Facilities and operations shall comply with all non-interference rules of the Federal Communications Commission ("FCC"). Upon written notice from Lessor of apparent interference by Lessee with Pre-existing Communications, Lessee shall have the responsibility to promptly terminate such interference or demonstrate to Lessor with competent information that the apparent interference in fact is not caused by Lessee's Facilities or operations. In the event the Lessee's Facilities are subject to any interference from any user of the Lessor's Real Property whose equipment is installed or modified subsequent to Lessee's installation of its Lessee's Facilities ("Subsequent User"), Lessee shall notify the Subsequent User to take all steps necessary to correct and eliminate the interference. If such Subsequent User is unable to eliminate the interference, or reduce it to a level acceptable to Lessee, within a period of thirty (30) days, then Lessee may, in addition to any other rights it may have, terminate this Agreement. Lessor agrees to use reasonable efforts to assist Lessee in resolving any respective interference and agrees not to enter into subsequent leases or agreements which would otherwise interfere with Lessee's use of the Water Tower. Lessee's installation, operation, and maintenance of its Lessee's Facilities shall not damage or interfere in any way with Lessor's Water Tower operations or related repair and maintenance activities or with such activities of other tenants of the Water Tower. Lessor, at all times during this Lease, reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter or improve the Water Tower in connection with the Water Tower operations as may be necessary, including leasing parts of the Water Tower and/or the Lessor Real Property and surrounding ground space to others.

12. Taxes. Lessee shall pay personal property taxes assessed against Lessee's Facilities.

13. Termination.

a. This Lease Agreement may be terminated by Lessee effective immediately without further liability by delivery of written notice thereof to Lessor prior to the Commencement Date for any reason during the course of Lessee's Due Diligence as provided for in Section 6 above. This Lease may also be terminated without further liability on thirty (30) days prior written notice as follows: (i) by either party upon a default of any covenant, condition, or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default; (ii) by Lessee if it does not obtain licenses, permits or other approvals necessary to the construction or operation of Lessee's Facilities or is unable to maintain such licenses, permits or approvals despite reasonable efforts to do so; (iii) by Lessee if Lessee is unable to occupy or utilize the Premises due to ruling or directive of the FCC or other governmental or regulatory agency, including, but not limited to, a take back of frequencies; or (iv) by Lessee if Lessee determines that the Premises are not appropriate for its operations for economic, environmental or technological reasons, including, without limitation, signal strength or interference.

b. Lessor may terminate this Lease if Lessee ceases operations at the Premises continuously for more than one (1) year; in the event that Lessee does not, for any reason including bankruptcy, pay Rent within 60 days following written notice that the first Rent Payment is due; or if, for any other reason, Lessor, in its sole discretion, determines after the at any time following the tenth (10th) year of this Lease Agreement, that the Premises cannot be

used for the use intended by this Lease, so long as Lessor provides Lessee with 120 days written notice of Lessor's intent to terminate this Lease.

c. Upon termination of this Lease, if requested to do so by Lessor, Lessee shall remove the Lessee's Facilities and all support structures that are not shared or used by another user of the Water Tower and/or the Premises. Such removal shall be performed in a workmanlike and careful manner and without interference or damage to the water in the Water Tower, the Water Tower, or any other equipment, structures or operations on the Premises, including use of the Premises by Lessor or any of Lessor's assignees or lessees. Lessee agrees that in addition to any removal required by Lessor pursuant to this paragraph, Lessee shall also restore the Premises to the reasonable satisfaction of Lessor. All costs and expenses for the removal and restoration performed by Lessee pursuant to this paragraph shall be borne solely by Lessee, and Lessee shall hold Lessor harmless from any portion thereof. If Lessee fails to remove all Lessee's Facilities within 60 days of the termination of the lease, Lessor shall have the right to remove and dispose of such Lessee's Facilities. Lessee shall reimburse Lessor for the cost of removal and disposal of Lessee's Facilities under this section, and Lessee shall bear sole responsibility for any unintentional damage caused by the removal and disposal of the Lessee's Facilities.

d. Upon execution of this Lease, Lessee shall deliver to Lessor the amount of \$20,000. Lessor shall place these funds in escrow. Lessee shall not be entitled to any claim of interest on the funds in escrow, which shall accrue in favor of Lessor. Upon termination of this Lease, or upon Lessee's failure to assume the Lease and cure any defaults in the event of the filing of a petition in bankruptcy, and upon Lessee's failure to timely comply with Section 13(c) of this Lease, Lessor may use these funds to remove and dispose of the Lessee's Facilities, support structures, and any other fixtures. Lessor shall account for the disposition of the funds and remit to Lessee or its successor any remainder. Otherwise, Lessor shall remit the funds to Lessee or its successor upon Lessee's compliance with Section 13(c). Lessee acknowledges that it is relinquishing control of these funds, specifically grants Lessor a security interest in the funds for the purpose set forth in this Section, and shall execute any documents required to perfect Lessor's security interest.

14. Destruction of Premises. If the Premises or Water Tower is destroyed or damaged so as in Lessee's judgment to hinder its effective use of the Premises for the ongoing operation of a wireless communications site, Lessee may elect to terminate this Lease Agreement as of the date of the damage or destruction by so notifying Lessor no more than ninety (90) days following the date of such damage or destruction. In such event, all rights and obligations of the parties which do not survive the termination of this Lease Agreement shall cease as of the date of the damage or destruction.

15. Condemnation. Intentionally deleted.

16. Insurance. Lessee shall maintain the following insurance: (1) Commercial General Liability insuring Lessee against liability for personal injury, death or damage to personal property arising out of the use, occupancy and maintenance of the Premises by Lessee or its contractors and agents, with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) in the aggregate (2) Automobile Liability with a combined single limit of One Million Dollars (\$1,000,000.00) per accident, (3) Workers Compensation as required by law, and (4) Employer's Liability with limits of One Million Dollars (\$1,000,000.00) per occurrence. Lessor, at

Lessor's sole cost and expense, shall procure and maintain on the Property, bodily injury and property damage liability insurance or Risk Authority Coverage with a combined single limit of at least One Million Dollars (\$1,000,000.00) per occurrence. Such insurance shall insure, on an occurrence basis, against liability of Lessor, its employees and agents arising out of or in connection with Lessor's use, occupancy and maintenance of the Property. Each party shall be named as an additional insured on the other's policy. Each party shall provide to the other a certificate of insurance evidencing the coverage required by this paragraph within thirty (30) days of the Commencement Date. Lessee's certificate shall provide that Lessee's insurance shall not be cancelable, modifiable, or reduced in coverage except on thirty (30) days notice to Lessor. Notwithstanding the foregoing, Lessee shall not be an additional insured on Lessor's retainage obligation in connection with its Risk Authority Contract. The fact that Lessee is required to furnish insurance in accordance with this paragraph or the fact that such insurance is furnished does not and shall not relieve Lessee from its obligations to Lessor under the provisions of Section 20 Indemnification for any deficiency amount of which Lessee is responsible to Lessor. The coverage amounts set forth above may be met by a combination of underlying (primary) and umbrella policies so long as in combination the limits equal or exceed those stated.

Each party waives any rights of recovery against the other for injury or loss due to hazards covered by their property insurance, and each party shall require such insurance policies to contain a waiver of recovery against the other.

17. Assignments or Transfers. Lessor may assign or transfer this Lease Agreement to any person or entity without any requirement for prior approval by Lessee, provided that such assignee or transferee agrees in writing to fulfill the duties and obligations of the Lessor in said Lease Agreement, including the obligation to respect Lessee's rights to non-disturbance and quiet enjoyment of the Premises during the remainder of the Term and any Renewal Term hereof. Lessee may assign or transfer this Lease Agreement without prior approval by Lessor to any of Lessee's partners, shareholders, members, subsidiaries, or affiliates, to any entity in which Lessee or any of its affiliates holds a controlling interest, to a person or entity acquiring by purchase, merger or operation of law all or substantially all of the assets of Lessee. Upon such assignment, Lessee and assignee shall be jointly and severally liable for performance under this Lease Agreement and all obligations hereunder, and Lessee shall send written notice to Lessor, which notice shall include the contact information for the assignee and confirmation signed by the assignee that it shall be jointly and severally liable for performance under this Lease Agreement and all obligations hereunder. Except as otherwise provided for herein, Lessee shall not assign or transfer this Lease Agreement to any other person or entity without the prior written approval of Lessor, which approval shall not be unreasonably withheld, conditioned, or delayed. Upon such assignment, Lessee shall be relieved of all liabilities and obligations hereunder and Lessor shall look solely to the assignee for performance under this Lease Agreement and all obligations hereunder. Lessee may, without cost or obligation to Lessor, assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Lease Agreement to any financing entity, or agent on behalf of any financing entity to whom Lessee (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof, so long as Lessee continues to remain responsible for all liabilities and obligations hereunder.

18. Subleases. This Lease may be sublet by Lessee only upon the written consent of Lessor. Lessee shall retain joint and several liability for any activity by any future sublessee under this Lease. Upon Owner's written consent, any sublessee will assume all applicable rights and obligations of this Lease.

19. Non-Disturbance and Quiet Enjoyment; Subordination; Estoppel Certificates.

(a) Lessor covenants and warrants to Lessee that (i) it has good and unencumbered title to the Premises free and clear of any liens or mortgages which will interfere with Lessee's rights to or use of the Premises; (ii) that the execution and performance of this Lease Agreement by Lessor will not violate any laws, ordinances, covenants, or the provisions of any lease or other agreement binding on Lessor; and (iii) so long as Lessee is not in default under this Lease Agreement, Lessee shall be entitled to quiet enjoyment of the Premises during the term of this Lease Agreement or any Renewal Term, and Lessee shall not be disturbed in its occupancy and use of the Premises.

(b) At any time upon not less than ten (10) days' prior written notice from either Lessor or Lessee, the other shall execute, acknowledge and deliver to the requesting party or any other party specified a statement in writing certifying that this Lease Agreement is in full force and effect and the status of any continuing defaults under this Lease Agreement.

20. Indemnifications.

(a) Lessee's Indemnity. Lessee hereby agrees to indemnify and hold Lessor and Lessor's elected officials, officers, directors, partners, shareholders, employees, agents, contractors or subcontractors harmless from and against any and all losses, claims, liabilities, damages, costs and expenses (including reasonable attorney's fees and costs) and injuries (including personal injuries or death) arising from or in connection with (i) Lessee's use, operation, maintenance or repair of Lessee's Facilities at the Premises or access over Lessor's Real Property or Lessee's shared use of Lessor's easements for access to the Premises; or (ii) a breach by Lessee of any obligation under this Lease Agreement, except those resulting from the negligent acts or willful misconduct of Lessor or Lessor's agents or employees.

(b) Survival of Indemnity Provisions. The indemnity provisions of this section shall survive the expiration, cancellation or expiration of this Lease Agreement and shall not extend to indirect, special, incidental or consequential damages, including, without limitation, loss of profits, income or business opportunities to the indemnified party or anyone claiming through the indemnified party.

21. Environmental Issues; Hazardous Materials. Lessor represents that it has no knowledge of any environmental conditions, adverse impacts, or mitigation monitoring programs resulting from any prior environmental assessments conducted under the National Environmental Policy Act (NEPA) which could unreasonably forbid, interfere with, or complicate Lessee's proposed use of the Premises. Lessee shall not be responsible for handling, removal, or treatment of any Hazardous Materials, hazardous substance or hazardous wastes which is present prior to the delivery of the Premises to Lessee, or which is brought onto the Lessor's Real Property by some party outside the control of Lessee, and no costs incurred in connection with the clean-up, removal, or treatment of hazardous materials, hazardous substances or hazardous wastes shall be allocated to Lessee. Lessee shall not bring any hazardous materials onto the Premises except for those contained in its back-up power batteries (lead acid batteries) and common materials used in telecommunications operations, such as cleaning solvents. Lessee shall handle any hazardous materials it brings onto the Premises in accordance with all applicable federal, state and local laws and regulations. Lessor shall be responsible for, and shall promptly conduct any investigation and remediation as required by any applicable environmental laws or statutes or any

spill or release of hazardous materials, hazardous substances or hazardous waste substance not caused by Lessee, that have occurred or which may occur at the Premises or Water Tower. Lessor and Lessee each agree to defend, indemnify and hold harmless the other and the other's partners, affiliates, agents and employees against any and all losses, liabilities, claims and/or costs (including reasonable attorneys' fees and costs) arising from any breach of any representation, warranty or agreement contained in this paragraph. This paragraph shall survive termination of this Lease Agreement.

22. **Notices and Deliveries.** Any notice or demand required to be given herein shall be made by certified or registered mail, return receipt requested, confirmed fax, or reliable overnight delivery service to the address of the respective parties set forth below:

Lessor: City of Muskegon
PO Box 536, 933 Terrace St.
Muskegon, MI 49443
Attn: Public Works Director
Telephone: 231-724-4100

With a copy to: John C. Schrier
Parmenter O'Toole, PLC
601 Terrace Street
Muskegon MI 49440

Lessee: MetroPCS Michigan, Inc.
28505 Schoolcraft, Building #6
Livonia, MI 48150
Attn: Property Manager
Telephone: 734-444-0100
Facsimile: 734-444-0503

With a copy to: MetroPCS Michigan, Inc.
c/o MetroPCS Communications, Inc.
2250 Lakeside Blvd.
Richardson, Texas 75082-4304
Attn: Property Manager
Telephone: 214-570-4883
Facsimile: 866-947-3507

Lessor or Lessee may from time to time designate any other address for notices or deliveries by written notice to the other party.

23. **Attorney Fees.** Lessee agrees to reimburse Lessor for any legal expense incurred in connection with the Lease, including but not limited to its review, negotiation, revision, and execution of the original Lease and advice and enforcement of this Lease, said fee shall be One Thousand Five Hundred Dollars (\$1,500.00) and is due 30 days after lease is fully executed.

24. Miscellaneous.

(a) **Severability.** If any provision of the Lease Agreement is held to be invalid or unenforceable by a court of competent jurisdiction with respect to any party, the remainder of this Lease Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable shall not be affected, and each provision of this Lease Agreement shall be valid and enforceable to the fullest extent permitted by law.

(b) **Binding Effect.** Each party represents and warrants that said party has full power and authority, and the person(s) executing this Lease Agreement have full power and authority, to execute and deliver this Lease Agreement, and that this Lease Agreement constitutes a valid and binding obligation of each party, enforceable in accordance with its terms. This Lease Agreement shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.

(c) **Waivers.** No provision of this Lease Agreement shall be deemed to have been waived by a party unless the waiver is in writing and signed by the party against whom enforcement of the waiver is attempted. No custom or practice which may develop between the parties in the implementation or administration of the terms of this Lease Agreement shall be construed to waive or lessen any right to insist upon strict performance of the terms of this Lease Agreement.

(d) **Venue, Jurisdiction, and Governing Law.** The parties agree that for purposes of any dispute in connection with this Lease, the Muskegon County Circuit Court shall have exclusive personal and subject matter jurisdiction and venue. This Lease shall be governed by and construed in accordance with the laws of the State of Michigan.

(e) **Attorneys' Fees and Costs.** The prevailing party in any legal claim arising hereunder shall be entitled to its reasonable attorneys' fees and court costs.

(f) **Survival.** Terms and conditions of this Lease Agreement which by their sense and context survive the termination, cancellation or expiration of this Lease Agreement will so survive.

(g) **Memorandum of Lease.** Lessor acknowledges that a Memorandum of Agreement substantially in the form annexed hereto as Exhibit C will be recorded by Lessee in the Official Records of the County where the Premises are located.

(h) **Entire Agreement; Amendments.** With the specific exception of the terms of the Entry and Testing Agreement executed by the parties, this Lease Agreement constitutes the entire agreement and understanding between the parties regarding Lessee's lease of the Premises and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease Agreement must be in writing and executed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement on the dates set forth below and acknowledge that this Lease Agreement is effective as of the date first above written.

LESSOR:

City of Muskegon,
a Michigan municipal corporation

By: _____
(Signature)

Print Name: _____

Title: _____

Date: _____

By: _____
(Signature)

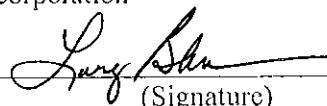
Print Name: _____

Title: _____

Date: _____

LESSEE:

MetroPCS Michigan, Inc.
a Delaware corporation

By:  _____
(Signature)

Print Name: ~~Glen W. Flowers~~

Title: ~~V.P. & General Manager~~

Date: 11-21-05

Larry Blackburn, RVP Finance & Operations
On behalf of:
Glen W Flowers, Regional VP & GM
MetroPCS Michigan, Inc.

EXHIBIT A

DESCRIPTION OF LESSOR'S REAL PROPERTY

to the Communications Site Lease Agreement dated _____, 2008, by and between The City of Muskegon, as Lessor, and MetroPCS Michigan, Inc., a Delaware corporation, as Lessee.

Lessor's Real Property of which the Premises are a part is described as follows:

A triangular piece of land bounded my Mims Street, Superior Street, and Dale Avenue, Section 29, Township 10 North, Range 16 West, Muskegon County Records.

Assessors Parcel Number: 61-24-129-400-0002-00

EXHIBIT B

DESCRIPTION OF PREMISES

to the Communications Site Lease Agreement dated _____, 2008, by and between The City of Muskegon, as Lessor, and MetroPCS Michigan, Inc., a Delaware corporation, as Lessee.

The Premises consist of those specific areas depicted below or attached where Lessee's communications antennae, equipment and cables occupy Lessor's Real Property and/or the Water Tower. The Premises and the associated utility connections and access, including easements, ingress, egress, dimensions, and locations as described/shown, are approximate only and may be adjusted or changed by Lessee at the time of construction to reasonably accommodate sound engineering criteria and the physical features of Lessor's Real Property and/or the Water Tower.

(A final drawing or copy of a property survey or site plan depicting the above shall replace this Exhibit B when initialed by Lessor or Lessor's designated agent and may be modified from time to time when initialed by both Lessor and Lessee.)

[illegible]

REVISIONS			
REV.	DATE	DESCRIPTION	BY
1	11/10/94	REV. 1. INITIAL CDS	CB
2		FINAL CDS	CB
3		REVISED CDS	CB
4		PRELIMINARY CDS	CB



SHEET NUMBER

A-1

1. 18'-0" ± A.G.L.
 2. 22'-0" ± A.G.L.
 TOP OF EXISTING WATER TOWER

EXISTING BALCONY
 WITH HANDRAIL

NOTE:
 REFER TO PAGES S-1 TO S-3 BY
 THESE DIMENSIONS FOR WATER
 TOWER INSTALLATION DETAILS

PROPOSED METROPOLIS
 COAX TO BE ROUTED ON
 EXISTING TOWER RADIAL
 AND (BEYOND) AS PER
 S-1 TO S-3

PROPOSED METROPOLIS
 ANTENNA PER
 SECTOR TOTAL (6) SECTORS,
 (6) ANTENNAS SEE S-3
 FOR MOUNTING DETAIL

PROPOSED METROPOLIS COAX
 (BEYOND) TO BE ROUTED AS
 PER S-1 - S-3

TOWER AND ELEVATION NOTES:
 INSTALLATION OF PROPOSED ANTENNA
 MOUNTS, ANTENNAS, AND CABLES AS
 PER TOWER OWNERS' STRUCTURAL
 ANALYSIS.
 PORTIONS OF ELEVATION MAY BE
 REMOVED FOR CLARITY OF METROPOLIS
 LEASE AREA.

NOTE:
 ANTENNAS, ANTENNA MOUNTS,
 CABLE TRAY & ANY EXPOSED
 CABLES SHALL BE PAINTED TO MATCH
 EXISTING WATER TOWER AS PER
 S-1 - S-3

EXISTING METEL SHEETER

PROPOSED METROPOLIS
 EQUIPMENT ON 10' X 16'
 CONCRETE PAD IN 12' X 20'
 LEASE AREA

1 SOUTH ELEVATION
 A-1B

0' 4' 8' 16' 24'

COAX LENGTHS

SECTOR 0°	285'-0" ±	SECTOR 180°	195'-0" ±
SECTOR 60°	295'-0" ±	SECTOR 240°	170'-0" ±
SECTOR 120°	240'-0" ±	SECTOR 300°	220'-0" ±

OUTLINE OF EXISTING
 WATER TOWER AND
 BALCONY WITH
 HANDRAIL (ABOVE)

240° SECTOR

PROPOSED METROPOLIS
 ANTENNA PER
 SECTOR TOTAL (6) SECTORS,
 (6) ANTENNAS SEE S-3 FOR
 MOUNTING DETAIL

EXISTING 1-BEAM
 TOWER LIT (TYP.)

EXISTING OVERFLOW
 PIPE

240° SECTOR

PROPOSED COAX
 METROPOLIS
 ROUTING UP BACK SIDE
 OF EXISTING TOWER LEG
 (PAINT TO MATCH AS
 PER S-1 - S-3)

180° SECTOR

PROPOSED METROPOLIS
 COAX TO BE ROUTED
 ON EXISTING TOWER
 BALCONY (PAINT TO
 MATCH AS PER S-1 -
 S-3)

NOTE:
 NORTH ARROW AND SITE ORIENTATION
 PER DIXON ENGINEERING

2 ANTENNA LAYOUT PLAN
 A-1B

0' 4' 8' 16' 24'

Metropolis
 2805 SCHOOLCRAFT
 BUILDING 6
 LIVING, MI 48106
 TEL: (734) 444-0100

**CHRISTOPHER WZACNY
 AND ASSOC. INC.**
 30120 TELEGRAPH ROAD,
 BIRMINGHAM, AL 35205
 TELEPHONE: (205) 723-5516
 FAX: (205) 723-4810

CHECKED BY: CM

METROPOLIS

NO.	DATE	DESCRIPTION	BY
1	11/10/00	INITIAL TO FINAL CDS	CM
2	12/04/00	FINAL CDS	CM
3	12/04/00	ALYIELD CDS	CM
4	12/04/00	RELEASER CDS	CM
5	12/04/00	RELEASER CDS	CM



THIS DOCUMENT IS THE PROPERTY OF THE CLIENT AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF THE CLIENT.

REFER TO DRAWING SCALE FOR
 11/11/07 DRAWINGS

SITE:
MUSKEGON WATER TOWER

SITE ADDRESS:
**715 NIMS STREET
 MUSKEGON, MI 49442**

SHEET TITLE:
**ELEVATION AND
 ANTENNA PLAN**

SHEET NUMBER:
A-1B

EXHIBIT C

CLERK: Please return this document to:
Drafted by: Andrew Mah
MetroPCS Michigan, Inc.
28505 Schoolcraft, Bldg. 6
Livonia, MI 48150
Attn.: Property Manager
Site: MUS2815B

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is entered into on this ____ day of _____, _____, by and between The City of Muskegon, with an office at PO Box 536, 933 Terrace St., Muskegon, MI 49443 (hereinafter referred to as "Lessor"), and MetroPCS Michigan, Inc., a Delaware corporation, c/o MetroPCS, Inc. with an office at 28505 Schoolcraft, Bldg. 6, Livonia, Michigan 48150 (hereinafter referred to as "Lessee").

1. Lessor and Lessee entered into a Communications Site Lease Agreement ["Agreement"] on the ____ day of _____, _____, for the purpose of installing, operating and maintaining a communications facility and other improvements. All of the foregoing are set forth in the Agreement.
2. The term of the Agreement is for five (5) years commencing on the issuance of a local governmental building permit allowing Lessee to construct Lessee's Facilities on the Premises or six (6) months from the date of full execution of this Lease Agreement, whichever occurs first and terminating on the 5th anniversary of the Commencement Date, with four (4) successive five (5) year options to renew.
3. The Land which is the subject of the Agreement is described in Exhibit A annexed hereto.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the day and year first above written.

LESSOR:
City of Muskegon, a Michigan municipal
corporation

LESSEE:
MetroPCS Michigan, Inc., a Delaware corporation

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

LESSOR NOTARY

STATE OF _____

COUNTY OF _____

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public (SEAL)

LESSEE NOTARY

STATE OF MICHIGAN

COUNTY OF _____

On _____, before me, _____, Notary Public, personally appeared Glen W. Flowers, VP and General Manager, Metro PCS Michigan, Inc., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public (SEAL)

EXHIBIT A

DESCRIPTION OF LESSOR'S REAL PROPERTY

to the Communications Site Lease Agreement dated _____, 2008, by and between The City of Muskegon, as Lessor, and MetroPCS Michigan, Inc., a Delaware corporation, as Lessee.

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Assessors Parcel Number: 61-24-129-400-0002-00

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3. The Land which is the subject of the Agreement is described in Exhibit A annexed hereto.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the day and year first above written.

LESSOR:
City of Muskegon, a Michigan municipal
corporation

By: _____

Name: _____

Title: _____

LESSEE:
MetroPCS Michigan, Inc.,
a Delaware Corporation

By:  _____

Name: Glen W. Flowers

Title: VP & General Manager

Larry Blackburn, RVP Finance & Operations
On behalf of:
Glen W Flowers, Regional VP & GM
MetroPCS Michigan, Inc.

Site No.: **MUS2815B**

Site Address: 715 Nims Street

LESSOR NOTARY

STATE OF _____

COUNTY OF _____

On _____, before me, _____,
Notary Public, personally appeared _____, personally known to
me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

WITNESS my hand and official seal.

Notary Public

(SEAL)

LESSEE NOTARY

STATE OF MICHIGAN

COUNTY OF WAYNE

Larry Blackburn, RVP Finance & Operations

On behalf of:

Glen W Flowers, Regional VP & GM
MetroPCS Michigan, Inc.

On 11-21-08, before me, **Kimberly Harden**, Notary Public,
personally appeared ~~Glen W. Flowers, VP and General Manager~~, Metro PCS Michigan, Inc.,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s)
acted, executed the instrument.

WITNESS my hand and official seal.

Kimberly Harden
Notary Public

(SEAL)

KIMBERLY HARDEN
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF OAKLAND
My Commission expires August 30, 2012
Acting in the County of Wayne

Wayne

Site No.: **MUS2815B**

Site Address: 715 Nims Street

EXHIBIT A

DESCRIPTION OF LESSOR'S REAL PROPERTY

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Assessors Parcel Number: **61-24-129-400-0002-00**

CLERK: Please return this document to:

Drafted by: Andrew Mah
MetroPCS Michigan, Inc.
28505 Schoolcraft, Bldg. 6
Livonia, MI 48150
Attn.: Property Manager
Site: MUS2815B

Site No.: **MUS2815B**

Site Address: 715 Nims Street

City Commission Meeting
Tuesday January 13, 2009

TO: Honorable Mayor and City Commissioners

FROM: Anthony L. Kleibecker, Director of Public Safety

DATE: January 6, 2009

SUBJECT: Response Agreement-Department of Veteran Affairs Police

Summary of Request:

The Director of Public Safety is requesting approval to enter into a cooperative agreement with the United States Department of Veteran Affairs Police. This agreement, known as a “threshold agreement”, coordinates public safety response to Veterans Affairs offices within the city, specifically: 165 East Apple Avenue, Suite 201. There are no costs associated with this agreement.

Financial Impact:

None

Budget Action Required:

None

Staff Recommendation:

Approval of the agreement.



DEPARTMENT OF VETERANS AFFAIRS
Police Department
5500 Armstrong Road
Battle Creek, MI 49037

RECEIVED

JAN 02 2009

MUSKEGON POLICE DEPT.
CHIEF of POLICE

In Reply Refer To: 515/07
12/10/08

Chief Anthony Kleibecker
Muskegon Public Safety
980 Jefferson St
Muskegon, Michigan 49443

Chief Kleibecker:

The Department of Veterans Affairs Policy requires each VA Chief of Police to establish liaison/threshold agreements with appropriate Federal, State and local law enforcement agencies. It also requires us to maintain a current support agreement on file. With that in mind, I'd like first to give you a brief background of the VA Police, and then explain the nature of our requests.

Our mission is to protect Federal property and provide law enforcement and security to patients, visitors, vendors, contractors, employees and others who work at or use this facility. Our jurisdiction is limited to Federal property but includes a 206-acre Medical Center with 54 buildings and also a 750-acre National Cemetery, of which only a small portion is developed.

The Department of Veterans Affairs Police are granted police authority to charge and arrest for violations of Federal law and regulations by Section 1.218 of Title 38, Code of Federal Regulations, United States Code. Under Section 13 of Title 18 United States Code, The Assimilative Crimes Act, violations of State law become Federal offenses, which may also be enforced by Veterans Affairs Police.

I believe we have an excellent working relationship with the Muskegon Department of Public Safety and appreciate your continued support and assistance.

I'd like to address areas where your assistance is requested:

1. In the event that police response to the Clinic located at 165 E. Apple Ave. Suite 201 is needed, that your agency responds.
2. An annual physical security inspections will be completed on a yearly bases by VA Police and copies will be provided to your office if requested. Annual hazard vuleralbility assessments are also completed and will also be provided.

I'd like to take this opportunity to thank you for your continued support and for considering our requests. If there is a need for further discussion, I can be reached at (269) 223-6786. If there is no need for further discussion, please sign this document indicating your acknowledgement and concurrence with its content and return it to me. An envelope has been provided for your convenience.

Sincerely,

Concur

ANTHONY T. PRINCE
Chief, Veterans Affairs Police

Anthony L. Kleibecker
Chief - Muskegon Dept of Public Safety

Date: 01/13/09

To: Honorable Mayor and City Commission

From: DPW

RE: Budgeted Vehicle Replacement

SUMMARY OF REQUEST: Approval to purchase two 2009 Ford F-150s.

FINANCIAL IMPACT: \$45,324.00

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve purchase using State of Michigan Purchasing Program.

Memorandum

To: Honorable Mayor and City Commissioners

From: DPW

Date: 01/13/09

Re: Budgeted Vehicle Replacement

The Equipment Division has scheduled the replacement of two vehicles assigned to the Engineering Department. These vehicles will be used to transport survey equipment and to inspect construction site throughout the city.

We have requested prices from area dealers as well as the statewide purchasing contracts. Macomb County Purchasing is the bid the equipment division is recommending. Attached is a summary of the bids.

In accordance with established purchasing policy, we are requesting permission to purchase two F-150s using Macomb County Purchasing.

Equipment Purchase - 2009

<u>Type of Vehicle</u>	<u>Macomb County</u> <u>3942 W. Lansing</u>	<u>Great Lakes Ford</u> <u>2469 E. Apple Ave</u>	<u>Fremont Ford</u> <u>7148 W. 48th</u>	<u>Vanderhyde Ford</u> <u>345 N. Main</u>
	<u>Perry MI 48872</u>	<u>Muskegon MI 49442</u>	<u>Fremont MI. 49412</u>	<u>Cedar Springs MI. 49319</u>
2 F-150 Pickup Trucks	\$22,662.00	\$24,579.00	\$24,183.00	\$24,500.00
Total	\$45,324.00	\$49,158.00	\$48,366.00	\$49,000.00

Date: 01/13/09

To: Honorable Mayor and City Commission

From: DPW

RE: Budgeted Vehicle Replacement

SUMMARY OF REQUEST: Approval to purchase seven 2009 Crown Victorias.

FINANCIAL IMPACT: \$149,079.00

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve purchase from Great Lakes Ford.

Memorandum

To: Honorable Mayor and City Commissioners

From: DPW

Date: 01/13/09

Re: Budgeted Vehicle Replacement

The Equipment Division has scheduled the replacement of seven Crown Victoria Police Interceptors for 2009. These vehicles will be set up with video systems, light bars, and radar units and be used as police patrol vehicles.

We have requested prices from area dealers as well as the statewide purchasing contracts. Great Lakes Ford is the bid the equipment division is recommending. Attached is a summary of the bids.

In accordance with established purchasing policy, we are requesting permission to purchase seven Ford Crown Victorias from Great Lakes Ford.

Equipment Purchase - 2009

<u>Type of Vehicle</u>	<u>Macomb County</u> <u>3942 W. Lansing</u>	<u>Great Lakes Ford</u> <u>2469 E. Apple Ave</u>	<u>Fremont Ford</u> <u>7148 W. 48th</u>	<u>Vanderhyde Ford</u> <u>345 N. Main</u>
	<u>Perry Mi 48872</u>	<u>Muskegon Mi 49442</u>	<u>Fremont Mi. 49412</u>	<u>Cedar Springs Mi. 49319</u>
7 Crown Victoria Police Interceptors	\$21,992.00	\$21,297.00	\$22,244.52	\$21,990.00
Total	\$153,944.00	\$149,079.00	\$155,711.62	\$153,930.00

DATE: January 6, 2009

TO: Honorable Mayor and City Commissioners

FROM: Cathy Brubaker-Clarke, Community and Economic Development
Director, Leisure Services

RE: Special Events-Multiple Liquor License Request
Racquets Downtown Grill

SUMMARY OF REQUEST: Racquets Downtown Grill (in partnership with the Muskegon Jaycees) is requesting an extension of their liquor license to host their annual SnowFest event on February 5, 6, and 7th. (The first license is held by Linne Lodge #57, Independent Order of Vikings for their Winterfest event on February 6th, 7th, and 8th, 2009)

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: None.

COMMITTEE RECOMMENDATION: The Leisure Services Staff approved this request in December 2008.

Date: January 13, 2009
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Recommendations for the Various Boards and Committees

SUMMARY OF REQUEST: To concur with the recommendations from the Community Relations Committee regarding appointments and resignations.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: The Community Relations Committee recommended approval at their January 5, 2009 meeting.

COMMITTEE RECOMMENDATION:

Board of Review

Donald Haas, Georgia Strube, Ralph Burr

Citizen's Police Review Board

William Muhammad, Barbara Kuipers, Dollie Hippchen, Ann Craig

Civil Service Commission

Shontea Jenkins

Community Development Block Grant-Citizen's District Council

Patricia Montney, Marcia Hovey-Wright, Dan Rinsema-Sybenga

Accept resignations of James A. Dalum and G. Ellouise Hieftje and Ryan McCabe

Appoint Amy Varnado to the Ward 3 seat.

Construction Code Board of Appeals

Vicki Webster, Kevin Donovan, Matthew Tighe

Downtown Development Authority/Brownfield Redevelopment Authority

Board/Tax Increment Finance Authority

Eugene Fethke, Mike Johnson Sr.

Election Commission

John Bronsema

Equal Opportunity Committee

Willie German Jr.

Appoint Michael Johnson

Remove Ofelia Jimenez due to lack of attendance

Historic District Commission

Jackie Hilt, Linda Wood

Housing Code Board of Appeals

Kirk Kolberg, Randy Mackie

Housing Commission

Edward Horne

Income Tax Board of Review

Steve Warmington Jr.

Land Reutilization Committee

Robert Hill

Leisure Services Board

Laura Kolberg, Stephanie Marion

Local Development Finance Authority

Phillip Okerlund

Planning Commission

Tom Harryman, Timothy Michalski, Bill Larson

Public Relations Committee

John Vanwyck

Zoning Board of Appeals

Raymond Hilt, Bill Larson

Date: January 13, 2009
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Gaming License Request – USS LST 393
Preservation Association

SUMMARY OF REQUEST: The USS LST 393 Preservation Association is requesting a resolution recognizing them as a non-profit organization operating in the City for the purpose of obtaining a Gaming License. They have been recognized as a 501(c)(3) organization by the State.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval



USS LST 393

Preservation Association

560 Mart St., Muskegon, MI 49440 – Phone 231.730.1477

E mail: 82airbn@comcast.net - Internet: www.lst393.org

LST 393

Board of Directors

Dick Borgeson
Duane Buckner
Norm Erickson
Nancy Frye
Ron Gossett
Kimberly Grimm
Fred Nielson
John Noling
Don Swick
Daniel Weikel
Bob Wygant

Gift Shop Directors

JoAnn Bos
Jean Mary Duplissis
Pat Wagner
Barbara Weikel
Margaret Wickham
Mary Wygant

Ann Becker

15 Dec 2008

Clerk

City of Muskegon

Dear Ms. Becker;

I represent the *USS LST 393 Preservation Association*. We are located at 560 Mart Street, Muskegon. We are a Michigan chartered 501-C-3, non-profit corporation.

I was referred to you by Duane Buckner, one of our BOD members. Duane indicated that perhaps you could get the attached form presented to the appropriate persons for completion, and then return it to us. We are applying to the State Gaming Commission for a license to participate in *Texas Hold'em* Gamming events.

We thank you for your assistance. I can, of course, provide verification for our "charitable," and/or "non profit" legal; status... should that be required.

I may be reached at 231.730.1477. If I could be contacted once the form is completed, I would be happy to pick it up.

Thanks again, Duane said to say "hi" to you.

Daniel Weikel

President, USS LST 393 Preservation Association.



Charitable Gaming Division
Box 30023, Lansing, MI 48909
OVERNIGHT DELIVERY:
101 E. Hillsdale, Lansing MI 48933
(517) 335-5780
www.michigan.gov/cg

LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES

(Required by MCL 432.103(9))

At a _____ meeting of the _____
REGULAR OR SPECIAL TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by _____ on _____
DATE

at _____ a.m./p.m. the following resolution was offered:
TIME

Moved by _____ and supported by _____

that the request from _____ of _____
NAME OF ORGANIZATION CITY

county of _____, asking that they be recognized as a
COUNTY NAME

nonprofit organization operating in the community for the purpose of obtaining charitable

gaming licenses, be considered for _____
APPROVAL/DISAPPROVAL

APPROVAL

Yeas: _____

Nays: _____

Absent: _____

DISAPPROVAL

Yeas: _____

Nays: _____

Absent: _____

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

adopted by the _____ at a _____
TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD REGULAR OR SPECIAL

meeting held on _____
DATE

SIGNED: _____
TOWNSHIP, CITY, OR VILLAGE CLERK

PRINTED NAME AND TITLE

ADDRESS

COMPLETION: Required.
PENALTY: Possible denial of application.

BSL-CG-1153(R10/06)

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **MAY 20 2006**
USS LST 393 PRESERVATION
ASSOCIATION INC

Employer Identification Number:
20-4531853
DLN:
17053110027036
Contact Person:
GARY MUTHERT ID# 31518
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
December 31
Public Charity Status:
170(b)(1)(A)(vi)
Form 990 Required:
Yes
Effective Date of Exemption:
May 18, 2005
Contribution Deductibility:
Yes
Advance Ruling Ending Date:
December 31, 2009

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. During your advance ruling period, you will be treated as a public charity. Your advance ruling period begins with the effective date of your exemption and ends with advance ruling ending date shown in the heading of the letter.

Shortly before the end of your advance ruling period, we will send you Form 8734, Support Schedule for Advance Ruling Period. You will have 90 days after the end of your advance ruling period to return the completed form. We will then notify you, in writing, about your public charity status.

Please see enclosed Information for Exempt Organizations Under Section 501(c)(3) for some helpful information about your responsibilities as an exempt organization.

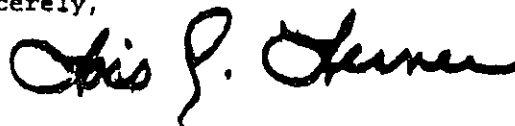
Letter 1045 (DO/CG)

-2-

USS LST 393 PRESERVATION

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

A handwritten signature in black ink, appearing to read "Lois G. Lerner". The signature is fluid and cursive, with the first name "Lois" being more prominent.

Lois G. Lerner
Director, Exempt Organizations
Rulings and Agreements

Enclosures: Information for Organizations Exempt Under Section 501(c)(3)
Statute Extension

Letter 1045 (DO/CG)

Date: January 13, 2009
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Liquor License Transfer Request
CJ's on the Beach, LLC
1601 Beach Street

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from CJ's on the Beach, LLC to transfer ownership of the 2008 Class C and SDM Licensed Business with Outdoor Service (2 Areas), Dance-Entertainment Permit, Drive-up Window without Alcohol Beverage Sales and 2 Bars located at Pere Marquette Park, 1601 Beach Street, Pavilion Bldg, from BLMC Enterprises, Inc.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.



Muskegon Police Department

Anthony L. Kleibecker
Director of Public Safety

980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

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

December 18, 2008

To: City Commission through the City Manager

From: 
Anthony L. Kleibecker, Director of Public Safety

Re: Liquor License Investigation – 1601 Beach Street
Transfer of 2008 Class C and SDM Licensed Business with Permits

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation from applicant CJ's on the Beach, LLC. of 1601 Beach Street, Muskegon, MI. 49441.

CJ's on the Beach, LLC. is requesting to transfer ownership of 2008 Class C and SDM Licensed Business with Outdoor Service (2 Areas), Dance-Entertainment Permit, Drive-up Window without Alcohol Beverage Sales and 2 Bars, located at Pere Marquette Park, 1601 Beach Street, Pavilion Bldg, Muskegon, MI. 49441 from BLMC Enterprises, Inc.

The applicant, Alison Johnson of 2108 Marlin NE. Grand Rapids, MI, has no experience in the alcohol service industry but has been made aware of the Muskegon Police Departments position on enforcing local alcohol laws and ordinances. The applicant has also been made aware of the following two websites for additional training opportunities; the Michigan Licensed Beverage Association and the Liquor Control Commission.

A check of Muskegon Police Department records and criminal history showed no reason to deny this request.

ALK/kd



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

485685
12-2-2008
TMA

POLICE INVESTIGATION REQUEST

[Authorized by MCL 436.1201(4)]

November 5, 2008

MUSKEGON POLICE DEPARTMENT
CHIEF OF POLICE
980 JEFFERSON STREET, PO BOX 536
MUSKEGON, MI 49443-0536

Request ID #485685

Applicant: CJ'S ON THE BEACH LLC, REQUESTS TO TRANSFER OWNERSHIP OF 2008 CLASS C AND SDM LICENSED BUSINESS WITH OUTDOOR SERVICE (2 AREAS), DANCE-ENTERTAINMENT PERMIT, DRIVE-UP WINDOW WITHOUT ALCOHOLIC BEVERAGE SALES AND 2 BARS, LOCATED AT PERE MARQUETTE PARK, 1601 BEACH, PAVILION BLDG, MUSKEGON, MI 49441, MUSKEGON COUNTY, FROM BLMC ENTERPRISES, INC.

STOCKHOLDER:

ALISON M JOHNSON, 2108 MERLIN NE, GRAND RAPIDS, MI 49525, (231-755-1555) OR (616-361-1443)

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

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

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

dh



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)

7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

FOR MLCC USE ONLY

Request ID # 485685

Business ID # 214680

12-2-08 TMA

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

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

CJ'S ON THE BEACH LLC, REQUESTS TO TRANSFER OWNERSHIP OF 2008 CLASS C AND SDM LICENSED BUSINESS WITH OUTDOOR SERVICE (2 AREAS), DANCE-ENTERTAINMENT PERMIT, DRIVE-UP WINDOW WITHOUT ALCOHOLIC BEVERAGE SALES AND 2 BARS, LOCATED AT PERE MARQUETTE PARK, 1601 BEACH, PAVILION BLDG, MUSKEGON, MI 49441, MUSKEGON COUNTY, FROM BLMC ENTERPRISES, INC.

Section 1.

APPLICANT INFORMATION

APPLICANT #1: CONTACT

ALISON M JOHNSON, 2108 MERLIN NE,
GRAND RAPIDS, MI 49525, (231-755-1555) OR
(616-361-1443)

APPLICANT #2: CONTACT

DTE FINGERPRINTED: 12-18-08

DATE FINGERPRINTED:

DATE OF BIRTH:

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

DATE OF BIRTH:

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

*Does the applicant have permanent Resident Alien status?
☐ Yes ☐ No*

*Does the applicant have permanent Resident Alien status?
☐ Yes ☐ No*

*Does the applicant have a Visa? Enter status:

*Does the applicant have a Visa? Enter status:

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

ARREST RECORD: ☐ Felony ☐ Misdemeanor

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

ARREST RECORD: ☐ Felony ☐ Misdemeanor

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

Section 2.

INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

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

☐ No ☒ Yes, complete LC-1636

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

Section 3.

LOCAL AND STATE CODES AND ORDINANCES, AND GENERAL RECOMMENDATIONS

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

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

Section 4.

RECOMMENDATION

From your investigation:

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

☒ Yes ☐ No

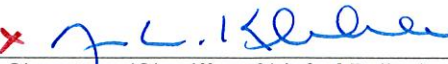
2. Is the proposed location satisfactory for this business?

☒ Yes ☐ No

3. Should the Commission grant this request?

☒ Yes ☐ No

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


Signature (Sheriff or Chief of Police)

12-18-08
Date

MUSKEGON POLICE DEPARTMENT



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

LAW ENFORCEMENT RECOMMENDATION

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

FOR MLCC USE ONLY

Request ID # 485685

Business ID # 214680

12-2-08 TMH

November 5, 2008

TO: MUSKEGON POLICE DEPARTMENT

Re: CJ'S ON THE BEACH LLC

CONTACT: ALISON M JOHNSON, 2108 MERLIN NE, GRAND RAPIDS, MI 49525, (231-755-1555)
OR (616-361-1443)

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

☐ OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR: _____
Weekdays _____ A.M. to _____ A.M.
Sundays _____ A.M. to _____ A.M./P.M.

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

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

☐ OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR: _____
Weekdays _____ A.M. to _____ A.M.
Sundays _____ A.M. to _____ A.M./P.M.

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

☒ **DANCE PERMIT**

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

☒ **ENTERTAINMENT PERMIT**

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

☐ TOPLESS ACTIVITY PERMIT

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

485685
12-2-08 TBA

☒ OUTDOOR SERVICE (2 AREAS)

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

☐ PARTICIPATION PERMIT

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

☒ ADDITIONAL BAR PERMIT

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

☒ OTHER DRIVE-UP WINDOW WITHOUT ALCOHOLIC BEVERAGE SALES

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

CJ'S ON THE BEACH LLC
REQUEST ID # 485685

Signed:

x *[Signature]* CHIEF OF POLICE
Signature and Title

ANTHONY L. KLEIBUCKER CHIEF OF POLICE
Print Name and Title

MUSKEGON POLICE DEPARTMENT

Date: 12-18-08

dh

12-2-08 TMA

RESOLUTION

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

called to order by _____ on _____ at _____ P.M.

The following resolution was offered:

Moved by _____ and supported by _____

THAT THE REQUEST TO TRANSFER OWNERSHIP OF 2008 CLASS C LICENSED BUSINESS WITH DANCE-ENTERTAINMENT PERMIT, LOCATED AT PERE MARQUETTE PARK, 1601 BEACH, PAVILION BLDG, MUSKEGON, MI 49441, FROM BLMC ENTERPRISES, INC. TO CJ'S ON THE BEACH LLC.

be considered for _____
 (Approval or Disapproval)

APPROVAL

Yeas: _____

Nays: _____

Absent: _____

DISAPPROVAL

Yeas: _____

Nays: _____

Absent: _____

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

_____ for issuance
 (Recommended or Not Recommended)

State of Michigan _____)

County of _____)

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

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

meeting held on _____
 (Date)

(Signed) _____
 (Township, City or Village Clerk)

SEAL

 (Mailing address of Township, City or Village)

Commission Meeting Date: January 13, 2009

Date: January 7, 2009
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Public Hearing - Request for an Industrial Facilities Exemption Certificate – AFI Machining

SUMMARY OF REQUEST:

Pursuant to Public Act 198 of 1974, as amended, AFI Machining, 1920 Port City Blvd., has requested the issuance of an Industrial Facilities Tax Exemption Certificate. The total capital investment will be \$1,366,766 in personal property and will create between four to eight jobs within the first two years of project completion. This qualifies them for a tax abatement of seven years under the current City policy. However, since this project has the potential of creating 50-75 jobs within the next three to five years, the applicant would like to apply for a twelve year abatement.

FINANCIAL IMPACT:

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

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of the attached resolution granting an Industrial Facilities Exemption Certificate for a term of twelve (12) years for personal property.

COMMITTEE RECOMMENDATION:

None

Application for Industrial Facilities Tax Exemption Certificate

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

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

To be completed by Clerk of Local Government Unit	
Signature of Clerk	Date received by Local Unit <i>12-18-2008</i>
STC Use Only	
Application Number	Date Received by STC

APPLICANT INFORMATION

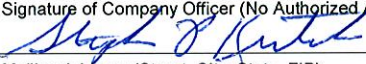
All boxes must be completed.

1a. Company Name (Applicant must be the occupant/operator of the facility) AFI Machining Inc		1b. Standard Industrial Classification (SIC) Code - Sec. 2(10) (Four Digit Code) 3724													
1c. Address of Facility (real property or personal property location) 1920 Port City Blvd.		1d. Name of City/Township/Village (Indicate which) Muskegon	1e. County Muskegon												
2. Type of Approval Requested ☒ New (Sec. 2(4)) ☐ Transfer (1 copy to only) ☐ Speculative Building (Sec. 3(8)) ☐ Rehabilitation (Sec. 3(1)) ☐ Research and Development (Sec. 2(9))		3a. School District where facility is located Orchard View	3b. School Code 61190												
		4. Amount of years requested for exemption (1-12 Years) 12													
5. Thoroughly describe the project for which exemption is sought: Real Property (Type of Improvements to Land, Building, Size of Addition); Personal Property (Explain New, Used, Transferred from Out-of-State, etc.) and Proposed Use of Facility. (Please attach additional page(s) if more room is needed). Personal Property - 1 new Campbell Grinder, 5-axis model ES-930 - \$899,000.00. 1 new Matsuura twin pallet horizontal machining center, Model H. Plus - \$407,766.00. Total Personal Property Investment - \$1,306,766.00. Please see attached explanation. Total building improvements as a lease-hold agreement. - \$60,000.00.															
6a. Cost of land and building improvements (excluding cost of land) * Attach list of improvements and associated costs. * Also attach a copy of building permit if project has already begun.		Real Property Costs \$1,366,766.00													
6b. Cost of machinery, equipment, furniture and fixtures * Attach itemized listing with month, day and year of beginning of installation plus total costs		Personal Property Costs \$1,366,766.00													
6c. Total Project Costs		Total of Real & Personal Costs													
7. Indicate the time schedule for start and finish of construction and equipment installation. Projects must be completed within a two year period of the effective date of the certificate unless otherwise approved by the STC. <table border="0"><thead><tr><th></th><th>Begin Date (M/D/Y)</th><th>End Date (M/D/Y)</th><th></th></tr></thead><tbody><tr><td>Real Property Improvements</td><td></td><td></td><td>☐ Owned ☐ Leased</td></tr><tr><td>Personal Property Improvements</td><td>11/1/08</td><td>1/30/09</td><td>☐ Owned ☒ Leased</td></tr></tbody></table>					Begin Date (M/D/Y)	End Date (M/D/Y)		Real Property Improvements			☐ Owned ☐ Leased	Personal Property Improvements	11/1/08	1/30/09	☐ Owned ☒ Leased
	Begin Date (M/D/Y)	End Date (M/D/Y)													
Real Property Improvements			☐ Owned ☐ Leased												
Personal Property Improvements	11/1/08	1/30/09	☐ Owned ☒ Leased												
8. Are State Education Taxes reduced or abated by the Michigan Economic Development Corporation (MEDC)? If yes, applicant must attach a signed MEDC Letter of Commitment to receive this exemption. ☐ Yes ☒ No															
9. Number of existing jobs at this facility that will be retained as a result of this project. 28		10. Number of new jobs at this facility expected to be created within two years of project completion. 4 to 8													
11. Rehabilitation applications only: Complete a, b and c of this section. You must attach the assessor's statement of valuation for the entire plant rehabilitation district. The SEV data below must be as of December 31 of the year prior to the rehabilitation. a. SEV of Real Property (excluding land) _____ b. SEV of Personal Property (excluding inventory) _____ c. Total SEV _____															
12a. Check the type of District the facility is located in: ☒ Industrial Development District ☐ Plant Rehabilitation District															
12b. Date district was established by local government unit (contact local unit) 7/26/1983		12c. Is this application for a speculative building (Sec. 3(8))? ☐ Yes ☒ No													

APPLICANT CERTIFICATION - complete all boxes.

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

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

13a. Preparer Name Stephen Kutches	13b. Phone Number (231) 773-0200	13c. Fax Number (231) 773-0210	13d. E-mail Address skutches@afiusa.net
14a. Name of Contact Person Stephen Kutches	14b. Phone Number (231) 773-0200	14c. Fax Number (231) 773-0210	14d. E-mail Address skutches@afiusa.net
15a. Name of Company Officer (No Authorized Agents) Stephen Kutches (President)			
15b. Signature of Company Officer (No Authorized Agents) 		15c. Fax Number (231) 773-0210	15d. Date 12/16/08
15e. Mailing Address (Street, City, State, ZIP) 1920 Port City Blvd.		15f. Phone Number (231) 773-0200	15g. E-mail Address skutches@afiusa.net

LOCAL GOVERNMENT ACTION & CERTIFICATION - complete all boxes.

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

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

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

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

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

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

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

STC USE ONLY

LUCI Code	Begin Date	End Date	End Date2
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**AERO FOIL
INTERNATIONAL
1920 Port City Blvd
Muskegon, MI 49442
Telephone: (231) 773-0200
Facsimile: (231) 773-0210**

December 16, 2008

Mike Franzak
Planner II
City Of Muskegon
933 Terrace Street
PO Box 536
Muskegon, MI 49443-0536

Subject: AFI Machining Inc Explanation for IFT Application

Dear Mike,

I am attaching this explanation for my IFT request for AFI Machining Inc.

Upon review you will see that I plan on investing \$1,306,766.00 in personal property equipment to grow AFI Machining. I will also need to invest approximately \$60,000 (as a lease-hold agreement) into my building for electrical upgrades, wiring, cement pads, paint and insulation.

This current investment will provide the latest technology machining capabilities for AFI Machining to become a major player in the turbine engine component manufacturing market. We have been working with turbine engine OEM's (GE, Rolls Royce, Siemens, Pratt & Whitney, etc.) to obtain long term component machining contracts.

This is my first major step to capture a significant percentage of this annual business. I started Aero Foil International in late 2004 and it took 4 years to move into the black and to the 28 full time employees that we now have. I am requesting this IFT to support AFI Machining moving in the same direction.

I started up AFI Machining in 2007 using Aero Foil International equipment. 2007 sales were \$1.1M of combined aerospace and IGT (Industrial Gas Turbine) component machining. 2008 sales for AFI Machining will exceed \$2.0M and we have an excellent opportunity to double the sales for 2009. My goal is to obtain long term contracts worth \$20M annual sales within 3 to 5 years and employ 50 to 75 personnel.

I am committed to Muskegon County to invest in all 3 divisions with a goal of 50 to 75 employees at each division.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Stephen Kutches', is written over a horizontal line.

Stephen Kutches
President



**AERO FOIL
INTERNATIONAL
1920 Port City Blvd
Muskegon, MI 49442
Telephone: (231) 773-0200
Facsimile: (231) 773-0210**

December 16, 2008

Mike Franzak
Planner II
City Of Muskegon
933 Terrace Street
PO Box 536
Muskegon, MI 49443-0536

Subject: AFI Machining Inc Explanation for IFT Application for Building Improvements

Dear Mike,

I am attaching this explanation for my IFT request for AFI Machining Inc. Upon review you will see that the \$1,306,766.00 investment in personal property equipment to grow AFI Machining will require some building improvements. I will also need to invest approximately \$60,000 into my building for the following:

1. Electrical upgrades (Consumers going from 400 AMPS 480 to 1500 AMPS 480).
2. Additional wiring within the plant for the upgrade and new machines.
3. Removal of the old Mills MFG foundry equipment.
4. New insulation and paint for the foundry area.
5. Cement pads for the two new machines.
6. Grit Blasting and epoxy of old foundry area floor.

These building improvements will be performed by AFI Machining as a lease-hold agreement with Aero Foil International.

All electrical permits were obtained by J & J Electrical Services for Aero Foil International.

Sincerely,


Stephen Kutches
President

Resolution No. _____

MUSKEGON CITY COMMISSION

**RESOLUTION APPROVING APPLICATION FOR ISSUANCE
OF INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE
*AFI MACHINING.***

WHEREAS, pursuant to P.A. 198 of 1974 as amended, after duly noticed public hearing held on July 26, 1983, this Commission by resolution established an Industrial Development District as requested by the City of Muskegon for Port City Industrial Park, including the property leased by AFI Machining, 1920 Port City Blvd., Muskegon, Michigan 49442; and

WHEREAS, AFI Machining has filed an application for the issuance of an Industrial Facilities Tax Exemption Certificate with respect to new machinery and equipment has been installed within said Industrial Development District ; and

WHEREAS, said application was filed no later than six months after project completion and the Muskegon City Commission held a public hearing on January 13, 2009, at the Muskegon City Hall in Muskegon, Michigan at 5:30 p.m. at which hearing the applicant, the assessor and representatives of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

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

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

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

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

CITY OF MUSKEGON PORT CITY INDUSTRIAL CENTER LOTS 4-6 EXC SLY 45 FT LOT 6 ALSO
EXC N 66 FT LOT 4 DESC AS FOLS COM @ NW COR SD LOT FOR POB TH S 1D 12M 30S W
ALG W LN SD LOT 66.33 FT TH S 89D 42M 48S E 300 FT TO E LN SD LOT TH N 1D 12M 30S E
ALG SD E LN 66.29 FT TO NW COR SD LOT TH N 89D 42M 20S W ALG SD N LN 300 FT TO POB

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

Adopted this 13th Day of January 2009.

Ayes:

Nays:

Absent:

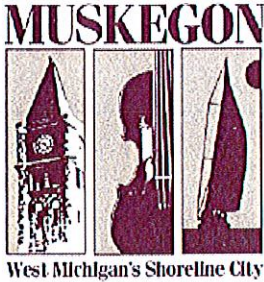
BY: _____
Stephen J. Warmington
Mayor

ATTEST: _____
Ann Marie Becker
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on January 13, 2009.

Ann Marie Becker
Clerk



City of Muskegon Industrial Facilities Exemption Application Summary Sheet

Project Summary:

AFI Machining, a new entity owned by Aerofoil International, located at 1920 Port City Blvd., Muskegon, Michigan, will be installing new machinery at its location to diversify its operation. The company is applying for a twelve (12) year abatement because they feel this equipment will be able to create up to 75 jobs within the next few years.

Employment Information: 0 employees

Racial Characteristics:

White	0
Minority	0
Total	0

Gender Characteristics:

Male	0
Female	0
Total	0

Total No. of Anticipated New Jobs: 50-75 (within 3-5 years)

Investment Information:

Real Property:	\$0
Personal Property	\$1,366,766
Total:	\$1,366,766

Property Tax Information: (Annual)	All Jurisdictions	City Only
Total New Taxes Generated	\$ 22,665	\$ 7,567
Value of Abatement	\$ 11,333	\$ 3,784
Total New Taxes Collected	\$ 11,333	\$ 3,784

Income Tax Information: (Annual)

Total Additional Income Tax Generated: \$ 7,800 (based on 50 new jobs)

Company Requirements:

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

Mike Franzak
Planner II

Dwana Thompson
Dwana Thompson
Affirmative Action Director

CITY OF MUSKEGON

CONTRACT FOR TAX ABATEMENT
Act 198 Public Acts of 1974

AGREEMENT between CITY OF MUSKEGON, a municipal corporation of 933 Terrace Street, Muskegon, Michigan 49441, ("City") and AFI Machining ("Company").

Recitals:

- A. The Company has applied to City for the establishment of an industrial development district or industrial rehabilitation district pursuant to the provisions of Act 198 of the Public Acts of 1974, as amended, which act requires a contract between the City and the Company to be agreed and submitted with the Company's subsequent anticipated application for an industrial facilities exemption certificate.
- B. That in addition to the statutory requirement, the City has determined that it is in the best interests of the taxpayers, property owners and residents of the City that this Agreement be approved and executed prior to the establishment of the requested district, and the City deems this Contract, together with the conditions set forth in the said Act to constitute a necessary element in the City's determination whether or not to create the district.
- C. The Company intends to install the project set forth in its application ("project") which it believes qualifies for the process of establishing the district and the application for industrial facilities exemption certificate.
- D. The City, provided this Agreement is executed, will determine whether to create the district based upon the potential for the production of permanent jobs, the continuation or increase of economic activity, planning and zoning considerations and the City's general plan and intentions regarding economic development. In addition to the City policy considerations and predictions that the Company's proposed district and certificate benefit the community in those ways, the City has further determined that the contractual commitments made by the Company to thereby assist the community shall be binding on the Company and necessary to continue the tax exemption made possible by the certificate.

NOW THEREFORE THE PARTIES AGREE:

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

1.1 That 100% of the jobs shall be filled and in existence with full-time employees by a date no later than two (2) years from the date of the granting of the certificate by the State Tax Commission.

1.2 The Company shall meet the affirmative action goal included in the application or in any documents supplied by the City and utilized by the Company, including any additional representations made to the City Commission on or before the date two (2) years after the granting of the certificate by the State Tax Commission. It shall maintain the said levels of employment diversity during the period of the certificate.

1.3 The Company, by the end of two (2) years from the date of the grant of the certificate by the State Tax Commission shall have completed the investment of \$1,366,766 in the equipment and improvements as shown in the application.

1.4 That the improvements and equipment to receive the tax abatement treatment shall be completed on or before the date two (2) years from the date of granting of the certificate by the State Tax Commission.

1.5 The Company shall pay its specific taxes required by the act in a timely manner, and shall not delay payments so as to incur any penalties or interest.

1.6 The Company shall fully cooperate with the City representatives in supplying all requested and required documentation regarding jobs, investment, the meeting of all goals and the timely installation and utilization of equipment and improvements. The City shall be entitled to inspect at reasonable hours the Company's premises where the said improvements and equipment have been installed and where the said jobs are performed.

1.7 The Company shall maintain, during the entire period for which the tax abatement is granted, the level of jobs, affirmative action goals, production and utilization of the improvements and equipment at the site where the district has been created and for which the tax exemption has been granted.

1.8 The Company shall not cause or fail to cure the release of any hazardous substance, or the violation of any environmental law on its premises in the City. It shall report any releases to the appropriate governmental authority in a timely and complete manner, and provide copies of said report documentation to the City. It shall comply with all orders and actions of any governmental agency having authority.

1.9 The Company shall maintain the equipment and improvements so as to minimize physical or functional obsolescence.

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

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

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

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

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

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

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

3.5 The bankruptcy or insolvency of the Company.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF MUSKEGON

By _____
Steve Warmington, Mayor

Date _____

and _____
Ann Marie Becker, Clerk

Date _____

By  _____
Stephen Kutches
Its President _____

Date December 16, 2008

Commission Meeting Date: January 13, 2009

Date: January 7, 2009
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Public Hearing - Request for an Industrial Facilities Exemption Certificate – AFI Hole Drill

SUMMARY OF REQUEST:

Pursuant to Public Act 198 of 1974, as amended, AFI Hole Drill, 1920 Port City Blvd., has requested the issuance of an Industrial Facilities Tax Exemption Certificate. The total capital investment will be \$576,536 in personal property and will create between two to four jobs within the first two years of project completion. This qualifies them for a tax abatement of six years under the current City policy. However, since this project has the potential of creating 50-75 jobs within the next three to five years, the applicant would like to apply for a twelve year abatement.

FINANCIAL IMPACT:

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

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of the attached resolution granting an Industrial Facilities Exemption Certificate for a term of twelve (12) years for personal property.

COMMITTEE RECOMMENDATION:

None

Application for Industrial Facilities Tax Exemption Certificate

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

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

To be completed by Clerk of Local Government Unit	
Signature of Clerk	Date received by Local Unit <i>12-18-2008</i>
STC Use Only	
Application Number	Date Received by STC

APPLICANT INFORMATION

All boxes must be completed.

1a. Company Name (Applicant must be the occupant/operator of the facility) AFI Hole Drill Inc		1b. Standard Industrial Classification (SIC) Code - Sec. 2(10) (Four Digit Code) 3724													
1c. Address of Facility (real property or personal property location) 1920 Port City Blvd.		1d. Name of City/Township/Village (Indicate which) Muskegon	1e. County Muskegon												
2. Type of Approval Requested ☒ New (Sec. 2(4)) ☐ Transfer (1 copy to only) ☐ Speculative Building (Sec. 3(8)) ☐ Rehabilitation (Sec. 3(1)) ☐ Research and Development (Sec. 2(9))		3a. School District where facility is located Orchard View	3b. School Code 61190												
		4. Amount of years requested for exemption (1-12 Years) 12													
5. Thoroughly describe the project for which exemption is sought: Real Property (Type of Improvements to Land, Building, Size of Addition); Personal Property (Explain New, Used, Transferred from Out-of-State, etc.) and Proposed Use of Facility. (Please attach additional page(s) if more room is needed). Personal Property - 1 new Beaumont FH60 Series EDM Hole Driller - \$250,000.00 1 new Beaumont FH60 Series EDM Hole Driller with Tool Changer - \$326,536.00 Total Personal Property Investment - \$576, 536.00. Please see attached explanation.															
6a. Cost of land and building improvements (excluding cost of land)..... * Attach list of improvements and associated costs. * Also attach a copy of building permit if project has already begun.		Real Property Costs \$576,536.00													
6b. Cost of machinery, equipment, furniture and fixtures..... * Attach itemized listing with month, day and year of beginning of installation plus total costs		Personal Property Costs \$576,536.00													
6c. Total Project Costs		Total of Real & Personal Costs													
7. Indicate the time schedule for start and finish of construction and equipment installation. Projects must be completed within a two year period of the effective date of the certificate unless otherwise approved by the STC. <table border="0" style="width:100%"><tr><td style="width:30%;"></td><td style="width:20%; text-align:center"><u>Begin Date (M/D/Y)</u></td><td style="width:20%; text-align:center"><u>End Date (M/D/Y)</u></td><td style="width:30%;"></td></tr><tr><td>Real Property Improvements</td><td style="text-align:center"><u>11/1/08</u></td><td style="text-align:center"><u>1/30/09</u></td><td>☐ Owned ☐ Leased</td></tr><tr><td>Personal Property Improvements</td><td></td><td></td><td>☐ Owned ☒ Leased</td></tr></table>					<u>Begin Date (M/D/Y)</u>	<u>End Date (M/D/Y)</u>		Real Property Improvements	<u>11/1/08</u>	<u>1/30/09</u>	☐ Owned ☐ Leased	Personal Property Improvements			☐ Owned ☒ Leased
	<u>Begin Date (M/D/Y)</u>	<u>End Date (M/D/Y)</u>													
Real Property Improvements	<u>11/1/08</u>	<u>1/30/09</u>	☐ Owned ☐ Leased												
Personal Property Improvements			☐ Owned ☒ Leased												
8. Are State Education Taxes reduced or abated by the Michigan Economic Development Corporation (MEDC)? If yes, applicant must attach a signed MEDC Letter of Commitment to receive this exemption. ☐ Yes ☒ No															
9. Number of existing jobs at this facility that will be retained as a result of this project. 28		10. Number of new jobs at this facility expected to be created within two years of project completion. 2 to 4													
11. Rehabilitation applications only: Complete a, b and c of this section. You must attach the assessor's statement of valuation for the entire plant rehabilitation district. The SEV data below must be as of December 31 of the year prior to the rehabilitation. a. SEV of Real Property (excluding land) b. SEV of Personal Property (excluding inventory) c. Total SEV															
12a. Check the type of District the facility is located in: ☒ Industrial Development District ☐ Plant Rehabilitation District															
12b. Date district was established by local government unit (contact local unit) 7/26/1983		12c. Is this application for a speculative building (Sec. 3(8))? ☐ Yes ☒ No													

APPLICANT CERTIFICATION - complete all boxes.

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

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

13a. Preparer Name Stephen Kutches	13b. Phone Number (231) 773-0200	13c. Fax Number (231) 773-0210	13d. E-mail Address skutches@afiusa.net
14a. Name of Contact Person Stephen Kutches	14b. Phone Number (231) 773-0200	14c. Fax Number (231) 773-0210	14d. E-mail Address skutches@afiusa.net
15a. Name of Company Officer (No Authorized Agents) Stephen Kutches (President)			
15b. Signature of Company Officer (No Authorized Agents) 		15c. Fax Number (231) 773-0210	15d. Date 12/16/08
15e. Mailing Address (Street, City, State, ZIP) 1920 Port City Blvd.		15f. Phone Number (231) 773-0200	15g. E-mail Address skutches@afiusa.net

LOCAL GOVERNMENT ACTION & CERTIFICATION - complete all boxes.

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

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

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

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

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

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

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

STC USE ONLY

LUCI Code	Begin Date	End Date	End Date2
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**AERO FOIL
INTERNATIONAL
1920 Port City Blvd
Muskegon, MI 49442
Telephone: (231) 773-0200
Facsimile: (231) 773-0210**

December 16, 2008

Mike Franzak
Planner II
City Of Muskegon
933 Terrace Street
PO Box 536
Muskegon, MI 49443-0536

Subject: AFI Hole Drill Inc Explanation for IFT Application

Dear Mike,

I am attaching this explanation for my IFT request for AFI Hole Drill Inc.

Upon review you will see that I am investing \$526,536.00 in personal property to grow AFI Hole Drill. I will also need to invest close to \$50,000 into my building for electrical upgrades, wiring, epoxy, paint and insulation.

This investment will provide the latest technology machining capabilities for AFI Hole Drill to become a major player in the turbine engine component speed hole EDM market. We have been working with turbine engine OEM's (GE, Rolls Royce, Siemens, Pratt & Whitney, etc.) to obtain long term component machining contracts.

This is my first major step to capture a significant percentage of this \$1B annual business. I started Aero Foil International in late 2004 and it took 4 years to move into the black and to the 28 full time employees that we now have. I am requesting this IFT to support AFI Hole Drill moving in the same direction.

I am starting up AFI Hole Drill in 2008 to help AFI and AFI Machining become a one-stop-shop for aerospace and IGT (Industrial Gas Turbine) component machining. There are only 15 to 20 companies within the USA that can high speed hole EDM. Of this group there are 3 major players with annual sales in excess of \$150M. They have grown to the point that their pricing, quality and delivery is suffering such that the OEM's are looking for new sources. AFI Hole Drill will have a competitive advantage over all others with our one-stop-shop capability along with superior quality, pricing and delivery. We project 2009 sales for AFI Hole Drill will exceed \$1.5 M and we have an excellent opportunity to triple the sales for 2010 with additional investment. My goal is to obtain long term contracts worth +\$20 M annual sales within 3 to 5 years and employ 50 to 75 personnel.

I am committed to Muskegon County to invest in all 3 divisions with a goal of 50 to 75 employees at each division.

Sincerely,

A handwritten signature in blue ink that reads 'Stephen Kutches'.

Stephen Kutches
President

Resolution No. _____

MUSKEGON CITY COMMISSION

**RESOLUTION APPROVING APPLICATION FOR ISSUANCE
OF INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE
*AFI Hole Drill***

WHEREAS, pursuant to P.A. 198 of 1974 as amended, after duly noticed public hearing held on July 26, 1983, this Commission by resolution established an Industrial Development District as requested by the City of Muskegon for Port City Industrial Park, including the property leases by AFI Hole Drill, 1920 Port City Blvd., Muskegon, Michigan 49442; and

WHEREAS, AFI Hole Drill has filed an application for the issuance of an Industrial Facilities Tax Exemption Certificate with respect to new machinery and equipment has been installed within said Industrial Development District ; and

WHEREAS, said application was filed no later than six months after project completion and the Muskegon City Commission held a public hearing on January 13, 2009, at the Muskegon City Hall in Muskegon, Michigan at 5:30 p.m. at which hearing the applicant, the assessor and representatives of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

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

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

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

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

CITY OF MUSKEGON PORT CITY INDUSTRIAL CENTER LOTS 4-6 EXC SLY 45 FT LOT 6 ALSO EXC N 66 FT LOT 4 DESC AS FOLS COM @ NW COR SD LOT FOR POB TH S 1D 12M 30S W ALG W LN SD LOT 66.33 FT TH S 89D 42M 48S E 300 FT TO E LN SD LOT TH N 1D 12M 30S E ALG SD E LN 66.29 FT TO NW COR SD LOT TH N 89D 42M 20S W ALG SD N LN 300 FT TO POB

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

Adopted this 13th Day of January 2009.

Ayes:

Nays:

Absent:

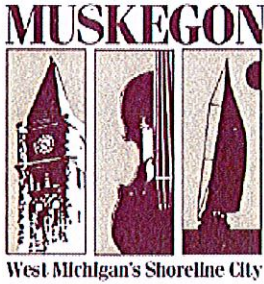
BY: _____
Stephen J. Warmington
Mayor

ATTEST: _____
Ann Marie Becker
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on January 13, 2009.

Ann Marie Becker
Clerk



City of Muskegon Industrial Facilities Exemption Application Summary Sheet

Project Summary:

AFI Hole Drill, a new entity owned by Aerofoil International, located at 1920 Port City Blvd., Muskegon, Michigan, will be installing new machinery at its location to diversify its operation. The company is applying for a twelve (12) year abatement because they feel this equipment will be able to create up to 75 jobs within the next few years.

Employment Information: 0 employees

Racial Characteristics:
White 0
Minority 0
Total 0

Gender Characteristics:
Male 0
Female 0
Total 0

Total No. of Anticipated New Jobs: 50-75 (within 3-5 years)

Investment Information:

Real Property: \$0
Personal Property \$576,536
Total: \$576,536

Property Tax Information: (Annual)	All Jurisdictions	City Only
Total New Taxes Generated	\$ 9,561	\$ 3,192
Value of Abatement	\$ 4,780	\$ 1,596
Total New Taxes Collected	\$ 4,780	\$ 1,596

Income Tax Information: (Annual)

Total Additional Income Tax Generated: \$ 7,800 (based on 50 new jobs)

Company Requirements:

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

Mike Franzak
Planner II

Dwana Thompson
Dwana Thompson
Affirmative Action Director

CITY OF MUSKEGON

CONTRACT FOR TAX ABATEMENT

Act 198 Public Acts of 1974

AGREEMENT between CITY OF MUSKEGON, a municipal corporation of 933 Terrace Street, Muskegon, Michigan 49441, ("City") and AFI Hole Drill ("Company").

Recitals:

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

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

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

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

NOW THEREFORE THE PARTIES AGREE:

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

1.1 That 100% of the jobs shall be filled and in existence with full-time employees by a date no later than two (2) years from the date of the granting of the certificate by the State Tax Commission.

1.2 The Company shall meet the affirmative action goal included in the application or in any documents supplied by the City and utilized by the Company, including any additional representations made to the City Commission on or before the date two (2) years after the granting of the certificate by the State Tax Commission. It shall maintain the said levels of employment diversity during the period of the certificate.

1.3 The Company, by the end of two (2) years from the date of the grant of the certificate by the State Tax Commission shall have completed the investment of \$576,536 in the equipment and improvements as shown in the application.

1.4 That the improvements and equipment to receive the tax abatement treatment shall be completed on or before the date two (2) years from the date of granting of the certificate by the State Tax Commission.

1.5 The Company shall pay its specific taxes required by the act in a timely manner, and shall not delay payments so as to incur any penalties or interest.

1.6 The Company shall fully cooperate with the City representatives in supplying all requested and required documentation regarding jobs, investment, the meeting of all goals and the timely installation and utilization of equipment and improvements. The City shall be entitled to inspect at reasonable hours the Company's premises where the said improvements and equipment have been installed and where the said jobs are performed.

1.7 The Company shall maintain, during the entire period for which the tax abatement is granted, the level of jobs, affirmative action goals, production and utilization of the improvements and equipment at the site where the district has been created and for which the tax exemption has been granted.

1.8 The Company shall not cause or fail to cure the release of any hazardous substance, or the violation of any environmental law on its premises in the City. It shall report any releases to the appropriate governmental authority in a timely and complete manner, and provide copies of said report documentation to the City. It shall comply with all orders and actions of any governmental agency having authority.

1.9 The Company shall maintain the equipment and improvements so as to minimize physical or functional obsolescence.

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

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

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

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

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

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

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

3.5 The bankruptcy or insolvency of the Company.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF MUSKEGON

By _____
Steve Warmington, Mayor

Date _____

and _____
Ann Marie Becker, Clerk

Date _____

By Steph Kurlit
Its President

Date 12/16/08

Date: January 13, 2009
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Liquor License Request
Muskegon Athletic Club, LLC
333 Western, Suite B

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Muskegon Athletic Club, LLC for a new Additional Bar Permit for a total of 2 Bars and a new SDM License to be held in conjunction with the 2008 Class C License with Sunday Sales Permit; Dance-Entertainment Permit; Outdoor Service (1 area); and Official Permit (food) located at 333 Western, Suite B.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.



Muskegon Police Department

Anthony L. Kleibecker
Director of Public Safety

980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

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

December 5, 2008

To: City Commission through the City Manager

From: 
Anthony L. Kleibecker, Director of Public Safety

Re: Liquor License Investigation – Muskegon Athletic Club
Request for New Additional Bar Permit and New SDM License

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation from applicant Muskegon Athletic Club, LLC. of 333 Western, Suite B, Muskegon, MI. 49440.

Muskegon Athletic Club, LLC is requesting a new Additional Bar Permit for 2- total bars and a new SDM license to be held in conjunction with the 2008 Class C license (MCL436.1521 (A) (1) (B)) with Sunday Sales Permit; Dance-Entertainment Permit: Outdoor Service 1- Area: and Official Permit (food). This establishment's contact is Parmenter O'Toole.

A check of Muskegon Police Department records showed no reason to deny this request.

ALK/kd



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)

7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

FOR MLCC USE ONLY

Request ID # 488476

Business ID # _____

12-5-08 TMA

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

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

Muskegon Athletic Club, LLC has requested a new Additional Bar Permit for 2- total bars and a **new SDM license** to be held in conjunction with the 2008 Class C license {MCL436.1521 (A) (1) (B)} with Sunday Sales Permit; Dance-Entertainment Permit; Outdoor Service 1-Area; and Official Permit (Food).

Section 1. APPLICANT INFORMATION

APPLICANT #1: **No Fingerprints needed**

APPLICANT #2:

DATE FINGERPRINTED**:

DATE FINGERPRINTED**:

DATE OF BIRTH:

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

*Does the applicant have permanent Resident Alien status?

☐ Yes ☐ No*

*Does the applicant have a Visa? Enter status:

DATE OF BIRTH:

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

*Does the applicant have permanent Resident Alien status?

☐ Yes ☐ No*

*Does the applicant have a Visa? Enter status:

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

ARREST RECORD: ☐ Felony ☐ Misdemeanor

Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)

ARREST RECORD: ☐ Felony ☐ Misdemeanor

Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)

Section 2. INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

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

☐ No ☒ Yes, complete LC-1636

Are motor vehicle fuel pumps at or directly adjacent to the establishment? ☒ No ☐ Yes, explain relationship:

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

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? ☒ Yes ☐ No If No, indicate which state and local ordinances the location does not meet: ☐ Building ☐ Plumbing ☐ Zoning ☐ Fire ☐ Sanitation ☐ Health

Section 4. RECOMMENDATION

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

☒ Yes ☐ No*

2. Should the MLCC grant this request?

☒ Yes ☐ No*

*If any of the above questions were answered No, you must state your reasons for MLCC consideration of this recommendation on the back of this form or on an attached signed and dated sheet.

3. Is this recommendation subject to final inspection to determine that the proposed location meets all building, plumbing, zoning, fire, sanitation and health laws and ordinances?

☐ Yes ☒ No

4. Is this recommendation subject to any other conditions?

☐ Yes ☒ No

If Yes, list the conditions below or on an attached signed and dated sheet if more space is needed

X J L. Blaker
Signature (Sheriff or Chief of Police)

12-5-08
Date

Muskegon Police Department



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

LAW ENFORCEMENT RECOMMENDATION

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

FOR MLCC USE ONLY

Request ID # 488476

Business ID # 212537

12-5-08 *MLCC*

November 13, 2008

TO: MUSKEGON POLICE DEPARTMENT
CHIEF OF POLICE
980 JEFFERSON STREET, PO BOX 536
MUSKEGON, MI 49443-0536

Re: MUSKEGON ATHLETIC CLUB, LLC REQUESTS A NEW ADDITIONAL BAR PERMIT (FOR A TOTAL OF 2 BARS) TO BE HELD IN CONJUNCTION WITH 2008 CLASS C LICENSED BUSINESS (MCL 436.1521.(A)(1)(B); NON-TRANSFERABLE) WITH DANCE-ENTERTAINMENT PERMIT, OUTDOOR SERVICE (1 AREA), AND OFFICIAL PERMIT (FOOD), LOCATED AT 333 WESTERN, SUITE B, MUSKEGON, MI 49440, MUSKEGON COUNTY.

CONTACT: (PARMENTER O'TOOLE), ATTENTION ATTORNEY JEFFERY A. JACOBSON, 601 TERRACE STREET, PO BOX 786, MUSKEGON, MI 49443-0786 (231)722-5405

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

☐ OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR:

Weekdays _____ A.M. to _____ A.M.

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

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

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

☐ OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR:

Weekdays _____ A.M. to _____ A.M.

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

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

☐ DANCE PERMIT

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

☐ ENTERTAINMENT PERMIT

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

488476
12-5-08
THA

☐ TOPLESS ACTIVITY PERMIT ☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended
☐ OUTDOOR SERVICE ☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended
☐ PARTICIPATION PERMIT ☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended
☒ ADDITIONAL BAR PERMIT ☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended
☐ ☐ Recommended ☐ Recommended, subject to final inspection ☐ Not Recommended

Signed:

X Anthony L. Kleibacker DIRECTOR OF PUBLIC SAFETY
Signature and Title

ANTHONY L. KLEIBACKER DIRECTOR OF PUBLIC SAFETY
Print Name and Title

MUSKEGON POLICE DEPARTMENT

Date: 12-5-08

sfs