

CITY OF MUSKEGON

CITY COMMISSION MEETING

JANUARY 12, 2021 @ 5:30 P.M.

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

AGENDA

- ☐ **CALL TO ORDER:**
- ☐ **ROLL CALL:**
- ☐ **HONORS/AWARDS/PRESENTATIONS:**
- A. Lead Grant Summary**
- ☐ **PUBLIC COMMENT ON AN AGENDA ITEM:**
- ☐ **CONSENT AGENDA:**
 - A. Approval of Minutes** City Clerk
 - B. FY2020-21 Sewer Rate Adjustment** Finance
 - C. Western Market Rent** City Clerk
 - D. Electricity Upgrade at Western Market** City Clerk
 - E. Special Event Fees** City Clerk
 - F. Non-Union PT and LT Wage Matrix** EEO & Employee Relations
 - G. Extension of Temporary Employment Services Agreement** EEO & Employment Relations
 - H. Vinyl Siding Installer Contracts for FY 2020** CNS
 - I. Transmittal of 06/30/2020 Comprehensive Annual Financial Report**
Finance
 - J. Obsolete Property Rehabilitation Certificate – Chart House Energy – name change to Chart House Energy Opportunity Fund, LLC** Planning
 - K. Alley Vacation – Art Museum** Planning
 - L. Sale – 219 Merrill Avenue** City Manager

- M. Sale – 275 Mason Avenue City Manager
- N. Sale – 346 Mason Avenue City Manager
- O. Convention Center Agreements City Manager
- P. Marshall Street Elevated Tank Painting Public Works – Filtration
- Q. As – Needed Forestry Services Public Works
- R. Police Cruiser Replacement Equipment
- S. PILOT Village at Jackson Hill Planning
- T. Paid Parking Policy – Development Services Development Services
- U. Changes to the Fee Schedule for Paid Parking at Beaches
Development Services
- V. Sale – 352 Mason Avenue City Manager
- W. Community Relations Committee Recommendations City Clerk

☐ **PUBLIC HEARINGS:**

- A. Lakeside BID Special Assessment Roll Public Hearing and Resolution
Economic Development

☐ **UNFINISHED BUSINESS:**

☐ **NEW BUSINESS:**

- A. Amendment to the Marihuana Facilities Overlay District – 965 W Western, 920 Washington Ave, and 1330 Division St Planning
- B. Amendment to the Marihuana Facilities Overlay District – 420 Harvey Street (1) Planning
- C. Amendment to the Marihuana Facilities Overlay District – 420 Harvey Street (2) Planning
- D. Hartford Terrace Development Agreement Development Services
- E. Housing Commission Ordinance Amendment Development Services
- F. Street Vacation – Harbor 31 Planning
- G. Amendment to the PUD at Harbor 31 Planning

☐ **ANY OTHER BUSINESS:**

☐ **PUBLIC COMMENT:**

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



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Lead Grant Summary
Submitted By: Sharonda Carson	Department: Community & Neighborhood Services
Brief Summary: Staff will present a summary of the lead grant program	
Detailed Summary:	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: N/A	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

Lead Safe Muskegon Program

Program Funding from Medicaid Children's Health Insurance Plan (CHIP) dollars

Funding covers the objectives of

- Education & Engagement
- Investigations
- Abatement

Administered by the Michigan Department of Health and Human Services (MDHHS)

Local program managed by Sharonda Carson, Community Development Specialist for the Community and Neighborhood Services Department

City awarded \$880,000 in October 2019, and another \$880,000 in October 2020

Program has successfully serviced 26 homes within Muskegon County, totaling about \$730,000

A map showing each project location and cost can be accessed [here](#)



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Approval of Minutes
Submitted By: Ann Marie Meisch, MMC	Department: City Clerk
Brief Summary: To approve the minutes of the December 7, 2020 Worksession and December 8, 2020 Regular City Commission Meetings.	
Detailed Summary: N/A	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: To approve the minutes.	
For City Clerk Use Only: Commission Action:	

**CITY OF MUSKEGON
CITY COMMISSION WORKSESSION
Monday, December 7, 2020
5:30 pm
City Commission Chambers
REMOTE MEETING**

MINUTES

2020-90

Present: Mayor Gawron (Muskegon, MI), Vice Mayor Hood (Muskegon, MI), Commissioners Rinsema-Sybenga (Muskegon, MI), Emory (Muskegon, MI), Johnson (Muskegon, MI), Ramsey (arrived at 6:00 p.m. – Muskegon, MI), and German (Muskegon, MI).

Absent: None.

Commission Chambers Electronics Update – City Clerk

The City Clerk updated the Commissioner on the project of updating the commission chambers audio and visual equipment to enhance the training experience for our election inspectors. Keith Roelfsema and Ward LaDuke from Vizidef explained what is being done. Commissioners can expect better video, better video quality, better video reliability, as well as a better audio experience for all. Vizidef recommends using YouTube for our streaming service for several reasons – their platform is specifically designed for sharing video.

Village at Jackson Hill PILOT – Planning

General Capital (“GCG”) is under contract to purchase the Village at Jackson Hill, a 40-unit senior tax credit apartment complex constructed about 15 years ago at 557 McLaren Avenue. GCG intends to apply to MSHDA for 9% tax credits to rehabilitate the project. In order for the project to receive a high enough score to be competitive to receive an allocation of credits, they are asking that the City consider adopting a new PILOT for the program. The existing 4% PILOT terminates in 2027 and MSHDA requires a PILOT with a longer term to receive the PILOT points.

If successful in receiving a tax credit award, GCG intends to rehabilitate the project. They anticipate spending approximately \$48,000 per unit in hard construction costs. The rehabilitation will include creating visitable and truly handicap accessible units. In addition, if successful in receiving an award of the credits the Area Median Income (“AMI”) unit mix of the project will expand. Currently, the project has 2 60% AMI units, 18 45% AMI units, and 20 40% AMI units. With a new tax credit award, the unit AMI mix

will shift to 5 units at 30% AMI, 5 units at 40% AMI, 1 unit at 50% AMI, 16 units at 40% AMI, and 13 units at 80% AMI.

With the change in unit mix the gross potential rental revenue at the project will increase from approximately \$260,000 to \$330,000. This increase will happen over time, as the current tenants will not be displaced. Rents will increase in the same manner they have in the past. As new tenants take occupancy, the rents will increase to the new AMI limits.

The current owners are paying a 4% PILOT and it expires in 2027. GCG is requesting to extend the PILOT 25 years (until 2046) and is willing to adjust the PILOT payments to include a municipal services fee.

Jake Eckholm, Economic Development, provided a summary of the project to the City Commission. Josh Haffron, GCG, also provided information on the project.

Discussion took place.

Body Camera Purchase – Public Safety

The Public Safety Department (Police) is requesting permission to purchase Motorola/WatchGuard Body Worn Cameras and In-Car Video Systems for our marked police cars.

The Public Safety Department (Police) is requesting to contract with Motorola/WatchGuard to purchase seventy (70) body worn cameras to be worn by Muskegon Police Offices. In order to integrate our systems, twenty-four (24) in car video systems will also be purchased, replacing our current L-3/SafeFleet in car systems. We will be able to merge audio/video files from both body worn camera and in-car video to be stored and viewed in one file. We would not have this capability if we stayed with L-3/SafeFleet's product. In consulting with IT, we were experiencing more long term technical issues with the performance of our current L-3/SafeFleet product and it was recommended we upgrade to the Motorola/WatchGuard system. We were able to negotiate a significant discount to cover the remaining product life of our current system.

Public Safety Director – Chief Jeff Lewis, Captain Dennis Lord, and Mike Muskovin from Motorola provided an overview of the request and answered questions from the Commission.

Discussion ensued. This item will be placed before the Commission on Tuesday, December 8, 2020 for consideration.

Paid Parking Proposal – Development Services

Staff is seeking input on the proposal for paid parking at the city's beach parks for 2021. The proposal includes staff recommendations for General Information, Residents/Non-Residents, Rates, Enforcement, and Communication.

Commissioners made suggestions, asked questions, and discussed the proposal.

Staff will do more work on the proposal to attempt to incorporate recommendations from the discussion. Another proposal will be presented at a later date.

Convention Center Naming Rights – City Manager

Staff is seeking approval of two agreements: authorizing the City to enter into the Convention Center Naming Rights and Sponsorship Agreement with VanDyk Mortgage Corporation; and approving corresponding amendment to the Convention Center Management Agreement with Parkland.

In an effort to raise additional capital to ensure the highest quality convention center without levying additional taxes or fees, on November 26, 2019, staff was authorized to identify strategic advertising partners within the new convention center, the goal was to raise at least \$1 Million over a period not to exceed 20 years.

Staff is pleased to present a naming-rights agreement with VanDyk Mortgage that will generate \$150,000 annually for the next 10 years. Over that 10-year period, the city will net approximately \$1 Million after paying sellers commissions, installing signage, and compensating Parkland \$2,000 per month for convention center operation costs associated with the VanDyk Agreement. The net income from the initial sponsor commitment has exceeded expectations and will be used to offset approximately \$2 Million in unexpected cost overruns at the facility. Staff intends to seek out other strategic partners to name/sponsor interior signage.

City Manager Frank Peterson provided a summary of the request for approval of Convention Center Naming Rights agreement. This item will be considered at the regular City Commission meeting on Tuesday, December 8, 2020.

Parkland Properties Marina Agreement – City Manager

Staff is seeking approval of the development agreement with Parkland Properties to construct a dry marina on property mutually encumbered by the City of Muskegon and Parkland Properties.

Many years ago, as part of the development of the SPX corporate headquarters, a piece of the land was encumbered for mutual benefit of the property owner and the public. The result of the agreement is that the land be perpetually used as a parking lot. Over time, the hotel was developed and the ownership interests of SPX now belong to Parkland Properties. In an effort to find a higher and better user for the property, staff worked with Parkland Properties to create a development agreement that results in redevelopment of the site to accommodate a dry marina and replace the public parking spaces along the Terrace Point Drive median. The development would also include the construction of townhomes overlooking Terrace Point Drive and the Shoreline Inn.

The Developer will invest in excess of \$4 Million in initial costs to construct the dry marina and improve the parking along Terrace Point Drive from Shoreline drive to the

Terrace Pointe Traffic Circle. The Developer will also invest in excess of \$5 Million in new residential development on the Parkland-owned property located at 650 Terrace Point Drive. The project could take as long as 5 years, depending on State and Federal approval processes.

City Manager Frank Peterson and John Rooks, owner of Parkland Properties, provided a summary of the proposed agreement. Discussion took place. This item will be considered at the regular City Commission meeting on Tuesday, December 8, 2020.

Public Comments – No Public Comments were received.

The Worksession Meeting adjourned at 7:52 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk

CITY OF MUSKEGON

CITY COMMISSION MEETING

DECEMBER 8, 2020 @ 5:30 P.M.

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

MINUTES

The Regular Commission Meeting of the City of Muskegon was held electronically with the Mayor, Vice Mayor and Commissioners participating via Zoom – a remote conferencing service, Clerk staff present at 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, December 8, 2020.

ROLL CALL FOR THE REGUAR COMMISSION MEETING:

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

HONORS/AWARDS/PRESENTATIONS:

A. 2016-2021 Vision Update

City Manager, Frank Peterson, shared a presentation with the City Commission to update all on the progress of goals and visions that were identified by the City Commission in January 2016. The goals fall into four distinct areas of housing, image, quality of life, and revitalizing revenue.

PUBLIC COMMENT ON AN AGENDA ITEM: Public comments received.

2020-91 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the November 24, 2020 Regular City Commission Meeting.

STAFF RECOMMENDATION: To approve the minutes.

B. Gaming License Request from Muskegon Pregnancy Services City Clerk

SUMMARY OF REQUEST: Muskegon Pregnancy Services is requesting a resolution

recognizing them as a non-profit organization operating in the City for the purpose of obtaining a raffle license.

STAFF RECOMMENDATION: To approve the request from Muskegon Pregnancy Services to be recognized as a non-profit operating in the City for the purpose of obtaining a raffle license.

C. MERS Defined Contribution Plan Adoption Agreements Addendum
Finance

SUMMARY OF REQUEST: MERS of Michigan, our Pension Plan Administrator, is asking all clients to complete and update plan adoption agreements so they can ensure the details of our plans are accurately documented. Staff is seeking your approval of the Defined Contribution Plan Agreement Addendums presented.

MERS of Michigan is asking the City of Muskegon to review and update our Defined Contribution Plan Adoption Agreements for each of our seven division, Non-Union, Clerical, 517m DPW, Police Patrol, Command and Fire. I have attached the Plan Adoption Agreement Addendums for each division. Please note we have not changed any of the provisions of our plans, this is a MERS request so they can ensure accuracy.

STAFF RECOMMENDATION: To approve the MERS Contribution Benefit Plan Adoption Agreement Addendums as presented.

D. Non-Union Pay/Benefits City Manager

SUMMARY OF REQUEST: Staff is seeking approval of the 2021 Non-Union Employee Wage and Benefit Program as detailed below.

The following changes are proposed:

1. With CPI below 1% and unknown long-term impacts of COVID-19, we are seeking an equivalent 0.75% lump sum payment to all non-union staff in lieu of a cost-of-living adjustment. The payments would be equalized so all eligible employees received the same lump sum amount of \$500. Based on 52 eligible employees, the total cost of this benefit is estimated at \$26,000, plus applicable payroll taxes and benefits equal to \$5,200.
2. Every March, employees are able to cash out a portion of the value of their accrued and unused sick time. To receive the full value, the employee is required to deposit the proceeds directly into a retirement savings account or a dependent college savings fund. We are asking to make an exception this year and remove the requirement to invest those funds into either of those savings accounts. This should be cost-neutral to the city. We would recommend that this be a one-year benefit change.

No budget amendment will be necessary.

AMOUNT REQUESTED: \$31,200 AMOUNT BUDGETED: \$31,200

FUND OR ACCOUNT: Various

STAFF RECOMMENDATION: To approve the non-union pay employee wage and benefit program as detailed.

F. Beach Warning System Public Works

SUMMARY OF REQUEST: Authorize staff to contract with SwimSmart Warning Systems to provide and install a beach warning system at Pere Marquette Park and to contract with Windemueller Electric to provide electrician services to assist with the installation.

Staff has been working on the proposal with Jacob Soter from SwimSmart Warning Systems that will include installation of beach hazard warning systems at two locations within Pere Marquette Park. The locations will be at the bathhouse and at the kite shack building. At each location a wood pole will be installed with a dome light mounted to the pole, in addition a smaller set of lights will be mounted on the side of the building facing out towards the parking lot.

The pole mounted light will be a red strobe light that will blink only during high hazard days on the beach, and we can install a shield if needed to shield the east side of the lights away from the houses along Beach Street though I would propose to do this later only if it becomes an issue. Based on preliminary information the two lights will provide a visual cue for the area from the Water Filtration Plant north to the Breakwater arms. No audible warning is included. The building mounted light will be a smaller three colored light in red/yellow/green that will indicate the NOAA supplied swim conditions for the day. The building mounted lights are smaller and meant to provide information to beach users as they move from the parking areas to the beach. Both lights will be wired into the electric service at each building and will be automatically controlled based on information provided through the NOAA website. This system will provide immediate updates supported by NOAA on a consistent basis and eliminate the need for staff to continuously monitor and adjust throughout the day.

If approved the system would be proposed for installation in the Spring of 2021 and operational for beach season.

Funding is proposed to be drawn from the Parks Department Contractual Services budget that is currently under budget based on the reduced expenses incurred to date during the current fiscal year.

AMOUNT REQUESTED: \$13,600 AMOUNT BUDGETED: \$0

\$7,600 SwimSmart Warning Systems

\$6,000 Windemueller Electric

FUND OR ACCOUNT: 101-70751-5346

STAFF RECOMMENDATION: Authorize staff to contract with SwimSmart Beach Warning Systems and Windemueller Electric for the installation of a beach hazard warning system at Pere Marquette Park.

G. CZM Grant Application Public Works

SUMMARY OF REQUEST: Authorize staff to submit a grant application to the Michigan Department of Environment, Great Lakes, and Energy (MDEGLE) through the Coastal Zone Management Program and provide resolution of support along with a commitment of matching funds.

The State of Michigan is making available funding through the Coastal Zone Management (CZM) program to assist communities in supporting Great Lakes Coastal Zones. Staff would like to pursue a grant application within the program which requires a 50/50 match. The grant application would be focused on Grand Trunk Access Site.

If awarded the grant would be used to fund completion of design plans related to the attached improvements that were previously submitted for an MDNR Land and Water Conservation Fund Grant which was later retracted. The proposed plan represents an overall investment of approximately \$1.5 Million dollars into improvements at the site and would be a potential project for multiple MDNR and USFWS grant opportunities. The estimated cost to prepare design plans is \$100,000.

The goal of the grant would be to prepare a further refined and biddable design that could be used to pursue additional grant funding opportunities related to the construction of the proposed improvements for the site.

The earliest grant funding would be available is October 1, 2021 so any match dollars would be required within the 21/22 budget year.

Submission of the grant application requires a commitment of matching funds and resolution of support from the City Commission.

AMOUNT REQUESTED: \$50,000 AMOUNT BUDGETED: \$50,000 (FY21/22)

FUND OR ACCOUNT: 404

STAFF RECOMMENDATION: Approve staff to submit a Coastal Zone Management Grant through the State of Michigan Department of Environment, Great Lakes, and Energy for improvements at Grand Trunk Access site and authorize the clerk to sign the resolution providing for support and commitment of matching funds.

H. DWAM Grant Application Public Works

SUMMARY OF REQUEST: Authorize staff to submit a grant application to the Michigan Department of Environment, Great Lakes, and Energy (MDEGLE)

through the Drinking Water Asset Management Program.

The State of Michigan is making available funding through the Drinking Water Asset Management (DWAM) program to assist communities in supporting the goals of asset management. Staff would like to pursue a grant application in the first quarter (due by January 1). Staff is still working to finalize the details of the application but it will likely include some or all of the following items:

- Condition verification, and GPS point collection of all hydrants and valves and incorporation into city GIS system for improved record keeping and maintenance.
- Field verification of lead service lines. Assistance to perform excavation and physical verification of questionable areas to guide future investment.
- Updates to the water main information in the GIS System. The sanitary sewer and storm sewers were nearly fully collected during the previous funding cycle (SAW). This would get our water system at or above the same level of accuracy.
- Update to the system wide hydraulic model. Perform routine update to the hydraulic model that helps identify solutions to problem areas and guide future investment to maximize efficiency.
- Update to the financial analysis and verification of rate study for future years.

The funding for this program comes from the \$500M Clean Water investment announced by the State of Michigan earlier this year. The program offers a total of \$36.5M statewide for these efforts. There is zero match dollars required for this grant application. No formal resolution of support is required, however we wanted to make you aware of our intention to apply and offer an opportunity for comment.

AMOUNT REQUESTED: \$0

AMOUNT BUDGETED: \$0

FUND OR ACCOUNT: 591

STAFF RECOMMENDATION: Authorize staff to submit for a Drinking Water Asset Management Grant through the State of Michigan Department of Environment, Great Lakes, and Energy in the 1st Quarter Application Period.

I. Michigan & Franklin Reconstruction Public Works

SUMMARY OF REQUEST: Authorize the award of the Michigan Avenue and Franklin Street reconstruction project to the low bidder, Wadel Stabilization, Inc.

Staff solicited bids for the road reconstruction on Michigan Avenue from Lakeshore Drive east to Hudson Street and on Franklin Street from Michigan Avenue north to West Western Avenue in the Nims Neighborhood.

Bids were received as follows:

- \$829,357.35 – Wadel Stabilization
- \$853,948.06 – Brenner Excavating
- \$857,235.65 – Jackson-Merkey
- \$878,698.68 – West Michigan Dirtworks
- \$889,145.80 – McCormick Sand
- \$950,858.50 – Hallack Contracting
- \$982,508.85 – Diversco Construction
- \$997,868.30 – Kamminga & Roodvoets
- \$1,091,692.90 – Terra Contractors

The project was included in the 20-21 budget with funds being drawn from the Major Street, Water, and Sewer funds. The collective bids are below the budgeted amounts for the project and no reforecasting adjustment is anticipated at this time. The project would be constructed during the 2021 construction season.

AMOUNT REQUESTED:	\$829,357.35	AMOUNT BUDGETED:	\$900,000
FUND OR ACCOUNT:	202-92003 - \$800,000		
	590-92003 - \$50,000		
	591-92003 - \$50,000		

STAFF RECOMMENDATION: Approve the award of the Michigan Avenue and Franklin Street project to the low bidder, Wadel Stabilization, and authorize staff to sign the contracts.

K. Westwood Change Order #002 Public Works

SUMMARY OF REQUEST: Staff is seeking authorization to approve Change Order #002 to the sewer project work on Westwood Street in the Glenside Neighborhood.

Final quantity measurements have been completed for the water and sewer work conducted primarily on Westwood Street in the Glenside neighborhood and the project has been recommended for final acceptance and closeout

Change Order #002 represents an increase to the Contract value of \$23,247.87. Combined with the previously approved Change Order #001 the total change order value for the project stands at \$36,602.20 on an original contract value of \$1,245,042.00 for a net final increase of 2.9%. The approved project budgets contained a contingency of ~6% so this final balancing does not exceed the budgeted contingency. Future reforecasts will reduce the total budgeted cost of this project.

Motion by Commissioner Johnson, second by Vice Mayor Hood, to approve the consent agenda as presented, minus items E, J, L, N, O, and Q.

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

Nays: None

MOTION PASSES

2020-92 REMOVED FROM CONSENT AGENDA:

E. Body Camera Purchase Public Safety

SUMMARY OF REQUEST: The Public Safety Department (Police) is requesting permission to purchase Motorola/WatchGuard Body Worn Cameras and In-Car Video Systems for our marked police cars.

The Public Safety Department (Police) is requesting to contract with Motorola/WatchGuard to purchase seventy (70) body worn cameras to be worn by Muskegon Police Officers. In order to integrate our systems, twenty-four (24) in car video systems will also be purchased, replacing our current L-3/SafeFleet in car systems. We will be able merge audio/video files from both body worn camera and in-car video to be stored and viewed in one file. We would not have this capability of we stayed with L-3/SafeFleet's product. In consulting with IT, we were experiencing more long-term technical issues with the performance of our current L-3/SafeFleet product and it was recommended we upgrade to the Motorola/Watchguard system. We were able to negotiate a significant discount to cover the remaining product life of our current system.

AMOUNT REQUESTED: \$477,499.33 AMOUNT BUDGETED: \$0

FUND OR ACCOUNT: General Fund – 101

STAFF RECOMMENDATION: Approval for the purchase of body cameras and in-car video systems for the Muskegon Police Department

Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to approve the purchase of body cameras and in-car video systems for the Muskegon Police Department.

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

Nays: None

MOTION PASSES

J. Beach Street Expanded Parking Public Works

SUMMARY OF REQUEST: Authorize staff to approve Amendment #001 to the contract with DLZ to provide the design engineering services related to design and construction oversight of the proposed expansion of parking and

construction of a pedestrian boardwalk along Beach Street within Pere Marquette Park.

Following up on a topic from earlier in November staff has solicited a proposal to provide engineering services related to constructing additional parking and a pedestrian boardwalk along Beach Street as a part of the currently active county water main project.

DLZ provided the original engineering for the project and this amendment includes the design work necessary to complete a design as shown in the attachment. DPW reviewed the proposal from DLZ and was unable to provide a matching service in house based on prior commitments for Engineering Department staff. The proposed amendment was reviewed and deemed reasonable based on the estimated cost of the project.

If approved, DLZ will complete the attached design and work with the current contractor (Hallack Contracting) to prepare a detailed change order for the additional work.

After design work is completed staff would return to Commission with Amendment #002 to the DLZ Contract for the Construction Engineering Services (\$36,500 as shown in attached proposal) and with a change order for Hallack Contracting for a TBD amount to amend the existing contract for the Beach Street construction.

AMOUNT REQUESTED: \$31,000 AMOUNT BUDGETED: \$0

FUND OR ACCOUNT: Propose to add 404-91917-5346 to a future reforecast. 91917 is the designation for the current project on Beach Street though only contains funding from 202 and 591.

STAFF RECOMMENDATION: Authorize staff to approve the design engineering portion of the DLZ proposal as Amendment #001 to our existing contract with DLZ to provide design engineering services related to the expanded beach parking and pedestrian paths within Pere Marquette Park.

Motion by Commissioner Emory, second by Commissioner Rinsema-Sybenga, to authorize staff to approve the design engineering portion of the DLZ proposal as Amendment #001 to our existing contract with DLZ to provide design engineering services related to the expanded beach parking and pedestrian paths within Pere Marquette Park.

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

Nays: None

MOTION PASSES

- L. Installment Purchase Agreement Approval – Jackson Hill Infill Housing Development Services**

SUMMARY OF REQUEST: Staff is seeking approval of the installment purchase agreement between the Community Foundation for Muskegon County, LRS Enterprises, and the City. The \$355,000 loan will supply a portion of the funds for the Jackson Hill Infill Housing Development.

At the September 22, 2020 regular commission meeting, staff received authorization to work with the Community Foundation for Muskegon County to make a Program Related Investment of \$355,000 to undertake construction of the first two homes in this multi-year development project. The City agreed to loan \$75,000 from its Economic Development Revolving Loan Fund for the project as well. The CFFMC will be repaid upon sale of the homes, and the City will be repaid with tax increment financing. Staff worked with our bond counsel from Miller Canfield to develop documents that follow Act 99 of 1933 which authorizes cities to enter into installment purchase agreements. The agreement acts as the Note and is a limited tax general obligation of the City of Muskegon. Attached are the installment purchase agreement documents associated with the PRI from the CFFMC.

AMOUNT REQUESTED: None at this time.

AMOUNT BUDGETED: Payback determined next year.

FUND OR ACCOUNT: Economic Development Fund – 493

STAFF RECOMMENDATION: To approve the installment purchase agreement between the Community Foundation for Muskegon County, LRS Enterprises, and the City, approve the resolution authorizing the installment purchase agreement, and authorize the mayor and clerk to sign.

Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to approve the installment purchase agreement between the Community Foundation for Muskegon County, LRS Enterprises, and the City, approve the resolution authorizing the installment purchase agreement, and authorize the mayor and clerk to sign.

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

Nays: None

MOTION PASSES

N. Street/Alley Vacations Planning

SUMMARY OF REQUEST: Staff initiated request to vacate the following streets and alley: E Muskegon Avenue between Cedar Street and Emerald Street, Rathborn Street between Walton Avenue and Eastern Avenue; and the alley east of Cedar Street and west of Eastern Avenue between Walton Avenue and Yuba Street.

The Planning Commission unanimously recommended vacation of the streets

and alley.

STAFF RECOMMENDATION: To vacate E Muskegon Avenue between Cedar Street and Emerald Street; Rathborn Street between Walton Avenue and Eastern Avenue; and the alley east of Cedar Street and west of Eastern Avenue between Walton Avenue and Yuba Street.

Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to vacate E Muskegon Avenue between Cedar Street and Emerald Street; Rathborn Street between Walton Avenue and Eastern Avenue; and the alley east of Cedar Street and west of Eastern Avenue between Walton Avenue and Yuba Street.

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

Nays: None

MOTION PASSES

O. Former Farmers Market Rezoning Planning

SUMMARY OF REQUEST: Staff initiated request to rezone the properties at 731 Yuba Street, 205 E Muskegon, 225 Eastern Avenue, 287 E Muskegon Avenue, 185 E Muskegon Avenue, and 209 E Walton Avenue to Form Based Code, Urban Residential.

This is the former Farmer's Market site. The property was rezoned to industrial a couple years ago, but residents eventually pushed back at the food processing proposal. Staff is currently working with Allen Edwin Home Builders on a residential development at this site.

The Planning Commission unanimously recommended approval of the rezoning's at their November meeting.

STAFF RECOMMENDATION: To approve the rezoning of the former Farmers Market site.

Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to approve the rezoning of the formers Farmers Market site.

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

Nays: Emory and German

MOTION PASSES

Q. Convention Center Naming Rights City Manager

SUMMARY OF REQUEST: Staff is seeking approval of two agreements: authorizing the City to enter the Convention Center Naming Rights and Sponsorship Agreement with VanDyk Mortgage Corporation; and approving corresponding amendment to the Convention Center Management

Agreement with Parkland.

In an effort to raise additional capital to ensure the highest quality convention center without levying additional taxes or fees, on November 26, 2019, staff was authorized to identify strategic advertising partners within the new convention center. The goal was to raise at least \$1 Million over a period not to exceed 20 years.

Staff is please to present a naming-rights agreement with VanDyk Mortgage that will generate \$150,000 annually for the next 10 years. Over that 10-year period, the city will net approximately \$1 Million after paying sellers commissions, installing signage, and compensating Parkland \$2,000 per month for convention center operation costs associated with the VanDyk Agreement. The net income from the initial sponsor commitment has exceeded expectations and will be used to offset approximately \$2 million in unexpected cost overruns at the facility. Staff intends to seek out other strategic partners to name/sponsor interior signage.

STAFF RECOMMENDATION: Approve the Naming Rights and Sponsorship Agreement with VanDyk Mortgage and approve the corresponding 1st Amendment to the Convention Center Management Agreement with Parkland, and authorize the City Manager to sign the agreements.

Mario Flores, VanDyk Mortgage, provided some information about the company and answered questions from Commissioners. VanDyk Mortgage is excited to have a presence in downtown Muskegon.

Motion by Commissioner Emory, second by Commissioner Rinsema-Sybenga, to approve the Naming Rights and Sponsorship Agreement with VanDyk Mortgage and approve the corresponding 1st Amendment to the Convention Center Management Agreement with Parkland, and authorize the City Manager to sign the agreements.

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

Nays: None

MOTION PASSES

2020-93 PUBLIC HEARINGS:

A. Jackson Hill, McLaughlin & Angell Rezoning's Planning – REJECTED

SUMMARY OF REQUEST: Staff-initiated request to rezone all single-family (R-1, R-2, R-3) and duplex (RT) parcels in the McLaughlin, Angell, and Jackson Hill neighborhoods to Form Based Code, Urban Residential (FBC-UR)

The Planning Commission voted 8-1 to recommend approval to the City Commission. The City Commission asked staff to mail notices to all properties affected by the case. Staff mailed out more than 4,000 notices.

STAFF RECOMMENDATION: To approve the request to rezone all single-family (R-1, R-2, R-3) and duplex (RT) parcels in the McLaughlin, Angell and Jackson Hill neighborhoods to Form Based Code, Urban Residential (FBC-UR)

PUBLIC HEARING COMMENCED:

Roland Jones – 595 Yuba – several concerns – would like it tabled

Robert Harwood – 367 Gunn Street – worried about higher taxes

Shawn Tate – 287 McLaughlin – opposed

Steve Thompson – 464 W. Webster – would like to delay

Yourvette Davis – 1093 Chestnut – would like it tabled

Tesa Griffin – 864 Kenneth – would like it tabled, would like more information

Shirley Green – 2574 Morton – wanted to talk about a different area

Randy VanderWhite – 1577 Clinton – concerned about multi-plexes

Charlotte Johnson – 219 Catherine – opposed

Motion by Commissioner Ramsey, second by Commissioner German, to close the public hearing.

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

Nays: None

MOTION PASSES

Motion by Commissioner German, second by Commissioner Emory, to table this item.

ROLL VOTE: Ayes: Hood, German, Emory

Nays: Ramsey, Rinsema-Sybenga, Johnson, and Gawron

MOTION FAILS

Motion by Commissioner Ramsey, second by Vice Mayor Hood, to call the question.

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

Nays: None

MOTION PASSES

Motion by Commissioner Johnson, second by Commissioner Emory, to reject the request to rezone.

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

Nays: Rinsema-Sybenga and Gawron

MOTION PASSES

B. CAPER 2019 Community & Neighborhood Services

SUMMARY OF REQUEST: Request to conduct a Public Hearing of the Community & Neighborhood Services department Consolidated Annual Performance Evaluation Report (CAPER 2019) of HUD funded programs through CDBG and HOME for the City of Muskegon.

STAFF RECOMMENDATION: To submit the 2019 CAPER including any public comments received during the 20-day comment period ending December 22, 2020.

PUBLIC HEARING COMMENCED: No public comments were received.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Ramsey, to close the public hearing and submit the 2019 CAPER.

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

Nays: None

MOTION PASSES

C. Infill Housing Project (2nd Amendment) Brownfield Plan Amendment Public Hearing Economic Development

SUMMARY OF REQUEST: To hold a public hearing and approve the resolution to adopt the city's Infill Housing Project (**2nd Amendment**) to the Scattered Site Brownfield Plan. The BRA approved the Plan amendment on 11/24 and recommended approval by the City Commission.

The 2nd Amendment adds (12) additional parcels into the Scattered Site Brownfield Plan. On July 28th the City Commission approved the 1st Amendment. The redevelopment of 119 total parcels are primarily located in the Nelson, Jackson Hill and Angell neighborhoods, respectively. Some lots will be split, creating up to 253 subject parcels. This updated plan incorporates three types of redevelopment projects; infill housing on vacant City lots (up to 238 units), the rehab of existing homes (11 detached houses), and two separate mixed-use developments (former Catholic Charities parcels and 880 First St, LLC projects). Activities include the redevelopment and rehabilitation of subject parcels and construction of new commercial and residential units. The City is currently marketing these properties with the anticipation that private developers will acquire the sites and submit plans for productive redevelopment.

Developer's Reimbursement Costs: Infill Housing - \$5,837,000; Mixed-use projects - \$1,000,000; Total reimbursement costs - \$6,837,000.

Estimated Total Capital Investment: Infill Housing - \$48,600,000; Home rehab - \$500,000; Mixed Use developments: \$26,000,000; Total Estimated Capital Investment - \$75,100,000

Plan Amendment eligible activities: \$4,840,000 cost of sale/seller concessions; \$1,200,000 demolition and abatement; \$777,000 public infrastructure; \$20,000 Brownfield Plan Preparation and Development; \$1,025,550 contingency fees (15%); \$7,862,550 – total eligible activities to be paid under this Plan. End of 2023 for expected completion date of the Project homes. After all eligible costs incurred by the various parties are reimbursed, the BRA is authorized to continue to capture local taxes for five more years for deposit into a Local Site Remediation Revolving Fund.

The additional eligible properties include:

880 First Street (880 First St LLC development) / 216 W. Clay (880 First St LLC development) / 208 W. Clay (880 First St LLC development) / 1095 Third Street (former Catholic Charities property) / 301 W. Muskegon Ave (former Catholic Charities parking lot) / 589 McLaughlin (Big Red Developer) / 559 McLaughlin (Big Red Developer) / 441 Isabella (Big Red Developer) / 438 Isabella (Big Red Developer) / 591 Catherine (Big Red Developer) / 185 E. Muskegon Ave (former Farmers market properties) / 209 E. Walton Ave (former Farmers Market properties)

STAFF RECOMMENDATION: To close the public hearing and approve the resolution of the Brownfield Plan Amendment for the city's Infill Housing Project **(2nd Amendment)**.

PUBLIC HEARING COMMENCED: No public comments were received.

Motion by Commissioner Ramsey, second by Commissioner Johnson, to close the public hearing and approve the resolution of the Brownfield Plan Amendment for the city's Infill Housing Project (2nd Amendment).

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

Nays: None

MOTION PASSES

2020-94 NEW BUSINESS:

A. Community EnCompass Infill Housing Development Agreement and Funding Economic Development

SUMMARY OF REQUEST: Community EnCompass has committed their share of funding for this project through an approved resolution of the Board of Directors. Staff recommends approving the use of \$250,000 of HOME Funds to couple with

\$320,000 in contributions from Community EnCompass and retain Community EnCompass as the builders and marketers of the homes.

In an attempt to further our Economic Equity efforts and to create diversity of housing price points as we build infill, we have been working for quite some time with Community EnCompass to try and construct a deal within the Brownfield TIF and their institutional capacity to construct homes that would be specifically for buyers at or below 80% AMI. The attached development agreement is based on other residential construction agreements the City has used and is reflective of the anticipated costs to construct 3 single family homes on city owned lots at 180 Houston, 1141 Jefferson, and 1259 Sanford. A map is attached with the locations highlighted. Community EnCompass already receives HOME funds each year from the City's CDBG programming as the only Community Housing Development Organization (CHDO) in the area. This item would increase their 20/21 allotment as well as allocate existing program income for this development. The total project would have a not-to-exceed budget of \$570,000, with Community EnCompass to be repaid first by proceeds from sales, and the city second. Any losses incurred by the City would be recouped through Brownfield TIF.

AMOUNT REQUESTED: \$250,000

AMOUNT BUDGETED: Consistent with CNS Program Development Plan, budget amendment required at quarterly reforecast.

FUND OR ACCOUNT: CDBG HOME Funds (Current and previous year carryover/program income)

Commissioner Rinsema-Sybenga stated a conflict of interest and recused himself from discussing and voting on this item as his spouse is employed by Community EnCompass.

Commissioner Ramsey stated a conflict of interest and recused himself from discussing and voting on this item as he is employed by Community EnCompass.

Motion by Commissioner Johnson, second by Commissioner Emory, to accept the development agreement as amended and authorize the Finance Department to release funds for construction to Community Encompass upon the signing of the development agreement and meeting the stipulations thereof. The City Commission deems this to be in the best interest of the City. The Mayor and Clerk are authorized to sign the development agreement upon waiver of any conflict by the US Department of Housing and Urban Development.

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

Nays: None

MOTION PASSES

PUBLIC COMMENT: Public comments were received.

ADJOURNMENT: The City Commission meeting adjourned at 10:20 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: Jan 12, 2021	Title: FY2020-21 Sewer Rate Adjustment
Submitted By: Beth Lewis	Department: Finance
Brief Summary: As the FY2019-20 Comprehensive Annual Financial Report was finalized it became evident that the Sewer Fund was in a \$3.5 million deficit. This deficit will require an immediate rate increase of 20% effective January 1, 2021.	
Detailed Summary: In FY2018-2019 the Sewer fund had a \$979,425 operating loss and in FY2019-20 had an operating loss of \$1,435,021. These losses were directly related to the high water level and infiltration into our system and have created a deficit of \$3,595,965 in the Sewer Fund. During the calendar year 2019 the City billed about 1.7 million units of sewage usage which equals 1,271,600,000 gallons, in the same period the county treated and billed us for 2,090,510,000 gallons. This means we are paying to treat 1.64 gallons for every gallon we bill. From FY2018-19 to FY2019-20 our costs to the County for treatment increased 19.5% however during the same period of time our revenues increased only 2.2% The sewer rate has increased by 5% in each of the last two fiscal years and as you recall staff had proposed an 8% increase for the current fiscal year however the Commission only approved a 5% increase. At this time staff is proposing a 20% increase. For the current fiscal year this increase is expected to generate an additional \$900,000 in revenue. For the current year we are hopeful that the increase will create an operational surplus and lower the deficit in the Sewer, however there will still be a deficit in the sewer fund for the current fiscal year. We are hopeful the deficit will go away in FY21-22. I have attached an updated budget reforecast that only includes the operational budget for the current fiscal year for the Sewer Fund. Unfortunately our usage is down which is why the revenue reforecast increase is less than \$900,000. The 2nd Quarter Budget Reforecast will be presented to the Commission at the first meeting in February.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s): 590	Fund(s) or Account(s): 590
Recommended Motion: To approve the resolution to adjust the FY2020-21 Sewer Rate by 20%.	
Check if the following Departments need to approve the item first: Police Dept. ☐	

Fire Dept. ☐

IT Dept. ☐

For City Clerk Use Only:

Commission Action:

CITY OF MUSKEGON
RESOLUTION NO. _____

At a regular meeting of the City Commission of Muskegon, Michigan, held at the City Commission Chambers on January 12, 2021.

RECITALS

A review of the rates for sewer service has been accomplished by the city's staff, recommendations received, and the City Commission has determined that the following rate changes are justified. Accordingly, this resolution is made for the purpose of maintaining the financial viability of the city's sewer system.

THEREFORE, THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY RESOLVES:

1. Effective January 1, 2021, to rescind City of Muskegon Resolution No. 2020-43(B), which was adopted July 28, 2020.
2. Charges for residential sewer service shall be changed from a multiplier of 1.90 to 2.28 of the rate the county bills the city for wastewater treatment effective January 1, 2021, with future rates to be adjusted as the county charges are adjusted. Charges for residential service shall be changed from a rate per unit (100 cubic feet) of \$4.35 to a rate of per unit of \$5.22. The monthly sewer administration charge shall remain unchanged at \$3.00.
3. Charges for commercial/industrial sewer service shall continue to be billed at a rate of 1.25 times (1.25x) the city rate for residential sewer service. The monthly sewer administration charge shall remain unchanged to \$3.00.
4. Charges for all non-metered residential sewer customers will be calculated based on an assumed usage rate of 12 hundred cu. ft. per month.
5. Unless there is a separate agreement specifying a different billing method, non-resident users of the city sewer system will be billed at a rate that is double (2x) the city rate for that class of user.

The above changes to be effective as noted above.

This resolution adopted.

YEAS:

NAYS:

CITY OF MUSKEGON

By: _____
Ann Marie Meisch, MMC, City Clerk

STATE OF MICHIGAN COUNTY OF MUSKEGON

I hereby certify that the foregoing is a true and complete copy of a resolution adopted at a meeting of the Board of Commissioners of the City of Muskegon, Michigan, held on the 23rd day of June, 2020 and that the minutes of the meeting are on file in the office of the City Clerk and are available to the public. Public notice of the meeting was given pursuant to and in compliance with Act 267, Public Acts of Michigan, 1976.

BUDGET REPORT FOR CITY OF MUSKEGON

SEWER FUND

GL NUMBER AND BUDGET CLASSIFICATION	DESCRIPTION	2019-20 ACTIVITY	2020-21 ORIGINAL BUDGET	2020-21 AMENDED BUDGET	2020-21 2nd QUARTER REFORECAST
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590 - SEWAGE DISPOSAL SYSTEM

ESTIMATED REVENUES					
Dept 00000					
590-00000-4400	STATE GRANTS		-	-	-
590-00000-4605	METERED SALES	8,121,564	8,905,875	9,205,875	9,432,670
590-00000-4619	MISC. SALES AND SERVICES	134,393	120,000	120,000	120,000
590-00000-4704	PENALTIES/INTEREST/FINES	125,199	160,000	160,000	145,000
590-00000-4800	MISC. & SUNDRY	-	2,000	2,000	2,000
590-00000-4802	REIMB:SERVICES RENDERED	9,445	7,000	7,000	7,000
590-00000-4818	RECOVERY OF BAD DEBT		-	-	-
590-00000-4970	INTEREST INCOME	1,209	6,800	6,800	1,200
Totals for dept 00000 -		8,391,810	9,201,675	9,501,675	9,707,870

TOTAL ESTIMATED REVENUES		8,391,810	9,201,675	9,501,675	9,707,870
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Dept 30203 - PENSION ADMINISTRATION					
5100	SALARIES & BENEFITS		74,609		74,609
Totals for dept 30203 - PENSION ADMINISTRATION			74,609		74,609

EXPENDITURES					
Dept 30548 - BOND INTEREST, INSURANCE & OTHER					
5300	CONTRACTUAL SERVICES	476,958	508,522	508,522	508,522
5400	OTHER EXPENSES	-	7,500	7,500	7,500
5900	OTHER FINANCING USES	462,845	57,500	57,500	57,500
Totals for dept 30548 - BOND INTEREST, INSURANCE & OTHER		939,803	573,522	573,522	573,522

Dept 60550 - STORM WATER MANAGEMENT					
5300	CONTRACTUAL SERVICES	4,137	-	-	-
Totals for dept 60550 - STORM WATER MANAGEMENT		4,137	-	-	-

Dept 60557 - MUSKEGON CO. WASTEWATER TREATMENT					
5300	CONTRACTUAL SERVICES	6,978,294	6,600,000	6,600,000	6,800,000
Totals for dept 60557 - MUSKEGON CO. WASTEWATER TREATMENT		6,978,294	6,600,000	6,600,000	6,800,000

Dept 60559 - WATER & SEWER MAINTENANCE					
5100	SALARIES & BENEFITS	1,044,735	838,519	828,385	1,045,000
5200	SUPPLIES	110,572	116,450	116,450	116,450
5300	CONTRACTUAL SERVICES	680,746	555,815	555,815	555,815
5400	OTHER EXPENSES	12,543	33,000	33,000	33,000
5700	CAPITAL OUTLAYS	3,548	18,100	46,100	46,100
Totals for dept 60559 - WATER & SEWER MAINTENANCE		1,852,145	1,561,884	1,579,750	1,796,365

Dept 91325 - STORM & WASTE WATER ASSET MGMT - SAW GRA					
5300	CONTRACTUAL SERVICES		-	-	-
Totals for dept 91325 - STORM & WASTE WATER ASSET MGMT - SAW GRA		-	-	-	-

BUDGET REPORT FOR CITY OF MUSKEGON

SEWER FUND

GL NUMBER AND BUDGET CLASSIFICATION		DESCRIPTION	2019-20 ACTIVITY	2020-21 ORIGINAL BUDGET	2020-21 AMENDED BUDGET	2020-21 2nd QUARTER REFORECAST
Dept 91509 - LAKETON AVE, GETTY ST TO CRESTON						
5300		CONTRACTUAL SERVICES		-	-	-
Totals for dept 91509 - LAKETON AVE, GETTY ST TO CRESTON			-	-	-	-
Dept 91609 - HARTFORD, PINE & DIANA WATER MAIN UPGRAD						
5300		CONTRACTUAL SERVICES		-	-	-
Totals for dept 91609 - HARTFORD, PINE & DIANA WATER MAIN UPGRAD			-	-	-	-
Dept 91806 - BEIDLER & MADISON S2 PROJECTS						
5300		CONTRACTUAL SERVICES		-	-	-
Totals for dept 91806 - BEIDLER & MADISON S2 PROJECT			-	-	-	-
Dept 91826 - SRF SEWER UPGRADES						
5300		CONTRACTUAL SERVICES	5,971		2,500	2,500
Totals for dept 91826 - SRF SEWER UPGRADES			5,971	-	2,500	2,500
Dept 91828 - LIFT STATION REPAIRS/UPGRADES						
5300		CONTRACTUAL SERVICES	30,443	-	-	-
Totals for dept 91828 - LIFT STATION REPAIRS/UPGRADES			30,443	-	-	-
Dept 91830 - SRF PROJECT 2018						
5300		CONTRACTUAL SERVICES	83,347	-	-	-
Totals for dept 91830 - SRF PROJECT 2018			83,347	-	-	-
Dept 91831 - REMEMBRANCE DRIV EXTENSION						
5300		CONTRACTUAL SERVICES		-	-	-
Totals for dept 91831 - REMEMBRANCE DR EXTENSION			-	-	-	-
Dept 91849 - LIFT STATION REPAIRS/ UPGRADES 18-19						
5300		CONTRACTUAL SERVICES		-	-	-
Totals for dept 91849 - LIFT STATION REPAIRS/ UPGRADES 18-19			-	-	-	-
Dept 91857 - INDUSTRIAL PARK/ MERCY SANITARY SEWER STU						
5300		CONTRACTUAL SERVICES		-	-	-
Totals for dept 91857 - INDUSTRIAL PARK/ MERCY SANITARY SEWER STU			-	-	-	-
Dept 92003 - MICHIGAN & FRANKLIN						
5700		CAPITAL OUTLAYS			50,000	50,000
Totals for dept 92003 - MICHIGAN & FRANKLIN			-	-	50,000	50,000
Dept 92018 - LIFT REPAIRS APPLE/HARBOURTOWNE						
5300		CONTRACTUAL SERVICES	40,608			
5700		CAPITAL OUTLAYS	-			
Totals Dept 92018 - LIFT REPAIRS APPLE/HARBOURTOWNE			40,608	-	-	-
Dept 92027 - 2020-21 DWRF AND SRF						
5300		CONTRACTUAL SERVICES	1,149			
5700		CAPITAL OUTLAYS	-			
Totals Dept 92027 - 2020-21 DWRF AND SRF			1,149	-	-	-

BUDGET REPORT FOR CITY OF MUSKEGON

SEWER FUND

GL NUMBER AND BUDGET CLASSIFICATION		DESCRIPTION	2019-20 ACTIVITY	2020-21 ORIGINAL BUDGET	2020-21 AMENDED BUDGET	2020-21 2nd QUARTER REFORECAST
Dept 92046 - 3RD/4TH ALLEY RECONSTRUCTION						
5300		CONTRACTUAL SERVICES			25,000	25,000
Totals Dept 92046 - 3RD/4TH ALLEY RECONSTRUCTION			-	-	25,000	25,000
Dept 99012 - GIS TRAINING						
5300		CONTRACTUAL SERVICES	256			
5700		CAPITAL OUTLAYS	-			
Totals Dept 99012 - GIS TRAINING			256	-	-	-
Dept SANFORD (APPLE TO LAKETON) UNASSIGNED						
5300		CONTRACTUAL SERVICES	-	-	-	-
5700		CAPITAL OUTLAYS	-	-	-	-
Totals for SANFORD (APPLE TO LAKETON) UNASSIGNED			-	-	-	-
Dept - GLENSIDE SRF PHASE 2 UNASSIGNED						
5300		CONTRACTUAL SERVICES	-	-	-	-
5700		CAPITAL OUTLAYS	-	-	-	-
Totals for GLENSIDE SRF PHASE 2 UNASSIGNED			-	-	-	-
TOTAL EXPENDITURES			9,936,152	8,735,406	8,805,772	9,321,996
NET OF REVENUES/EXPENDITURES - FUND 590			(1,544,342)	466,269	695,903	385,874
BEGINNING NET POSITION			11,793,031	10,248,689	10,248,689	10,248,689
ENDING NET POSITION			10,248,689	10,714,958	10,944,592	10,634,563

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Western Market Rent
Submitted By: Ann Meisch	Department: City Clerk
Brief Summary: The DMDC has indicated now that the Renaissance period has ended, they need to charge rent to cover the taxes and insurance on the property where Western Market currently sits. The tax bill for the property taxes last year were approximately \$8,150. The DMDC has indicated they would like to charge the City \$5,000 per year beginning with 2019. They have invoiced the City \$10,000 for 2019 and 2020.	
Detailed Summary:	
Amount Requested: \$10,000	Amount Budgeted: \$0
Fund(s) or Account(s): General Fund	Fund(s) or Account(s): N/A
Recommended Motion: Authorize staff to pay 2019 and 2020 rent in the amount of \$10,000 and the annual fee of \$5,000 going forward beginning 2021.	



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Electricity Upgrade at Western Market
Submitted By: Ann Meisch	Department: City Clerk
Brief Summary: Our electrician has indicated that we need to upgrade our power at the chalets to accommodate vendor needs. We have received a quote to install a new 100 amp weather proof service. The power source is approximately 300' feet away that the condo association behind the chalets is allowing us to continue to use.	
Detailed Summary: The power that was originally installed was not intended to support heaters and air conditioners. We quickly learned it was necessary to allow both depending on the season but we are using more power than the system was designed for. We also have a business interested in joining us in 2021 and, if approved by the committee, they need additional power beyond the two outlets currently offered. With this proposal, we could accommodate a business with this need now and in the future.	
Amount Requested: \$6500	Amount Budgeted: \$0
Fund(s) or Account(s): General Fund	Fund(s) or Account(s): N/A
Recommended Motion: To authorize the City Clerk to hire Lakeshore Electric to upgrade the electricity at Western Market for a cost of \$6500.	

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Special Event Fees
Submitted By: Ann Meisch	Department: City Clerk
Brief Summary: Staff is requesting those events held in 2019 ONLY be allowed a 50% discount up to the amount of their 2019 invoice for DPW Services, to waive their application fee this year, and allow the City Manager and Public Safety Director to evaluate policing services actually provided after each event and determine if a discount may be given. This waiver/reduction of fees does not apply to new events or events that did not take place in 2019 or events that are not paid up-to-date with previous events.	
Detailed Summary: The City recognizes that our established events in Muskegon have been seriously impacted this past year and some may not be back. Several staff members met with many leaders of such events to listen to their needs. Staff then met to develop ideas how we may assist understanding staff is also running with less resources. Staff's recommendation is to allow a 50% discount for DPW services (ex. If the invoice for 2019 services was \$4,000, the discount can be as much as \$2,000. If their 2021 invoice is \$5,000, they receive a \$2,000 discount). Police Department services are different because they are actual costs that the City does incur. The Public Safety Director has indicated he is willing to evaluate the services needed, if the event had a well thought out plan for safety that was implemented and followed the guidelines set by the police department. Larger events are required to have a meeting with staff to cover such details. These changes are only suggested for 2021.	
Amount Requested:	Amount Budgeted: \$0
Fund(s) or Account(s): General Fund	Fund(s) or Account(s): N/A
Recommended Motion: To authorize staff to reduce 2021 fees for DPW services for special events up to 50% based on the fees billed in 2019, to waive the application fee, and allow the City Manager and Public Safety Director to evaluate each event after it has occurred and determine a discount. Any discounts/waiver of fees apply only to events held in 2019 who wish to continue in 2021.	



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 1/12/2021	Title: Non-Union PT and LT Wage Matrix
Submitted By: DWANA THOMPSON	Department: EEO & EMPLOYEE RELATIONS
Brief Summary: The 2021 wage matrix will not have any changes this year other than the change to the minimum wage.	
Detailed Summary:	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: Approve the minimum wage change to the non-union part time limited term wage matrix for 2021.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

2021 WAGE MATRIX FOR NON-UNION PART-TIME AND LIMITED TERM EMPLOYEES

<u>JOB TITLE</u>	<u>STEP 1</u>	<u>STEP2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>	<u>STEP 7</u>
GRADE 1	Min.	Min +.50	Min + \$1				
INTERNS AGE 16-17 (Minimum wage for Employees under Age 18)							
GRADE 2	11.00	11.50	12.00	12.50	13.00		
BUILDING FACILITY CARETAKER SCHOOL CROSSING GUARD							
GRADE 3	12.00	13.00	14.00	15.00	16.00	17.00	
INTERN, EXCLUDING PARK INTERN							
GRADE 4	11.00	11.50	12.00	12.50			
MARINA AIDE PARK RANGER							
GRADE 5	11.50	12.00	12.50	13.00	13.50	14.00	
FACILITY SUPERVISOR I BEACH/PARK RANGERS (PUBLIC SAFETY)							
GRADE 6	12.50	13.00	13.50	14.00	14.50	15.50	16.50
FACILITY SUPERVISOR II ASSISTANT HARBOR MASTER							
GRADE 7	12.00	12.50	13.00	14.00	15.00	16.00	17.00
PARK INTERN							
GRADE 7 A	12.50	13.00	14.00	15.00	16.00	17.00	18.00
HARBOR MASTER							
GRADE 7 B	15.20	15.75	16.28				
POLICE RECRUIT							
	START	500 HRS	1,000 HRS	SERVICE			
GRADE 8							
BOARD OF CANVASSERS	\$10.00 per hour / 2 hour minimum						
BOARD OF REVIEW	\$12.00 per hour / 4 hour minimum						
RECEIVING BOARD	\$60.00 per day						
ELECTION WORKERS (INSPECTORS)	\$11.00 per hour						
ELECTION WORKER CHAIRPERSON	\$13.50 per hour						
ELECTION WORKER CO-CHAIRPERSONS	\$12.50 per hour						
GRADE 9 A	15.00	15.38	15.76	16.15	16.56	16.97	17.40
EVENT SECURITY MANAGER							
GRADE 9 B	19.67	20.65	21.68	22.76	23.90		
PART TIME POLICE OFFICER							
STEP-2 (500 hours); STEP-3 (1000 hours); STEP-4 (1500 hours); STEP-5 (2000 hours)							

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 1/12/2020	Title: Extension of Temporary Employment Services Agreement
Submitted By: Dwana Thompson	Department: EEO & Employee Relations
Brief Summary: To approve a one-year contract extension with GoodTemps Temporary Staffing Services, Inc. for temporary and seasonal employment services. The current agreement expired on December 31, 2020	
Detailed Summary:	
Amount Requested: Cost of services are budgeted by individual departments	Amount Budgeted: None
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the agreement with GoodTemps Temporary Staffing Services, Inc. and authorize the Mayor and City Clerk to sign the agreement extension.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

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

Assessor/
Equalization Co.
(231)724-6386
FAX (231)724-1129

Cemetery/Forestry
(231)724-6783
FAX (231)724-4188

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

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

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

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

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

Finance
(231)724-6713
FAX (231)726-2325

Fire Department
(231)724-6795
FAX (231)724-6985

Human Resources
Co. (Civil Service)
(231)724-6442
FAX (231)724-6840

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

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

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

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

Public Works
(231)724-4100

FAX (231)722-4188

SafeBuilt
(Inspections)
(231)724-6715
FAX (231)728-4371

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

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

Water Filtration
(231)724-4106

MUSKEGON



West Michigan's Shoreline City
www.shorelinecity.com

December 7, 2020

GoodTemps Temporary Staffing Services

271 East Apple Avenue

Muskegon, MI 49442

Re: Temporary Staffing Services Agreement between the City of Muskegon and GoodTemps Temporary Staffing Services

Dear Ms. Hoyer:

The City of Muskegon hereby requests that the Agreement be extended for the period of January 1, 2021–December 31, 2021. The proposed budget for the extension period will be as listed in the previous contract with the exception of the arena staff may be provided via a separate third-party (like the lumberjacks) at the discretion of the city. We have agreed this be taken into consideration with this extension.

This modification is requested for the following reason(s):

- The City of Muskegon utilizes a contract workforce for Public Services Division (Parks, Cemetery, Highway, and Marina Departments), the Public Safety Department, the Farmers Market, and the Arena. The extension proposes to request approximately 75-100 full and part-time employees. Services include contract laborers for seasonal projects as well as long term, part-time positions, and administrative and temporary office help on an as-needed basis.
- The City intends to solicit bids for a new contract in the fall of 2021.
- The City of Muskegon is an AA/EEO/ADA Employer.

Thank you for your consideration of this request.

City

Date: _____, 2020

CITY OF MUSKEGON

By: _____

Stephen J. Gawron, Mayor

And:

Ann Meisch, MMC City Clerk

Contractor

Date: 12/10, 2020

GOODTEMPS TEMPORARY STAFFING SERVICES

By: Jeanette Hoyer

Jeanette Hoyer, President & CEO

536, Muskegon, MI 49443-0536

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Vinyl Siding Installer Contracts for Fiscal Year 2020
Submitted By: Oneata Bailey	Department: CNS
Brief Summary: To authorize Community and Neighborhood Services to enter a new contracts with JR Tucker Construction, Badgerows Contracting, and Maintenance Unlimited to install vinyl siding at an agreed price of \$65.00 (Sixty-five dollars) per building square for the Residential Façade Program's 2020 fiscal year. Bids for Contractor Procurement was posted in September 2020.	
Please see attachments: None	
Amount Requested: NA	Amount Budgeted: \$105,000.00
Fund(s) or Account(s): Residential Façade allocation category of the Community Development Block Grant.	Fund(s) or Account(s): CDBG 2018, 2019, 2020 Budgets
Recommended Motion: To enter agreements with 3 contractors to perform Residential Façade projects to expedite a long waiting list.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Transmittal of 6/30/20 Comprehensive Annual Financial Report
Submitted By: Beth Lewis	Department: Finance
Brief Summary: The City's June 30, 2020 Comprehensive Annual Financial Report (CAFR) will be distributed to the City Commissioners via email and hard copy. The CAFR will also be available on the City's website. The CAFR includes the annual independent auditor's report as required by state law. At this time the CAFR is being formally transmitted to the City Commission. The CAFR has been prepared in accordance with all current Governmental Accounting Standards Board (GASB) pronouncements and also includes the single audit of federal grants received by the City. http://www.muskegon-mi.gov/cresources/2020_CAFR.pdf	
Detailed Summary:	
Amount Requested: N/A	Amount Budgeted: N/A
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To accept the June 30, 2020 CAFR and authorize staff to transmit the CAFR to appropriate federal, state and private agencies.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 1/12/2021	Title: Obsolete Property Rehabilitation Certificate – Chart House Energy – name change to Chart House Energy Opportunity Fund, LLC
Submitted By: Mike Franzak	Department: Planning
Brief Summary: Request to amend the Obsolete Property Rehabilitation Certificate at 825 W Western Ave for Chart House Energy to recognize their name change to Chart House Energy Opportunity Fund, LLC.	
Detailed Summary: The Certificate was issued for 10 years on October 23, 2018. The original resolution states that “the applicant shall have twenty-four (24) months to complete the rehabilitation. It shall be completed by October 23, 2020, or two years after the Certificate is issued, whichever occurs later.” The Certificate has not been issued by the State yet because of ownership/title issues, which have now been cleared. The State of Michigan will process the application and issue the certificate once the local unit of government provides and amended resolution. The applicant is now proposing to commence construction immediately and finish by October 1, 2021. The Certificate would expire on its originally planned date of December 31, 2028.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the request to amend the Obsolete Property Rehabilitation Certificate at 825 W Western Ave for Chart House Energy to recognize their name change to Chart House Energy Opportunity Fund, LLC.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

RESOLUTION NO.

A resolution amending the Obsolete Property Rehabilitation Exemption Certificate (Resolution No. 2018-78b) issued to Chart House Energy, LLC.

The City Commission of the City of Muskegon hereby RESOLVES:

Recitals

- A. The City Commission has received an application requesting to amend the Obsolete Property Rehabilitation Exemption Certificate (Resolution No. 2018-78b) at 825 W Western Ave for Chart House Energy, LLC, to change the name of the applicant to Chart House Energy Opportunity Fund, LLC.
- B. The exemption to be granted by this resolution is for ten (10) years from its original date in 2018 and will expire on December 31, 2028 and no extensions will be granted.

NOW, THEREFORE, THE CITY COMMISSION RESOLVES:

- 1. Based upon the statements set forth in, and incorporating the recitals to this resolution, the City Commission hereby approves the application filed by Chart House Energy Opportunity Fund, LLC to amend the Obsolete Property Rehabilitation Exemption Certificate (Resolution No. 2018-78b), to change the name to Chart House Energy Opportunity Fund, LLC, to be effective for a period of ten (10) years from its original approval in 2018 and will expire on December 31, 2028 and no extensions will be granted;
- 2. BE IT FURTHER RESOLVED, that, as further condition of this approval, the applicant shall comply with the representations and conditions set forth in the recitals above and in the application material submitted to the City.

This resolution passed.

Ayes: _____

Nays: _____

CITY OF MUSKEGON

BY: _____
Stephen J. Gawron
Mayor

ATTEST: _____
Ann Cummings
Clerk

CERTIFICATE

This resolution was adopted at a meeting of the City Commission held on January 12, 2020. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By _____
Ann Meisch, City Clerk



Property description

825 West Western Ave, Muskegon, MI 49441



The building is approximately 45,886 sf of building on 1.89 acres of land (82,300 sf). The central part of the building was built in the 1880's as a foundry and developed over the years to incorporate all the activities of the foundry, including machine shops and truck repair area. The building is mostly 1 story but has two small areas that are 2 story.

The property is I-2 zoned (General Industrial) and allows all I-1 (Light Industrial) activities. Multi-tenant Live / Work space is specifically allowed and supported as a use by the City of Muskegon.

Present use

At present, the building is being used as multi-tenant light industrial and warehouse space. There are two welders/fabricators, motorcycle repair and warehouse, several building restoration companies storage spaces, a solar developer warehouse and shop and a commercial sign post with 4 sign faces. These tenants occupy about 2/3 of the building and the rest of the space need to be cleaned up and need work to be occupyable. There is more than 20 years of neglected maintenance on the building.



Redevelopment concept

Live / Work spaces allow business owners to run their commercial businesses and live at the same place thus saving time and money. We expect a range of businesses and business owners to occupy the building, including artists, small craftspeople and other commercial uses (like those presently in the building).

Chart House Energy (Robert Rafson) will be the first of the Live / Work spaces in the building. Presently, using 2,900 sf of warehouse shop space for the solar development company and will develop a little larger than 1,400 sf live space second floor. This is the model for the rest of the building.

We plan on keeping the existing tenants for as long as they want to stay and to increase their rents slowly to bring them in line with market rents. Allowances will be made for tenant improvements (like new windows, insulated re-roofing, etc) but only in the length of time it will take until the unit will get to market rent.

The redevelopment will take part of the 30' tall foundry space and develop that space into 11 smaller units with first floor commercial and second floor residential. We intend to complete 2 of the units in the first 2 year development period.

After that redevelopment of the back (South) spaces can proceed as rental income allows. The back part of the building also have issues with sprinklers and other clean up and redevelopment issues, making them more expensive to redevelop.

We intend to install enough solar to be completely energy neutral and sustainable. The electrical infrastructure will be redeveloped to allow all customers to commonly use the power generated but will be individually metered. Natural gas is available in the building but we hope to heat most of the spaces using radiant floor heating from electric heat pumps.

In the first two year redevelopment period expect to have 11 units when completely redeveloped and employ at least 28 people.

Redevelopment Plan

Each unit will be built out one at a time. Attached is a plan for first unit. Each unit rehab will include but not be limited to:

- Bathrooms
- Kitchen
- Bedroom(s)
- Windows
- Roof replacement
- Sprinklers upgrade as necessary
- Ingress and egress
- Common spaces and hallways
- Parking
- Electrical work including solar on roof

Construction will begin upon approval of the commercial property tax exemption.

There are 9 existing spaces 7 are occupied and all in varying states of repair. We intend to build out the first two existing units in the first 3 months and then start to build out two new units over the remainder of the first year. Each year thereafter expect to build two to three new units and rehab at least 1 of the existing units.

Zoning

I-2 zoning specifically allows live work spaces. It matches nicely the redevelopment concept of the city as well. In keeping with the mixed-use development of downtown blending residential units and commercial businesses. This building will blend both and separation (other side of Seaway drive, railroad tracks and 11th street, the building does not and will never have any adjacent buildings) and the buildings turn of last century building allows commercial/industrial usages.

Economic Advantages

The property tax exemptions will allow the redevelopment of the property to continue at speed and will allow us to reinvest income provided by the property. At present the property taxes are about \$2,850/yr and once the project is complete and after the exemption period the property tax expected will be over \$30,000/yr plus income from the property will generate \$3,000-4,000 income taxes collected by the City.

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Alley Vacation – Art Museum
Submitted By: Mike Franzak	Department: Planning
Brief Summary: Request to vacate a portion of the alley between Clay St and Webster Ave between 2 nd St and 3 rd St, by the Muskegon Museum of Art.	
Detailed Summary: The Planning Commission unanimously recommended vacation of the alley as requested.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the request to vacate a portion of the alley between Clay St and Webster Ave between 2 nd St and 3 rd St, by the Muskegon Museum of Art	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

Planning Commission Excerpt

Hearing, Case 2020-26: Request to vacate a portion of the alley between Clay St and Webster Ave between 2nd St and 3rd St, by the Muskegon Museum of Art.

SUMMARY

1. The Muskegon Museum of Art is planning an expansion of their building that will extend over the alley and onto their lot on Clay Ave. They are requesting to vacate a portion of the alley in order to build over it. The other buildings on the block will not have access restricted to the rear of their properties as the alley will remain open directly behind all of them.
2. The adjacent neighbors using the alley all verified that they are in favor of the request.

Portion of alley to be vacated in red



CITY OF MUSKEGON

RESOLUTION No. _____

RESOLUTION TO VACATE A PUBLIC ALLEY

WHEREAS, a petition has been received to vacate a portion of the alley between Clay St and Webster Ave between 2nd St and 3rd St; and

WHEREAS, the Planning Commission held a public hearing on January 12, 2021 to consider the petition and subsequently recommended the vacation; and

WHEREAS, due notice had been given of said hearing as well as the January 12, 2021 City Commission meeting to consider the recommendation of the Planning Commission;

NOW, THEREFORE, BE IT RESOLVED that the City Commission deems it advisable for the public interest to vacate a portion of the alley between Clay St and Webster Ave between 2nd St and 3rd St; and

BE IT FURTHER RESOLVED that the City Commission does hereby declare the said portion of the alley vacated and discontinued provided, however, that this action on the part of the City Commission shall not operate so as to conflict with any fire access or the utility rights heretofore acquired by the City or by any public service utility in the City of Muskegon, operating in, over and upon said portion of street hereby vacated, and it is hereby expressly declared that any such rights shall remain in full force and effect;

BE IT FURTHER RESOLVED that after any maintenance and repair by the City, the city shall restore the disturbed area to the grade and paving in existence at the time of vacation. The City shall not be responsible to replace special planting, landscaping, fences or any structure. No structure shall be placed in the vacated street which, in the sole judgment of the City, will interfere with the repair or maintenance of utilities in the easement, public or private.

Adopted this 12th day of January 2021.

Ayes:

Nays:

Absent:

By: _____

Stephen J. Gawron, Mayor

Attest: _____

Ann Meisch, MMC, City Clerk

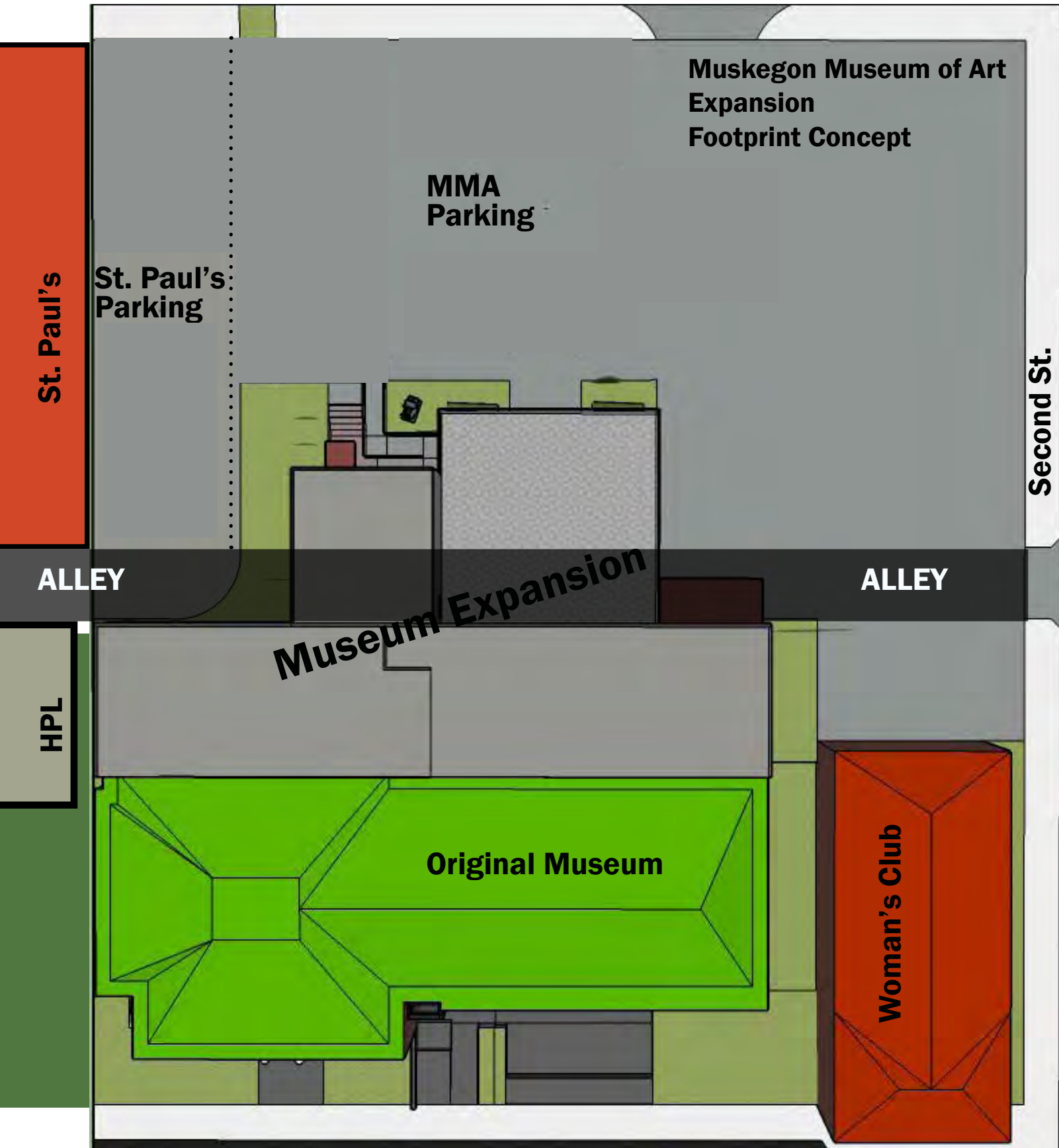
CERTIFICATE (Vacation of a portion of the alley between Clay St and Webster Ave between 2nd St and 3rd St)

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan, at a regular meeting held on January 12, 2021.

Ann Meisch, MMC

Clerk, City of Muskegon

Clay Ave.



**Muskegon Museum of Art
Expansion
Footprint Concept**

**MMA
Parking**

**St. Paul's
Parking**

St. Paul's

Second St.

ALLEY

ALLEY

Museum Expansion

Original Museum

HPL

Woman's Club

Webster Ave.



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Sale – 219 Merrill Ave
Submitted By: Frank Peterson	Department: City Manager
Brief Summary: City staff is seeking authorization to sell the city-owned home at 219 Merrill to Vontrese Clanton.	
Detailed Summary: The city constructed this house as part of the phase two of our infill housing program. Our contract to construct the home was \$197,464. We also anticipated \$11,844 in sales commissions. The accepted purchase price is \$185,000, and the incurred sales commissions are \$11,100. The City will also contribute \$5,500 toward closing costs. <i>Note: In November, the City Commission authorized a sale to another buyer at a \$190,000 purchase price with a similar commitment toward closing costs, but that buyer chose not to complete the transaction.</i>	
Amount Requested: None at this time	Amount Budgeted: \$0
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: Authorize the City Manager to complete the sale of 219 Merrill Ave, as described in the purchase agreement.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

WEST MICHIGAN REGIONAL PURCHASE AGREEMENT

DATE: 11/9/2020 7 PM (time) # _____
 SELLING OFFICE: Tucker Bennet Realty LLC BROKER LIC.# 6505421865 REALTOR® PHONE: 231-730-8781
 LISTING OFFICE: West Urban Properties LLC REALTOR® PHONE: _____

- Effective Date:** This Agreement is effective on the date of Seller's acceptance of Buyer's offer or Buyer's acceptance of any counteroffer, as the case may be, and this date shall hereafter be referred to as the "Effective Date". Further, any reference to "days" in this Agreement refers to calendar days. The first calendar day begins at 12:01 a.m. on the day after the Effective Date. Any reference to "time" refers to local time.
- Agency Disclosure:** The Undersigned Buyer and Seller each acknowledge that they have read and signed the Disclosure Regarding Real Estate Agency Relationships. The selling licensee is acting as (check one):
☐ Agent/Subagent of Seller ☒ Buyer's Agent ☐ Dual Agent (with written, informed consent of both Buyer and Seller)
 Primary Selling Agent Name: Marilyn Tucker Email: tuckerbennerteam@gmail.com Lic.#: 6502422604
 Alternate Selling Agent Name: _____ Email: _____ Lic.#: _____
- Seller's Disclosure Statement:** (This paragraph applies to sales of one-to-four family residential units.)
☐ Buyer has received the Seller's Disclosure Statement, dated _____, Seller certifies to Buyer that the Property is currently in the same condition as Seller previously disclosed in that statement. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement.
☒ Buyer has not received the Seller's Disclosure Statement. Buyer may terminate this Agreement, in writing, any time prior to receipt of the Seller's Disclosure Statement. Once Buyer has received the Seller's Disclosure Statement, Buyer may terminate this Agreement, in writing, within 72 hours of receipt if the disclosure was received in person, or within 120 hours if received by registered mail. Exceptions:
☐ Seller is exempt from the requirements of the Seller Disclosure Act.
- Lead-Based Paint Addendum:** Transactions involving homes built prior to 1978 require a written disclosure which is hereby attached and will be an integral part of this Agreement.
- Property Description:** Buyer offers to buy the property located in the ☒ City ☐ Village ☐ Township of Muskegon, Michigan, commonly known as (insert mailing address: street/city/state/zip code) 219 Merrill Ave Muskegon 49441 with the following legal description and tax parcel ID numbers: _____

PP# 612431302760022

The following paragraph applies only if the Premises include unplatted land:

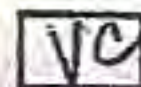
Seller agrees to grant Buyer at closing the right to make (insert number) _____ division(s) under Section 108(2), (3), and (4) of the Michigan Land Division Act. (If no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or REALTOR® do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval on or before _____ of the proposed division to create the Premises.

- Purchase Price:** Buyer offers to buy the Property for the sum of \$ 160,000 One hundred & sixty thousand U.S. Dollars
- Seller Concessions, if any:** Seller to contribute 3% of purchase price toward buyers closing costs and lender approved costs.
- Terms:** The Terms of Purchase will be as indicated by "X" below: (Other unmarked terms of purchase do not apply.)
 SOURCE OF FUNDS TO CLOSE: Buyer represents that the funds necessary to close this transaction on the terms specified below are currently available to Buyer in cash or an equally liquid equivalent.

If the Property's value stated in an appraisal obtained by Buyer or Buyer's lender is less than the Purchase Price, Buyer shall within three (3) days after receipt of the appraisal: 1) renegotiate with the Seller, 2) terminate the transaction, in which case Buyer shall receive a refund of Buyer's Earnest Money Deposit, or 3) proceed to close the transaction at the agreed Purchase Price.

☐ **CASH.** The full Purchase Price upon execution and delivery of Warranty Deed. Buyer Agrees to provide Buyer Agent/Dual Agent verification of funds within five (5) days after the Effective Date, and consents to the disclosure of such information to Seller and/or Seller's Agent. If verification of funds is not received within 5 days after the Effective Date, Seller may terminate this Agreement at any time before verification of funds is received by giving written notice to Buyer. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement.

☒ **NEW MORTGAGE.** The full Purchase Price upon execution and delivery of Warranty Deed, contingent upon Buyer's ability to obtain a conventional type 30 (year) mortgage in the amount of 95 % of the Purchase Price bearing interest at a rate not to exceed best % per annum (rate at time of loan application), on or before the date the sale is to be closed. Buyer agrees to apply for a mortgage loan, and pay all fees and costs customarily charged by Buyer's lender to process the application, within 3 days after the Effective Date, not to impair Buyer's credit after the date such loan is offered. ☐ Seller ☐ Buyer will agree to pay an amount not to exceed \$ _____ representing repairs required as a condition of financing. Buyer ☒ agrees ☐ does not agree to authorize Buyer's Agent/Dual Agent to obtain information from _____



Buyer's Initials



Seller's Initials

Buyer's lender regarding Buyer's financing, and consents to the disclosure of this information to Seller and/or Seller's Agent.
Exceptions:

☐ SELLER FINANCING (check one of the following): ☐ CONTRACT or ☐ PURCHASE MONEY MORTGAGE

In the case of Seller financing, Buyer agrees to provide Seller with a credit report within 72 hours after the Effective Date. If the credit report is unacceptable to Seller, Seller shall have the right to terminate this offer within 48 hours of Seller's receipt, or if Buyer fails to provide said credit report to Seller within the time frame allotted, Seller shall have the right to terminate this offer within 48 hours. Seller is advised to seek professional advice regarding the credit report.

\$_____ upon execution and delivery of a _____ form (name or type of form and revision date), a copy of which is attached, wherein the balance of \$_____ will be payable in monthly installments of \$_____ or more including interest at _____% per annum, interest to start on date of closing, and first payment to become due thirty (30) days after date of closing. The entire unpaid balance will become due and payable _____ months after closing. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ EQUITY (check one of the following): ☐ Formal Assumption or ☐ Informal Assumption
Upon execution and delivery of: ☐ Warranty Deed subject to existing mortgage OR ☐ Assignment of Vendee Interest in Land Contract, Buyer to pay the difference (approximately \$_____) between the Purchase Price above provided and the unpaid balance (approximately \$_____) upon said mortgage or land contract, which Buyer agrees to assume and pay. Buyer agrees to reimburse Seller for accumulated funds held in escrow, if any, for payment of future taxes and insurance premiums, etc. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ OTHER:

9. Contingencies: Buyer's obligation to consummate this transaction (check one):

☐ IS NOT CONTINGENT - is not contingent upon the sale or exchange of any other property by Buyer.

☐ IS CONTINGENT UPON CLOSING - is contingent upon closing of an existing sale or exchange of Buyer's property located at:

A copy of Buyer's agreement to sell or exchange that property is being delivered to Seller along with this offer. If the existing sale or exchange terminates for any reason, Buyer will immediately notify Seller, and either party may terminate this Agreement in writing, within 3 days of Buyer's notice to Seller. If either party terminates, Buyer shall receive a refund of any applicable Earnest Money Deposit.

☐ IS CONTINGENT UPON THE SALE AND CLOSING - is contingent upon the execution of a binding agreement and the closing of a sale or exchange of Buyer's property located at _____ on or before _____

Seller will have the right to continue to market Seller's Property until Buyer enters into a binding agreement to sell or exchange Buyer's property and delivers a copy thereof to Seller. During such marketing period, Seller may enter into a binding contract for sale to another purchaser on such price and terms as the Seller deems appropriate. In such event, this Agreement will automatically terminate, Buyer will be notified promptly, and Buyer's Earnest Money Deposit will be refunded. Exceptions:

10. Fixtures & Improvements: The following is not intended to be an all-inclusive list of items included with the Property. All improvements and appurtenances are included in the Purchase Price, if now in or on the Property, unless rented, including the following: all buildings; landscaping; attached smart home devices; attached security systems; lighting fixtures and their shades and bulbs; ceiling fans; hardware for draperies and curtains; window shades and blinds; built-in kitchen appliances, including garbage disposal and drop-in ranges; wall to wall carpeting, if attached; all attached mirrors; all attached TV mounting brackets; all attached shelving; attached work benches; stationary laundry tubs; water softener; water heater; incinerator; sump pump; water pump and pressure tank; heating and air conditioning equipment (window units excluded); attached humidifiers; heating units, including add-on heating stoves and heating stoves connected by flue pipe; fireplace screens, inserts, and grates; fireplace doors, if attached; liquid heating and cooking fuel tanks; TV antenna and complete rotor equipment; satellite dish and necessary accessories and complete rotor equipment; all support equipment for inground pools; screens and storm windows and doors; awnings; installed basketball backboard, pole and goal; mailbox; flagpole(s); fencing, invisible inground fencing and all related equipment, including collars; detached storage buildings; underground sprinkling, including the pump; installed outdoor grills; all plantings and bulbs; garage door opener and control(s); and any and all items and fixtures permanently affixed to the Property; and also includes:

refrigerator, range, DW, microwave

but does not include:

219 Merrill Ave Muskegon 49441

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Revision Date 2/2020

☒ VC

Buyer's Initials

☐

Seller's Initials

11. **Heating and Cooking Fuels:** Liquid heating and cooking fuels in tanks are included in the sale and will transfer to Buyer at time of possession unless usage is metered (in which case it is not included in the sale). Sellers are responsible for maintaining heating and cooking liquid fuels at an operational level and shall not permit fuels to fall below 10% in the tank(s) at the time of possession, except that the tank(s) may be empty only if now empty. Further, Seller is precluded from removing fuel from tank(s) other than what is expended through normal use. Exceptions:

12. **Assessments (choose one):**

If the Property is subject to any assessments,

☒ Seller shall pay the entire balance of any such assessments that are due and payable on or before the day of closing (regardless of any installment arrangements), except for any fees that are required to connect to public utilities.

☐ Seller shall pay all installments of such assessments that become due and payable on or before day of closing. Buyer shall assume and pay all other installments of such assessments.

13. **Property Taxes:** Seller will be responsible for any taxes billed prior to those addressed below. Buyer will be responsible for all taxes billed after those addressed below.

Buyer is also advised that the state equalized value of the Property, principal residence exemption information and other real property tax information is available from the appropriate local assessor's office. Buyer should not assume that Buyer's future tax bills on the Property will be the same as Seller's present tax bills. Under Michigan law, real property tax obligations can change significantly when property is transferred.

☐ No proration. (Choose one):

☐ Buyer ☐ Seller will pay taxes billed summer _____ (year);
☐ Buyer ☐ Seller will pay taxes billed winter _____ (year);

☒ Calendar Year Proration (all taxes billed or to be billed in the year of the closing). Calendar year tax levies will be estimated, if necessary, using the taxable value and the millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying for January 1 through the day before closing.

☐ Fiscal Year Proration - Taxes will be prorated as though they are paid in (choose one): ☐ advance. ☐ arrears.
 Fiscal Year will be assumed to cover a 12-month period from date billed, and taxes will be prorated to the date of closing. Fiscal year tax levies will be estimated, if necessary, using the taxable value and millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying through the day before closing. Exceptions:

14. **Well/Septic:** Within ten (10) days after the Effective Date, Seller will arrange for, at Seller's expense, an inspection of the primary well used for human consumption (including a water quality test for coliform bacteria and nitrates) and septic systems in use on the Property. The inspection will be performed by a qualified inspector in a manner that meets county (or other local governmental authority, if applicable) protocol. Seller will also follow any governmental rules regarding pumping of tanks.

Where no county or government protocol is in place, Seller will arrange for, at Seller's expense, well and septic inspections (as referenced above) by a qualified inspector and Seller will have the septic tank(s) pumped at Seller's expense.

If any report discloses a condition unsatisfactory to Buyer, or doesn't meet county standards that are a condition of sale, Buyer may, within three (3) days after Buyer has received the report, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the well/septic as-is. Seller will respond in writing within three (3) days to Buyer's request. If Seller fails to respond or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer will have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate the contract, Buyer will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

15. **Inspections & Investigations:**

Inspections: Buyer, or someone selected by Buyer, has the right to inspect the buildings, premises, components and systems, at Buyer's expense. Any damage, misuse, abuse, or neglect of any portion of the Property or premises as a result of inspections will be Buyer's responsibility and expense. In the event of VA financing, Seller will pay for the inspection for termites and other wood destroying insects.

Investigations: It is Buyer's responsibility to investigate (i) whether the Property complies with applicable codes and local ordinances and whether the Property is zoned for Buyer's intended use; (ii) whether Buyer can obtain a homeowner's insurance policy for the Property at price and terms acceptable to Buyer; (iii) and whether or not the Property is in a flood zone.

All inspections and investigations will be completed within ten (10) days after the Effective Date. If the results of Buyer's inspections and investigations are not acceptable to Buyer, Buyer may, within the above referenced period, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be

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Date

Time

☒

Buyer's Initials

☐

Seller's Initials

deemed to have accepted the Property as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Inspections & Investigations and will proceed to closing according to the terms and conditions of this Agreement.

☐ Buyer has waived all rights under this Inspections & Investigations paragraph.

16. **Municipal Compliances:** Seller will arrange and pay for current certificates of occupancy, sidewalk compliance, and smoke detector ordinances, if applicable.

17. **Title Insurance:** Seller agrees to convey marketable title to the Property subject to conditions, limitations, reservation of oil, gas and other mineral rights, existing zoning ordinances, and building and use restrictions and easements of record. An expanded coverage ALTA Homeowner's Policy of Title Insurance in the amount of the Purchase Price shall be ordered by Seller and furnished to Buyer at Seller's expense, and a commitment to issue a policy insuring marketable title vested in Buyer, including a real estate tax status report, will be made available to Buyer within ten (10) days after the Effective Date. If Buyer so chooses, or if an expanded policy is not applicable, then a standard ALTA Owners' Policy of Title Insurance shall be provided.

If Buyer objects to any conditions, Buyer may, within three (3) days of receipt of the Title Commitment, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the Title Commitment as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and shall receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Title Commitment as-is and will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

18. **Property Survey:** Broker advises that Buyer should have a survey performed to satisfy Buyer as to the boundaries of the Property and the location of improvements thereon.

☐ Buyer or ☐ Seller (check one) shall within ten (10) days of the Effective Date, order, at their expense, a boundary survey certified to Buyer with iron corner stakes showing the location of the boundaries, improvements and easements in connection with the Property. Upon receipt of the survey, Buyer will have three (3) days to review the survey. If the survey shows any condition, in Buyer's sole discretion, which would interfere with Buyer's intended use of the Property, the marketability of the title, or zoning non-compliance, then Buyer may, within said three (3) day period, terminate this Agreement, in writing, and Buyer will receive a full refund of Buyer's Earnest Money Deposit.

☒ No survey. Buyer has waived all rights under this paragraph.

When closing occurs, Buyer shall be deemed to have accepted the boundaries of the Property and the location of such improvements thereon. Exceptions:

19. **Home Protection Plan:** Buyer and Seller have been informed that home protection plans may be available. Such plans may provide additional protection and benefit to the parties. Exceptions:

20. **Prorations:** Rent; association dues/fees, if any; insurance, if assigned; interest on any existing land contract, mortgage or lien assumed by Buyer; will all be adjusted to the date of closing.

21. **Closing:** If agreeable to Buyer and Seller, the sale will be closed as soon as closing documents are ready, but not later than 12-31-2020. An additional period of fifteen (15) days will be allowed for closing to accommodate the correction of title defects or survey problems which can be readily corrected, or for delays in obtaining any lender required inspections/repairs. During this additional period, the closing will be held within 5 days after all parties have been notified that all necessary documents have been prepared. Buyer and Seller will each pay their title company closing fee, if applicable, except in the case of VA financing where Seller will pay the entire closing fee. Exceptions:

22. **Possession:** Seller will maintain the Property in its present condition until the completion of the closing of the sale. Possession to be delivered to Buyer, subject to rights of present tenants, if any.

☐ At the completion of the closing of the sale.

☒ At a.m. ☐ p.m. on the day after completion of the closing of the sale, during which time Seller will have the privilege to occupy the Property and hereby agrees to pay Buyer \$ as an occupancy fee for this period payable at closing, WITHOUT PRORATION. Payment shall be made in the form of cash or certified funds.

If Seller fails to deliver possession to Buyer on the agreed date, Seller shall become a tenant at sufferance and shall pay to Buyer as liquidated damages \$ per day plus all of the Buyer's actual reasonable attorney's fees incurred in removing the Seller from the Property.

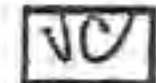
Buyer receives keys when buyer signs at closing.

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Buyer's Initials



Seller's Initials

If Seller occupies the Property after closing, Seller will pay all utilities during such occupancy. Buyer will maintain the structure and mechanical systems at the Property. However, any repairs or replacements necessitated by Seller's misuse, abuse, or neglect of any portion of the Property will be Seller's responsibility and expense.

On the agreed delivery date, Seller shall deliver the Property free of trash and debris and in broom-clean condition, shall remove all personal property (unless otherwise stated in this or an additional written agreement), shall make arrangements for final payment on all utilities, and shall deliver all keys to Buyer. Exceptions:

23. **Earnest Money Deposit:** For valuable consideration, Buyer gives Seller until 11/10/2020 (time) on 11/10/2020 (date), to deliver the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding Agreement between Buyer and Seller. An Earnest Money Deposit in the amount of \$ 500 shall be submitted to AT&T Title (insert name of broker, title company, other) within 72 hours of the Effective Date of this Agreement, and shall be applied against the Purchase Price. If the Earnest Money Deposit is not received within 72 hours of the Effective Date or is returned for insufficient funds, Seller may terminate this Agreement until such time as the Earnest Money Deposit is received. If Seller terminates this Agreement under this provision, Seller waives any claim to the Earnest Money Deposit. If the sale is not closed due to a failure to satisfy a contingency for a reason other than the fault of Buyer, the Earnest Money Deposit shall be refunded to Buyer. If the sale is not closed as provided in this Agreement and Buyer and Seller do not agree to the disposition of the Earnest Money Deposit, then Buyer and Seller agree that the Broker holding the Earnest Money Deposit may notify Buyer and Seller, in writing, of Broker's intended disposition of the Earnest Money Deposit. If Buyer and Seller do not object to such disposition in writing within fifteen (15) days after the date of Broker's notice, they will be deemed to have agreed to Broker's proposed disposition; if either Buyer or Seller object and no mutually agreeable disposition can be negotiated, Broker may deposit the funds by interpleader with a court of proper jurisdiction or await further actions by Buyer and Seller. In the event of litigation involving the deposit, in whole or in part, either the Seller or the Buyer that is not the prevailing party, as determined by the court, will reimburse the other for reasonable attorneys' fees and expenses incurred in connection with the litigation, and will reimburse the Broker for any reasonable attorneys' fees and expenses incurred in connection with any interpleader action instituted. If the entity holding the Earnest Money Deposit is not the Broker, then to the extent that the terms of any escrow agreement conflict with this paragraph, then the terms and conditions of the escrow agreement shall control.

24. **Professional Advice:** Broker hereby advises Buyer and Seller to seek legal, tax, environmental and other appropriate professional advice relating to this transaction. Broker does not make any representations or warranties with respect to the advisability of, or the legal effect of this transaction. Buyer further acknowledges that REALTOR® above named in the Agreement hereby recommends to Buyer that an attorney be retained by Buyer to pass upon the marketability of the title and to ascertain that the required details of the sale are adhered to before the transaction is consummated. Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether intentionally or negligently) regarding any aspect of the Property or this sale transaction, except as may be expressly set forth in this Agreement, a written amendment to this Agreement, or a disclosure statement separately signed by Seller.

25. **Disclosure of Information:** Buyer and Seller acknowledge and agree that the Purchase Price, terms, and other details with respect to this transaction (when closed) are not confidential, will be disclosed to REALTORS® who participate in the applicable Multiple Listing Service, and may otherwise be used and/or published by that Multiple Listing Service in the ordinary course of its business.

26. **Other Provisions:**

Buyer reserves the right to walk through the property within 48 hours of closing to assure all conditions of this purchase agreement have been met.

27. **Mergers and Integrations:** This Agreement is the final expression of the complete agreement of Buyer and Seller, and there are no oral agreements existing between Buyer and Seller relating to this transaction. This Agreement may be amended only in writing signed by Buyer and Seller and attached to this Agreement.

28. **Fax/Electronic Distribution and Electronic Signatures:** Buyer and Seller agree that any signed copy of this Agreement, and any amendments or addendums related to this transaction, transmitted by facsimile or other electronic means shall be competent evidence of its contents to the same effect as an original signed copy. Buyer and Seller further agree that an electronic signature is the legal equivalent of a manual or handwritten signature, and consent to use of electronic signatures. Buyer and Seller agree that any notice(s) required or permitted under this Agreement may also be transmitted by facsimile or other electronic means.

29. **Wire Fraud:** Seller and Buyer are advised that wire fraud is an increasingly common problem. If you receive any electronic communication directing you to transfer funds or provide nonpublic personal information (such as social security numbers, drivers' license numbers, wire instructions, bank account numbers, etc.), even if that electronic communication appears to be from the Broker, Title Company, or Lender, DO NOT reply until you have verified the authenticity of the email by direct communication with Broker, Title Company, or Lender. DO NOT use telephone numbers provided in the email. Such requests may be part of a scheme to steal funds or use your identity.

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Date

7pm

Time

JC

Buyer's Initials

Seller's Initials

30. Buyer's Approval and Acknowledgment: Buyer approves the terms of this offer and acknowledges receipt of a copy of this offer.

Buyer 1 Address: x [Signature] Clanton Buyer
 Buyer 1 Phone: (Res.) _____ (Bus.) _____
 Print name as you want it to appear on documents.
 Buyer 2 Address: x [Signature] Buyer
 Buyer 2 Phone: (Res.) _____ (Bus.) _____
 Print name as you want it to appear on documents.

31. Seller's Response: The above offer is approved: ☐ As written. ☒ As written except:

The sale price to be \$185,000.00
 one hundred and eighty five thousand
 seller will pay 3% of purchase price
 towards buyers closing cost

Counteroffer, if any, expires _____, at _____ (time). Seller has the right to withdraw this counter offer and to accept other offers until Seller or Seller's Agent has received notice of Buyer's acceptance.

32. Certification of Previous Disclosure Statement: Seller certifies to Buyer that the Property is currently in the same condition as disclosed in the Seller's Disclosure Statement dated _____ (check one): ☐ Yes ☐ No. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement prior to closing.

33. Notice to Seller: Seller understands that consummation of the sale or transfer of the Property described in this Agreement will not relieve Seller of any liability that Seller may have under the mortgages to which the Property is subject, unless otherwise agreed to by the lender or required by law or regulation. Buyer and Seller are advised that a Notice to Seller & Buyer of Underlying Mortgage form is available from the respective agents via the West Michigan REALTOR® Boards.

34. Listing Office Address: 3265 Walker Dr Listing Broker License # _____
 Listing Agent Name: Grant Cox Listing Agent License # _____

35. Seller's Approval and Acknowledgment: Seller approves the terms of this Agreement and acknowledges receipt of a copy. If Seller's response occurs after Buyer's offer expires, then Seller's response is considered a counteroffer and Buyer's acceptance is required below.

X (Seller's Signature, Date, Time): _____
 Print name as you want it to appear on documents. Is Seller a U.S. Citizen? ☐ Yes ☐ No*

X (Seller's Signature, Date, Time): _____
 Print name as you want it to appear on documents. Is Seller a U.S. Citizen? ☐ Yes ☐ No*

Seller's Address: _____ Seller's Phone (Res.) _____ (Bus) _____
 * If Seller(s) is not a U.S. Citizen, there may be tax implications and Buyer and Seller are advised to seek professional advice.

36. Buyer's Receipt/Acceptance: Buyer acknowledges receipt of Seller's response to Buyer's offer. In the event Seller's response constitutes a counteroffer, Buyer accepts said counteroffer. All other terms and conditions in the offer remain unchanged.

X (Buyer's Signature, Date, Time): _____
 X (Buyer's Signature, Date, Time): _____

37. Seller's Receipt: Seller acknowledges receipt of Buyer's acceptance of counter offer.

X (Seller's Signature, Date, Time): _____
 X (Seller's Signature, Date, Time): _____

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VC

Buyer's Initials

Date

Time

11/9/2020

7pm

Seller's Initials



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Sale – 275 Mason Ave
Submitted By: Frank Peterson	Department: City Manager
Brief Summary: City staff is seeking authorization to sell the city-owned home at 275 Mason to Alex Reinsma.	
Detailed Summary: The city constructed this house as part of the phase two of our infill housing program. Our contract to construct the home was \$197,464. We also anticipated \$11,844 in sales commissions. The accepted purchase price is \$180,000, and the incurred sales commissions are \$10,800. The City will not contribute funds toward closing costs.	
Amount Requested: None at this time	Amount Budgeted: \$0
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: Authorize the City Manager to complete the sale of 275 Mason Ave, as described in the purchase agreement.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

WEST MICHIGAN REGIONAL PURCHASE AGREEMENT

DATE: 12/10/2020 (time) _____ MLS # 20048054 # _____
 SELLING OFFICE: Fivestar Real Estate Leaders BROKER LIC.# 6505276328BR0055 REALTOR® PHONE: 231-955-9222
 LISTING OFFICE: West Urban Realty LLC REALTOR® PHONE: 616-874-7085

1. **Effective Date:** This Agreement is effective on the date of Seller's acceptance of Buyer's offer or Buyer's acceptance of any counteroffer, as the case may be, and this date shall hereafter be referred to as the "Effective Date". Further, any reference to "days" in this Agreement refers to calendar days. The first calendar day begins at 12:01 a.m. on the day after the Effective Date. Any reference to "time" refers to local time.

2. **Agency Disclosure:** The Undersigned Buyer and Seller each acknowledge that they have read and signed the Disclosure Regarding Real Estate Agency Relationships. The selling licensee is acting as (check one):

☐ Agent/Subagent of Seller ☒ Buyer's Agent ☐ Dual Agent (with written, informed consent of both Buyer and Seller)
☐ Transaction Coordinator

Primary Selling Agent Name: Brenda Harris Email: brendaharrisrealtor@yahoo.co Lic.#: 6501365294

Alternate Selling Agent Name: _____ Email: _____ Lic.#: _____

3. **Seller's Disclosure Statement:** (This paragraph applies to sales of one-to-four family residential units.)

☐ Buyer has received the Seller's Disclosure Statement, dated _____ Seller certifies to Buyer that the Property is currently in the same condition as Seller previously disclosed in that statement. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement.

☐ Buyer has not received the Seller's Disclosure Statement. Buyer may terminate this Agreement, in writing, any time prior to receipt of the Seller's Disclosure Statement. Once Buyer has received the Seller's Disclosure Statement, Buyer may terminate this Agreement, in writing, within 72 hours of receipt if the disclosure was received in person, or within 120 hours if received by registered mail. Exceptions: _____

☐ Seller is exempt from the requirements of the Seller Disclosure Act.

4. **Lead-Based Paint Addendum:** Transactions involving homes built prior to 1978 require a written disclosure which is hereby attached and will be an integral part of this Agreement.

5. **Property Description:** Buyer offers to buy the property located in the ☒ City ☐ Village ☐ Township of Muskegon

County of Muskegon, Michigan, commonly known as (insert mailing address: street/city/state/zip code)

275 Mason ave Muskegon 49441

with the following legal description and tax parcel ID numbers:

LONG LEAGAL ON FILE.. LISTING SHEET ATTACHED

PP# 6124205391000300

The following paragraph applies only if the Premises include unplatted land:

Seller agrees to grant Buyer at closing the right to make (insert number) _____ division(s) under Section 108(2), (3), and (4) of the Michigan Land Division Act. (If no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or REALTOR® do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval on or before _____, of the proposed division to create the Premises.

6. **Purchase Price:** Buyer offers to buy the Property for the sum of \$ 180000
one hundred eighty thousand U.S. Dollars

7. **Seller Concessions**, if any: seller to contribute \$5000 towards buyers prepaid points and closing costs

8. **Terms:** The Terms of Purchase will be as indicated by "X" below: (Other unmarked terms of purchase do not apply.)

SOURCE OF FUNDS TO CLOSE: Buyer represents that the funds necessary to close this transaction on the terms specified below are currently available to Buyer in cash or an equally liquid equivalent.

If the Property's value stated in an appraisal obtained by Buyer or Buyer's lender is less than the Purchase Price, Buyer shall within three (3) days after receipt of the appraisal: 1) renegotiate with the Seller, 2) terminate the transaction, in which case Buyer shall receive a refund of Buyer's Earnest Money Deposit, or 3) proceed to close the transaction at the agreed Purchase Price.

☐ **CASH.** The full Purchase Price upon execution and delivery of Warranty Deed. Buyer Agrees to provide Buyer Agent/Dual Agent verification of funds within five (5) days after the Effective Date, and consents to the disclosure of such information to Seller and/or Seller's Agent. If verification of funds is not received within 5 days after the Effective Date, Seller may terminate this Agreement at any time before verification of funds is received by giving written notice to Buyer. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement.

☒ **NEW MORTGAGE.** The full Purchase Price upon execution and delivery of Warranty Deed, contingent upon Buyer's ability to obtain a CONV type 30 (year) mortgage in the amount of 97% % of the Purchase Price bearing interest at a rate not to exceed TBD % per annum (rate at time of loan application), on or before the date the sale is to be closed. Buyer agrees to apply for a mortgage loan, and pay all fees and costs customarily charged by Buyer's lender to process the application, within 3-4 days after the Effective Date, not to impair Buyers' credit after the date such loan is offered. ☐ Seller ☒ Buyer will agree to pay an amount not to exceed \$ 0 representing repairs required as a condition of financing. Buyer ☒ agrees ☐ does not agree to authorize Buyer's Agent/Dual Agent to obtain information from

Buyer's lender regarding Buyer's financing, and consents to the disclosure of this information to Seller and/or Seller's Agent.
Exceptions:

☐ SELLER FINANCING (check one of the following): ☐ CONTRACT or ☐ PURCHASE MONEY MORTGAGE

In the case of Seller financing, Buyer agrees to provide Seller with a credit report within 72 hours after the Effective Date. If the credit report is unacceptable to Seller, Seller shall have the right to terminate this offer within 48 hours of Seller's receipt, or if Buyer fails to provide said credit report to Seller within the time frame allotted, Seller shall have the right to terminate this offer within 48 hours. Seller is advised to seek professional advice regarding the credit report.

\$_____ upon execution and delivery of a _____
form (name or type of form and revision date), a copy of which is attached, wherein the balance of \$ _____
will be payable in monthly installments of \$ _____ or more including interest at _____ % per annum,
interest to start on date of closing, and first payment to become due thirty (30) days after date of closing. The entire unpaid balance
will become due and payable _____ months after closing. Any appraisal required by Buyer shall be arranged and
paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ EQUITY (check one of the following): ☐ Formal Assumption or ☐ Informal Assumption
Upon execution and delivery of: ☐ Warranty Deed subject to existing mortgage OR ☐ Assignment of Vendee Interest
in Land Contract, Buyer to pay the difference (approximately \$ _____) between the Purchase Price above
provided and the unpaid balance (approximately \$ _____) upon said mortgage or land contract, which Buyer
agrees to assume and pay. Buyer agrees to reimburse Seller for accumulated funds held in escrow, if any, for payment of future
taxes and insurance premiums, etc. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten
(10) days after the Effective Date of this Agreement. Exceptions:

☐ OTHER:

9. **Contingencies:** Buyer's obligation to consummate this transaction (check one):

- ☒ **IS NOT CONTINGENT** - is not contingent upon the sale or exchange of any other property by Buyer.
- ☐ **IS CONTINGENT UPON CLOSING** - is contingent upon closing of an existing sale or exchange of Buyer's property located at:

A copy of Buyer's agreement to sell or exchange that property is being delivered to Seller along with this offer. If the existing sale or exchange terminates for any reason, Buyer will immediately notify Seller, and either party may terminate this Agreement in writing, within 3 days of Buyer's notice to Seller. If either party terminates, Buyer shall receive a refund of any applicable Earnest Money Deposit.

☐ **IS CONTINGENT UPON THE SALE AND CLOSING** - is contingent upon the execution of a binding agreement and the closing of a sale or exchange of Buyer's property located at _____
on or before _____. Seller will have the right to continue to
market Seller's Property until Buyer enters into a binding agreement to sell or exchange Buyer's property and delivers a copy thereof to Seller. During such marketing period, Seller may enter into a binding contract for sale to another purchaser on such price and terms as the Seller deems appropriate. In such event, this Agreement will automatically terminate, Buyer will be notified promptly, and Buyer's Earnest Money Deposit will be refunded. Exceptions:

10. **Fixtures & Improvements:** The following is not intended to be an all-inclusive list of items included with the Property. All improvements and appurtenances are included in the Purchase Price, if now in or on the Property, unless rented, including the following: all buildings; landscaping; attached smart home devices; attached security systems; lighting fixtures and their shades and bulbs; ceiling fans; hardware for draperies and curtains; window shades and blinds; built-in kitchen appliances, including garbage disposal and drop-in ranges; wall to wall carpeting, if attached; all attached mirrors; all attached TV mounting brackets; all attached shelving; attached work benches; stationary laundry tubs; water softener; water heater; incinerator; sump pump; water pump and pressure tank; heating and air conditioning equipment (window units excluded); attached humidifiers; heating units, including add-on heating stoves and heating stoves connected by flue pipe; fireplace screens, inserts, and grates; fireplace doors, if attached; liquid heating and cooking fuel tanks; TV antenna and complete rotor equipment; satellite dish and necessary accessories and complete rotor equipment; all support equipment for inground pools; screens and storm windows and doors; awnings; installed basketball backboard, pole and goal; mailbox; flagpole(s); fencing, invisible inground fencing and all related equipment, including collars; detached storage buildings; underground sprinkling, including the pump; installed outdoor grills; all plantings and bulbs; garage door opener and control(s); and any and all items and fixtures permanently affixed to the Property; **and also includes:**

All appliances seen in the home on 12/08/2020

but does not include:

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11. **Heating and Cooking Fuels:** Liquid heating and cooking fuels in tanks are included in the sale and will transfer to Buyer at time of possession unless usage is metered (in which case it is not included in the sale). Sellers are responsible for maintaining heating and cooking liquid fuels at an operational level and shall not permit fuels to fall below 10% in the tank(s) at the time of possession, except that the tank(s) may be empty only if now empty. Further, Seller is precluded from removing fuel from tank(s) other than what is expended through normal use. Exceptions:

12. **Assessments (choose one):**

If the Property is subject to any assessments,

- ☒ Seller shall pay the entire balance of any such assessments that are due and payable on or before the day of closing (regardless of any installment arrangements), except for any fees that are required to connect to public utilities.
- ☐ Seller shall pay all installments of such assessments that become due and payable on or before day of closing. Buyer shall assume and pay all other installments of such assessments.

13. **Property Taxes:** Seller will be responsible for any taxes billed prior to those addressed below. Buyer will be responsible for all taxes billed after those addressed below.

Buyer is also advised that the state equalized value of the Property, principal residence exemption information and other real property tax information is available from the appropriate local assessor's office. Buyer should not assume that Buyer's future tax bills on the Property will be the same as Seller's present tax bills. Under Michigan law, real property tax obligations can change significantly when property is transferred.

☐ No proration. (Choose one):

- ☐ Buyer ☐ Seller will pay taxes billed summer _____ (year);
- ☐ Buyer ☐ Seller will pay taxes billed winter _____ (year);

☒ Calendar Year Proration (all taxes billed or to be billed in the year of the closing). Calendar year tax levies will be estimated, if necessary, using the taxable value and the millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying for January 1 through the day before closing.

☐ Fiscal Year Proration - Taxes will be prorated as though they are paid in (choose one): ☐ advance. ☐ arrears.

Fiscal Year will be assumed to cover a 12-month period from date billed, and taxes will be prorated to the date of closing. Fiscal year tax levies will be estimated, if necessary, using the taxable value and millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying through the day before closing. Exceptions:

14. **Well/Septic:** Within ten (10) days after the Effective Date, Seller will arrange for, at Seller's expense, an inspection of the primary well used for human consumption (including a water quality test for coliform bacteria and nitrates) and septic systems in use on the Property. The inspection will be performed by a qualified inspector in a manner that meets county (or other local governmental authority, if applicable) protocol. Seller will also follow any governmental rules regarding pumping of tanks.

Where no county or government protocol is in place, Seller will arrange for, at Seller's expense, well and septic inspections (as referenced above) by a qualified inspector and Seller will have the septic tank(s) pumped at Seller's expense.

If any report discloses a condition unsatisfactory to Buyer, or doesn't meet county standards that are a condition of sale, Buyer may, within three (3) days after Buyer has received the report, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the well/septic as-is. Seller will respond in writing within three (3) days to Buyer's request. If Seller fails to respond or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer will have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate the contract, Buyer will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

15. **Inspections & Investigations:**

Inspections: Buyer, or someone selected by Buyer, has the right to inspect the buildings, premises, components and systems, at Buyer's expense. Any damage, misuse, abuse, or neglect of any portion of the Property or premises as a result of inspections will be Buyer's responsibility and expense. **In the event of VA financing, Seller will pay for the inspection for termites and other wood destroying insects.**

Investigations: It is Buyer's responsibility to investigate (i) whether the Property complies with applicable codes and local ordinances and whether the Property is zoned for Buyer's intended use; (ii) whether Buyer can obtain a homeowner's insurance policy for the Property at price and terms acceptable to Buyer; (iii) and whether or not the Property is in a flood zone.

All inspections and investigations will be completed within ten (10) days after the Effective Date. If the results of Buyer's inspections and investigations are not acceptable to Buyer, Buyer may, within the above referenced period, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be

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deemed to have accepted the Property as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Inspections & Investigations and will proceed to closing according to the terms and conditions of this Agreement.

☐ Buyer has waived all rights under this Inspections & Investigations paragraph.

16. **Municipal Compliances:** Seller will arrange and pay for current certificates of occupancy, sidewalk compliance, and smoke detector ordinances, if applicable.

17. **Title Insurance:** Seller agrees to convey marketable title to the Property subject to conditions, limitations, reservation of oil, gas and other mineral rights, existing zoning ordinances, and building and use restrictions and easements of record. An **expanded coverage** ALTA Homeowner's Policy of Title Insurance in the amount of the Purchase Price shall be ordered by Seller and furnished to Buyer at Seller's expense, and a commitment to issue a policy insuring marketable title vested in Buyer, including a real estate tax status report, will be made available to Buyer within **ten (10) days** after the Effective Date. If Buyer so chooses, or if an expanded policy is not applicable, then a **standard** ALTA Owners' Policy of Title Insurance shall be provided.

If Buyer objects to any conditions, Buyer may, within three (3) days of receipt of the Title Commitment, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the Title Commitment as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and shall receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Title Commitment as-is and will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

Buyer Choose to us ATA Title

18. **Property Survey:** Broker advises that Buyer should have a survey performed to satisfy Buyer as to the boundaries of the Property and the location of improvements thereon.

☐ Buyer or ☐ Seller (check one) shall within ten (10) days of the Effective Date, order, at their expense, a boundary survey certified to Buyer with iron corner stakes showing the location of the boundaries, improvements and easements in connection with the Property. Upon receipt of the survey, Buyer will have three (3) days to review the survey. If the survey shows any condition, in Buyer's sole discretion, which would interfere with Buyer's intended use of the Property, the marketability of the title, or zoning non-compliance, then Buyer may, within said three (3) day period, terminate this Agreement, in writing, and Buyer will receive a full refund of Buyer's Earnest Money Deposit.

☒ No survey. Buyer has waived all rights under this paragraph.

When closing occurs, Buyer shall be deemed to have accepted the boundaries of the Property and the location of such improvements thereon. Exceptions:

19. **Home Protection Plan:** Buyer and Seller have been informed that home protection plans may be available. Such plans may provide additional protection and benefit to the parties. Exceptions:

20. **Prorations:** Rent; association dues/fees, if any; insurance, if assigned; interest on any existing land contract, mortgage or lien assumed by Buyer; will all be adjusted to the date of closing.

21. **Closing:** If agreeable to Buyer and Seller, the sale will be closed as soon as closing documents are ready, but not later than 01/12/2021 24 SUBD CITY. An additional period of fifteen (15) days will be allowed for closing to accommodate the correction of title defects or survey problems which can be readily corrected, or for delays in obtaining any lender required inspections/repairs. During this additional period, the closing will be held within 5 days after all parties have been notified that all necessary documents have been prepared. Buyer and Seller will each pay their title company closing fee, if applicable, except in the case of VA financing where Seller will pay the entire closing fee. Exceptions:

22. **Possession:** Seller will maintain the Property in its present condition until the completion of the closing of the sale. Possession to be delivered to Buyer, subject to rights of present tenants, if any.

☒ At the completion of the closing of the sale.

☐ At _____ ☐ a.m. ☐ p.m. on the _____ day **after** completion of the closing of the sale, during which time Seller will have the privilege to occupy the Property and hereby agrees to pay Buyer \$_____ as an occupancy fee for this period payable at closing, WITHOUT PRORATION. Payment shall be made in the form of cash or certified funds.

If Seller fails to deliver possession to Buyer on the agreed date, Seller shall become a tenant at sufferance and shall pay to Buyer as liquidated damages \$_____ 350 _____ per day plus all of the Buyer's actual reasonable attorney's fees incurred in removing the Seller from the Property.

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If Seller occupies the Property after closing, Seller will pay all utilities during such occupancy. Buyer will maintain the structure and mechanical systems at the Property. However, any repairs or replacements necessitated by Seller's misuse, abuse, or neglect of any portion of the Property will be Seller's responsibility and expense.

On the agreed delivery date, Seller shall deliver the Property free of trash and debris and in broom-clean condition, shall remove all personal property (unless otherwise stated in this or an additional written agreement), shall make arrangements for final payment on all utilities, and shall deliver all keys to Buyer. Exceptions:

23. **Earnest Money Deposit:** For valuable consideration, Buyer gives Seller until 5:00pm (time) on 12/11/2020 (date), to deliver the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding Agreement between Buyer and Seller. An Earnest Money Deposit in the amount of \$ \$2000 upon acceptance shall be submitted to Fivestar Real Estate Leaders (insert name of broker, title company, other) within 72 hours of the Effective Date of this Agreement, and shall be applied against the Purchase Price. If the Earnest Money Deposit is not received within 72 hours of the Effective Date or is returned for insufficient funds, Seller may terminate this Agreement until such time as the Earnest Money Deposit is received. If Seller terminates this Agreement under this provision, Seller waives any claim to the Earnest Money Deposit. If the sale is not closed due to a failure to satisfy a contingency for a reason other than the fault of Buyer, the Earnest Money Deposit shall be refunded to Buyer. If the sale is not closed as provided in this Agreement and Buyer and Seller do not agree to the disposition of the Earnest Money Deposit, then Buyer and Seller agree that the Broker holding the Earnest Money Deposit may notify Buyer and Seller, in writing, of Broker's intended disposition of the Earnest Money Deposit. If Buyer and Seller do not object to such disposition in writing within fifteen (15) days after the date of Broker's notice, they will be deemed to have agreed to Broker's proposed disposition; if either Buyer or Seller object and no mutually agreeable disposition can be negotiated, Broker may deposit the funds by interpleader with a court of proper jurisdiction or await further actions by Buyer and Seller. In the event of litigation involving the deposit, in whole or in part, either the Seller or the Buyer that is not the prevailing party, as determined by the court, will reimburse the other for reasonable attorneys' fees and expenses incurred in connection with the litigation, and will reimburse the Broker for any reasonable attorneys' fees and expenses incurred in connection with any interpleader action instituted. If the entity holding the Earnest Money Deposit is not the Broker, then to the extent that the terms of any escrow agreement conflict with this paragraph, then the terms and conditions of the escrow agreement shall control.
24. **Professional Advice:** Broker hereby advises Buyer and Seller to seek legal, tax, environmental and other appropriate professional advice relating to this transaction. Broker does not make any representations or warranties with respect to the advisability of, or the legal effect of this transaction. Buyer further acknowledges that REALTOR® above named in the Agreement hereby recommends to Buyer that an attorney be retained by Buyer to pass upon the marketability of the title and to ascertain that the required details of the sale are adhered to before the transaction is consummated. Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether intentionally or negligently) regarding any aspect of the Property or this sale transaction, except as may be expressly set forth in this Agreement, a written amendment to this Agreement, or a disclosure statement separately signed by Seller.
25. **Disclosure of Information:** Buyer and Seller acknowledge and agree that the Purchase Price, terms, and other details with respect to this transaction (when closed) are not confidential, will be disclosed to REALTORS® who participate in the applicable Multiple Listing Service, and may otherwise be used and/or published by that Multiple Listing Service in the ordinary course of its business.
26. **Other Provisions:**
27. **Mergers and Integrations:** This Agreement is the final expression of the complete agreement of Buyer and Seller, and there are no oral agreements existing between Buyer and Seller relating to this transaction. This Agreement may be amended only in writing signed by Buyer and Seller and attached to this Agreement.
28. **Fax/Electronic Distribution and Electronic Signatures:** Buyer and Seller agree that any signed copy of this Agreement, and any amendments or addendums related to this transaction, transmitted by facsimile or other electronic means shall be competent evidence of its contents to the same effect as an original signed copy. Buyer and Seller further agree that an electronic signature is the legal equivalent of a manual or handwritten signature, and consent to use of electronic signatures. Buyer and Seller agree that any notice(s) required or permitted under this Agreement may also be transmitted by facsimile or other electronic means.
29. **Wire Fraud:** Seller and Buyer are advised that wire fraud is an increasingly common problem. If you receive any electronic communication directing you to transfer funds or provide nonpublic personal information (such as social security numbers, drivers' license numbers, wire instructions, bank account numbers, etc.), **even if that electronic communication appears to be from the Broker, Title Company, or Lender, DO NOT** reply until you have verified the authenticity of the email by direct communication with Broker, Title Company, or Lender. **DO NOT** use telephone numbers provided in the email. Such requests may be part of a scheme to steal funds or use your identity.

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30. Buyer's Approval and Acknowledgment: Buyer approves the terms of this offer and acknowledges receipt of a copy of this offer.

Buyer 1 Address _____ X Alex Reinsma dotloop verified
12/10/20 4:52 PM PST
VSAP-1DCB-ZQLR-NLIT **Buyer**
 Buyer 1 Phone: (Res.) _____ (Bus.) _____ Alex Reinsma
 Print name as you want it to appear on documents.

Buyer 2 Address _____ X **Buyer**
 Buyer 2 Phone: (Res.) _____ (Bus.) _____
 Print name as you want it to appear on documents.

31. Seller's Response: The above offer is approved: ☐ As written. ☒ As written except:
 Sale Price to be \$187,000.

Counteroffer, if any, expires _____, at _____ (time). Seller has the right to withdraw this counter offer and to accept other offers until Seller or Seller's Agent has received notice of Buyer's acceptance.

32. Certification of Previous Disclosure Statement: Seller certifies to Buyer that the Property is currently in the same condition as disclosed in the Seller's Disclosure Statement dated _____ (check one): ☐ Yes ☐ No. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement prior to closing.

33. Notice to Seller: Seller understands that consummation of the sale or transfer of the Property described in this Agreement will not relieve Seller of any liability that Seller may have under the mortgages to which the Property is subject, unless otherwise agreed to by the lender or required by law or regulation. Buyer and Seller are advised that a Notice to Seller & Buyer of Underlying Mortgage form is available from the respective agents via the West Michigan REALTOR® Boards.

34. Listing Office Address: _____ 3265 Walker Ave, Grand Rapids, MI 49544 Listing Broker License # _____
Listing Agent Name: _____ Mariana Murillo VanDam/Brent Cox Listing Agent License # _____

35. Seller's Approval and Acknowledgment: Seller approves the terms of this Agreement and acknowledges receipt of a copy. If Seller's response occurs after Buyer's offer expires, then Seller's response is considered a counteroffer and Buyer's acceptance is required below.

X (Seller's Signature, Date, Time): Frank Peterson dotloop verified
12/10/20 8:48 PM EST
FEPB-CKKC-2DH5-GK20
 _____ Frank Peterson Is Seller a U.S. Citizen? ☒ Yes ☐ No*
 Print name as you want it to appear on documents.

X (Seller's Signature, Date, Time):
 _____ Is Seller a U.S. Citizen? ☐ Yes ☐ No*
 Print name as you want it to appear on documents.

Seller's Address: _____ 275 Mason ave, Muskegon, MI 49441 Seller's Phone (Res.) _____ (Bus.) _____
 * If Seller(s) is not a U.S. Citizen, there may be tax implications and Buyer and Seller are advised to seek professional advice.

36. Buyer's Receipt/Acceptance: Buyer acknowledges receipt of Seller's response to Buyer's offer. In the event Seller's response constitutes a counteroffer, Buyer accepts said counteroffer. All other terms and conditions in the offer remain unchanged.

X (Buyer's Signature, Date, Time):
X (Buyer's Signature, Date, Time):

37. Seller's Receipt: Seller acknowledges receipt of Buyer's acceptance of counter offer.

X (Seller's Signature, Date, Time):
X (Seller's Signature, Date, Time):

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Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Sale – 346 Mason Ave
Submitted By: Frank Peterson	Department: City Manager
Brief Summary: City staff is seeking authorization to sell the city-owned home at 346 Mason to Christopher and Morgan Lawson.	
Detailed Summary: The city constructed this house as part of the phase two of our infill housing program. Our contract to construct the home was \$197,464. We also anticipated \$11,844 in sales commissions. The accepted purchase price is \$179,900, and the incurred sales commissions are \$10,800. The City will not contribute toward closing costs.	
Amount Requested: None at this time	Amount Budgeted: \$0
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: Authorize the City Manager to complete the sale of 346 Mason Ave, as described in the purchase agreement.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

WEST MICHIGAN REGIONAL PURCHASE AGREEMENT

DATE: 01/04/2021, 7:00pm (time) MLS # 20048081
 SELLING OFFICE: Re/max Lakeshore BROKER LIC.# _____ REALTOR® PHONE: 231-903-8600
 LISTING OFFICE: West Urban Realty LLC REALTOR® PHONE: 616-874-7085

1. **Effective Date:** This Agreement is effective on the date of Seller's acceptance of Buyer's offer or Buyer's acceptance of any counteroffer, as the case may be, and this date shall hereafter be referred to as the "Effective Date". Further, any reference to "days" in this Agreement refers to calendar days. The first calendar day begins at 12:01 a.m. on the day after the Effective Date. Any reference to "time" refers to local time.

2. **Agency Disclosure:** The Undersigned Buyer and Seller each acknowledge that they have read and signed the Disclosure Regarding Real Estate Agency Relationships. The selling licensee is acting as (check one):

☐ Agent/Subagent of Seller ☒ Buyer's Agent ☐ Dual Agent (with written, informed consent of both Buyer and Seller)
☐ Transaction Coordinator

Primary Selling Agent Name: SANDI GENTRY Email: SANDI@SANDIGENTRY.COM Lic.#: _____

Alternate Selling Agent Name: TYLER COOK (PEND UNDER SANDI ONLY) Email: TYLER@SANDIGENTRY.COM Lic.#: _____

3. **Seller's Disclosure Statement:** (This paragraph applies to sales of one-to-four family residential units.)

☒ Buyer has received the Seller's Disclosure Statement, dated _____. Seller certifies to Buyer that the Property is currently in the same condition as Seller previously disclosed in that statement. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement.

☐ Buyer has not received the Seller's Disclosure Statement. Buyer may terminate this Agreement, in writing, any time prior to receipt of the Seller's Disclosure Statement. Once Buyer has received the Seller's Disclosure Statement, Buyer may terminate this Agreement, in writing, within 72 hours of receipt if the disclosure was received in person, or within 120 hours if received by registered mail. Exceptions: _____

☐ Seller is exempt from the requirements of the Seller Disclosure Act.

4. **Lead-Based Paint Addendum:** Transactions involving homes built prior to 1978 require a written disclosure which is hereby attached and will be an integral part of this Agreement.

5. **Property Description:** Buyer offers to buy the property located in the ☒ City ☐ Village ☐ Township of Muskegon,

County of Muskegon, Michigan, commonly known as (insert mailing address: street/city/state/zip code)

346 Mason ave Muskegon 49441

with the following legal description and tax parcel ID numbers:

PP# 61-24-205-389-0009-00

The following paragraph applies only if the Premises include unplatted land:

Seller agrees to grant Buyer at closing the right to make (insert number) _____ division(s) under Section 108(2), (3), and (4) of the Michigan Land Division Act. (If no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or REALTOR® do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval on or before _____, of the proposed division to create the Premises.

6. **Purchase Price:** Buyer offers to buy the Property for the sum of \$ 170,000
one hundred seventy thousand U.S. Dollars

7. **Seller Concessions**, if any: NONE

8. **Terms:** The Terms of Purchase will be as indicated by "X" below: (Other unmarked terms of purchase do not apply.)

SOURCE OF FUNDS TO CLOSE: Buyer represents that the funds necessary to close this transaction on the terms specified below are currently available to Buyer in cash or an equally liquid equivalent.

If the Property's value stated in an appraisal obtained by Buyer or Buyer's lender is less than the Purchase Price, Buyer shall within three (3) days after receipt of the appraisal: 1) renegotiate with the Seller, 2) terminate the transaction, in which case Buyer shall receive a refund of Buyer's Earnest Money Deposit, or 3) proceed to close the transaction at the agreed Purchase Price.

☒ **CASH.** The full Purchase Price upon execution and delivery of Warranty Deed. Buyer Agrees to provide Buyer Agent/Dual Agent verification of funds within five (5) days after the Effective Date, and consents to the disclosure of such information to Seller and/or Seller's Agent. If verification of funds is not received within 5 days after the Effective Date, Seller may terminate this Agreement at any time before verification of funds is received by giving written notice to Buyer. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement.

☐ **NEW MORTGAGE.** The full Purchase Price upon execution and delivery of Warranty Deed, contingent upon Buyer's ability to obtain a _____ type _____ (year) mortgage in the amount of _____ % of the Purchase Price bearing interest at a rate not to exceed _____ % per annum (rate at time of loan application), on or before the date the sale is to be closed. Buyer agrees to apply for a mortgage loan, and pay all fees and costs customarily charged by Buyer's lender to process the application, within _____ days after the Effective Date, not to impair Buyers' credit after the date such loan is offered. ☐ Seller ☐ Buyer will agree to pay an amount not to exceed \$ _____ representing repairs required as a condition of financing. Buyer ☐ agrees ☐ does not agree to authorize Buyer's Agent/Dual Agent to obtain information from



Buyer's Initials



Seller's Initials

Buyer's lender regarding Buyer's financing, and consents to the disclosure of this information to Seller and/or Seller's Agent.
 Exceptions:

☐ SELLER FINANCING (check one of the following): ☐ CONTRACT or ☐ PURCHASE MONEY MORTGAGE

In the case of Seller financing, Buyer agrees to provide Seller with a credit report within 72 hours after the Effective Date. If the credit report is unacceptable to Seller, Seller shall have the right to terminate this offer within 48 hours of Seller's receipt, or if Buyer fails to provide said credit report to Seller within the time frame allotted, Seller shall have the right to terminate this offer within 48 hours. Seller is advised to seek professional advice regarding the credit report.

\$_____ upon execution and delivery of a _____ form (name or type of form and revision date), a copy of which is attached, wherein the balance of \$_____ will be payable in monthly installments of \$_____ or more including interest at _____ % per annum, interest to start on date of closing, and first payment to become due thirty (30) days after date of closing. The entire unpaid balance will become due and payable _____ months after closing. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ EQUITY (check one of the following): ☐ Formal Assumption or ☐ Informal Assumption
 Upon execution and delivery of: ☐ Warranty Deed subject to existing mortgage OR ☐ Assignment of Vendee Interest in Land Contract, Buyer to pay the difference (approximately \$_____) between the Purchase Price above provided and the unpaid balance (approximately \$_____) upon said mortgage or land contract, which Buyer agrees to assume and pay. Buyer agrees to reimburse Seller for accumulated funds held in escrow, if any, for payment of future taxes and insurance premiums, etc. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ OTHER:

9. **Contingencies:** Buyer's obligation to consummate this transaction (check one):

- ☒ **IS NOT CONTINGENT** - is not contingent upon the sale or exchange of any other property by Buyer.
☐ **IS CONTINGENT UPON CLOSING** - is contingent upon closing of an existing sale or exchange of Buyer's property located at:

A copy of Buyer's agreement to sell or exchange that property is being delivered to Seller along with this offer. If the existing sale or exchange terminates for any reason, Buyer will immediately notify Seller, and either party may terminate this Agreement in writing, within 3 days of Buyer's notice to Seller. If either party terminates, Buyer shall receive a refund of any applicable Earnest Money Deposit.

☐ **IS CONTINGENT UPON THE SALE AND CLOSING** - is contingent upon the execution of a binding agreement and the closing of a sale or exchange of Buyer's property located at _____ on or before _____. Seller will have the right to continue to market Seller's Property until Buyer enters into a binding agreement to sell or exchange Buyer's property and delivers a copy thereof to Seller. During such marketing period, Seller may enter into a binding contract for sale to another purchaser on such price and terms as the Seller deems appropriate. In such event, this Agreement will automatically terminate, Buyer will be notified promptly, and Buyer's Earnest Money Deposit will be refunded. Exceptions:

10. **Fixtures & Improvements: The following is not intended to be an all-inclusive list of items included with the Property.** All improvements and appurtenances are included in the Purchase Price, if now in or on the Property, unless rented, including the following: all buildings; landscaping; attached smart home devices; attached security systems; lighting fixtures and their shades and bulbs; ceiling fans; hardware for draperies and curtains; window shades and blinds; built-in kitchen appliances, including garbage disposal and drop-in ranges; wall to wall carpeting, if attached; all attached mirrors; all attached TV mounting brackets; all attached shelving; attached work benches; stationary laundry tubs; water softener; water heater; incinerator; sump pump; water pump and pressure tank; heating and air conditioning equipment (window units excluded); attached humidifiers; heating units, including add-on heating stoves and heating stoves connected by flue pipe; fireplace screens, inserts, and grates; fireplace doors, if attached; liquid heating and cooking fuel tanks; TV antenna and complete rotor equipment; satellite dish and necessary accessories and complete rotor equipment; all support equipment for inground pools; screens and storm windows and doors; awnings; installed basketball backboard, pole and goal; mailbox; flagpole(s); fencing, invisible inground fencing and all related equipment, including collars; detached storage buildings; underground sprinkling, including the pump; installed outdoor grills; all plantings and bulbs; garage door opener and control(s); and any and all items and fixtures permanently affixed to the Property; **and also includes:**

ALL APPLIANCES CURRENTLY IN HOME, FRIDGE, OVEN, DISHWASHER, MICROWAVE,

but does not include:

11. **Heating and Cooking Fuels:** Liquid heating and cooking fuels in tanks are included in the sale and will transfer to Buyer at time of possession unless usage is metered (in which case it is not included in the sale). Sellers are responsible for maintaining heating and cooking liquid fuels at an operational level and shall not permit fuels to fall below 10% in the tank(s) at the time of possession, except that the tank(s) may be empty only if now empty. Further, Seller is precluded from removing fuel from tank(s) other than what is expended through normal use. Exceptions:

12. **Assessments (choose one):**

If the Property is subject to any assessments,

- ☒ Seller shall pay the entire balance of any such assessments that are due and payable on or before the day of closing (regardless of any installment arrangements), except for any fees that are required to connect to public utilities.
- ☐ Seller shall pay all installments of such assessments that become due and payable on or before day of closing. Buyer shall assume and pay all other installments of such assessments.

13. **Property Taxes:** Seller will be responsible for any taxes billed prior to those addressed below. Buyer will be responsible for all taxes billed after those addressed below.

Buyer is also advised that the state equalized value of the Property, principal residence exemption information and other real property tax information is available from the appropriate local assessor's office. Buyer should not assume that Buyer's future tax bills on the Property will be the same as Seller's present tax bills. Under Michigan law, real property tax obligations can change significantly when property is transferred.

☐ No proration. (Choose one):

- ☐ Buyer ☐ Seller will pay taxes billed summer _____ (year);
- ☐ Buyer ☐ Seller will pay taxes billed winter _____ (year);

☒ Calendar Year Proration (all taxes billed or to be billed in the year of the closing). Calendar year tax levies will be estimated, if necessary, using the taxable value and the millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying for January 1 through the day before closing.

☐ Fiscal Year Proration - Taxes will be prorated as though they are paid in (choose one): ☐ advance. ☐ arrears.

Fiscal Year will be assumed to cover a 12-month period from date billed, and taxes will be prorated to the date of closing. Fiscal year tax levies will be estimated, if necessary, using the taxable value and millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying through the day before closing. Exceptions:

14. **Well/Septic:** Within ten (10) days after the Effective Date, Seller will arrange for, at Seller's expense, an inspection of the primary well used for human consumption (including a water quality test for coliform bacteria and nitrates) and septic systems in use on the Property. The inspection will be performed by a qualified inspector in a manner that meets county (or other local governmental authority, if applicable) protocol. Seller will also follow any governmental rules regarding pumping of tanks.

Where no county or government protocol is in place, Seller will arrange for, at Seller's expense, well and septic inspections (as referenced above) by a qualified inspector and Seller will have the septic tank(s) pumped at Seller's expense.

If any report discloses a condition unsatisfactory to Buyer, or doesn't meet county standards that are a condition of sale, Buyer may, within three (3) days after Buyer has received the report, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the well/septic as-is. Seller will respond in writing within three (3) days to Buyer's request. If Seller fails to respond or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer will have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate the contract, Buyer will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

15. **Inspections & Investigations:**

Inspections: Buyer, or someone selected by Buyer, has the right to inspect the buildings, premises, components and systems, at Buyer's expense. Any damage, misuse, abuse, or neglect of any portion of the Property or premises as a result of inspections will be Buyer's responsibility and expense. **In the event of VA financing, Seller will pay for the inspection for termites and other wood destroying insects.**

Investigations: It is Buyer's responsibility to investigate (i) whether the Property complies with applicable codes and local ordinances and whether the Property is zoned for Buyer's intended use; (ii) whether Buyer can obtain a homeowner's insurance policy for the Property at price and terms acceptable to Buyer; (iii) and whether or not the Property is in a flood zone.

All inspections and investigations will be completed within ten (10) days after the Effective Date. If the results of Buyer's inspections and investigations are not acceptable to Buyer, Buyer may, within the above referenced period, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be

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deemed to have accepted the Property as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Inspections & Investigations and will proceed to closing according to the terms and conditions of this Agreement.

☐ Buyer has waived all rights under this Inspections & Investigations paragraph.

16. **Municipal Compliances:** Seller will arrange and pay for current certificates of occupancy, sidewalk compliance, and smoke detector ordinances, if applicable.

17. **Title Insurance:** Seller agrees to convey marketable title to the Property subject to conditions, limitations, reservation of oil, gas and other mineral rights, existing zoning ordinances, and building and use restrictions and easements of record. An **expanded coverage** ALTA Homeowner's Policy of Title Insurance in the amount of the Purchase Price shall be ordered by Seller and furnished to Buyer at Seller's expense, and a commitment to issue a policy insuring marketable title vested in Buyer, including a real estate tax status report, will be made available to Buyer within **ten (10) days** after the Effective Date. If Buyer so chooses, or if an expanded policy is not applicable, then a **standard** ALTA Owners' Policy of Title Insurance shall be provided.

If Buyer objects to any conditions, Buyer may, within three (3) days of receipt of the Title Commitment, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the Title Commitment as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and shall receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Title Commitment as-is and will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

18. **Property Survey:** Broker advises that Buyer should have a survey performed to satisfy Buyer as to the boundaries of the Property and the location of improvements thereon.

☐ Buyer or ☐ Seller (check one) shall within ten (10) days of the Effective Date, order, at their expense, a boundary survey certified to Buyer with iron corner stakes showing the location of the boundaries, improvements and easements in connection with the Property. Upon receipt of the survey, Buyer will have three (3) days to review the survey. If the survey shows any condition, in Buyer's sole discretion, which would interfere with Buyer's intended use of the Property, the marketability of the title, or zoning non-compliance, then Buyer may, within said three (3) day period, terminate this Agreement, in writing, and Buyer will receive a full refund of Buyer's Earnest Money Deposit.

☒ No survey. Buyer has waived all rights under this paragraph.

When closing occurs, Buyer shall be deemed to have accepted the boundaries of the Property and the location of such improvements thereon. Exceptions:

19. **Home Protection Plan:** Buyer and Seller have been informed that home protection plans may be available. Such plans may provide additional protection and benefit to the parties. Exceptions:

20. **Prorations:** Rent; association dues/fees, if any; insurance, if assigned; interest on any existing land contract, mortgage or lien assumed by Buyer; will all be adjusted to the date of closing.

21. **Closing:** If agreeable to Buyer and Seller, the sale will be closed as soon as closing documents are ready, but not later than 01/19/2021. An additional period of fifteen (15) days will be allowed for closing to accommodate the correction of title defects or survey problems which can be readily corrected, or for delays in obtaining any lender required inspections/repairs. During this additional period, the closing will be held within 5 days after all parties have been notified that all necessary documents have been prepared. Buyer and Seller will each pay their title company closing fee, if applicable, except in the case of VA financing where Seller will pay the entire closing fee. Exceptions:

22. **Possession:** Seller will maintain the Property in its present condition until the completion of the closing of the sale. Possession to be delivered to Buyer, subject to rights of present tenants, if any.

☒ At the completion of the closing of the sale.

☐ At ☐ a.m. ☐ p.m. on the day **after** completion of the closing of the sale, during which time Seller will have the privilege to occupy the Property and hereby agrees to pay Buyer \$ as an occupancy fee for this period payable at closing, WITHOUT PRORATION. Payment shall be made in the form of cash or certified funds.

If Seller fails to deliver possession to Buyer on the agreed date, Seller shall become a tenant at sufferance and shall pay to Buyer as liquidated damages \$ 250 per day plus all of the Buyer's actual reasonable attorney's fees incurred in removing the Seller from the Property.

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If Seller occupies the Property after closing, Seller will pay all utilities during such occupancy. Buyer will maintain the structure and mechanical systems at the Property. However, any repairs or replacements necessitated by Seller's misuse, abuse, or neglect of any portion of the Property will be Seller's responsibility and expense.

On the agreed delivery date, Seller shall deliver the Property free of trash and debris and in broom-clean condition, shall remove all personal property (unless otherwise stated in this or an additional written agreement), shall make arrangements for final payment on all utilities, and shall deliver all keys to Buyer. Exceptions:

23. **Earnest Money Deposit:** For valuable consideration, Buyer gives Seller until 5:00PM (time) on 1/05/2021 (date), to deliver the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding Agreement between Buyer and Seller. An Earnest Money Deposit in the amount of \$ 1,000 shall be submitted to CHICAGO TITLE (insert name of broker, title company, other) within 72 hours of the Effective Date of this Agreement, and shall be applied against the Purchase Price. If the Earnest Money Deposit is not received within 72 hours of the Effective Date or is returned for insufficient funds, Seller may terminate this Agreement until such time as the Earnest Money Deposit is received. If Seller terminates this Agreement under this provision, Seller waives any claim to the Earnest Money Deposit. If the sale is not closed due to a failure to satisfy a contingency for a reason other than the fault of Buyer, the Earnest Money Deposit shall be refunded to Buyer. If the sale is not closed as provided in this Agreement and Buyer and Seller do not agree to the disposition of the Earnest Money Deposit, then Buyer and Seller agree that the Broker holding the Earnest Money Deposit may notify Buyer and Seller, in writing, of Broker's intended disposition of the Earnest Money Deposit. If Buyer and Seller do not object to such disposition in writing within fifteen (15) days after the date of Broker's notice, they will be deemed to have agreed to Broker's proposed disposition; if either Buyer or Seller object and no mutually agreeable disposition can be negotiated, Broker may deposit the funds by interpleader with a court of proper jurisdiction or await further actions by Buyer and Seller. In the event of litigation involving the deposit, in whole or in part, either the Seller or the Buyer that is not the prevailing party, as determined by the court, will reimburse the other for reasonable attorneys' fees and expenses incurred in connection with the litigation, and will reimburse the Broker for any reasonable attorneys' fees and expenses incurred in connection with any interpleader action instituted. If the entity holding the Earnest Money Deposit is not the Broker, then to the extent that the terms of any escrow agreement conflict with this paragraph, then the terms and conditions of the escrow agreement shall control.
24. **Professional Advice:** Broker hereby advises Buyer and Seller to seek legal, tax, environmental and other appropriate professional advice relating to this transaction. Broker does not make any representations or warranties with respect to the advisability of, or the legal effect of this transaction. Buyer further acknowledges that REALTOR® above named in the Agreement hereby recommends to Buyer that an attorney be retained by Buyer to pass upon the marketability of the title and to ascertain that the required details of the sale are adhered to before the transaction is consummated. Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether intentionally or negligently) regarding any aspect of the Property or this sale transaction, except as may be expressly set forth in this Agreement, a written amendment to this Agreement, or a disclosure statement separately signed by Seller.
25. **Disclosure of Information:** Buyer and Seller acknowledge and agree that the Purchase Price, terms, and other details with respect to this transaction (when closed) are not confidential, will be disclosed to REALTORS® who participate in the applicable Multiple Listing Service, and may otherwise be used and/or published by that Multiple Listing Service in the ordinary course of its business.
26. **Other Provisions:**
- builder to provide one year home warranty

27. **Mergers and Integrations:** This Agreement is the final expression of the complete agreement of Buyer and Seller, and there are no oral agreements existing between Buyer and Seller relating to this transaction. This Agreement may be amended only in writing signed by Buyer and Seller and attached to this Agreement.
28. **Fax/Electronic Distribution and Electronic Signatures:** Buyer and Seller agree that any signed copy of this Agreement, and any amendments or addendums related to this transaction, transmitted by facsimile or other electronic means shall be competent evidence of its contents to the same effect as an original signed copy. Buyer and Seller further agree that an electronic signature is the legal equivalent of a manual or handwritten signature, and consent to use of electronic signatures. Buyer and Seller agree that any notice(s) required or permitted under this Agreement may also be transmitted by facsimile or other electronic means.
29. **Wire Fraud:** Seller and Buyer are advised that wire fraud is an increasingly common problem. If you receive any electronic communication directing you to transfer funds or provide nonpublic personal information (such as social security numbers, drivers' license numbers, wire instructions, bank account numbers, etc.), **even if that electronic communication appears to be from the Broker, Title Company, or Lender, DO NOT** reply until you have verified the authenticity of the email by direct communication with Broker, Title Company, or Lender. **DO NOT** use telephone numbers provided in the email. Such requests may be part of a scheme to steal funds or use your identity.

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30. Buyer's Approval and Acknowledgment: Buyer approves the terms of this offer and acknowledges receipt of a copy of this offer.

Buyer 1 Address _____ *Christopher Lawson* dotloop verified 01/05/21 10:31 AM EST FFVQ-9ZT2-VVYE-WFBD **Buyer**
 Buyer 1 Phone: (Res.) _____ (Bus.) _____ Morgan Lawson
 Print name as you want it to appear on documents.
 Buyer 2 Address _____ *Morgan Lawson* dotloop verified 01/05/21 10:30 AM EST JOEZ-PUKW-WZY6-VZM3 **Buyer**
 Buyer 2 Phone: (Res.) _____ (Bus.) _____ Christopher Lawson
 Print name as you want it to appear on documents.

31. Seller's Response: The above offer is approved: ☐ As written. ☒ As written except:
 Sales Price to be 179,900.

Counteroffer, if any, expires 01/05/2021, at 8pm (time). Seller has the right to withdraw this counter offer and to accept other offers until Seller or Seller's Agent has received notice of Buyer's acceptance.

32. Certification of Previous Disclosure Statement: Seller certifies to Buyer that the Property is currently in the same condition as disclosed in the Seller's Disclosure Statement dated _____ (check one): ☐ Yes ☐ No. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement prior to closing.

33. Notice to Seller: Seller understands that consummation of the sale or transfer of the Property described in this Agreement will not relieve Seller of any liability that Seller may have under the mortgages to which the Property is subject, unless otherwise agreed to by the lender or required by law or regulation. Buyer and Seller are advised that a Notice to Seller & Buyer of Underlying Mortgage form is available from the respective agents via the West Michigan REALTOR® Boards.

34. Listing Office Address: _____ Listing Broker License # _____
Listing Agent Name: Mariana Murillo VanDam/Brent Cox Listing Agent License # _____

35. Seller's Approval and Acknowledgment: Seller approves the terms of this Agreement and acknowledges receipt of a copy. If Seller's response occurs after Buyer's offer expires, then Seller's response is considered a counteroffer and Buyer's acceptance is required below.

X (Seller's Signature, Date, Time): *Frank Peterson* dotloop verified 01/05/21 8:07 AM EST 74VE-BANI-QAX8-FRM2
 Frank Peterson Is Seller a U.S. Citizen? ☒ Yes ☐ No*
 Print name as you want it to appear on documents.

X (Seller's Signature, Date, Time): _____ Is Seller a U.S. Citizen? ☐ Yes ☐ No*
 Print name as you want it to appear on documents.

Seller's Address: 346 Mason ave, Muskegon, MI 49441 Seller's Phone (Res.) _____ (Bus.) _____
 * If Seller(s) is not a U.S. Citizen, there may be tax implications and Buyer and Seller are advised to seek professional advice.

36. Buyer's Receipt/Acceptance: Buyer acknowledges receipt of Seller's response to Buyer's offer. In the event Seller's response constitutes a counteroffer, Buyer accepts said counteroffer. All other terms and conditions in the offer remain unchanged.

X (Buyer's Signature, Date, Time): *Christopher Lawson* dotloop verified 01/05/21 10:31 AM EST DEUB-USI7-KTPW-EUZW

X (Buyer's Signature, Date, Time): *Morgan Lawson* dotloop verified 01/05/21 10:30 AM EST T4KF-LEQ7-ISEN-ZKVV

37. Seller's Receipt: Seller acknowledges receipt of Buyer's acceptance of counter offer.

X (Seller's Signature, Date, Time): *Frank Peterson* dotloop verified 01/05/21 5:16 PM EST 0MGH-DWH8-ELLV-TCYT

X (Seller's Signature, Date, Time): _____

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Time

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: January 12, 2020	Title: Convention Center Agreements
Submitted By: Frank Peterson	Department: City Manager
Brief Summary: Staff is seeking approval of an updated Convention Center Naming Rights and Sponsorship Agreement with VanDyk Mortgage Corporation.	
Detailed Summary: In December, the City Commission approved a naming rights agreement with VanDyk Mortgage. As we worked toward formal implementation, a number of issues came to our attention. The items were easy to correct, but both sides felt the cleanest way to correct the agreement was to resubmit it in its entirety for commission approval. Changes of note are as follows: 1. The costs for VanDyk remain unchanged, with the exception of the rent payment for the month of January 2021. Because signage installation is not predicted to take longer than expected, we mutually agreed that their monthly payments should begin January 1. Rent payments will begin once all exterior signage is installed. 2. Mortgage-related advertising and marketing is heavily regulated to ensure fair and non-discriminatory lending practices. Accordingly, we needed to make significant changes to industry exclusivity language, marketing language, trademark usage language, and other language that gave the city permission to use the VanDyk Mortgage name on promotional materials. The changes provide more input from VanDyk's legal team throughout the process to insure compliance. 3. We recharacterized the future partnership with VanDyk because they cannot be our preferred vendor for the same reasons listed in #2, but instead, they should be listed as a strategic partner. All marketing needs to be clear that buyers may use their lender of choice. 4. We cleaned up the liability language specific to liability claims. Parkland, as the operator, will need to hold VanDyk harmless. The City will agree to work to have VanDyk released from those types of suits in the event they happen, with the understanding that the City cannot legally indemnify VanDyk or any other entity. We also increased Parkland's insurance requirements to account for this.	
Amount Requested: \$0	Amount Budgeted: \$0
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: Approve the Naming Rights and Sponsorship Agreement with VanDyk Mortgage and authorize the City Manager to sign the agreements.	

NAMING RIGHTS AND SPONSORSHIP AGREEMENT

THIS NAMING RIGHTS AND SPONSORSHIP AGREEMENT (the “Agreement”) is made and entered into this 8th day of December, 2020 (the “Effective Date”), by and between VanDyk Mortgage Corporation (“VanDyk”), the City of Muskegon (“City”), and Parkland Acquisition Two, LLC (“Parkland”) (VanDyk, City and Parkland are sometimes referred to collectively as the “Parties”).

Recitals

A. City is the owner of the Muskegon Lakeshore Convention Center, a multi-use convention center located in Muskegon, Michigan (“Convention Center”).

B. Parkland is the operator and manager of the Convention Center, and the owner of the attached Delta Hotels by Marriott Muskegon Lakeshore Convention Center (“Hotel”).

C. The Convention Center is currently under construction, with a projected completion date of March 1, 2021 and, when open, it will be used for private events, conventions, conferences, concerts, and other public events.

D. The City and Parkland have the right to name the Convention Center and VanDyk desires to acquire certain naming rights associated with the Convention Center, in accordance with the terms of this Agreement.

E. Contemporaneously with this Agreement, Parkland and VanDyk entered into a License Agreement (“License Agreement, which outlined other obligations with regard to the Convention Center.

NOW THEREFORE, for mutual consideration, the sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

1. **Term.** The term of this Agreement (the “Term”), shall be effective as of the Effective Date and continue for a period of approximately ten (10) years, terminating on the 31st day of December 2031 (the “Termination Date”), unless terminated earlier in accordance with the terms of this Agreement.

2. **Convention Center Naming and Signage Rights.**

A. **Exclusivity.** The City and Parkland hereby covenant and agree that the Convention Center shall be exclusively named the “VanDyk Mortgage Convention Center” (the “Approved Name”) for the Term, in accordance with the terms of this Agreement. The Convention Center shall be referred to exclusively by its Approved Name, including, without limitation, all physical, electronic, and other references to the Convention Center by City, Parkland, and their affiliates. Additionally, the City and Parkland shall include clauses in all contracts with organizations hiring any part of the Convention Center and advertising or other

media contractors providing goods or services relating to the Convention Center or activities in on or around the Convention Center requiring all references to the Convention Center to use the Approved Name. The Approved Name may only be modified as provided herein or otherwise by mutual agreement of the Parties. Neither City, nor Parkland, nor any of their affiliates shall permit any permanent signage, advertising, or other promotion of any of VanDyk's competitors (regardless whether or not incorporating such competitors' names or logos) in, on, around, or in reference or relation to the promotion of the Convention Center or Hotel (this may be referred to as the VanDyk's right of "Industry Exclusivity").

B. **Industry Exclusivity.** VanDyk's "competitors" shall be defined as follows: Any business where providing mortgage lending or brokerage services comprises the majority of the business activity or income. Depository banking institutions would not be considered competitors, so long as mortgage services do not comprise a majority of their business activities.

C. **Logos.** Within twenty (20) days from execution of this Agreement, VanDyk will furnish the City and Parkland with one or more corporate logos that shall be used at VanDyk's reasonable request and may otherwise be used by City, Parkland, or their affiliates with VanDyk's consent as part of physical, electronic, and other references to the Convention Center. The Parties may also create an alternative logo to promote the Convention Center provided the final logo is mutually agreed by the Parties prior to being used in any physical, electronic, or other Convention Center promotion.

D. **Exterior Signage Rights.** Subject to local zoning requirements, the City and Parkland shall install not later than April 30, 2021 (the "Signage Deadline"), and thereafter shall maintain, repair and replace exterior signage as outlined in **Exhibit A** and described below:

- i. a large backlit sign on the Western Avenue side of Convention Center, to be installed at the expense of City. The size, design, and location of sign will be mutually agreed upon in advance by the Parties.
- ii. a backlit sign on the Shoreline Drive side of Convention Center, incorporated into the existing shared marquee sign between Mercy Health Arena and the Convention Center, to be installed at the expense of City. The design of sign will be mutually agreed upon in advance by the Parties.
- iii. a large backlit sign on the Shoreline Drive side of Convention Center, to be installed at the expense of City. The size, design, and location of sign will be mutually agreed upon in advance by the Parties.
- iv. additional exterior Convention Center signage requested by VanDyk and consented to in writing by the City and Parkland, which consent shall not be unreasonably withheld.

- v. The City and Parkland acknowledge the rights granted herein with respect to exterior signage are exclusive and City and Parkland shall grant no new exterior signage rights to any other third parties without advance written consent from VanDyk, which consent shall not be withheld if (a) it remains clear to the general public that the Convention Center is named the Approved Name and (b) the signage does not violate VanDyk's right to Industry Exclusivity required by Section 2.A.

E. **Interior Signage.** VanDyk acknowledges the rights granted under this Agreement are not exclusive with respect to interior signage in the Convention Center, other than VanDyk's right to Industry Exclusivity and as otherwise provided herein. Except as provided in this paragraph, the City and Parkland have complete discretion to rent or lease interior signage to third parties and to retain all revenue associated with such rent or lease. This includes, but is not limited to, doorway, room and hallway signage. City, Parkland, and their Affiliates shall not permit any interior signage: (a) that displays the name or logo of any person or business other than VanDyk more prominently than the most prominent interior signage display of the Approved Name, VanDyk's name, or VanDyk's logo; or (b) that displays another name or logo of any other person or business more prominently than the most prominent display of the Approved Name, VanDyk's name, or VanDyk's logo within 6 feet of such display. Without limitation, on or before the Signage Deadline, the City and Parkland shall install and thereafter shall maintain, repair and replace the following interior signage for the benefit of VanDyk:

- i. In the event interior wayfinding signage is installed in the Convention Center, VanDyk's logo shall be displayed on each wayfinding sign. The size, design, and location of the logo will be mutually agreed upon in advance by the Parties.
- ii. a logo at the lower entry glass doors facing Shoreline Drive near the new VanDyk office. The size, design, and location of logo will be mutually agreed upon in advance by the Parties.

F. **Cost of Signage.** The City shall be responsible, at its expense, for the cost of the signage and any necessary maintenance, repair, and replacement of such signage, except to the extent any necessary repair or replacement is caused by damage to property arising out of negligent activities VanDyk or any VanDyk agents and representatives, in which event VanDyk shall be responsible at its expense for any necessary repair or replacement. In addition, the City shall be responsible, at its expense, for the cost of mounting all signage in and to the Convention Center, as well as the cost of providing reasonably suitable lighting for the exterior signage, including, but not limited to the cost of providing power for said lighting.

G. **Sign Removal and Substitute Exposure.** The City and Parkland reserve the right (subject to the prior approval of VanDyk, not to be unreasonably withheld), to change the nature and location of the signage, at City's own expense, in connection with any renovation, alteration, or repairs of the Convention Center, so long as VanDyk receives equivalent exposure

both before and after any such renovation, alteration, or repairs; and the City of Parkland provides at least thirty (30) days' prior notice of such change to VanDyk. Except as otherwise expressly provided in this Agreement, the City and Parkland shall be solely responsible for the costs of removing any signage and changing other references incorporating VanDyk's name or Marks after termination of this Agreement.

H. **Change of VanDyk Name.** In the event that VanDyk changes its name or logo, City and Parkland shall, as soon as practical, make the corresponding change to the name or logo of the Convention Center, which change shall be deemed to be an approved change to the Approved Name and all references herein to the Approved Name shall, thereafter, be deemed to refer to such changed name. In the event that the name or logo of the Convention Center is changed under this provision, all costs of effectuating the name change shall be borne solely and entirely by VanDyk, and any and all costs and expenses incurred by the City in connection with effectuating such change of the name or logo shall be paid by VanDyk promptly upon request by the City; except that, if such name or logo change is to occur between January 1, 2030 and December 31, 2031, the costs and expenses of effectuating the name change shall be shared equally by VanDyk and the City. Upon any name or logo change, City and Parkland shall initiate a reasonable promotional campaign to promote the change to the public.

3. **Naming Ceremonies.** The Parties will agree in advance on any press announcements regarding the naming of the Convention Center, and the timing of the release of any such announcements. VanDyk shall have the right to have representatives contribute to the official naming ceremonies for the Convention Center. VanDyk will also have the right to approve in advance (such approval not to be unreasonably withheld) any press announcements, press releases or other materials to be distributed to the general public by or on behalf of the City or Parkland relating to the initial naming of the Convention Center under this Agreement.

4. **Payments and Fees for Naming, Signage and Sponsorship.**

A. **Fee Schedule.** In consideration of the naming, signage and sponsorship rights granted to VanDyk under this Agreement, VanDyk shall pay to the City a naming rights and sponsorship fee as provided below ("Naming Rights Fee"). The Naming Rights Fee will be paid as follows: (i) One Hundred Fifty Thousand (\$150,000) will be paid upon signing of the agreement; and (ii) \$12,500 will be paid on the first day of every month beginning on the first date of the next month following the Commencement Date and on the first day of each month thereafter until the final payment on December 1, 2029, or until terminated in accordance with the terms of this Agreement; provided that no monthly payment contemplated by section 4.A.(ii) will be due and owing for any month in which the Convention Center is considered "closed" as defined in this agreement. Any monthly payment that was paid at the beginning of a month that meets the definition of a Closed month will be deemed a credit for the next succeeding month. For purposes of this Agreement, "Commencement Date" means the date that all of the following are substantially complete: (a) installation of all exterior signage required by this Agreement; (b) branding of all online and social media references relating to the Convention Center, as contemplated by Section 6.

B. **Late Fees and Interest.**

- i. Any amounts due from VanDyk under this Agreement which are not received by the City within fifteen (15) days of when due shall accrue interest on the amount due and owing at the rate of twelve percent (12%) per annum from the date such amount first became due until paid.
- ii. Whenever any payment to be made under this Agreement shall fall on a day which is not a Business Day, the payment shall be made on the next succeeding Business Day. The Term “Business Day,” as used in this Agreement shall mean any day that banks are open for business in the State of Michigan (excluding Saturdays and Sundays).

C. **Renewal.** VanDyk shall have the first right to renew the Term of this Agreement for successive ten (10) year periods at a mutually agreeable rate, but not less than the rates provided herein for the initial Term. The City and Parkland will not negotiate with anyone other than VanDyk for the naming rights equivalent to those provided in this Agreement prior to the earlier to occur of (i) January 1, 2030, or (ii) the date of a VanDyk Notice of Non-Renewal, or (iii) termination of this Agreement. Without limiting any of the foregoing, if the City or Parkland has negotiated terms for naming rights related to the Convention Center with anyone other than VanDyk or otherwise receives a bona fide offer in relation to such rights, City and Parkland shall give written notice of the same (a “Notice of Offer”) to VanDyk including a reasonably detailed explanation of the terms of such offer and VanDyk may (but is not obligated to) provide written notice to the City and Parkland (an “Exercise of Right of First Refusal”), within 60 days after receiving such Notice of Offer, of VanDyk’s acceptance of such terms for the extension of VanDyk’s rights under this Agreement, which shall be effective to bind VanDyk, the City and Parkland to such terms and the parties shall reasonably promptly thereafter amend this Agreement consistent with such terms to implement that agreement. If VanDyk does not timely provide an Exercise of Right of First Refusal to Parkland and the City, Parkland and the City may proceed to accept the terms with the party identified in the Notice of Offer; provided that, if those terms are not ultimately consummated, any subsequent bona fide offer in relation to naming rights for the Convention Center shall continue to be bound by these terms requiring a Notice of Offer and permitting an Exercise of Right of First Refusal.

D. **Non-Renewal.** Beginning January 1, 2022, VanDyk shall have the option to terminate this Agreement with twelve (12) months’ advance written notice to the City and Parkland (a “Notice of Non-Renewal”). No monthly payment of Naming Rights Fee will be due and owing from VanDyk from and after the date of the Notice of Non-Renewal.

5. **Intellectual Property.**

A. **Names, Trademarks and Service Marks.**

- i. VanDyk acknowledges that the City is the exclusive owner and Parkland is the exclusive manager of the Convention Center, and City

and Parkland have the right to license the Convention Center's name.

- ii. The City and Parkland acknowledge that, at all times, VanDyk is the owner of (and City and Parkland make no claim to) the name, trademark or service mark of the names or phrases " VanDyk Mortgage," "VanDyk Mortgage Muskegon," and "VanDyk Mortgage West Michigan," as well as any logos associated therewith or containing such phrases (collectively, the "VanDyk Intellectual Property"). VanDyk retains the sole and exclusive ownership of the VanDyk Intellectual Property and all goodwill and rights related thereto. City and Parkland agree that nothing in this Agreement shall be interpreted as conferring any proprietary rights upon City and Parkland with respect to the VanDyk Intellectual Property other than the limited license expressly granted in this Agreement. City and Parkland acknowledge that the Approved Name and any other marks used in close proximity with one or more of the VanDyk Intellectual Property in relation to the Convention Center, shall create new combination VanDyk Intellectual Property that belong to VanDyk, and all goodwill associated therewith shall inure to the benefit of VanDyk, whether or not such VanDyk Intellectual Property originated with City and Parkland. As a result of VanDyk's ownership of the VanDyk Intellectual Property, use of the VanDyk Intellectual Property, and status as licensor under this Agreement, all goodwill associated with the VanDyk Intellectual Property by reason of City and Parkland's use thereof, as part of the Approved Name or otherwise, shall inure to the benefit of VanDyk.
- iii. Subject to the terms of this Agreement, VanDyk grants to the City and Parkland a non-exclusive, royalty-free license during the Term to use and to grant others the right to use the name "Vandyk Mortgage" and its related logos, including, without limitation, any copyrights, trademarks, service marks, and other intellectual property relating to the same, and any derivatives, modifications or alterations thereof (collectively "Marks"), for the limited use in connection with the promotion, marketing and operations of the Convention Center and events held at the Convention Center and signage to the Convention Center; provided, however, that any such rights granted by the City and Parkland to third parties to use the VanDyk Marks shall expire within ninety (90) days of conclusion of this Agreement. The City and Parkland shall, subject to the prior approval of VanDyk, grant (and require the use of) non-exclusive rights to providers of goods and services and advertisers to use the VanDyk Marks for purposes of referring to and otherwise promoting the Convention Center; provided, that such uses are consented to by VanDyk (which consent will not be unreasonably withheld if such uses are consistent with the terms and conditions of this Agreement). The grant by VanDyk herein of a license to the City and Parkland shall not convey any right, title or interest in the VanDyk Marks for any use or purpose other than expressly provided herein, or to modify any such Marks or logos except as approved by VanDyk, and VanDyk specifically reserves all such rights for itself. In addition,

VanDyk reserves the right to inspect the City and Parkland's (or any sublicensee's) use of the VanDyk Marks at any time during the Term.

- iv. Subject to the terms of this Agreement, the City and Parkland grant to VanDyk a non-exclusive, royalty-free license during the Term (and for ninety (90) days thereafter) to use and to grant others the right to use the name "Lakeshore Convention Center" and the related logos, including, without limitation, any copyrights, trademarks, service marks, and other intellectual property relating to the same, and any derivatives, modifications or alterations thereof (collectively "Convention Center Marks"), in connection with the promotion, marketing and operations of the Convention Center and events held at the Convention Center; provided, however, that any such rights granted by VanDyk to third parties to use the Convention Center Marks shall expire contemporaneously with this Agreement. VanDyk may, subject to the prior approval of the City and Parkland, grant non-exclusive rights to providers of goods and services and advertisers to use the Convention Center Marks for purposes of promoting itself and the Convention Center; provided, that such uses are consistent with the terms and conditions of this Agreement. The grant by the City and Parkland herein of a license to VanDyk shall not convey any right, title or interest in the Convention Center Marks for any use or purpose other than expressly provided herein, or to modify any such Marks or logos except as approved by the City and Parkland, and the City and Parkland specifically reserves all such rights for themselves. In addition, the City and Parkland reserves the right to inspect VanDyk's use of the Convention Center Marks at any time during the Term.

B. **Marks.** Except as provided above, neither party shall use any names, trademarks, service marks, copyrights, trade names or photographs of the facilities or products of the other party for any purpose, except as provided for in this Agreement, without the prior written consent of the other parties, such consent to be required for each proposed use and each use to be accompanied by the appropriate trademark, service mark, copyright, or other designation required by the owner of such property. Notwithstanding the above, the Parties acknowledge and agree that each party shall have the unlimited right to photograph (including, but not limited to motion picture, still, or video device photography) the Convention Center building and to exhibit and exploit such photography in any medium presently existing or hereafter developed; provided, the Parties do not photograph Parkland's patrons, events, conferences and meetings in the Convention Center without the explicit prior consent of Parkland.

6. **Online and Social Media.** By January 30, 2021, the City and Parkland shall update and promote all references to the Convention Center to incorporate the Approved Name. This obligation includes, but is not limited to, exclusive use of the Approved Name to reference the Convention Center on the Convention Center website, advertising and identification of the Convention Center in mapping applications and search engines, references to the Convention

Center in third-party event planner websites, and in all online social media platforms controlled or used to promote the Convention Center or related events, together with all other platforms now used or later used to promote or reference the Convention Center. From time to time as requested by VanDyk, Parkland and City will reasonably accommodate requests by VanDyk to (or to not) “tag” or otherwise associate VanDyk media accounts with accounts or postings related to the Convention Center. **Annually, VanDyk, Parkland, and the City will meet to develop a mutually-agreeable marketing plan.** The City and Parkland will engage in promotional activities and operate the Convention Center consistent with the marketing plan.

7. **Annual Conference.** VanDyk may choose to hold its annual conference at the convention center. VanDyk will negotiate directly with Convention Center management to identify mutually-agreeable dates and associated costs.

8. **Branding.** All properties built or renovated for sale as part of the City’s in-fill housing program shall be co-branded with VanDyk Mortgage. VanDyk agree to provide competitive pricing, including closing costs, fees, and interest rates, to purchasers of said properties that elect to utilize the services of VanDyk Mortgage

9. **Representations and Warranties of City and Parkland.** The City as to the City and Parkland as to Parkland represent and warrant to VanDyk as follow:

- A. **Due Organization and Good Standing.** The City and Parkland are duly organized, validly existing and in good standing under the laws of the state of Michigan; and have all the requisite power and authority to execute, deliver and perform their obligations under this Agreement, and no consent of a third party is necessary to execute, deliver and perform its obligations under this Agreement.
- B. **Binding Effect.** The information contained in the recitals above, including, without limitation, the City’s and Parkland’s respective ownership of the Convention Center and Hotel, are true and accurate and VanDyk is entitled to rely upon them in entering into this Agreement. The City and Parkland have the right to grant to VanDyk all the rights that are the subject of this Agreement. This Agreement has been duly authorized, executed and delivered by the City and Parkland and constitutes the legal, valid and binding obligation of it, enforceable against it, in accordance with the term hereof.
- C. **Litigation.** There are no actions, suits, claims, investigations, or legal, administrative, or arbitration proceedings pending or, to the best of City’s and Parkland’s knowledge, threatened or likely to be asserted by or against City or Parkland or relating to the Convention Center or Hotel, this Agreement, or the transactions contemplated hereby, before any court, governmental agency, or other body, including any quasi-judicial or administrative forum, and no judgment, order, writ, injunction, decree, or other similar command of any court, governmental agency, or body has been entered against or served upon

City or Parkland.

- D. **Compliance with Law.** At all times the Convention Center and Hotel will be operated and maintained in compliance with all laws having a material effect on the operation and reputation of the Convention Center or Hotel.
- E. **No Conflict.** The execution, delivery and performance of this Agreement by the City and Parkland does not conflict with, nor will it result in, a breach or violation of (i) the City's or Parkland's organizational documents, or (ii) any material agreement to which they are a party.
- F. **Condition and Operation of Convention Center and Hotel.** At all times City and Parkland will maintain, repair, replace, and operate all elements of the Convention Center and Hotel in a reasonable condition consistent with the condition of the connected Hotel, as required by Marriot corporate standards to maintain the "Delta" hotel brand.

10. **Representations and Warranties of VanDyk.** VanDyk represents and warrants to the City and Parkland that:

- A. **Due Organization and Good Standing.** VanDyk is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated; and has all the requisite power and authority to execute, deliver and perform its obligations under this Agreement, and no consent of a third party is necessary to execute, deliver and perform its obligations under this Agreement.
- B. **Binding Effect.** This Agreement has been duly authorized, executed and delivered by VanDyk and constitutes the legal, valid and binding obligation of it, enforceable against it, in accordance with the term hereof.
- C. **No Conflict.** The execution, delivery and performance of this Agreement by VanDyk does not conflict with, nor will it result in, a breach or violation of (i) the VanDyk's organizational documents, or (ii) any material agreement to which it is a party.

11. **Termination of Agreement.**

- A. **VanDyk Default.** The occurrence of any one or more of the following constitutes a "VanDyk Default" under this Agreement:
 - i. VanDyk's failure to pay the Naming Rights Fee within fifteen business (15) days of when due and owing hereunder, subject to cure provisions contained in paragraph 10(A)(iii) below;

- ii. If at any time during the Term, VanDyk shall file or have filed against it, in any court pursuant to any statute either of the United States or of any state, a petition in bankruptcy, for reorganization, for the appointment of a receiver, or for an arrangement under the Bankruptcy Act or Code or similar type of proceeding, and such petition is not dismissed within sixty (60) days of such initial filing; or
- iii. VanDyk's (and/or its affiliates') breach of any of the material covenants, agreements, representations or warranties contained in this Agreement, if such breach (i) has not been waived in writing; and (ii) is not cured or remedied by VanDyk within thirty (30) days after delivery of written notice specifying the nature of the breach, or (iii) if such breach is capable of being cured but not within such thirty (30) day period and VanDyk is using diligent efforts to cause such breach to be cured, then the cure period set forth herein shall be extended to ninety (90) days. The ninety (90) day extension shall not apply to failure to pay the Naming Rights Fee.
- iv. Upon the occurrence of a VanDyk Default, the City and/or Parkland may upon written notice to VanDyk, terminate this Agreement and any monies already then paid by VanDyk may be retained by the City and/or Parkland. If VanDyk Default occurs before December 31, 2021, VanDyk agrees to pay to the City the cost of removing all signage bearing any VanDyk Marks.
- v. In addition, if at any time during the Term, the City and Parkland determine, after giving notice to VanDyk and a reasonable opportunity to respond, but not less than sixty (60) days, that any of the below Unusual and Compelling Circumstances have occurred, and as a result the continuation of the use of VanDyk Mortgage's name would discredit the Convention Center, the City and Parkland in their sole discretion, may terminate this Agreement. 'Unusual and Compelling Circumstance' shall mean:
 - a. Any situation, occurrence or action by VanDyk which subjects VanDyk or the Convention Center to public scandal, disrepute, widespread contempt, or public ridicule, because VanDyk Mortgage has offended, insulted, or denigrated individuals or groups, or insulted or offended the community or public morals or decency.
 - b. Any situation or occurrence where VanDyk makes public comments which degrade or ridicule the City, Parkland or the Convention Center.

If one of the preceding conditions has occurred, the City and/or Parkland may, at their option, upon written notice to VanDyk and after at least sixty (60) days, terminate this Agreement and (i) If a court of competent jurisdiction has found that one of the preceding conditions has occurred, then any Naming Rights Fees or other monies already then paid by VanDyk may be retained by the City and/or Parkland; otherwise (ii) one-half of the Naming Rights Fees and other money paid by VanDyk to the City under this Agreement shall be returned to VanDyk. If VanDyk actions under this paragraph occurs before December 31, 2021, VanDyk agrees to pay to the City the cost of removing all signage bearing any VanDyk Marks.

B. **City and/or Parkland Default.** The occurrence of any one or more of the following constitutes a “Default” by City and/or Parkland under this Agreement:

- i. The City and Parkland lose the ability to grant naming rights to the Convention Center for any reason;
- ii. The Convention Center is shut down for more than 90 consecutive days for any reason, the monthly payments of Naming Rights Fees will not be due in relation to any such period and such monthly payments will be pro-rated for the period in which the Convention Center is actually open;
- vi. If at any time during the Term, the City or Parkland shall file or have filed against it, in any court pursuant to any statute either of the United States or of any state, a petition in bankruptcy, for reorganization, for the appointment of a receiver, or for an arrangement under the Bankruptcy Act or Code or similar type of proceeding, and such petition is not dismissed within sixty (60) days of such initial filing; or
- iii. City’s or Parkland’s breach of any of the material covenants, agreements, representations or warranties contained in this Agreement, or any other agreement between the parties, if such breach (i) has not been waived in writing; and (ii) is not cured or remedied within thirty (30) days after delivery of written notice specifying the nature of the breach or (iii) if such breach is capable of being cured but not within such thirty (30) day period and City and/or Parkland are using diligent efforts to cause such breach to be cured, then the cure period set forth herein shall be extended to ninety (90) days.
- iv. Upon the occurrence of a Default by the City or Parkland, VanDyk may, at its option, upon written notice to both City and Parkland: (i) terminate this Agreement, in which case VanDyk shall not be obligated to make any additional Naming Rights Fee Payments due after such termination;

provided, however, that VanDyk shall be obligated to pay any amounts due on or prior to such termination; and/or (ii) enforce the provisions of this Agreement by a suit in equity or at law for the specific performance of any covenant or agreement contained in this Agreement, or for the enforcement of any other legal or equitable remedy available at law.

- vii. In addition, if at any time during the Term, VanDyk determines, after giving notice to the City and Parkland and a reasonable opportunity to respond, but not less than sixty (60) days, that any of the below Unusual and Compelling Circumstances have occurred, and as a result the continuation of the use of VanDyk's Marks as contemplated by this Agreement would discredit VanDyk, VanDyk in its sole discretion, may terminate this Agreement. 'Unusual and Compelling Circumstance' shall mean:
- a. Any situation, occurrence or action by the City or Parkland which subjects the City, Parkland, or the Convention Center to public scandal, disrepute, widespread contempt, or public ridicule, because of offense, insult, or denigration of individuals or groups, or insult or offense to the community or public morals or decency.
 - b. Any situation or occurrence where the City or Parkland, or any of their agents or Affiliates makes public comments which degrade or ridicule the VanDyk or the Convention Center.

If one of the preceding conditions has occurred, the VanDyk may, at its option, upon written notice to City and Parkland and after at least sixty (60) days, terminate this Agreement and (i) if a court of competent jurisdiction has found that one of the preceding conditions has occurred, then all Naming Rights Fees and other monies already then paid by VanDyk must be returned to VanDyk; otherwise (ii) one-half of the Naming Rights Fees and other money paid by VanDyk to the City under this Agreement shall be returned to VanDyk.

C. **No Continued Use of Name.** Upon termination of this Agreement, the City and Parkland shall be free to rename the Convention Center and the Parties shall no longer use the Approved Name or any name or logos incorporating or confusingly similar to the Approved Name or any VanDyk Marks, and shall make reasonable efforts to notify parties contracting with the Parties not to use the names or logos; provided, however, that City shall have a maximum of ninety (90) days after termination of this Agreement to remove any references to, or displays of, the name and logos from the Convention Center. Except as provided in paragraph 11(A), the costs of the removal shall be borne by the City.

1. **Indemnification and Insurance.** Parkland will indemnify, defend, and hold VanDyk and VanDyk's owners, officers, directors, agents, employees, and representatives harmless of, from, and against any and all actions, causes of action, claims, demands, damages, injuries, costs, loss of services, expenses, and attorney's fees, on account of, arising from, or in any way attributable to the Convention Center or Hotel or any of Parkland's actions relating to operation of the Convention Center or Hotel or otherwise arising from VanDyk's relationship with Parkland, the Convention Center, or the Hotel under this Agreement. All parties acknowledge the legal limitations on the City's ability to indemnify other parties. However, City and Parkland jointly and severally will take all reasonable actions to release or cause to be released VanDyk and VanDyk's owners, officers, directors, agents, employees, and representatives from, any and all formal legal actions attributable to the Convention Center or Hotel or any of the City or Parkland's actions relating to operation of the Convention Center or Hotel or otherwise arising from VanDyk's relationship with the City, Parkland, the Convention Center, or the Hotel under this Agreement. The provisions of this Section 12 shall survive the expiration or termination of this Agreement. City and Parkland jointly and severally agree that they shall, at all times during the terms of this contract, maintain, at their sole cost and expense, with an insurance carrier with an AM Best Rating of A-X or higher, general liability (CGL) insurance in an amount not less than Two Million Dollars (\$2,000,000) per occurrence with a per location Two Million Dollar (\$2,000,000) aggregate limit dedicated to these properties with respect to any liability relating to the Convention Center or Hotel. City and Parkland jointly and severally shall name VanDyk as an additional insured and cause the policy to provide that it may not be cancelled or modified without thirty (30) days' advance written notice to VanDyk. The CGL policy by primary and non-contributory and waive the carriers right of subrogation in favor of VanDyk. Copies of such policies and a certificate of insurance shall be provided to VanDyk prior to the execution of this agreement and annually thereafter evidencing continuing coverage for VanDyk at all times consistent with this Agreement.

The City and Parkland shall maintain workers compensation insurance on all of their employees and volunteers that visit the premise during the terms of this agreement. The City and Parkland shall endeavor to ensure all contractors and suppliers visiting the site shall have workers compensation and CGL insurance.

2. **Litigation concerning Naming Rights.** Should individuals or entities whom are not signatories to this Agreement sue or threaten to sue the City, VanDyk and/or Parkland concerning this Agreement and/or the substance of this Agreement, the Parties shall meet and discuss amending this Agreement in order to avoid litigation or the threat of litigation. Any amendment will require mutual consent of the Parties. In the event that the parties cannot come to a mutually agreeable amendment to avoid litigation or threatened litigation, either party may choose to terminate this Agreement and the City and VanDyk would each bear half the cost of removing the VanDyk signage and logos from the Convention Center. If the parties choose to defend the litigation or threatened litigation, the Parties shall select legal counsel to represent all entities and enter into a joint representation agreement and legal fees and expenses in defending the litigation or threatened litigation shall be split evenly between the City and VanDyk.

3. **Confidentiality.** To the extent possible, each party agrees to treat as confidential all information regarding the other party furnished, or to be furnished, pursuant to this Agreement, including the terms and conditions of this Agreement. However, either party may disclose that portion of the confidential information that is required to be disclosed by law, including the Freedom of Information Act, but shall provide advance notice to any Party whose information is being provided including the identity of the requesting parties, a copy of all requests or demands for information pursuant to which such information is being provided, and a reasonable identification of the information intended to be disclosed.

4. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which together shall constitute one instrument.

5. **Notice.** Each notice, request, demand, consent, approval or other communication required or permitted under this Agreement (collectively, “notices”) shall be in writing and shall be deemed to be given if hand-delivered or sent by overnight delivery service at the address set forth below, or sent electronically (with confirmation of receipt) at the applicable number set forth below:

If to City of Muskegon:

City Manager
City of Muskegon
933 Terrace St.
Muskegon, MI 49443-0536

With a copy to:

City Attorney
Parmenter Law
601 Terrace St.
Muskegon, MI 49440

If to Parkland Acquisition Two, LLC

Jonathan Rooks
75 West Walton, Suite A
Muskegon, MI 49440

With a copy to:

Charron Law
Dave Charron
5020 East Beltline, NE, Suite 201B
Grand Rapids, MI 49525

If to VanDyk Mortgage:

Tom VanDyk, President
2449 Camelot Court SE
Grand Rapids, MI 49546

With a copy to:

Mario Flores
5906 Commerce Drive, East Suite
Muskegon, MI 49444

Any such notice shall be deemed given when actually delivered, when delivery is refused, or upon confirmation of receipt of a facsimile.

6. **Successors and Assigns.** This Agreement shall be binding on, and shall inure to the benefit of, the parties hereto and their successors and permitted assigns. This Agreement may not be assigned by any party hereto without the prior written consent of the other parties; provided, however, that (i) the City and Parkland may assign this Agreement to any existing or future affiliate, whose business includes the operation of the Convention Center; (ii) VanDyk may assign this Agreement to any existing or future affiliate, provided that VanDyk shall continue to be obligated to the City and Parkland under this Agreement; and (iii) VanDyk may assign this Agreement in connection with the direct or indirect transfer or sale of all or substantially all of its assets, or in the event of a merger, consolidation, or similar transaction, provided that (a) the acquirer or surviving entity has creditworthiness or credit rating at least equal to that of VanDyk immediately prior to the transaction, (b) the acquirer or surviving entity is another mortgage provider, and (c) such assignee expressly agrees to assume unconditionally all of the obligations of VanDyk hereunder for the balance of the Term and agrees to bound hereby. For purposes of this Agreement, "affiliate" means a person or entity that directly, or indirectly through 1 or more intermediaries, controls, is controlled by, or is under common control with a specified person or entity.

7. **Severability.** If any portion of this Agreement is judged to be illegal, invalid or unenforceable, such portion will be given effect to the maximum extent possible by narrowing, or enforcing in part, such portion to the minimum extent necessary to make it enforceable. Any such invalidity or unenforceability will not in any way affect the validity or enforceability of the remainder of this Agreement which will continue in full force and effect.

8. **Captions.** The captions used in this Agreement are for convenience only and will not define, limit, or otherwise be used in the construction of this Agreement.

9. **Entire Agreement.** This Agreement and the related License Agreement, sets forth the entire agreement between the Parties with respect to the subject matter hereof, and, except as provided herein, there are no agreements between them, written or oral, relating to the subject

matter hereof, other than as set forth in this Agreement.

10. **Governing Law.** This Agreement and the rights and obligations of the parties shall be governed by, and construed and interpreted in accordance with, the laws of the State of Michigan. Venue shall lie in Muskegon County, Michigan.

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

CITY OF MUSKEGON

By:_____

Its:_____

PARKLAND ACQUISITIONS TWO, LLC

By:_____

Its:_____

VANDYK MORTGAGE CORPORATION

By:_____

Its:_____

Exhibit A

Sponsorship Terms

1. Signage. VanDyk Mortgage will have the following permanent signage displays. Final size, design, and location will be mutually agreed upon in advance by the Parties. Signage to read VanDyk Mortgage Convention Center.

- a. Exterior

- i. Arena/Convention Marquee Sign.



- ii. Exterior Shoreline Drive Signage



- iii. Exterior 4th Street Signage



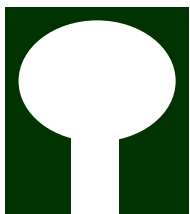
WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 01/12/2021	Title: Marshall Street Elevated Tank Painting
Submitted By: Joe Buthker	Department: Public Works - Filtration
Brief Summary: Staff is requesting authorization to contract with Dixon Engineering for professional services related to painting and repairing the Marshall Street elevated tank.	
Detailed Summary: Staff has worked with Dixon Engineering on a proposal for professional services to oversee the design, bidding, construction, and post-construction phases of the Marshall Street elevated tank project. Dixon Engineering has extensive knowledge of the city's elevated water tanks and has managed many of our past elevated tank projects and inspections. Located in the Jackson Hill neighborhood, the Marshall Street tank is highly visible from the Moses J. Jones Parkway. The exterior tank coating continues to chalk, fade, and lose its gloss. More importantly, the exterior and interior coatings are beyond their expected lifetimes, and a 2019 inspection found coating deterioration with spot failures and topcoat delamination. The largest part of this project will include repairs to the interior coating of the tank and a complete overcoat of the tank exterior. Additionally, the cathodic protection system that prevents corrosion of the tank has failed and needs to be repaired. Other minor modifications will take place on the tank to bring it into compliance with safety standards and drinking water regulations. Dixon Engineering will prepare design plans for the project and assist the city in soliciting bids from contractors to perform the work. Bids for the contractors will be brought back to the commission for consideration after they are received.	
Amount Requested: \$49,750	Amount Budgeted: \$325,000
Fund(s) or Account(s): 591-92035	Fund(s) or Account(s): 591-92035
Recommended Motion: Authorize staff to contract with Dixon Engineering in the amount of \$49,750 for professional services to oversee the painting and repairs of the Marshall Street elevated tank.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐	

For City Clerk Use Only:

Commission Action:



DIXON

**ENGINEERING & INSPECTION SERVICES
FOR THE COATING INDUSTRY**

1104 Third Avenue
Lake Odessa, MI 48849
Telephone: (616) 374-3221
Fax: (616) 374-7116

December 29, 2020

Mr. Joe Buthker
City of Muskegon
1900 Beach St.
Muskegon, MI 49441

Subject: 1,000,000 Gallon Radial Arm Elevated Tank (Marshall)

Dear Mr. Buthker,

Enclosed is the proposal for the 1,000,000 gallon radial arm water storage tank. We have an updated agreement format. Since this is new format, I want to help explain what all is included.

A summary of the agreement and exhibits:

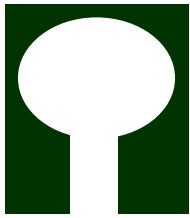
1. The first three pages are the agreement.
2. Dixon's Services (scope of work) are included in Exhibit A (pages 4 to 8).
3. The basis of fees is included in Exhibit C (pages 9 to 12).
4. The summary of compensation fees is in Exhibit C Attachment C-1 (page 13).
5. Billable rates are in Exhibit C Attachment C-2 (page 14).
6. General provisions are in Exhibit GP (page 15 to 18).
7. Insurance and liability are in Exhibit I (pages 19 to 20).

We appreciate the opportunity to submit this proposal. If you have any questions, please feel free to contact me at (616) 374-3221 ext. 309.

FOR DIXON ENGINEERING, INC.,

Eric Binkowski
Project Manager

Enclosure



DIXON

**ENGINEERING & INSPECTION SERVICES
FOR THE COATING INDUSTRY**

1104 Third Avenue
Lake Odessa, MI 48849
Telephone: (616) 374-3221
Fax: (616) 374-7116

**AGREEMENT BETWEEN OWNER AND DIXON
FOR PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of: _____ (“Effective date”) between **City of Muskegon, Michigan** (“Owner”) and Dixon Engineering, Inc. of Lake Odessa, Michigan (DIXON).

IN WITNESS WHEREOF, the (“Owner”) and (“DIXON”) have executed this Agreement. The Owners Project, of which DIXON’s Services under this Agreement are a part, is generally identified as follows: **Technical Specifications, Contract Documents, Project Administration, Preconstruction Meeting, Weld Observation, Wet Interior, Exterior, Dry Interior Coating Observations, Cathodic Protection Installation, and One (1) Year Warranty (ROV) on the 1,000,000 Gallon Radial Arm (Marshall)** (“Project”).

Other terms used in this Agreement are defined in EXHIBIT GP and EJCDC C-700-18®, Standard General Conditions of the Construction Contract, incorporated by reference into this Agreement.

This service fee is the (Estimated) Amount **\$49,750**.

Proposals / Agreement Signatures

Eric Binkowski, Project Manager _____ December 29, 2020

PROPOSED by DIXON (Not a contract until approved by Project Manager or Officer) _____ PROPOSAL DATE

CONTRACT APPROVED BY OWNER POSITION DATE

Co SIGNATURE (if required) POSITION DATE

AGREEMENT APPROVED by DIXON POSITION DATE

With the execution of this Agreement, DIXON and Owner shall designate specific individuals to act as DIXON’s and Owner’s representatives with respect to the services to be performed or furnished by DIXON and responsibilities of Owner under this Agreement, said individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

Designated Person: Joe Buthker

Address for Owner’s receipt of notices:

City of Muskegon

1900 Beach St.

Muskegon, MI 49441

Email: joe.buthker@shorelinecity.com

Designated Person: Eric Binkowski

Address for DIXON’s receipt of notices:

Dixon Engineering, Inc.

1104 Third Ave.

Lake Odessa, MI 48849

Email: eric.binkowski@dixonengineering.net

Any notice required under this Agreement shall be in writing, addressed to the Designated Contract Person at its address on this signature page, or given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices be shall effective upon the date of receipt.

Owner and DIXON further agree as follows:

ARTICLE 1 SERVICES OF DIXON

1.01 DIXON shall provide or cause to be provided:

- A. Contract and Project Management (Basic) Services: EXHIBIT A Part 1
- B. Resident Project Representative (RPR): EXHIBIT A Part 1
- C. Other Services: Services beyond the scope of Exhibit A are Additional Services.

ARTICLE 2 OWNER'S RESPONSIBILITIES

2.01 Owner shall provide or cause to be provided:

- A. Responsibilities set forth in Exhibit A, Part 1, Section C of each phase.
- B. Owner shall arrange for safe access to and make all provisions for DIXON to enter upon public and private property as required for DIXON to perform services under the agreement.

ARTICLE 3 SCHEDULE FOR RENDERING SERVICES

3.01 Commencement:

- A. DIXON is authorized to begin rendering services as of the Effective Date or mutually agreeable date.
- B. DIXON shall complete its obligations within a reasonable time. If a specific period of time for rendering services, or specific dates by which services are to be completed are required, the dates are provided in Exhibit A, and are hereby agreed to be reasonable.

ARTICLE 4 INVOICES AND PAYMENTS – PER EXHIBIT C

ARTICLE 5 OPINIONS OF COST – GENERAL PROVISIONS PER EXHIBIT GP

ARTICLE 6 GENERAL PROVISIONS PER EXHIBIT GP

ARTICLE 7 DEFINITIONS

- A. Whenever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the same meanings indicated in the Construction Contract Documents, EJCDC C-700 18.
- B. Additional definitions pertinent to invoicing or payment can be found in Exhibit C.

ARTICLE 8 EXHIBITS AND SPECIAL PROVISIONS

- A. EXHIBITS Included:
 - 1. EXHIBIT A, DIXON's Services and Owner's Responsibilities.
 - 2. EXHIBIT C, Basis of Fees, Invoicing, and Payment Matters.
 - 3. EXHIBIT C, Attachments C-1 and C-2.
 - 4. EXHIBIT GP, General Provisions from the Agreement and Exhibits.
 - 5. EXHIBIT IR, Insurance Requirements and Limits of Liability.
- B. EXHIBITS to be added as needed:
 - 1. EXHIBIT J, Special Provisions. Services added at/before Effective date (included in original Agreement sometimes referred to as an Addendum).
 - 2. EXHIBIT K, Amendment to Owner-DIXON Agreement for Services added or changed after effective date of this Agreement or for clarification if requested.
- C. EXHIBITS B, D, F, and H merged with other Exhibits or not used.

ARTICLE 9 MISCELLANEOUS PROVISIONS

9.00 Items that pertain to the legal terms of this Agreement. All General Provisions from Article 6 are in Exhibit GP. Those provisions refer mostly to services that result from this Agreement.

9.01 Survival:

- A. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

9.02 Severability:

- A. Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and DIXON, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.03 Successors, Assigns, and Beneficiaries:

- A. Owners and DIXON are hereby bound, and the successors, executors, administrators, and legal representatives of Owner and DIXON are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Unless expressly provided otherwise in this Agreement:
 - 1. Nothing in this Agreement shall be constructed to create, impose, or give rise to any duty owed by Owner or DIXON to any Contractor, other third-party individual or entity, or to any surety for or employee of any of them and not for the benefit of any other party.
 - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and DIXON and not for the benefit of any other party.

9.04 Waiver:

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this agreement.

9.05 Accrual of Claims:

- A. To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

9.06 DIXON's Certifications:

- A. DIXON certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement.

9.07 Total Agreement:

- A. This Agreement, (together with the included Exhibits) constitutes the entire agreement between Owner and DIXON and supersedes all prior written or oral understandings. This agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based, whenever possible, on the format of Exhibit K.

DIXON'S SERVICES AND OWNER'S RESPONSIBILITIES

Article 1 and 2 of the Agreement is supplemented to include the following agreement of the parties: DIXON shall provide Contract and Project Management (BASIC) Services, and Resident Project Representative (RPR).

DIXON has combined the six construction project phases into four phases; Design or Technical Specification Phase, Contract Document and Bidding Phase, Construction Phase, and Post Construction Phase. We then included DIXON's Basic Services, RPR Services, and Owner's responsibilities for each respective phase.

PART 1

A1.01 Design Phase – Technical Specifications:

- A. Basic Services:
 - 1. In preparing the Technical Specifications, use Design, Bid, Build Project Strategy.
 - 2. DIXON shall prepare Technical Specifications and Drawings to include:
 - a. Additions to General Conditions of Construction Contract relevant to coating projects.
 - b. Specifications and Drawings for Health, Safety and Structural Repairs if any.
 - c. Specifications for Coating Repair or Replacement.
 - 3. Advise Owner of additional reports, data, information, or services which may be necessary, and assist Owner in obtaining such materials.
 - 4. Furnish two review copies of the Design Phase documents, to Owner, and review those documents with Owner.
 - 5. After receipt, Owner shall review the Design Phase documents and submit to DIXON any comments regarding the furnished items within two weeks of receipt or as mutually agreed.
 - 6. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost.
 - 7. In response to Owner's comments, as appropriate, make revisions and furnish to Owner one electronic copy of the revised Design Phase documents.
 - 8. DIXON's services under the Design Phase will be considered complete on the date when DIXON has delivered to Owner the revised Technical Specifications.
- B. Design Phase – RPR Services–None
- C. Design Phase – Owner's Responsibility:
 - 1. Provide DIXON with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints-and upon DIXON's request, obtain, and furnish, such additional Project-related information and data as is reasonably required to enable DIXON to complete its Services.
 - 2. Give instructions to DIXON regarding Owner's procurement of construction services including instructions regarding Notice of Bids, Information for Bidders, Owner's construction contract practices and requirements, insurance and bonding requirements, requirements for electronic transmittals during construction, other information necessary for the finalization of Owner's bidding-related documents, and Construction Contract Documents.
 - 3. Owner shall be responsible for all requirements and instructions that it furnishes to DIXON pursuant to this Agreement. DIXON may use and rely upon such requirements, materials, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.

A1.02 Bidding and Contract Document Phase:

- A. Basic Services:
 - 1. Provide technical criteria and file applications for permits for approvals of governmental authorities having jurisdiction to review or approve the design; and revise the Technical Specifications in response, as appropriate.

2. Include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, in electronic media or digital format. Any such protocols shall be applicable to transmittals between and among Owner, DIXON, and Contractor during the Construction Phase and Post-Construction Phase.
3. Prepare and submit to Owner for compliance with local state and municipal requirements:
 - a. Section 00 00 30 Notice to Bidders.
 - b. Section 00 00 40 Project Summary.
 - c. Section 00 02 00 Instructions to Bidders.
 - d. Section 00 07 00 General Conditions as modified by DIXON. EJCDC C-700-18. If Owner elects to use their own documents, then supply Additions to General Conditions.
 - e. Section 00 08 00 Supplemental Conditions to include insurance requirements furnished by Owner.
 - f. Section 00 04 10 Bid/Agreement Form as modified by DIXON.
 - g. Section 00 43 73 Schedule of Values Form.
4. Furnish for review by Owner, its legal counsel, insurance and other advisors, the draft bidding-related Bid Documents and review them with Owner. Owner shall submit to DIXON any comments regarding the furnished items, and any instructions for revisions.
5. Revise the final Bid Documents and Specifications in accordance with comments and instructions from the Owner, as appropriate, and submit one electronic copy of revised documents to Owner.
6. Direct mail advertisements to Contractors who have been prequalified, as capable and responsive by DIXON.
7. Issue assembled Bid Documents to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, and receive and process contractor charges for the issued documents. Document Fees: charges will be retained as a printing, handling, and/or shipping fee.
8. Send Bid Documents to selected Builders Exchanges and Dodge Reports.
9. Address all written submitted questions, by letter or clarifying Addendum as appropriate to all Bidders and Agencies (Builders Exchange and Dodge Reports) identified as having received original documents from DIXON.
10. Review the bids submitted to the Owner and recommend award in writing based on lowest responsible and responsive bidder.
11. If Owner agrees, issue Notice of Award to recommended Bidder.
12. Review bonds and insurance submitted by selected Contractor solely as to compliance with insurance amounts and that bonds are of the format required. Insurance and Bonds are forwarded to Owner for full review by their Insurance Consultant.
13. Furnish Owner and Contractor the Contract Documents for signatures and distribution. (One signed copy to Owner, one to Contractor and one to DIXON).
14. Furnish Owner with completed Notice to Proceed to sign and forward to the Contractor.
15. The Bidding and Contract Documents Phase will be considered complete upon issuance of Notice to Proceed.
- B. Bidding and Contract Document Phase-RPR Services-None.
- C. Bidding and Contract Documents Phase-Owner Responsibilities
 1. Use, unaltered, the Contract Documents provided by DIXON when entering into an agreement with the Contractor. DIXON will not unreasonably withhold a request to alter the document. If Owner elects to use their own General Conditions, then they shall include DIXON's Additions to General Conditions, unaltered unless both parties agree to alteration.
 2. Place and pay for advertisement for Bids as required by local ordinances in appropriate publications, method of advertising is to be determined by the Owner.
 3. Attend and participate in the pre-bid conference if any.
Provide a place for the bid opening and open the Bids received.

4. Review Payment and Performance Bonds, and insurance certificates of selected Contractor. These should be reviewed by the Owner's insurance consultant and attorney for legality and compliance with required indemnification, subrogation, amounts and all other insurance matters.
5. Sign and forward to the Contractor the Notice to Award and Notice to Proceed. These Notices will be supplied to Owner by DIXON.

A1.03 Construction Phase:

A. Basic Services:

1. DIXON will consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of DIXON shall be as assigned in EJCDC C-700-18 Standard General Conditions of the Construction Contract.
2. All of Owner's instructions to Contractor will be issued through DIXON, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
3. Engineer or RPR has authority to Stop Work if Engineer or RPR questions the quality of Work or rejects the Work, or if there (in the sole opinion of Engineer or RPR) a potential for creating an environmental contamination.
4. Finalize Project to observe all items in the contract specifications have been completed and review the quality of workmanship.
5. Duration of Construction Phase: The Construction Phase will terminate upon written recommendation by DIXON for final payment to Contractors.

B. RPR Services for Maintenance of Existing Structures

1. Perform services expected of DIXON RPR and as detailed in the EJCDC Construction Contract General Conditions, GC-700-18.
2. Attend a Preconstruction Meeting, and address questions regarding observation services and coordination of field observations.
3. Hold Point General:
 - a. Hold Point is a stage of the Construction Project where the Contractor stops Work. Work commences again after the Work is observed and reviewed for compliance.
4. Hold Point Weld/Modifications- Observe, Record, Report, and:
 - a. Observe repair, and or the installation of work for specifications compliance. All weld repairs will be visually observed for surface defects (i.e. undercut, negative reinforcement, non-fusion, etc.).
5. Hold Point Coating Wet Interior - Observe, Record, Report, and:
 - a. LWPC for thoroughness and compliance with specifications and verify test area meets or exceeds minimum specified standard for abrasive blast cleaning.
 - b. Verify test area for abrasive cleaning meets or exceeds minimum of specified standard
 - c. Collect spent abrasive for sampling and testing.
 - d. Abrasive blast cleaning prior to application of the prime coat.
 - e. Prime coat prior to application of the next coat.
 - f. Intermediate coat prior to application of the stripe or topcoat.
 - g. Topcoat for compliance with specifications.
 - h. Observe wet interior using high/low voltage holiday detection.
6. Hold Point Coating Exterior - Observe, Record, Report, and:
 - a. Verify test area for high (HPWC) pressure water blast cleaning meets or exceeds minimum specified standard.
 - b. HPWC for thoroughness and compliance with specifications and verify test area meets or exceeds minimum specified standard for spot tool cleaning (SP-11).
 - c. Spot power tool, feathering, and compliance with specifications.
 - d. Prime coat prior to application of the acrylic intermediate coat.

- e. Acrylic intermediate coat prior to application of the urethane intermediate coat.
 - f. Urethane intermediate coat prior to application of the topcoat.
 - g. Topcoat for compliance with specifications.
 - h. Check foundations coating for compliance with specifications.
 - i. Application of the lettering/logo for thoroughness, dimensions (visual only) and aesthetic appearance in accordance with specification requirements, and to verify no damage occurred during lettering.
7. Hold Point Coating Dry Interior- Observe, Record, Report, and:
 - a. Abrasive blast cleaning for thoroughness, surface profile, feathering, and compliance with specifications.
 - b. Prime coat prior to application of the intermediate coat.
 - c. Topcoat for compliance with specifications. Review all contract items to assure they have been completed according to contract requirements.
 8. Hold Point Cathodic Protection - Observe, Record, Report, and:
 - a. Cathodic protection repair/installation work for specification compliance.
 9. Hold Point Project Finalization:
 - a. Review all repairs not installed until after coating.
 - b. Examine entire project for damage that occurred during construction or post construction from rigging and de-rigging or other causes.
 - c. Observe the installation of screens, light bulbs, etc.
 - d. Observe Site for restoration to pre-project conditions.
 - e. Formulate a punch list of items to complete.
 - f. Create a second punch list if needed before finalization.
 - g. Finalize the project to assure all items in the contract specifications have been completed, and the quality of workmanship meets contract requirements.
- C. Construction Phase - Owner's Responsibilities:
1. Inform DIXON in writing of any specific requirements of safety or security programs that are applicable to DIXON, as a visitor to the Site.
 2. Attend and participate in the Preconstruction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
 3. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of DIXON in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on DIXON, then Owner shall compensate DIXON for any related increases in the cost to provide Construction Phase services.

A1.04 Post Construction Phase:

- A. Basic Services:
 1. One Year Warranty Observation – ROV and Exterior:
 - a. Review all wet or dry interior surfaces for corrosion and/or damage, qualify and quantify damage for repairs. All coating repairs needed are to be quantified by extrapolation of a measured area and compared with warranty requirements.
 - b. Observe the exterior coating and quantify damages.
 - c. Review all repairs completed during Construction Phase.
 - d. Review all exterior appurtenances for damage due to corrosion or construction.
 - e. Review exterior of the exposed foundations.
 - f. Review all health aspects of the tank, including screening of the vent, overflow pipe, and other possible contamination sources.
 - g. Prepare a report documenting all items found that meet or fail to meet warranty requirements and recommendations for repair. The report will be letter format.
- B. Post Construction Phase – RPR Services
 1. Detailed above if repairs are needed.

C. Post Construction Phase - Owner's Responsibilities:

1. Warranty Observation - ROV Observation:

- a. Fill the tank to overflow or higher capacity and isolate it from the system during the ROV observation, or as a minimum, maintain positive flow (No water withdrawal from tank).
- b. Perform chlorine residual and bacteriological testing after completion of observation.

A2.01 ADDITIONAL SERVICES

- A. Any service not listed or referenced above in Part 1 will be considered an Additional Service.
 1. All additional requested services and associated fees shall be documented by an Exhibit K, Contract Amendment signed by both parties.

BASIS OF FEES, INVOICING AND PAYMENT

General Provisions of Article 4 of the Agreement has been moved to this EXHIBIT C:

Part 1 BASIS OF FEES

C1.00 Owner's Responsibility:

- A. Owner shall pay DIXON for Basic (Project Management and Contract Administration), Resident Project Representative (RPR), and Additional Services as detailed below and as summarized in Attachment 1 to EXHIBIT C. (Exhibit C-1).

C1.01 Basis:

- A. Hourly rates of DIXON's employee are per classification in the Standard Hourly Rate and Reimbursable Expense Schedule included in this Exhibit C as Exhibit C Attachment 2. (Ex C-2) A classification that has a range of fees, reflects varying levels of experience within that classification. DIXON reserves the right to select the level of RPR and classification. This decision is at DIXON's discretion only and will be dependent primarily on experience with Owner selected Contractor as well as other factors.
 1. Reimbursable expenses are those expenses directly related to and resulting from this Project. These expenses are primarily living expenses and mileage.

C1.02 Methods of Rate Calculation and Definitions including Limitations:

- A. Standard Hourly Rate (SHR) Method: An amount equal to the cumulative hours charged to the Project by each classification of DIXON's personnel, times Standard Hourly Rates and Overtime rates for each applicable billing classification. (Exhibit C-2)
 1. The SHR method may be used for all services. It is more commonly used on portions of various Phase Services where scheduling and speed are controlled by the Contractor or unforeseen project expenses. (Phase 3 Construction, Basic, and RPR services, and for Additional Services during all phases. Overtime rates apply on weekends, holiday, and over 40 hours per week. When accounting for the 40 hours it applies over 40 hours worked between Monday and Friday, weekend rates are already at Overtime rate. Holiday pay also does not contribute toward the accounting for 40 hours.)
 2. The SHR charged by DIXON constitutes full and complete compensation for DIXON services including labor costs, overhead, and profit but not Reimbursable Expenses.
 3. The Standard Hourly Rates per employee classification listed in Attachment C-2 do not include reimbursable expenses. The estimated Reimbursable Expenses are NOT calculated and averaged over the classification rate.
 - a. The estimator calculates the number of days a project is expected to require and calculates manpower required to match number of hours and services required.
 - b. The estimator then calculates Reimbursable Expenses based on the same criteria.
 - c. Both the total manpower estimate, and Reimbursable Expenses total estimate are added. And the total estimate is included in the fee schedule shown in Attachment C-1.
- B. Lump Sum (LS) Method: One agreed fee for completing an agreed defined scope of services. The Lump Sum Method fee charged by DIXON constitute full and completed compensation for DIXON's services including labor costs, overhead, and profit, and reimbursable expenses.
- C. The Lump Sum Method is more commonly used by DIXON for portions of the Phases where DIXON has control over a greater percentage of unknowns, such as the Technical Specifications, Bidding and Contract Documents, and Post Construction Phases excluding fees for Additional Services.
 1. DIXON may use a Lump Sum for the entire project.

- D. Unit Price (UP) Method: Can be considered individual Lump Sum amounts. Reimbursable expenses are calculated and included in Unit Price methods.
1. The Unit Price Method is used when DIXON completes Hold Point Observations, Project Progress or Preconstruction Meetings, known, controlled portions of the Contract and unknown Post Construction (Additional Services).
 2. Exhibit J Amendment: If Amendment changes Scope of Services then Additional Services may be negotiated Lump Sum or Standard Hourly Rate Method.
 2. Exhibit K Addendum: Addenda items (if any) may be negotiated according to any agreed method.
 3. Subconsultants or Subcontractor Service Fees are not included in the SHR, LS, or UP methods. DIXON will invoice for Subconsultant's or Subcontractor's actual invoiced amount times a factor of 1.20. The 1.20 factor includes DIXON's overhead and profit associated with DIXON's responsibility for the administration of such services.
- E. Not every Method of Rate Calculation may be used in this or any Contract, but every contract may be amended by using Exhibit K. If additional Work proposed in Exhibit K involves a different Method of Rate Calculation, it will be clearly defined herein.

C1.03 Definitions including Limitations:

- A. Basic Services to be performed are identified as Basic Services in Exhibit A, or by reference, in the General Conditions (GC-700-18) of the Owner/Contractor Construction Documents. Basic Services are generally calculated using the SHR method. These services are contracted services and thus are prior authorized.
- B. RPR Services contractually agreed services per Exhibit A or by reference, in the General Conditions (GC-700-18) of the Owner/Contractor Construction Document RPR services. These services are primarily observation during the Construction phase. RPR Services are generally calculated using the SHR method for Full Time or Daily services and by Unit Price for Hold Point Observations. Often a Contract for RPR services involves a combination of the SHR and the Unit Price method. These are contracted services and thus are prior authorized.
- C. Contingent Services some services are Basic to every contract such as Preconstruction Meeting and review of Final Pay Request. Other Basic Services and the Project Manager's time associated with them are unknown. Some services are not used on all projects, such as review of multiple Pay Requests, Change Orders, Field Orders, and Work Change Directives. These are services which may or may not be needed, and thus Contingent. Contingent Services are generally calculated using the SHR method but may be Lump Sum or Unit Price method. These are contracted services and thus are prior authorized.
- D. Additional Services are services outside of the Scope of Services as defined in Exhibit A. These are NOT contracted services and prior authorization in the form of Exhibit K- Addendum to Agreement is required. The calculation of fees is Work dependent and may be calculated by the SHR method, or Lump Sum or Unit Price.
- E. Antenna Services are defined in Ex B and authorized by Exhibit K – Antenna Addendum. The calculation of the services is usually a combination of Unit Price and SHR methods. These are contracted services (by addendum) and thus are prior authorized.

C1.04 Fees:

- A. Contracted Fees are detailed in this Exhibit C Attachment 1.
- B. Contingency Allowance Fees if identified or requested, are intended to allow the flexibility to continue the Project and Services, without the need for an Addendum for additional fees. Contingent Fees may be transferred within the Project Phase or transferred to other project Phases as needed. Transfer does not require prior authorization. It is intended that any fees in this Contingency be used when other accounts are exhausted or minor Additional Services are required. Contingency fees unused will not be invoiced. Basic and/or RPR Fees may be increased to accomplish the same benefits of a Contingency Allowance.

- C. Set-Off Fees contractual Set-off: (Applies to Construction and Post Construction Phases only) as defined in the Technical Specifications and General Conditions of the Owner/Contractor Contract, is a Contractually agreed remedy for small violations or nonadherence of the Contract terms which result in extra or unnecessary expenses to the Owner. The cost for these unnecessary expenses are not foreseen and cannot be calculated. They are the same SHR or Unit Price method, that had the service been necessary would have been invoiced to Owner. These services generally do not require prior approval of Owner, because they are required in the administration of the Contract. Set-off fees are invoiced to the Owner, who pays DIXON. The Owner can then Set-off these charges from amounts owed to the Contractor.
1. A few examples of Set-off Fees are when the Owner has incurred extra charges or engineering costs related to:
 - a. Excessive submittal review,
 - b. Excessive evaluations of proposed substitutes,
 - c. Tests and inspections, or return Hold Point Observations to complete Field Work that were determined to be a failed inspection and,
 - d. Work is defective, require correction or replacement including additional inspection costs.
 2. Set-off is only used during the Construction and Post Construction Phases where additional Observation or engineering services are required to correct failed Work.

C1.05 Estimated Fee:

- A. The SHR Method of Rate Calculation is an estimate. The SHR Method is prepared based on extensive experience and is intended to be conservative.
1. Calculating SHR includes, DIXON's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to DIXON under the agreement.
 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to DIXON that the total compensation amount thus estimated will be exceeded, DIXON shall give Owner notice thereof, allowing Owner to consider its options, including suspension or termination of DIXON's services for Owner's Convenience. Upon notice, Owner and DIXON promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate DIXON's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by DIXON, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend DIXON's services during the negotiations and DIXON exceeds the estimated amount before Owner and DIXON have agreed to an increase in the compensation due DIXON or a reduction in the remaining services, then DIXON shall be paid for all services rendered hereunder.
 3. The requirements of minimum work hours and weeks shall remain in effect through negotiations and the minimum requirements of these paragraphs are not negotiable. An RPR is a professional, and if he remains on Site, he is guaranteed the minimum number of hours. Negotiations may Full Time or Daily RPR to Hold Point Observation Services or reduce the number of Daily Inspections. Then minimum hour requirements apply only to demobilization if RPR was Full Time.

C1.06 DIXON's Reimbursable Expenses Schedule and Standard Hourly and Overtime Rates:

- A. Attached to this EXHIBIT C is Attachment C-2, Standard Hourly Rate and Reimbursable Expense Schedule
- B. Annual Cost Adjustment – January 1 each year.
1. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually as of the first January 1 date past expiration date printed on Attachment C-2 to reflect equitable

- changes in the compensation payable to DIXON. Proposals sent after August 1st will have Attachment C-2 with effective rates through December 31 of the subsequent year.
2. Unit Price for Hold Point observations and Lump Sum items shall be increased at the same time as hourly rate by the same percentage increase as Standard Hourly Rates.
 3. Notification of these cost adjustments, or the issuance of an Addendum or Change Order are not required, but DIXON shall endeavor to so advise. Failure to supply notification does not waive the right for implementing rate increases.

PART 2 INVOICING AND PAYMENT for Services in EXHIBIT A per EXHIBIT C-1:

- A. Preparation and Submittal of Invoices: DIXON will prepare invoices in accordance with its standard invoicing practices and the terms of this EXHIBIT C and Attachments C-1 and C-2. DIXON will submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. Small monthly invoices may be held by DIXON only, for a month or more and combined.
- B. Application to Interest and Principal: Payment will be credited first to any interest owed to DIXON and then to principal.
- C. Failure to Pay: If Owner fails to make any payment due DIXON for services and expenses within 30 days after receipt of DIXON's invoice, then:
 1. Amounts due DIXON will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said 30th day.
- D. Disputed Invoices: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise DIXON in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

PART 3 SELECTION OF RPR SERVICES

C3.01 Hold Point Observations:

- A. The RPR travels to site complete the observation and travels back to Base Office. On site time at a minimum is time to complete observations and to complete report.

EXHIBIT C ATTACHMENT C-1: Agreement Between
Owner and DIXON

SUMMARY OF DIXON'S COMPENSATION FEES SCHEDULE of VALUES

1. The total compensation for services under this Agreement is the estimated total compensation amount of **Forty-Nine Thousand, Seven Hundred, Fifty Dollars, \$49,750** and summarized as follows:

Schedule of Values				
Description of Services	# of Units	Unit Price	Amount	Basis of Compensation
A1.01-Technical Specifications			\$5,500	Lump Sum
A1.02-Bidding and Contract Documents			\$1,000	Lump Sum
A1.03-Preconstruction Meeting			\$950	Unit Price
A1.03-Other Defined Basic Services: Project Administration			\$2,000	Lump Sum
A1.03-RPR Services Weld	1	\$1,250	\$1,250	Unit Price
A1.03-RPR Critical Phase Coating	31	\$1,150	\$35,650	Unit Price
A1.04-Warranty Observation			\$3,400	Lump Sum
Total			\$49,750	

2. In the event of a conflict with the number in the Total and the written amount in 1 above or with the number on the Signature Page, the first governance shall be a review of math in this schedule of values.
3. DIXON may alter the distribution of compensation consistent with services actually rendered between individual phases of Basic and RPR Service with unused fees calculated by any method. Reallocation of fees shall not result in a total fee in excess of the total compensation amount unless approved by the Owner.

EXHIBIT C ATTACHMENT C-2: Agreement Between
Owner and DIXON

STANDARD HOURLY RATE AND REIMBURSABLE EXPENSE SCHEDULE

<u>Labor Class</u>	<u>Per Hour</u>	<u>Overtime Rate</u>
Principal	\$265.00	
Project Manager	\$160.00	\$240.00
Engineer	\$165.00	\$248.00
CWI Welding RPR	\$160.00-\$175.00	\$240.00-\$263.00
DIXON Level 3 or NACE Certified Level 3 RPR	\$110.00-\$145.00	\$165.00-\$217.00
DIXON Level 2 or NACE Level 2 RPR	\$100.00-\$125.00	\$150.00-\$188.00
DIXON Level 1 or NACE Level 1 RPR	\$90.00-\$109.00	\$135.00-\$164.00
Contract Support Staff	\$115.00-\$140.00	\$173.00-\$210.00

<u>Expenses</u>	<u>Metropolitan</u>	<u>Out-State</u>
Mileage	\$0.75/mile + tolls	\$0.65/mile
Lodging	\$148.00 per diem	\$138.00 per diem
Meals	\$48.00 per diem	\$41.00 per diem

FEES EFFECTIVE THROUGH: December 31, 2021 (Revised: 8/6/2020)

**GENERAL PROVISIONS AND RELATED CONDITIONS FROM AGREEMENT OR
EXHIBITS**

GP1.00 Time for Completion:

- A. If there is a change in the Scope of Services, or in Scope of Project, if Projects are delayed or suspended through no fault of DIXON, if the orderly and continuous progress of DIXON's services is impaired, if the agreed periods of time or dates are changed, then the time for completion of DIXON's services, and the rates and amounts of DIXON's compensation, shall be adjusted equitably. Delay of Projects by Owner or Contractor until the next season (past the expiration date of EXHIBIT C ATTACHMENT 1 and 2), is considered a Change in Scope of Services and the rates and amounts of DIXON's compensation shall be adjusted equitably in accordance with the succeeding year's EXHIBIT C ATTACHMENT 1 and 2.
- B. Owner shall give prompt written notice to DIXON whenever Owner observes or otherwise becomes aware of any development that affects the scope or time of performance of DIXON's services; the presence at the Site of any Constituents of Concern; or any relevant, material defect or nonconformance in: (a) DIXON's services, (b) the Work, (c) the performance of any Contractor, or (d) Owner's performance of its responsibilities under this Agreement.
- C. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay DIXON's performance of its services.
- D. If DIXON fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

GP1.01 Opinions of Probable Construction Cost:

- A. DIXON's opinions (if any) of probable Construction Cost are to be made on the basis of DIXON's experience, qualifications, and general familiarity with the construction industry. However, because DIXON has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive Bidding or market conditions, DIXON cannot and does not guarantee that proposals, Bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by DIXON.

GP1.02 Standards of Performance and Compliance with Laws and Regulations:

- A. Standard of Care: The Standard of Care for all services performed or furnished by DIXON under this Agreement will be the care and skill ordinarily used by members of this subject profession practicing under similar circumstances at the same time and in the same locality.
- B. Technical accuracy: Owner shall not be responsible for discovering deficiencies in the technical accuracy of DIXON's services. DIXON shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. Reliance on Others: Subject to the Standard of Care set forth above in Paragraph GP1.02. A, DIXON and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers and the publishers or technical standards.
- D. DIXON will make visits to the Site at intervals appropriate to the various stages of construction as DIXON deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, DIXON, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents.

- E. DIXON shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall DIXON have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor's furnishing and performing of its work. DIXON shall not be responsible for the acts or omissions of any Constructor or for Constructor's compliance with Laws and Regulations.
- F. DIXON makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Contractor.
- G. DIXON shall not be responsible for any decisions made regarding the construction Contract requirements, or any application, interpretation, clarification, or modification of the construction Contract documents other than those made by DIXON or its consultants.
- H. DIXON's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of the Section 975 of the Dodd-Frank Wall Street Reform and the Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements, or (4) providing legal advice or representation.

GP1.03 Use of Documents:

- A. All Documents are instruments of service, and DIXON shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of DIXON) whether the Project is completed or not. NOTE: A delayed project may require revisions of the Bid and/or Contract Documents.
 - 1. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. DIXON grants Owner a limited license to use the Documents on the Project. Owner shall not use, reuse, or modify the Documents without written verification, completion, or adaptation by DIXON. The limited license to Owner shall not create any rights in third parties.

GP1.04 Suspension and Termination:

- A. Suspension:
 - 1. By Owner: Owner may suspend the Project for up to 90 days upon seven days written notice to DIXON.
 - 2. By DIXON: DIXON may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay DIXON for invoiced services and expenses, or in response to the presence of Constituents of Concern at the Site.
- B. Termination: The obligation to provide further services under this Agreement may be terminated.
 - 1. For cause, by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - 2. By DIXON:
 - a. Upon seven days written notice if Owner demands that DIXON furnish or perform services contrary to DIXON's responsibilities as a licensed professional; or if services for the Project are delayed or suspended for more than 90 days for reasons beyond DIXON's control, or as the result of the presence at the Site of undisclosed Constituents of Concern.
 - b. DIXON shall have no liability to Owner on account of either such termination. This Agreement will not terminate; however, if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof.

3. For convenience, by Owner effective upon DIXON's receipt of notice from Owner.
- C. Effective Date of Termination: The terminating party under Paragraph GP 1.04 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow DIXON to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- D. Payments Upon Termination:
 1. In the event of termination by Owner or by DIXON for cause, DIXON shall be entitled, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, and other related close-out costs, using methods and rates for Additional Services as set forth in EXHIBIT C.
 2. The scheduled time period between Contract Award and the physical start of Construction, or if Construction is postponed for the off season (winter), shall not be considered a "suspension."

GP1.05 Controlling Law and Compliance with Laws and Regulations:

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located. DIXON and Owner shall comply with state Laws and Regulations of state of Project.
- B. DIXON shall comply with any and all instructions of Owner, and all requirements of Contractor's or Owner's safety program that are applicable to DIXON's performance of services under this Agreement and that Owner provides to DIXON in writing, prior to the Effective Date; subject to the Standard of Care set forth in Paragraph GP1.02.A above, and to the extent compliance is not inconsistent with professional practice requirements.
- C. The following may be the basis for modifications to Owner's responsibilities or to DIXON's scope of services, times of performance, or compensation:
 1. Changes after the Effective Date to Laws and Regulations;
 2. The receipt by DIXON; or changes after the Effective Date of Owner-provided written policies and procedures;
- D. The General Conditions for any construction contract documents prepared hereunder are to be EJCDC C-700-18 "Standard General Conditions of the Construction Contract" (2018 Edition), prepared by the Engineer's Joint Contract Documents Committee, and as modified by DIXON unless expressly indicated otherwise. If Owner supplied General Conditions are used, then DIXON supplied Additions shall also be used to the extent they do not conflict with Owner's.

GP1.06 Dispute Resolution

- A. Owner and DIXON agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking nonbinding mediation or exercising their rights at law.
- B. If negotiations fail then Owner and DIXON shall proceed to nonbinding mediation before a panel of three, one panel member selected by each party, and one mutually agreeable person. The only requirements are that neither party have any financial or relational control over any panel member. DIXON will select, based on expertise in the area of dispute. (DIXON pays fees for their panel member, Owner pays fees of their member and third member's fees are to be paid as direct by the panel, even if their final dispute resolution is not accepted).
- C. After one trial mediation, unless an additional attempt is accepted by both parties either party may exercise their rights at law.

GP1.07 Environmental Condition of Site:

- A. Owner represents to DIXON that as of the Effective Date to the best of Owner's knowledge, that there are no Constituents of Concern, other than those disclosed in writing to DIXON, exist at or adjacent to the Site.

- B. Constituents of Concern in the Coating Industry- DIXON and Owner acknowledge that the coating industry may generate hazardous waste or Constituents of Concern (C of C) when removing old coatings, C of C may be existing in soils from coating removal in the past, and some gasket materials contained asbestos. Old coatings may contain heavy metals such as lead, chrome, and cadmium. Hazardous solvents may be present in new coatings, thinners, or used in the cleaning of equipment. These materials may be C of C but are considered Known C of C.
- C. If DIXON Encounters or learns of an undisclosed Constituents of Concern at the Site, then DIXON shall notify Owner. State and Federal notifications, if required, are the responsibility of the Owner.
- D. Owner acknowledges that DIXON is performing professional services for Owner and that DIXON is not and shall not be required to become an “owner,” “arranger,” “operator,” “generator,” or “transporter” of hazardous substances, as determined in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with DIXON’s activities under this Agreement

INSURANCE REQUIREMENTS AND LIABILITY CONCERNS

The Agreement is supplemented to include the following agreement of the parties:

IR1.00 Insurance:

- A. The limits of liability for the insurance required on this project are as follows:
- B. By DIXON:
 - 1. Workers' Compensation: Statutory
 - 2. Employer's Liability --
 - 1) Bodily injury, each accident: \$1,000,000
 - 2) Bodily injury by disease, each employee: \$1,000,000
 - 3) Bodily injury/disease, aggregate: \$1,000,000
 - 3. General Liability --
 - 1) Each Occurrence (Bodily Injury and Property Damage) \$1,000,000
 - 2) General Aggregate \$2,000,000
 - 4. Excess or Umbrella Liability
 - 1) Per Occurrence: \$5,000,000
 - 2) General Aggregate: \$5,000,000
 - 5. Automobile Liability
 - 1) Combined Single Limit (Bodily Injury and Property Damage): \$1,000,000
 - 6. Professional Liability --
 - 1) Each Claim Made \$2,000,000
 - 2) Annual Aggregate \$2,000,000
- C. Additional Insured's: The following individuals or entities are to be listed on DIXON's general liability policies of insurance as additional insured's: Owner and other parties requested by Owner Electronic Data Transmittal Protocol within reason.
- D. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and DIXON's interests in the Project. Owner shall also require Contractor to cause DIXON and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.
- E. DIXON shall deliver to the Owner certificates of insurance evidencing the coverages. Such certificates shall be furnished prior to commencement of DIXON's services and at renewals thereafter during the life of the Agreement.
- F. All policies of property insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against DIXON or its Consultants. Owner and DIXON waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner shall take appropriate measures in other Project-related contracts to secure waivers of rights.
- G. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
- H. At any time, Owner may request that DIXON or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in EXHIBIT IR. If so, requested by Owner, and if commercially available, DIXON

shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and EXHIBIT IR will be supplemented to incorporate this requirement.

I. Definitions:

1. Owner and Party 1 is Owner and Owner's officers, directors, membership, partners, agents, employees, consultants, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.
2. DIXON and Party 2 is DIXON and/or DIXON's officers, directors, members, partners, agents, employees, consultants, subcontractors, or others under contract to DIXON relative to this Project or Agreement.

IR1.01 Limitation of Liability:

- A. DIXON's Liability Limited to Amount of Insurance Proceeds: DIXON shall procure and maintain insurance as required by and set forth in EXHIBIT IR to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by Laws and Regulations, the total liability, in the aggregate, of DIXON and Party 2 to Owner and anyone claiming by, through, or under Owner shall not exceed the total insurance proceeds paid on behalf of or to DIXON by DIXON's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of DIXON's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal), up to the amount of insurance required under this Agreement

IR1.02 Exclusion of Special, Incidental, Indirect, and Consequential Damages:

- A. To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision in the Agreement, DIXON and Party 2 shall not be liable for special, incidental, indirect, or consequential damages arising out of, or related to this Agreement or the Project, from any cause or causes, including but not limited to: damage to water supply or reduction in fire protection.

IR1.03 Percentage Share of Negligence:

- A. To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming under the other party for damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 01/12/2021	Title: As-Needed Forestry Services
Submitted By: Leo Evans	Department: Public Works
Brief Summary: Authorize the award of the As-Needed Forestry Services to CHOP Tree Service in the not to exceed amount of \$50,000.	
Detailed Summary: Staff solicited bids for as-needed forestry services. The bid was posted publicly on our website and hosted elsewhere along with bid packets being mailed to several area tree firms. Only one bid was received at the designated time with a second bid received late and rejected. The Bid Sheet for CHOP is included in the attachment. The bid sheet was reviewed and found to be a reasonable bid and is recommended for approval by staff. The bid received late that was rejected was higher than the accepted bid. This project was included in the most recent 20-21 budget reforecast.	
Amount Requested: \$50,000.00	Amount Budgeted: \$50,000.00
Fund(s) or Account(s): 101-70771-5346	Fund(s) or Account(s): 101-70771-5346
Recommended Motion: Approve the award of the as-needed forestry services contract to CHOP Tree Service for the not to exceed amount of \$50,000.00.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

PROPOSAL & AWARD

The undersigned having become thoroughly familiar with and understanding of all the proposal documents attached hereto, agrees to provide the services as specified herein, for the total fees as stipulated herein, subject to negotiation.

I hereby state that all of the information I have provided is true, accurate and complete. I hereby state that I have authority to submit this proposal which will become a binding contract if accepted by the City of Muskegon.

I hereby state that I have read, understand and agree to be bound by all of the terms of this proposal document.

Signature Dave Herrema Title MNGR

Print Name Dave Herrema Date 11/16/20

Firm Name CHOP TREE SERV.

Address 1505 STEELE SE
GRAND RAPIDS, MI 49507

Telephone No. 616-583-9821

E-Mail info@wc-chop.com

Fax No. 616-583-9824

BID FORM

	<u>REGULAR TIME</u>	<u>HOLIDAY/OT</u>
Labor ^{FOREMAN & LABORER} (Per HR for 2 Person Crew)	\$ <u>112</u>	\$ <u>192</u>
Each Additional Crew Member (Per HR)	\$ <u>55</u>	\$ <u>80</u>
Bucket Truck	\$ <u>45</u>	\$ <u>45</u>
Brush Chipper	\$ <u>25</u>	\$ <u>25</u>
Stump Grinder	\$ <u>65</u>	\$ <u>65</u>
Loading Device	\$ <u>30</u>	\$ <u>30</u>
Dump Truck 5 Yard	\$ <u>25</u>	\$ <u>25</u>
Dump Truck 15 Yard	\$ <u>30</u>	\$ <u>30</u>
Chain Saws	\$ <u>5</u>	\$ <u>5</u>
Crane	\$ <u>175</u>	\$ <u>175</u>
Other <u>FLAGGERS</u>	\$ <u>20 EA.</u>	\$ <u>30 EA</u>
Other _____	\$ _____	\$ _____

Company Name: CHOP TREE SVC

Address: 1505 STEELE AVE SW
GRAND RAPIDS, MI. 49507

Phone: 616-583-9821

Email: info@we-chop.com

Signature/Date: Doug Herrema 11/16/20

Title: MGR

Printed Name: DOUG HERREMA

CHOP

EQUIPMENT	TYPICAL USE	MAKE/ MODEL MANUFACTURER	APPROXIMATE AGE OF EQUIPMENT & OWNED OR RENTED
Stump Grinder	Land & Lot	Rayco	Own
Bucket truck	Aerial work platform	GMC/Lift-all	1994 own
Bucket truck	Aerial work platform	International/Terex	2011 own
Bucket truck	Aerial work platform	International/ Hi- Ranger	2005 own
Bucket truck	Aerial work platform	International/Hi-Ranger	2005 own
Bucket truck	Aerial work platform	Freightliner 4X4	2018 own
Chip Truck	Collecting/hauling chips	International/ South Co	2001 own
Chip truck	Collecting/hauling chips	Dodge/South Co	2016 own
Chip truck	Collecting/hauling chips	Freightliner	2007 own
Chip truck	Collecting/hauling chips	Isuzu	2006 own
Log Truck	Hauling logs	Freightliner	2007 own
Log Truck	Hauling logs	International	2003 own
Log truck	Hauling logs	Freightliner	2002 own
Log truck	Hauling logs/grapple	Sterling	2007 own
Skid steer loader	Loading logs	Bobcat 725	2013 own
Skid steer loader	Loading logs	Bobcat s250	2011 own
Skid steer loader	Loading logs	John Deere	2019 own
Skid steer loader	Loading logs	John Deere track	2019 own
Stump Grinder	Grinding stumps	Vermeer sc1102	2014 own
Stump Grinder	Grinding stumps	Vermeer	2011 own
Stump Grinder	Grinding stumps	Vermeer AX19	2019 own
Stump Grinder	Grinding stumps	Morbark Eager Beaver	2019 own
Pick-up trucks, several	Transport	Chevrolet, Ford, GMC, Dodge	2009-19 own
Dump truck	Hauling logs/ chips	Chevrolet	2005 own
Dump truck	Hauling logs/ chips	Chevrolet	2005 own
Chipper	Chip brush	Morbark 1621 Eeger Beaver	2020 own
Chipper	Chip brush	Morbark 1621 Eeger Beaver	2020 own
Chipper	Chip brush	Vermeer Ax19	2019 own
Chipper	Chip brush	Morbark 2230 Eeger Beaver	2019 own
Chipper	Chip brush	Bandit 1890XP	2014 own
Chipper	Chip brush	Vermeer 1800	2013 own
Chipper	Chip brush	Vermeer 1800XL	2012 own
Chipper	Chip brush	Vermeer 1800XL	2005 own

[illegible]

CHOP

Estimators/Managers:

Doug Herrema – 35+ years experience
ISA Certified Arborist MI-4200A
Line Clearance Certified
Red Cross - First Aid and CPR Certification
CHOP's Equipment and Training Programs

Chad Herrema- 20 years experience
MI CDL Driver's License
Line Clearance Certified
CHOP's Equipment and Training Programs

Ben Euwema - 10 years experience
ISA Certified Arborist MI-4283A
Line Clearance Certified
Red Cross - First Aid and CPR Certification
MI CDL Driver's License
MI Dept. of Agriculture Pesticide Certification
CHOP's Equipment and Training Programs

Ed Tobey – 25+ years of experience
Red Cross - First Aid and CPR Certification
MI CDL Driver's License
MI Dept. of Agriculture Pesticide Certification
CHOP's Equipment and Training Programs

Crew Leaders:

Jeff McDonald - 7 years experience
MI CDL Driver's License
Line Clearance Certified
Red Cross- First Aid and CPR certification
CHOP's Equipment and Training Programs

Dexter Hayes- 10 years experience
Red Cross- First Aid and CPR Certification
MI CDL Driver's License
Line Clearance Certified
CHOP's Equipment and Training Programs

Gerardo Moreno -6 years experience
Line Clearance Certified
CHOP's Equipment and Training Programs

Mike Lodes- 10 years experience
Red Cross- First Aid and CPR Certification
MI CDL Driver's License
Line Clearance Certified
CHOP's Equipment and Training Programs

Kyle Vansickle- 10 years experience
CHOP's Equipment and Training Programs

Japhett Gallagher- 10 years experience
CHOP's Equipment and Training Programs

Crew Members:

Jonathon Granger- 6 years experience
Plant Health Care Specialist- MI Dept of Ag pesticide
License
CHOP's Equipment and Training Programs

Adam Birks – 1 year experience
CHOP's Equipment and Training Programs

Nick Racette–1 year experience
CHOP's Equipment and Training Programs

Anthony Weaver– 1 year experience
CHOP's Equipment and Training Programs

Kenneth McMay- 1 year experience
CHOP's Equipment and Training Programs

Hans Ott- 1 year experience
CHOP's Equipment and Training Programs

Jake Vansickle- 1 year experience
CHOP's Equipment and Training Programs

Anthony Near- 1 year experience
CHOP's Equipment and Training Programs

Steven Bernard- 1 year experience
CHOP's Equipment and Training Programs

Drew Simington– 1 year experience
CHOP's Equipment and Training Programs

Jamey Church– 1 year experience
CHOP's Equipment and Training Programs

1505 Steele Ave SW Grand Rapids MI 49507

Phone: 616 583-9821

Fax: 616 583-9824



My name is Doug Herrema and I would like to introduce you to CHOP Tree Service. Our origins date back to 1985. We have a presence across Michigan as we service our Federal, State, County and Municipal clients. Although we are headquartered in Grand Rapids, we have multiple bases across the state.

Our client list has included, but is not limited to, The City of Dearborn, The City of Grand Rapids, The City of Ann Arbor, Michigan Dep't of Transportation (MDOT), Selfridge ANG, Monroe County Road Commission, Genesee County Road Commission, Kalamazoo County Road Commission, and multiple road contractors across the state.

We are known for our excellent service, quality workmanship, exceptional communication, and professional personnel. We do what we say we will do when we say we will do it. Our goal is to provide our clients with trouble-free, professional tree service, and to make you look good to your constituents.

Thank you for the opportunity to bid on your upcoming tree work. We hope we might gain your trust and hopefully, one day, you would send us a letter as Ross Brown, head engineer with Monroe County Road Commission, did - and I quote, "CHOP is the standard against which all other companies should be measured."

Sincerely,

Doug Herrema

Certified Arborist

1505 Steele Ave SW, Grand Rapids, MI 49507

Phone: 616 583-9821 Fax: 616 583-9824 Email: Info@we-chop.com

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 1/12/2021	Title: Police Cruiser Replacement
Submitted By: Joe Buckingham	Department: Equipment
Brief Summary: The Equipment Division is requesting permission to purchase three Chevy Tahoe's from Berger Chevrolet the State Mi-Deal contract holder. The price of this vehicle is \$38,836.00 each for a total price of \$116,508.00 coming from the Equipment budget.	
Detailed Summary:	
Amount Requested: \$116,508.00	Amount Budgeted: \$120,000.00
Fund(s) or Account(s): Equipment	Fund(s) or Account(s):
Recommended Motion: Authorize staff to move forward with purchase.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: PILOT – Village at Jackson Hill
Submitted By: Mike Franzak	Department: Planning
Brief Summary: Request to amend the PILOT at the Village of Jackson Hill, by General Capital.	
Detailed Summary: General Capital (“GCG”) is under contract to purchase the Village at Jackson Hill, a 40-unit senior tax credit apartment complex constructed about 15 years ago at 557 McLaren Avenue. GCG intends to apply to MSHDA for 9% tax credits to rehabilitate the project. In order for the project receive a high enough score to be competitive to receive an allocation of credits, they are asking that the City consider adopting a new PILOT for the program. The existing 4% PILOT terminates in 2027 and MSHDA requires a PILOT with a longer term to receive the PILOT points. If successful in receiving a tax credit award, GCG intends to rehabilitate the project. They anticipate spending approximately \$48,000 per unit in hard construction costs. The rehabilitation will include creating visitable and truly handicap accessible units. In addition, if successful in receiving an award of the credits the Area Median Income (“AMI”) unit mix of the project will expand. Currently, the project has 2 60% AMI units 18 45% AMI units and 20 40% AMI units. With a new tax credit award, the unit AMI mix will shift to 5 units at 30% AMI, 5 units at 40% AMI, 1 unit at 50% AMI, 16 units at 40% AMI and 13 units at 80% AMI. With the change in unit mix the gross potential rental revenue at the project will increase from approximately \$260,000 to \$330,000. This increase will happen over time, as the current tenants will not be displaced. Rents will increase in the same manner they have in the past. As new tenants take occupancy, the rents will increase to the new AMI limits. The current owners are paying a 4% PILOT and it expires in 2027. GCG is requesting to extend the PILOT 25 years (until 2046) and is willing to adjust the PILOT payments to include a municipal services fee. In addition, it also appears that a corner of one of the buildings encroaches onto City ROW. The applicant is seeking an encroachment easement that will help with any liability with the building location.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):

Recommended Motion: To approve the amended PILOT, including the Municipal Services Agreement. Also, to approve the encroachment easement.

Check if the following Departments need to approve the item first:

Police Dept. ☐

Fire Dept. ☐

IT Dept. ☐

For City Clerk Use Only:

Commission Action:

MUNICIPAL SERVICES AGREEMENT

THIS MUNICIPAL SERVICES AGREEMENT (“Agreement”) is entered into on this ____ day of January, 2019 between **GENCAP VILLAGE at JACKSON HILL LIMITED DIVIDEND HOUSING ASSOCIATION, LLC**, a Wisconsin limited liability company, with an office at 6938 N Santa Monica Blvd, Fox Point, WI 53217, and its successors and/or assigns (the “Developer”) and the **CITY OF MUSKEGON**, 933 Terrace Street, Muskegon, MI 49440 (the “City”) is made pursuant to the following terms:

RECITALS

A. Developer has acquired an option to purchase a site in the City of Muskegon known as 1021 Jefferson Street Apartments for the construction of a proposed low-income housing project (the “Project”).

B. The parties recognize that due to the high concentration of persons residing at the Project that the City will be providing a higher level and greater amount of Municipal Services (as defined in this Agreement) to the Project.

C. The City, through its Police and Fire Departments and otherwise, provides Municipal Services within the City. The Project will have special needs for these types of Municipal Services and Developer acknowledges that such needs may be greater than typically situated residential developments.

D. The Developer desires to guarantee that certain Municipal Services will be provided to the Project during the term that the Payment in Lieu of Tax (hereinafter referred to as the “Contract for Housing Exemption”) Ordinance for this Project is in place, such Municipal Services to include, but not be limited to:

1. Emergency services, including police and fire services specifically administered through the City, and, on public streets and sidewalks, maintenance, repair, snow removal, and street lighting; also to include other matters as the City deems necessary;
2. Other miscellaneous services as may, from time to time, be mutually agreed to for the benefit of the Project;
3. Said municipal services shall be provided in the customary way and in accordance with all laws, rules and regulations of the United States of America, State of Michigan, County of Muskegon and City of Muskegon or other applicable jurisdictions or bodies.

(All of the above collectively referred to as “Municipal Services”)

4. Nothing in this Agreement shall be deemed to waive any defense to claims based on sovereign or governmental immunity.

AGREEMENT

The parties agree as follows:

1. **Provision of Services.** The City will provide the Municipal Services.
2. **Payment.** The Developer shall pay a service charge on or before July 1, of each year during the time the CONTRACT FOR HOUSING EXEMPTION is in effect. (“Municipal Services Fee”). The Municipal Service Fee shall be two (2%) percent of gross rent potential annually starting during the calendar year that a unit in the Project is placed in service. The first year shall be pro-rated based on that portion of the City’s fiscal year (July 1 – June 30) that any unit is ready to be placed in service.
3. **Term.** Payment for Municipal Services shall commence during the calendar year the CONTRACT FOR HOUSING EXEMPTION Ordinance becomes effective and continue for as long as the CONTRACT FOR HOUSING EXEMPTION is in effect.
4. **Audit.** Developer shall submit, upon request, a copy of the annual audit of the Project prepared by independent CPA’s along with the payment of the service charge.
5. **Exclusive Benefit.** The obligations of the Developer hereunder are imposed solely and exclusively for the benefit of the City and no other person or entity shall have the standing to enforce such obligations or be deemed to be beneficiaries of such obligations.
6. **Remedies.** The Developer agrees that if it does not perform its obligations under this Agreement the City is entitled to pursue any and all remedies legal or equitable that it is entitled to under Michigan law. The Developer agrees to be liable for all costs of collection including reasonable attorney’s fees and costs incurred by the City in the enforcement of the terms of this Agreement.
7. **Assignment.** Upon the written consent of the City, the Developer may transfer or assign its rights and obligations under this Agreement to a buyer (“Transferee”) of the Project. The Transferee must agree to assume the Developer’s obligations under this Agreement and the Development Agreement which has been executed by the Developer with the City. Upon assignment and assumption of this Agreement by the Transferee (or an affiliate, as provided below), the Developer shall be relieved of any further liabilities or obligations accruing under this Agreement or the Development Agreement. Notwithstanding the foregoing, the Developer may assign this Agreement, without the written consent of the City, to an affiliate of Developer (provided that such affiliate agrees to assume the Developer’s obligations hereunder and provided that the Developer and assignee give prior notice of the assignment to the City with evidence that the assignee has agreed to assume the obligations of the Developer).

8. **Severability.** If any term or condition of this Agreement is found to be void, invalid, or unenforceable, the validity or enforceability of the remaining terms and conditions shall not be affected or impaired and will continue in full force and effect.

9. **Notices.** All notices under this Agreement must be in writing and sent to the respective parties as follows:

If to Developer:

GENCAP VILLAGE AT JACKSON HILL LIMITED DIVIDEND HOUSING
ASSOCIATION, LLC
Attn: Joshua Hafron
6938 N. Santa Monica Blvd.
Fox Point, WI 53217

with a copy to:

David Weiss
6938 N. Santa Monica Blvd.
Fox Point, WI 53217

If to the City:

City of Muskegon
Attn: City Manager
933 Terrace Street
Muskegon, MI 49440

Every notice must be in writing and sent by one of the following methods:

- a. Personal delivery, in which case delivery shall be deemed to occur the day of the delivery;
- b. Certified or registered mail, postage prepaid, return receipt requested, in which case delivery shall be deemed to occur the day it is officially recorded by the U.S. Postal Service that it has delivered it to the intended recipient; or
- c. Next day delivery by a recognized private delivery service such as Federal Express, providing proof of mailing and delivery comparable to certified or registered mail, return receipt requested, in which case delivery shall be deemed to occur upon delivery as recorded by the delivery service.

Either party may change the address provided in this paragraph for itself or its attorney by providing notice of such change to the other party as required in this paragraph.

10. **No Waiver.** No delay, omission, or failure of the City to act under this Agreement or to insist upon strict compliance with any term and condition of this Agreement, and no custom or practice of the parties at variance with the terms and conditions of this Agreement shall constitute a waiver of City's right to demand exact compliance with this Agreement. No waiver of any right or remedy of City shall be construed as a bar to or a waiver of any such right or remedy on any future occasion.

11. **Headings.** The headings in this Agreement have only been inserted for convenience and shall not affect the meaning or interpretation of this Agreement. No heading shall have any legal significance of any nature whatsoever.

12. **Binding Effect.** This Agreement shall be binding on the parties, their heirs, successors, and assigns.

13. **Amendments.** There shall be no modification or amendments to this Agreement, including this section, unless they are in writing and signed by all of the parties to this Agreement.

14. **Governing Law.** This Agreement has been executed in the State of Michigan, and shall be governed by Michigan law.

15. **Complete Agreement.** This Agreement contains the entire agreement between the parties and supersedes all prior oral or written representations, negotiations and agreement on the subject matter stated herein.

{Signatures on next page}

IN WITNESS WHEREOF, this Municipal Services Agreement is executed as of the day and year first written above.

City of Muskegon

Dated: January __, 2019

By: _____
Steve Gawron, Mayor

Dated: January __, 2019

By: _____
Ann Meisch, City Clerk

**GENCAP VILLAGE AT JACKSON HILL
LIMITED DIVIDEND HOUSING
ASSOCIATION, LLC, a Michigan limited
liability company**

Dated: January __, 2019

By: GenCap Village at Jackson Hill MM, LLC, a
Wisconsin limited liability company, its Sole
Member

By: General Capital Group, Inc, a Wisconsin
corporation, its Manager

By: _____
David Weiss, CEO

CITY OF MUSKEGON
2020-____
CONTRACT FOR HOUSING EXEMPTION

This First Amended and Restated Agreement between **GENCAP VILLAGE AT JACKSON HILL LIMITED DIVIDEND HOUSING ASSOCIATION, LLC**, a Michigan limited liability company (the “Developer”) and **CITY OF MUSKEGON**, 933 Terrace Street, Muskegon, Michigan (the “City”) is made pursuant to the following terms:

RECITALS

A. The City has adopted Chapter 82, Article II “Taxation” of the City Code of Ordinances, providing for tax exemption (the “Ordinance”); and provide for a service charge in lieu of taxes for a housing project for Low Income Persons and Families to be financed with a Federally-Aided Mortgage Loan or an advance or grant from the Authority pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, et. seq.)(the”Act”);

B. It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City is authorized by this Act to establish or charge the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for low income persons and families is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed with financing extended in reliance on such tax exemption;

The City acknowledges that the Sponsor (as defined below) has offered, subject to receipt of an allocation of Low Income Housing Tax Credits and/or receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to construct/acquire and rehabilitate, own and operate a housing project identified as the Village at Jackson Hill Apartments on certain property located at 557 McLaren in Muskegon (the “Project”) to serve Low Income Persons and Families, and that the Sponsor has offered to pay the City on account of this housing project an annual service charge for public services in lieu of all *ad valorem* property taxes;

C. Developer has acquired an option to purchase a site in the City of Muskegon 557 McLaren for the rehabilitation of a proposed low-income housing project for Low Income Persons and Families;

D. Developer and an affiliate of Developer, to be formed, have or will enter into an agreement to form a limited dividend housing association limited liability company to function as

owner of the proposed low-income housing Project. The owning entity to be formed will be identified as GenCap Village at Jackson Hill Limited Dividend Housing Association, LLC;

E. The City encourages rehabilitation and financing of the said low-income housing project which is identified by the working name of The Village at Jackson Hill;

F. To further enable and encourage the construction of the housing project, Developer and the City enter into this Agreement; and

G. The legal description of the Project is set forth in Exhibit A attached to this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS AND THE RECITALS ARE INCORPORATED HEREIN BY REFERENCE:

1. Definitions.

1.1 “Authority” means the Michigan State Housing Development Authority.

1.2 “Annual Shelter Rents” means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of Utilities.

1.3 “Contract Rents” means the total Contract Rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed upon annual period, exclusive of Utilities.

1.4 “Low Income Persons and Families” means persons and families eligible to move into a housing project.

1.5 “Low Income Housing Tax Credits” means credits allocated under Section 42 of the Internal Revenue code (“LIHTC”).

1.6 “Mortgage Loan” means a Federally-Aided Mortgage (as defined in Section 11(c) of the Act) or loan or grant made or to be made by the Authority to the Sponsor for the construction and/or permanent financing of the housing project, and secured by a mortgage on the housing project.

1.7 “Sponsor” means General Capital Development, LLC and any entity that receives or assumes a Mortgage Loan.

1.8 “Utilities” means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

2. Grant of Exemption. As contemplated and pursuant to Act 346 of the Public Acts of 1966, as amended, the State Housing Development Authority (the “Act”), the City hereby grants an exemption from all ad valorem property taxes attributable to the buildings which consist of rental units offered to eligible Low Income Persons and Families as defined by the Authority.

3. Term of Exemption. This exemption shall continue for the period of time the housing units remain subject to income and rent restrictions pursuant to Section 42 of Internal Revenue Service Codes of 1986, as amended (IRS Codes), or the Authority Regulatory Agreement not to exceed 25 years. The City agrees to be contractually bound by this Agreement to honor the exemption status of the proposed project as provided herein and in this Agreement for the entire period during which the Project is financed by the Authority or receives low income housing tax credits under Section 42 of the IRS Codes, provided that the said Mortgage Loan or a loan originally financed by the low income housing tax credits continues outstanding as more particularly set forth in Section 82-50(3) of the Ordinance, not to exceed 25 years.

4. Responsibilities of the Developer. The Developer agrees to perform the following:

4.1 The Developer shall pay the service charge and payment in lieu of all ad valorem taxes on or before July 1, of each year during the time the exemption is in effect. The service charge shall equal two percent (2%) of the rents charged for the total of all units in the exempt housing project, whether the units are occupied or not and whether or not the rents are paid.

4.2 The Developer agrees to file all information required by the Ordinance and further to meet its obligations to the Authority in connection with the Authority’s administration of the low income housing tax credit program.

4.3 In lieu of the requirement to submit a statement of annual shelter rents and/or contract rents within 30 days after December 31, as required by the Ordinance, Developer shall submit an annual audit by April 1st. If not timely filed, and 30 days after notice to Developer of said delinquency, a penalty of 1.25% of the service charge shall be imposed. This penalty shall be collectible in the same manner provided in Section 82-54 of the Ordinance.

5. Interpretation of Financing. The City agrees that the use of low income housing tax credits constitutes financing of the loan by the Authority in fulfillment of the requirements of Section 82-50(3) of the Ordinance.

6. Contractual Effect of Ordinance. Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance

7. Payment of Service Charge. The annual service charge in lieu of taxes as determined under this Ordinance shall be payable in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the

same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before April 1st of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq*).

8. Limitation on the Payment of Annual Service Charge. Notwithstanding Section 3, the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt but which is occupied by other than Low Income Persons or Families shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

9. Counterparts. This Agreement may be executed in several counterparts and an executed copy hereof may be relied upon as an original.

10. Binding and Benefit. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, personal representatives, successors and assigns.

11. Effective Date. The effective date of this Agreement is the date that Developer or its assignee completes the rehabilitation and receives a temporary or permanent certificate of occupancy from the City for the Property.

12. Severability. The various sections and provisions of this Agreement shall be deemed to be severable, and should any section or provision of this Agreement be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Agreement as a whole or any section or provision of this Agreement, other than the section or provision so declared to be unconstitutional or invalid.

13. Inconsistent Ordinances. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Agreement are of no effect to the extent of such inconsistency or conflict.

14. Choice of Law; Venue. This Agreement is executed in accordance with, shall be governed by, and construed and interpreted in accordance with the laws of the State of Michigan. The parties agree that for purposes of any dispute in connection with this Agreement, the Muskegon County Circuit Court shall have exclusive personal and subject matter jurisdiction and venue.

IN WITNESS WHEREOF, the parties have signed this Agreement on the following page, on the dates indicated.

City of Muskegon

Dated: _____, 2020

By: _____
Stephen J. Gawron, Mayor

Dated: _____, 2020

By: _____
Ann Meisch, Clerk

**GENCAP VILLAGE AT
JACKSON HILL LIMITED
DIVIDEND HOUSING
ASSOCIATION, LLC**

By: GenCap Village at Jackson Hill
MM, LLC, a Wisconsin limited
liability company, its Sole Member

Dated: _____, 2020

By: General Capital Management,
Inc, a Wisconsin corporation, its
Manager

By: _____
David Weiss, CEO

ENCROACHMENT EASEMENT

THIS ENCROACHMENT EASEMENT (the "Agreement") is entered into this _____ day of _____, 2020, by and between GenCap Village at Jackson Hill Limited Dividend Housing Association, LLC, a Michigan limited liability company ("Owner") and the City of Muskegon ("City").

RECITALS

A. Owner is the owner of certain real property in the City of Muskegon, Michigan more particularly described on Exhibit A attached hereto and made a part hereof (the "Property").

B. A portion of an existing building (the "Building") on the Property encroaches on the public right of way (the "Right of Way") as depicted in the attached Exhibit B. The encroachment is located over the northern boundary of that portion of the Property south of Sumner Avenue consisting of vacated McLaren Street.

C. The City desires to grant Owner an easement to allow the Building to encroach on the Right of Way.

D. Owner and City desire to set forth their respective rights and obligations regarding the easement pursuant to the terms of this Agreement.

AGREEMENTS

In consideration of the Recitals and mutual agreements which follow, Owner and City agree as follows:

1. Grant of Easement. Pursuant to the terms and conditions contained in this Agreement, City hereby grants to Owner an encroachment easement (the "Encroachment Easement") for the benefit of the Property to permit the encroachment of the Building into the Right of Way. The Encroachment Easement shall be located upon that portion of the Right of Way that the Building currently encroaches on, as shown on Exhibit B (the "Easement Parcel"). The Encroachment Easement shall remain in effect so long as the Building stands.

2. Maintenance. Owner shall be solely responsible for the repair and maintenance of the Building.

3. Default. In the event that either party shall default in the performance of any of its obligations under the terms of this Agreement, the non-defaulting party shall forward written notice to the defaulting party outlining such default. The defaulting party shall cure such default within thirty (30) days after the giving of such notice, except that the cure period shall be extended for a reasonable time to cure any default that cannot reasonably be cured within the 30-day period, provided the defaulting party has commenced to cure within the 30-day period and diligently pursues a cure at all times thereafter until the default is cured. If the defaulting party shall fail or refuse to cure such default within the applicable cure period, the non-defaulting party may attempt to cure the default and shall be reimbursed by the defaulting party for all reasonable, actual costs incurred in so doing, and the non-defaulting party can take any action allowed by law or equity to enforce its rights, including, without limitation, obtaining injunctive relief, which the parties recognize is an appropriate remedy since monetary damages may not be sufficient. However, in no case shall any party have the unilateral right to terminate, cancel or otherwise render null and void any portion of this Agreement. The defaulting party agrees to pay all reasonable, actual attorneys fees and costs incurred by the non-defaulting party upon default by the defaulting party, regardless of whether litigation is actually commenced.

4. Indemnification. Owner, agrees to indemnify and defend the City and its officers, agents, and employees from all liability, suits, actions, claims, costs, damages, and expenses of every kind and description, including court costs and legal fees, for claims of any character, including liability and expenses in connection with the loss of life, personal injury, or damage to property, brought because of any injuries or damages received or sustained by any person, persons, or property on account of or arising out of the use of the Easement Parcel by the Owner or its agents, contractors, subcontractors, invitees, or employees.

5. Benefits and Burdens. The easements granted hereunder shall run with the land and shall be appurtenant to, benefit and be binding upon the owners of the Property and the Right of Way.

6. Severability. Invalidation of any one of the terms hereof by judgment or court order shall in no way affect any other provisions, which other provisions shall remain in full force and effect.

7. Governing Law. This agreement shall be construed and enforced in accordance with the internal laws of the State of Michigan.

[signatures on the following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

GENCAP VILLAGE AT JACKSON HILL LIMITED
DIVIDEND HOUSING ASSOCIATION, LLC

BY _____
ITS _____

STATE OF WISCONSIN)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by _____, the _____ of GenCap Village at Jackson Hill Limited Dividend Housing Association, LLC, A Michigan limited liability company, on behalf of said limited liability company.

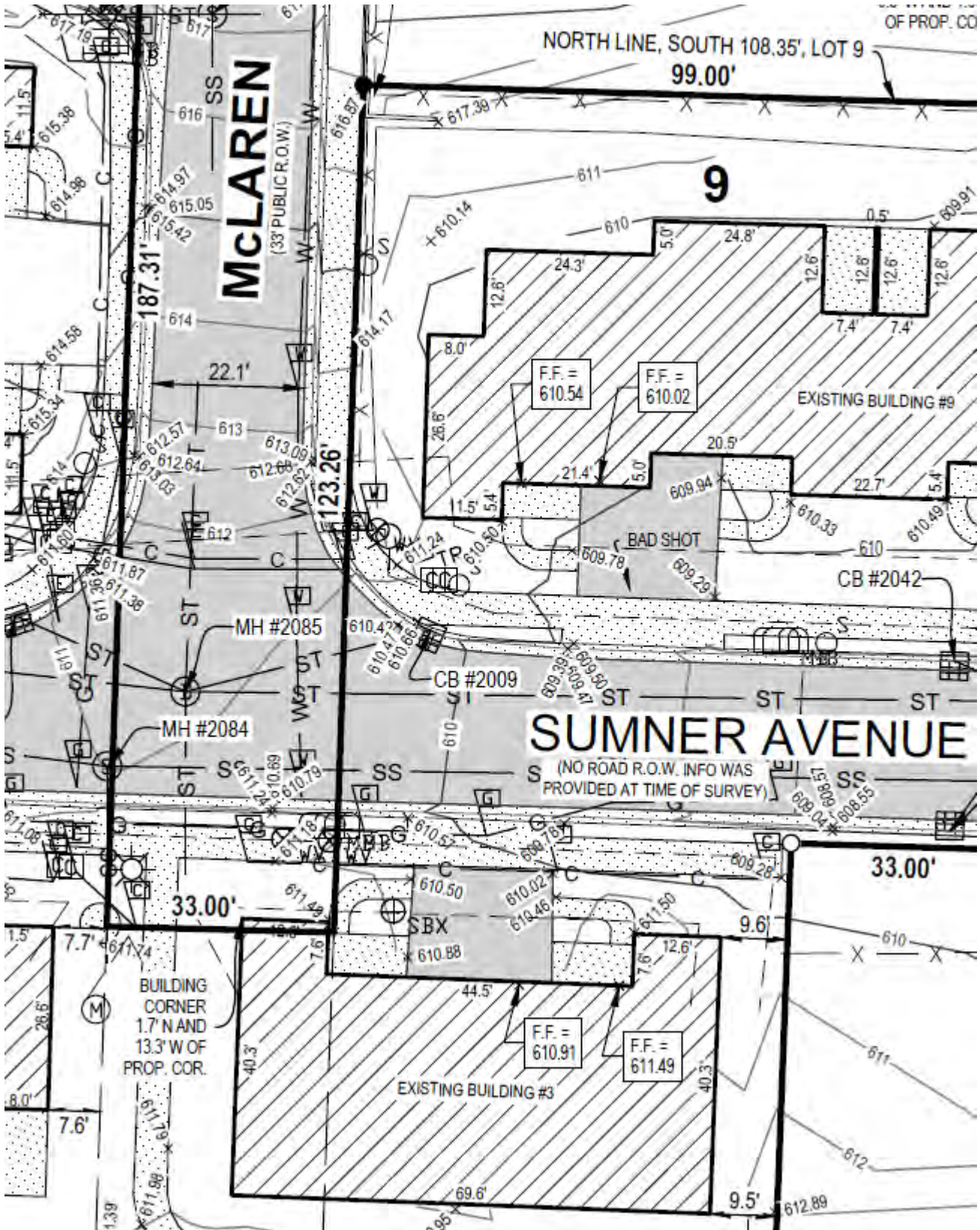
Name: _____
Notary Public, State of _____
My Commission: _____

EXHIBIT A

Legal Description of the Property

Land in the City of Muskegon, Muskegon County, MI, described as follows:

The South 44 feet of Lot 7, all of Lots 8 and 9 and that part of Lot 10 lying West of McLaren Street, all in Block 20; also Lot 2 except the Northerly 66 feet and Lot 3 of Block 21; also the South 108.35 feet of Lot 9, Block 19; also Lot 12 except the North 99 feet of the East 132 feet of the said Lot 12, Block 19; also that part of Lot 10, Block 20, lying East of McLaren Street, including that portion of vacated McLaren Street adjacent to Lot 10, Block 20, all in the Revised Plat of 1903 of the City of Muskegon, according to the plat thereof as recorded in Liber 3 of Plats, 71, Muskegon County Records.

EXHIBIT B



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 1/12/2021	Title: Paid Parking Policy
Submitted By: LeighAnn Mikesell	Department: Development Services
Brief Summary: Staff are seeking approval of a policy to formalize paid parking within the city.	
Detailed Summary: At the request of the City Manager, the Parking Committee has developed a Paid Parking Policy based on a review of the implementation, operation, and enforcement of the first summer of paid parking at our beaches. This policy addresses paid parking at the city owned beaches and launches and standardizes practices for selling and distributing passes, communicating with the public, and enforcement. The committee includes representatives from Public Safety, Public Works, Finance, and Development Services.	
Amount Requested: None	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: To approve the Paid Parking Policy.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	



PAID PARKING POLICY

JANUARY 2021

OVERVIEW:

The City of Muskegon instituted paid parking at all beaches in the summer of 2020 with the goal to offset intense maintenance costs at these extremely popular parks. Among the parks, maintenance includes beach and sand grading, pavement repair, trash clean up and removal, public restroom facilities, playgrounds, boardwalk repair, patrol, equipment costs, snow removal, and administration. Due to the popularity of the beaches, a large percentage of the overall Parks Department budget was spent on just five of the city's 34 parks. Over the years, other city parks have suffered because funding was inadequate to cover the maintenance, operational, and capital needs.

The kiosks used to collect payment at the beaches were also installed at the city's boat launches to provide a more convenient and accurate process for collecting fees. While the boating season is typically April through November, and the enforcement of payment at the city's launches matches that season, several launch sites and Harbour Towne beach are used heavily by ice fishers.

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

- increasing revenue for parks and launches,
- providing for improved amenities at parks and launches citywide,
- encouraging healthy outdoor activities,
- enhancing the city's image
- enhancing our ability to attract visitors, residents and businesses to our community

BEACH PARKING PASSES AND LAUNCH PERMITS:

General

All resident and seasonal beach parking passes and seasonal launch permits will be stickers which must be affixed to the vehicle's windshield.

Beach parking passes can be purchased in person at Treasury, Police Records, and Public Works or by calling Treasury.

Launch permits can be purchased in person at Treasury and Public Works or by calling Public Works.

Kiosk receipts can be traded for stickers at Treasury, Police Records, Public Works and participating vendors.

Residents

If requested between February 1 and April 30, two beach parking passes will be allowed per address.

Requests received after April 30 will result in one beach parking pass per address.

Residency is proven by property tax database.

Non-residents

Daily and seasonal rates will be set in the fee schedule.

Discounted seasonal beach parking passes will be offered to neighboring communities who agree to purchase a minimum of 100 passes and share the cost of the discount.

Muskegon will discount the beach parking pass price by 12.5% if the neighboring community further reduces the cost to their residents by another 12.5% resulting in a 25% discount for the neighbor.

ENFORCEMENT:

The city's goal is to reach compliance with the policy and ordinance. To that end, the following steps will be taken.

Beaches (except for Harbour Towne Beach)

- Kiosks will operate 24 hours per day.
- Paid parking will be enforced from 9:00 am to 9:00 pm.
- Signage will indicate payment is required only between the hours of 9:00 am and 9:00 pm and will indicate the daily and seasonal rates.
- Enforcement dates are May 15 to September 15.

Launches

- Kiosks will operate 24 hours per day.
- Paid parking will be enforced 24 hours per day.
- Signage will indicate the daily and seasonal rates.
- Enforcement dates are 365 days per year.
- Launch permits are valid until April 30 of the year following the calendar year on the permit.
- Launch permits are needed for any vehicle **launching a watercraft** and serve as parking passes for any vehicle at a launch.
- Beach parking permits can be used between December 15 and April 30 for **parking only**.
- Seasonal beach parking passes are valid until April 30 of the year following the calendar year on the pass.

Harbour Towne Beach

- Kiosks will operate 24 hours per day.
- Paid parking will be enforced from 9:00 am to 9:00 pm.
- Signage will indicate payment is required only between the hours of 9:00 am and 9:00 pm and will indicate the daily and seasonal rates.
- Enforcement dates are 365 days per year.
- Seasonal beach parking passes are valid until April 30 of the year following the calendar year on the pass.
- **Launch permits can be used for vehicles parking between December 15 and April 30.**

COMMUNICATION:

To ensure the public understands this policy, city staff will undertake the following communication measures.

- Develop a flyer for posting at local establishments
- Post on social media pages multiple times prior to and throughout the summer season
- Include flyers in water bills for resident communication
- Develop press release for Mlive
- Request story on WZZM
- Add signage at entrances to beaches and launches
- Include instructions with stickers
- Post messages on NIXLE
- Provide educational warnings to violators at the start of each beach and boating season

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 1/12/2021	Title: Changes to the Fee Schedule for Paid Parking at Beaches
Submitted By: LeighAnn Mikesell	Department: Development Services
Brief Summary: Staff are seeking approval of a change to the fees for parking at city beaches.	
Detailed Summary: Daily rate Monday through Thursday - \$7 Daily rate Friday through Sunday - \$10	
Amount Requested: None	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: To approve the daily rates for paid parking at city owned beaches.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Sale – 352 Mason Ave
Submitted By: Frank Peterson	Department: City Manager
Brief Summary: City staff is seeking authorization to sell the city-owned home at 352 Mason to Ian McDowell.	
Detailed Summary: The city constructed this house as part of the phase two of our infill housing program. Our contract to construct the home was \$197,464. We also anticipated \$11,844 in sales commissions. The accepted purchase price is \$189,900, and the incurred sales commissions are \$11,394. The City will not contribute funds toward closing costs.	
Amount Requested: None at this time	Amount Budgeted: \$0
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: Authorize the City Manager to complete the sale of 352 Mason Ave, as described in the purchase agreement.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

WEST MICHIGAN REGIONAL PURCHASE AGREEMENT

DATE: 01/08/2021 11:30am (time) MLS # 20048082
 SELLING OFFICE: ART Realty BROKER LIC.# 6505353749 REALTOR® PHONE: 616-294-2354
 LISTING OFFICE: West Urban Realty LLC REALTOR® PHONE: 616-874-7085

1. **Effective Date:** This Agreement is effective on the date of Seller's acceptance of Buyer's offer or Buyer's acceptance of any counteroffer, as the case may be, and this date shall hereafter be referred to as the "Effective Date". Further, any reference to "days" in this Agreement refers to calendar days. The first calendar day begins at 12:01 a.m. on the day after the Effective Date. Any reference to "time" refers to local time.

2. **Agency Disclosure:** The Undersigned Buyer and Seller each acknowledge that they have read and signed the Disclosure Regarding Real Estate Agency Relationships. The selling licensee is acting as (check one):

☐ Agent/Subagent of Seller ☒ Buyer's Agent ☐ Dual Agent (with written, informed consent of both Buyer and Seller)
☐ Transaction Coordinator

Primary Selling Agent Name: Lisa Wiersma Email: lisa@artrealty.com Lic.#: 6506047678

Alternate Selling Agent Name: Ryan Dawson Email: ryan@artrealty.com Lic.#: _____

3. **Seller's Disclosure Statement:** (This paragraph applies to sales of one-to-four family residential units.)

☒ Buyer has received the Seller's Disclosure Statement, dated 11/13/2020. Seller certifies to Buyer that the Property is currently in the same condition as Seller previously disclosed in that statement. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement.

☐ Buyer has not received the Seller's Disclosure Statement. Buyer may terminate this Agreement, in writing, any time prior to receipt of the Seller's Disclosure Statement. Once Buyer has received the Seller's Disclosure Statement, Buyer may terminate this Agreement, in writing, within 72 hours of receipt if the disclosure was received in person, or within 120 hours if received by registered mail. Exceptions: _____

☐ Seller is exempt from the requirements of the Seller Disclosure Act.

4. **Lead-Based Paint Addendum:** Transactions involving homes built prior to 1978 require a written disclosure which is hereby attached and will be an integral part of this Agreement.

5. **Property Description:** Buyer offers to buy the property located in the ☒ City ☐ Village ☐ Township of Muskegon,

County of Muskegon, Michigan, commonly known as (insert mailing address: street/city/state/zip code)

352 Mason Avenue

Muskegon

49441

with the following legal description and tax parcel ID numbers:

24 SUBD:CITY OF MUSKEGON REVISED PLAT (OF 1903) SEC/TWN/RNG/MER:SEC 05 TWN 9N RNG 17W CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 8 BLK 389

PP# 61-24-205-389-0008-00

The following paragraph applies only if the Premises include unplatted land:

Seller agrees to grant Buyer at closing the right to make (insert number) _____ division(s) under Section 108(2), (3), and (4) of the Michigan Land Division Act. (If no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or REALTOR® do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval on or before _____, of the proposed division to create the Premises.

6. **Purchase Price:** Buyer offers to buy the Property for the sum of \$ 189900
one hundred eighty-nine thousand nine hundred U.S. Dollars

7. **Seller Concessions**, if any: NONE

8. **Terms:** The Terms of Purchase will be as indicated by "X" below: (Other unmarked terms of purchase do not apply.)

SOURCE OF FUNDS TO CLOSE: Buyer represents that the funds necessary to close this transaction on the terms specified below are currently available to Buyer in cash or an equally liquid equivalent.

If the Property's value stated in an appraisal obtained by Buyer or Buyer's lender is less than the Purchase Price, Buyer shall within three (3) days after receipt of the appraisal: 1) renegotiate with the Seller, 2) terminate the transaction, in which case Buyer shall receive a refund of Buyer's Earnest Money Deposit, or 3) proceed to close the transaction at the agreed Purchase Price.

☐ **CASH.** The full Purchase Price upon execution and delivery of Warranty Deed. Buyer Agrees to provide Buyer Agent/Dual Agent verification of funds within five (5) days after the Effective Date, and consents to the disclosure of such information to Seller and/or Seller's Agent. If verification of funds is not received within 5 days after the Effective Date, Seller may terminate this Agreement at any time before verification of funds is received by giving written notice to Buyer. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement.

☒ **NEW MORTGAGE.** The full Purchase Price upon execution and delivery of Warranty Deed, contingent upon Buyer's ability to obtain a Conventional type 30 (year) mortgage in the amount of 90 % of the Purchase Price bearing interest at a rate not to exceed best % per annum (rate at time of loan application), on or before the date the sale is to be closed. Buyer agrees to apply for a mortgage loan, and pay all fees and costs customarily charged by Buyer's lender to process the application, within 5 days after the Effective Date, not to impair Buyers' credit after the date such loan is offered. ☐ Seller ☒ Buyer will agree to pay an amount not to exceed \$ 0.00 representing repairs required as a condition of financing. Buyer ☒ agrees ☐ does not agree to authorize Buyer's Agent/Dual Agent to obtain information from

Buyer's lender regarding Buyer's financing, and consents to the disclosure of this information to Seller and/or Seller's Agent.
 Exceptions:

☐ SELLER FINANCING (check one of the following): ☐ CONTRACT or ☐ PURCHASE MONEY MORTGAGE

In the case of Seller financing, Buyer agrees to provide Seller with a credit report within 72 hours after the Effective Date. If the credit report is unacceptable to Seller, Seller shall have the right to terminate this offer within 48 hours of Seller's receipt, or if Buyer fails to provide said credit report to Seller within the time frame allotted, Seller shall have the right to terminate this offer within 48 hours. Seller is advised to seek professional advice regarding the credit report.

\$_____ upon execution and delivery of a _____ form (name or type of form and revision date), a copy of which is attached, wherein the balance of \$_____ will be payable in monthly installments of \$_____ or more including interest at _____ % per annum, interest to start on date of closing, and first payment to become due thirty (30) days after date of closing. The entire unpaid balance will become due and payable _____ months after closing. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ EQUITY (check one of the following): ☐ Formal Assumption or ☐ Informal Assumption
 Upon execution and delivery of: ☐ Warranty Deed subject to existing mortgage OR ☐ Assignment of Vendee Interest in Land Contract, Buyer to pay the difference (approximately \$_____) between the Purchase Price above provided and the unpaid balance (approximately \$_____) upon said mortgage or land contract, which Buyer agrees to assume and pay. Buyer agrees to reimburse Seller for accumulated funds held in escrow, if any, for payment of future taxes and insurance premiums, etc. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement. Exceptions:

☐ OTHER:

9. **Contingencies:** Buyer's obligation to consummate this transaction (check one):

☒ **IS NOT CONTINGENT** - is not contingent upon the sale or exchange of any other property by Buyer.

☐ **IS CONTINGENT UPON CLOSING** - is contingent upon closing of an existing sale or exchange of Buyer's property located at:

A copy of Buyer's agreement to sell or exchange that property is being delivered to Seller along with this offer. If the existing sale or exchange terminates for any reason, Buyer will immediately notify Seller, and either party may terminate this Agreement in writing, within 3 days of Buyer's notice to Seller. If either party terminates, Buyer shall receive a refund of any applicable Earnest Money Deposit.

☐ **IS CONTINGENT UPON THE SALE AND CLOSING** - is contingent upon the execution of a binding agreement and the closing of a sale or exchange of Buyer's property located at _____ on or before _____. Seller will have the right to continue to market Seller's Property until Buyer enters into a binding agreement to sell or exchange Buyer's property and delivers a copy thereof to Seller. During such marketing period, Seller may enter into a binding contract for sale to another purchaser on such price and terms as the Seller deems appropriate. In such event, this Agreement will automatically terminate, Buyer will be notified promptly, and Buyer's Earnest Money Deposit will be refunded. Exceptions:

10. **Fixtures & Improvements:** The following is not intended to be an all-inclusive list of items included with the Property. All improvements and appurtenances are included in the Purchase Price, if now in or on the Property, unless rented, including the following: all buildings; landscaping; attached smart home devices; attached security systems; lighting fixtures and their shades and bulbs; ceiling fans; hardware for draperies and curtains; window shades and blinds; built-in kitchen appliances, including garbage disposal and drop-in ranges; wall to wall carpeting, if attached; all attached mirrors; all attached TV mounting brackets; all attached shelving; attached work benches; stationary laundry tubs; water softener; water heater; incinerator; sump pump; water pump and pressure tank; heating and air conditioning equipment (window units excluded); attached humidifiers; heating units, including add-on heating stoves and heating stoves connected by flue pipe; fireplace screens, inserts, and grates; fireplace doors, if attached; liquid heating and cooking fuel tanks; TV antenna and complete rotor equipment; satellite dish and necessary accessories and complete rotor equipment; all support equipment for inground pools; screens and storm windows and doors; awnings; installed basketball backboard, pole and goal; mailbox; flagpole(s); fencing, invisible inground fencing and all related equipment, including collars; detached storage buildings; underground sprinkling, including the pump; installed outdoor grills; all plantings and bulbs; garage door opener and control(s); and any and all items and fixtures permanently affixed to the Property; **and also includes:**

Dishwasher; Garbage Disposal; Microwave; Oven; Range; Refrigerator

but does not include:

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11. **Heating and Cooking Fuels:** Liquid heating and cooking fuels in tanks are included in the sale and will transfer to Buyer at time of possession unless usage is metered (in which case it is not included in the sale). Sellers are responsible for maintaining heating and cooking liquid fuels at an operational level and shall not permit fuels to fall below 10% in the tank(s) at the time of possession, except that the tank(s) may be empty only if now empty. Further, Seller is precluded from removing fuel from tank(s) other than what is expended through normal use. Exceptions:

12. **Assessments (choose one):**

If the Property is subject to any assessments,

- ☒ Seller shall pay the entire balance of any such assessments that are due and payable on or before the day of closing (regardless of any installment arrangements), except for any fees that are required to connect to public utilities.
- ☐ Seller shall pay all installments of such assessments that become due and payable on or before day of closing. Buyer shall assume and pay all other installments of such assessments.

13. **Property Taxes:** Seller will be responsible for any taxes billed prior to those addressed below. Buyer will be responsible for all taxes billed after those addressed below.

Buyer is also advised that the state equalized value of the Property, principal residence exemption information and other real property tax information is available from the appropriate local assessor's office. Buyer should not assume that Buyer's future tax bills on the Property will be the same as Seller's present tax bills. Under Michigan law, real property tax obligations can change significantly when property is transferred.

☐ No proration. (Choose one):

- ☐ Buyer ☐ Seller will pay taxes billed summer _____ (year);
- ☐ Buyer ☐ Seller will pay taxes billed winter _____ (year);

☐ Calendar Year Proration (all taxes billed or to be billed in the year of the closing). Calendar year tax levies will be estimated, if necessary, using the taxable value and the millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying for January 1 through the day before closing.

☐ Fiscal Year Proration - Taxes will be prorated as though they are paid in (choose one): ☐ advance. ☐ arrears.

Fiscal Year will be assumed to cover a 12-month period from date billed, and taxes will be prorated to the date of closing. Fiscal year tax levies will be estimated, if necessary, using the taxable value and millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying through the day before closing. Exceptions:

City of Muskegon program- \$0 property tax for entire year of 2021

14. **Well/Septic:** Within ten (10) days after the Effective Date, Seller will arrange for, at Seller's expense, an inspection of the primary well used for human consumption (including a water quality test for coliform bacteria and nitrates) and septic systems in use on the Property. The inspection will be performed by a qualified inspector in a manner that meets county (or other local governmental authority, if applicable) protocol. Seller will also follow any governmental rules regarding pumping of tanks.

Where no county or government protocol is in place, Seller will arrange for, at Seller's expense, well and septic inspections (as referenced above) by a qualified inspector and Seller will have the septic tank(s) pumped at Seller's expense.

If any report discloses a condition unsatisfactory to Buyer, or doesn't meet county standards that are a condition of sale, Buyer may, within three (3) days after Buyer has received the report, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the well/septic as-is. Seller will respond in writing within three (3) days to Buyer's request. If Seller fails to respond or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer will have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate the contract, Buyer will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

15. **Inspections & Investigations:**

Inspections: Buyer, or someone selected by Buyer, has the right to inspect the buildings, premises, components and systems, at Buyer's expense. Any damage, misuse, abuse, or neglect of any portion of the Property or premises as a result of inspections will be Buyer's responsibility and expense. **In the event of VA financing, Seller will pay for the inspection for termites and other wood destroying insects.**

Investigations: It is Buyer's responsibility to investigate (i) whether the Property complies with applicable codes and local ordinances and whether the Property is zoned for Buyer's intended use; (ii) whether Buyer can obtain a homeowner's insurance policy for the Property at price and terms acceptable to Buyer; (iii) and whether or not the Property is in a flood zone.

All inspections and investigations will be completed within ten (10) days after the Effective Date. If the results of Buyer's inspections and investigations are not acceptable to Buyer, Buyer may, within the above referenced period, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be

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deemed to have accepted the Property as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Inspections & Investigations and will proceed to closing according to the terms and conditions of this Agreement.

☐ Buyer has waived all rights under this Inspections & Investigations paragraph.

16. **Municipal Compliances:** Seller will arrange and pay for current certificates of occupancy, sidewalk compliance, and smoke detector ordinances, if applicable.

17. **Title Insurance:** Seller agrees to convey marketable title to the Property subject to conditions, limitations, reservation of oil, gas and other mineral rights, existing zoning ordinances, and building and use restrictions and easements of record. An **expanded coverage** ALTA Homeowner's Policy of Title Insurance in the amount of the Purchase Price shall be ordered by Seller and furnished to Buyer at Seller's expense, and a commitment to issue a policy insuring marketable title vested in Buyer, including a real estate tax status report, will be made available to Buyer within **ten (10) days** after the Effective Date. If Buyer so chooses, or if an expanded policy is not applicable, then a **standard** ALTA Owners' Policy of Title Insurance shall be provided.

If Buyer objects to any conditions, Buyer may, within three (3) days of receipt of the Title Commitment, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the Title Commitment as-is. Seller may negotiate with Buyer, or by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and shall receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Title Commitment as-is and will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

18. **Property Survey:** Broker advises that Buyer should have a survey performed to satisfy Buyer as to the boundaries of the Property and the location of improvements thereon.

☐ Buyer or ☐ Seller (check one) shall within ten (10) days of the Effective Date, order, at their expense, a boundary survey certified to Buyer with iron corner stakes showing the location of the boundaries, improvements and easements in connection with the Property. Upon receipt of the survey, Buyer will have three (3) days to review the survey. If the survey shows any condition, in Buyer's sole discretion, which would interfere with Buyer's intended use of the Property, the marketability of the title, or zoning non-compliance, then Buyer may, within said three (3) day period, terminate this Agreement, in writing, and Buyer will receive a full refund of Buyer's Earnest Money Deposit.

☒ No survey. Buyer has waived all rights under this paragraph.

When closing occurs, Buyer shall be deemed to have accepted the boundaries of the Property and the location of such improvements thereon. Exceptions:

19. **Home Protection Plan:** Buyer and Seller have been informed that home protection plans may be available. Such plans may provide additional protection and benefit to the parties. Exceptions:

20. **Prorations:** Rent; association dues/fees, if any; insurance, if assigned; interest on any existing land contract, mortgage or lien assumed by Buyer; will all be adjusted to the date of closing.

21. **Closing:** If agreeable to Buyer and Seller, the sale will be closed as soon as closing documents are ready, but not later than 02/12/2021. An additional period of fifteen (15) days will be allowed for closing to accommodate the correction of title defects or survey problems which can be readily corrected, or for delays in obtaining any lender required inspections/repairs. During this additional period, the closing will be held within 5 days after all parties have been notified that all necessary documents have been prepared. Buyer and Seller will each pay their title company closing fee, if applicable, except in the case of VA financing where Seller will pay the entire closing fee. Exceptions:

22. **Possession:** Seller will maintain the Property in its present condition until the completion of the closing of the sale. Possession to be delivered to Buyer, subject to rights of present tenants, if any.

☒ At the completion of the closing of the sale.

☐ At ☐ a.m. ☐ p.m. on the day **after** completion of the closing of the sale, during which time Seller will have the privilege to occupy the Property and hereby agrees to pay Buyer \$ as an occupancy fee for this period payable at closing, WITHOUT PRORATION. Payment shall be made in the form of cash or certified funds.

If Seller fails to deliver possession to Buyer on the agreed date, Seller shall become a tenant at sufferance and shall pay to Buyer as liquidated damages \$ per day plus all of the Buyer's actual reasonable attorney's fees incurred in removing the Seller from the Property.

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If Seller occupies the Property after closing, Seller will pay all utilities during such occupancy. Buyer will maintain the structure and mechanical systems at the Property. However, any repairs or replacements necessitated by Seller's misuse, abuse, or neglect of any portion of the Property will be Seller's responsibility and expense.

On the agreed delivery date, Seller shall deliver the Property free of trash and debris and in broom-clean condition, shall remove all personal property (unless otherwise stated in this or an additional written agreement), shall make arrangements for final payment on all utilities, and shall deliver all keys to Buyer. Exceptions:

23. **Earnest Money Deposit:** For valuable consideration, Buyer gives Seller until 01/08/2021 (date), to deliver the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding Agreement between Buyer and Seller. An Earnest Money Deposit in the amount of \$ 1000.00 shall be submitted to Transnation Title (insert name of broker, title company, other) within 72 hours of the Effective Date of this Agreement, and shall be applied against the Purchase Price. If the Earnest Money Deposit is not received within 72 hours of the Effective Date or is returned for insufficient funds, Seller may terminate this Agreement until such time as the Earnest Money Deposit is received. If Seller terminates this Agreement under this provision, Seller waives any claim to the Earnest Money Deposit. If the sale is not closed due to a failure to satisfy a contingency for a reason other than the fault of Buyer, the Earnest Money Deposit shall be refunded to Buyer. If the sale is not closed as provided in this Agreement and Buyer and Seller do not agree to the disposition of the Earnest Money Deposit, then Buyer and Seller agree that the Broker holding the Earnest Money Deposit may notify Buyer and Seller, in writing, of Broker's intended disposition of the Earnest Money Deposit. If Buyer and Seller do not object to such disposition in writing within fifteen (15) days after the date of Broker's notice, they will be deemed to have agreed to Broker's proposed disposition; if either Buyer or Seller object and no mutually agreeable disposition can be negotiated, Broker may deposit the funds by interpleader with a court of proper jurisdiction or await further actions by Buyer and Seller. In the event of litigation involving the deposit, in whole or in part, either the Seller or the Buyer that is not the prevailing party, as determined by the court, will reimburse the other for reasonable attorneys' fees and expenses incurred in connection with the litigation, and will reimburse the Broker for any reasonable attorneys' fees and expenses incurred in connection with any interpleader action instituted. If the entity holding the Earnest Money Deposit is not the Broker, then to the extent that the terms of any escrow agreement conflict with this paragraph, then the terms and conditions of the escrow agreement shall control.
24. **Professional Advice:** Broker hereby advises Buyer and Seller to seek legal, tax, environmental and other appropriate professional advice relating to this transaction. Broker does not make any representations or warranties with respect to the advisability of, or the legal effect of this transaction. Buyer further acknowledges that REALTOR® above named in the Agreement hereby recommends to Buyer that an attorney be retained by Buyer to pass upon the marketability of the title and to ascertain that the required details of the sale are adhered to before the transaction is consummated. Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether intentionally or negligently) regarding any aspect of the Property or this sale transaction, except as may be expressly set forth in this Agreement, a written amendment to this Agreement, or a disclosure statement separately signed by Seller.
25. **Disclosure of Information:** Buyer and Seller acknowledge and agree that the Purchase Price, terms, and other details with respect to this transaction (when closed) are not confidential, will be disclosed to REALTORS® who participate in the applicable Multiple Listing Service, and may otherwise be used and/or published by that Multiple Listing Service in the ordinary course of its business.
26. **Other Provisions:**
27. **Mergers and Integrations:** This Agreement is the final expression of the complete agreement of Buyer and Seller, and there are no oral agreements existing between Buyer and Seller relating to this transaction. This Agreement may be amended only in writing signed by Buyer and Seller and attached to this Agreement.
28. **Fax/Electronic Distribution and Electronic Signatures:** Buyer and Seller agree that any signed copy of this Agreement, and any amendments or addendums related to this transaction, transmitted by facsimile or other electronic means shall be competent evidence of its contents to the same effect as an original signed copy. Buyer and Seller further agree that an electronic signature is the legal equivalent of a manual or handwritten signature, and consent to use of electronic signatures. Buyer and Seller agree that any notice(s) required or permitted under this Agreement may also be transmitted by facsimile or other electronic means.
29. **Wire Fraud:** Seller and Buyer are advised that wire fraud is an increasingly common problem. If you receive any electronic communication directing you to transfer funds or provide nonpublic personal information (such as social security numbers, drivers' license numbers, wire instructions, bank account numbers, etc.), **even if that electronic communication appears to be from the Broker, Title Company, or Lender, DO NOT** reply until you have verified the authenticity of the email by direct communication with Broker, Title Company, or Lender. **DO NOT** use telephone numbers provided in the email. Such requests may be part of a scheme to steal funds or use your identity.

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30. Buyer's Approval and Acknowledgment: Buyer approves the terms of this offer and acknowledges receipt of a copy of this offer.

Buyer 1 Address_____	X	dotloop verified 01/08/21 10:00 AM HST <i>Ian McDowell</i>	Buyer
Buyer 1 Phone: (Res.)_____ (Bus.)_____		Ian McDowell	Print name as you want it to appear on documents.
Buyer 2 Address_____	X		Buyer
Buyer 2 Phone: (Res.)_____ (Bus.)_____			Print name as you want it to appear on documents.

31. Seller's Response: The above offer is approved: ☐ As written. ☐ As written except:
Accepted as written

Counteroffer, if any, expires_____, at_____ (time). Seller has the right to withdraw this counter offer and to accept other offers until Seller or Seller's Agent has received notice of Buyer's acceptance.

32. Certification of Previous Disclosure Statement: Seller certifies to Buyer that the Property is currently in the same condition as disclosed in the Seller's Disclosure Statement dated_____(check one): ☐ Yes ☐ No. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement prior to closing.

33. Notice to Seller: Seller understands that consummation of the sale or transfer of the Property described in this Agreement will not relieve Seller of any liability that Seller may have under the mortgages to which the Property is subject, unless otherwise agreed to by the lender or required by law or regulation. Buyer and Seller are advised that a Notice to Seller & Buyer of Underlying Mortgage form is available from the respective agents via the West Michigan REALTOR® Boards.

34. Listing Office Address:_____ Listing Broker License # _____
Listing Agent Name:_____ Mariana Murillo VanDam/Brent Cox Listing Agent License # _____

35. Seller's Approval and Acknowledgment: Seller approves the terms of this Agreement and acknowledges receipt of a copy. If Seller's response occurs after Buyer's offer expires, then Seller's response is considered a counteroffer and Buyer's acceptance is required below.

X (Seller's Signature, Date, Time):	dotloop verified 01/08/21 6:45 PM EST IXVD-61DG-ZNUB-NGEV <i>Frank Peterson</i>	Is Seller a U.S. Citizen? ☐ Yes ☐ No*
	Print name as you want it to appear on documents.	

X (Seller's Signature, Date, Time):		Is Seller a U.S. Citizen? ☐ Yes ☐ No*
	Print name as you want it to appear on documents.	

Seller's Address:_____ 352 Mason ave, Muskegon, MI 49441 Seller's Phone (Res.)_____ (Bus.)_____
* If Seller(s) is not a U.S. Citizen, there may be tax implications and Buyer and Seller are advised to seek professional advice.

36. Buyer's Receipt/Acceptance: Buyer acknowledges receipt of Seller's response to Buyer's offer. In the event Seller's response constitutes a counteroffer, Buyer accepts said counteroffer. All other terms and conditions in the offer remain unchanged.

X (Buyer's Signature, Date, Time):	
X (Buyer's Signature, Date, Time):	

37. Seller's Receipt: Seller acknowledges receipt of Buyer's acceptance of counter offer.

X (Seller's Signature, Date, Time):	
X (Seller's Signature, Date, Time):	

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Community Relations Committee Recommendations
Submitted By: Ann Marie Meisch	Department: Clerk
Brief Summary: To accept the resignation, reappointments, and appointments for various community relations committees, boards, authorities, and commissions.	
Detailed Summary: To accept the resignation, reappointments, and appointments for various community relations committees, boards, authorities, and commissions as follows: -Resignation-Mary Jamieson-Board of Review-Citizen-Term Expires 01/31/2022 -Board of Review -Reappoint-Jane Clingman-Scott and Ralph Burr -Appoint-David Mendendorp and Pamela Smith -Business Improvement District -Appoint-Andy Maciejewski, Dan Castle, and Jaime Charron -Citizen's Police Review Board -Reappoint-Ron Hayward, Robert Roundtree, Faye Redmond, Rozelia Patino, William Muhammad, and Ann Craig -Civil Service -Reappoint-David Wendtland -Comm Dev Block Grant/CDC -Reappoint-Jeremy Lenertz -Appoint-Paul Kurdziel, Perry Dennie, Jennifer Ross, and Ationza Smith -Construction Code of Appeals -Reappoint-Wade VandenBosch and Lane Bensten -Appoint-Joshua Ohst -Downtown Development Authority -Reappoint-Don Kalisz and Mike Johnson -Election Commission -Reappoint-Betty Roberts -Equal Opportunity Committee -Appoint-Bennie Chambers and Tonya Pell -Farmers Market Advisory Board -Reappoint-John Zandstra, Woody VanBlargan, and Kim Martens	

- Historic District Commission
 - Reappoint-Steven Radtke
 - Appoint-David Gregersen
- Housing Code Board of Appeals
 - Reappoint-Randy Mackie and Kirk Kolberg
- Housing Commission
 - Appointed by City Manager-Barry Williams
- Income Tax Board of Review
 - Appoint-Patrick Kiely
- Lakeside Business Improvement District
 - Reappoint-Mark Flermoen and Dick Ghezzi
- Local Development Finance Authority
 - Reappoint-Kevin Ricco
 - Appoint-Virginia Taylor
- Local Officer's Compensation Commission
 - Appoint-Michael Hughes
- Planning Commission
 - Reappoint-Joe Doyle and Tim Michalski
- Zoning Board of Appeals
 - Reappoint-William Bowman
 - Appoint-Jill Montgomery Keast and Michele Ribesky

Amount Requested: N/A

Amount Budgeted: N/A

Fund(s) or Account(s): N/A

Fund(s) or Account(s): N/A

Recommended Motion: To concur with the recommendation of the Community Relations Committee and approve the resignation, reappointments, and appointments.

For City Clerk Use Only:

Commission Action:

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 1/12/2021	Title: Lakeside BID Special Assessment Roll Public Hearing and Resolution
Submitted By: Jake Eckholm	Department: Economic Development
Brief Summary: The Lakeside BID Board has voted to petition the City Commission to establish a Special Assessment District inclusive of all commercial parcels in the BID in order to raise funds for public maintenance and improvements. Tonight a duly posted and noticed public hearing will take place to hear comment on the Special Assessment Tax Roll.	
Detailed Summary: The Lakeside Business Improvement District Board has recommended a special assessment amount to fund BID improvements in the Lakeside Corridor for a period of 3 years, with potential to renew the assessment at the end of the term depending on the amount of TIF capture by their desired Corridor Improvement Authority. The attachments to this cover sheet reflect the costs per square foot of every address in the bid, as well as a map outlining the BID district approved by the Commission last year. Also attached is the resolution certifying the assessment and adding it to the roll. The total anticipated capture of this assessment is \$24,011.03, which will be used by the BID Board to provide for winter maintenance of sidewalks, plowing, landscaping maintenance, and marketing materials for the district. A separate assessment bill will be sent to all affected properties this year, and in subsequent years this assessment will be included on winter tax bills.	
Amount Requested: \$0	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: A motion to approve the Resolution adding the Lakeside BID Special Assessment to the tax rolls for a period of three years as presented.	
For City Clerk Use Only: Commission Action:	

CITY OF MUSKEGON

Resolution No. _____

Resolution Confirming Special Assessment Roll
For LAKESIDE BUSINESS IMPROVEMENT DISTRICT (BID)

Properties Assessed: See Exhibit A attached to this resolution

RECITALS:

1. The City Commission determined to create a special assessment district covering the properties set forth in Exhibit A attached to this resolution on October 27th, 2020, at the first hearing.
2. The City has reviewed the special assessment roll which purports to levy a special assessment in the said district levying on "Class A" Properties, as defined in the BID Bylaws, shall be assessed an annual assessment of \$0.05/sf with no assessment to exceed \$2,000 and "Class B" Properties, as defined in the BID Bylaws, shall be assessed an annual assessment of \$0.025/sf with no assessment to exceed \$1,000.
3. The City Commission has heard all objections to the roll filed before or at the hearing.

THEREFORE, BE IT RESOLVED:

1. That the special assessment roll submitted by the Board of Assessors is hereby approved.
2. That the assessments levied will be placed on the Winter 2021, 2022 and 2023 tax bills.
3. The Clerk is directed to endorse the certificate of this confirmation resolution and the Mayor may endorse or attach his warrant bearing the date of this resolution which is the date of confirmation.

This resolution adopted.

Ayes:

Nays:

CITY OF MUSKEGON

By _____
Ann Marie Meisch, Clerk

CERTIFICATION

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

Further I hereby certify that the special assessment roll referred to in the above resolution was confirmed on the date being _____.

CITY OF MUSKEGON

By _____
Ann Marie Meisch, Clerk

Exhibit A

Properties Assessed



January 5, 2021.

Muskegon Lakeside Business Improvement District
933 Terrace Street
Muskegon, MI 49443

Dear Board Members:

In accordance with your request, I have examined the proposed special assessment district for the Muskegon Lakeside Business Improvement District. The purpose of this analysis is to document the reasonableness of this special assessment district by identifying and quantifying any accrued benefits. It is subject to the normal governmental restrictions of escheat, taxation, police power and eminent domain. The effective date of this analysis is January 5, 2021.

The proposed special assessment district encompasses all classes of properties. The Muskegon Lakeside Business Improvement District Board has provided per parcel cost estimates in accordance with the City's Special Assessment Policy and all project-related costs.

The three year project is estimated to have a first year assessment of \$24,933.

The amount of money to be spread is based on a per parcel rate of \$0.05 per square foot of lot size for a Commercial Property, not to exceed \$2,000, and \$0.025 per square foot of lot size for an Automotive or Utility Property, not to exceed \$1,000, as defined by the Muskegon Lakeside Business Improvement District Board in their Bylaws. Nonprofit, Governmental and Residential Properties are to be exempted from this assessment. The Muskegon Lakeside Business Improvement District Board is solely responsible for these figures.

In conclusion, it is my opinion that the special assessment amounts as provided by the Board justly and reasonably represents the accrued benefits to the properties encompassed by this project. The amounts reflect the sum of the immediate estimated value enhancement and the intrinsic value that will accrue from an overall increase in property values due to an improved quality of life created by the proposed project. Simply stated, the rate of \$0.05 per square foot of lot size for a Commercial Property and \$0.025 per square foot of lot size for an Automotive or Utility Property as defined by the Muskegon Lakeside Business Improvement District Board in their Bylaws for the above mentioned project area appears reasonable and equitable based upon the data presented by the Muskegon Lakeside Business Improvement District Board, and supporting office records.

Sincerely,

A handwritten signature in black ink that reads "Donna Vandervries". The signature is written in a cursive style with a large, flowing "D" and "V".

Donna Vandervries, MMAO
City of Muskegon Assessor

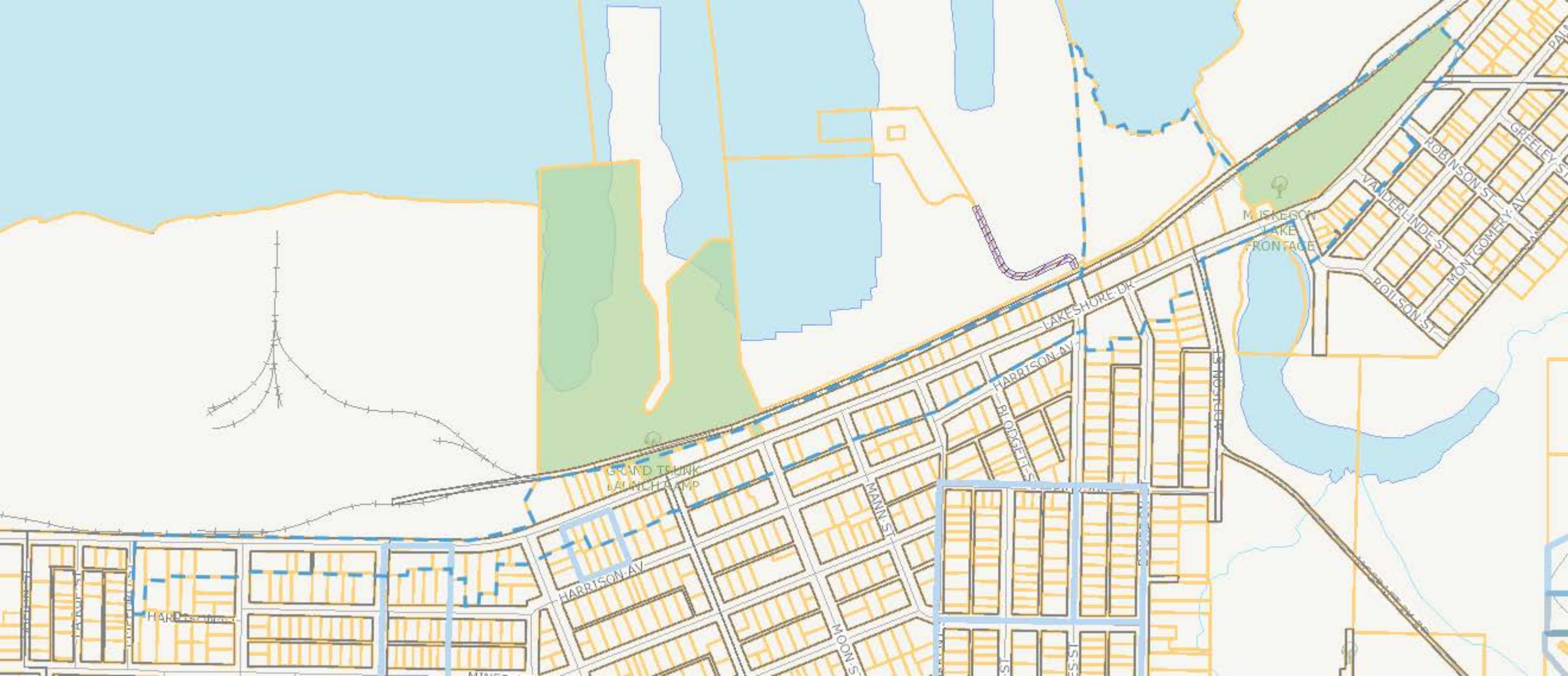
Proposed DRAFT

Business/Owner	Address	Parcel #	Acreage (sq. ft)	Assessment
Wasserman's Flowers and Gifts	1595	61-24-205-529-0004-00	8402.724	\$ 420.14
T4 Group	1700	61-24-205-609-0002-00	32500.116	\$ 1,625.01
Garrett Law Offices	1732	61-24-205-609-0007-00	9239.076	\$ 461.95
RCP Marketing	1756/1786	61-24-205-609-0010-00/61-24-205-609-0013-00	29233.116	\$ 1,461.66
Richard A Ghezzi Estate	1812	61-24-205-596-0001-00	18251.64	\$ 912.58
Frontier	1831	61-24-205-624-0001-00	12867.624	\$ 321.69
Pastoor James R JR Trust	1836	61-24-205-596-0002-00	8089.092	\$ 404.45
VF Ventures LLC	1845	61-24-205-624-0003-00	22111.056	\$ 1,105.55
Patricia Roy, DO	1864	61-24-205-596-0002-10	12780.504	\$ 639.03
Paul R Korndorfer	1883	61-24-205-625-0001-00	8311.248	\$ 415.56
Paul R Korndorfer	1891	61-24-205-625-0002-00	7853.868	\$ 392.69
SHM Great Lakes	1920	61-24-205-596-0008-00	1213002.252	\$ 2,000.00
The Only Cannoli/ Lake Effect Sport/	1927	61-24-205-627-0001-00	10227.888	\$ 511.39
Lakeside Emporium	1930	61-24-205-596-0004-00	15555.276	\$ 777.76
Richard P Ghezzi	1937	61-24-205-627-0002-00	9265.212	\$ 463.26
Lauren Taylor Eyeware	1945	61-24-205-627-0003-00	5275.116	\$ 263.76
1950 Lakeshore Drve LLC	1950	61-24-205-596-0004-20	12026.916	\$ 601.35
Level 6	1953	61-24-205-627-0004-00	8280.756	\$ 414.04
Lakeside Landing/ Lakeshore Tavern/The Table	1965	61-24-205-627-0005-00	8502.912	\$ 425.15
Marine Tap Room	1983	61-24-205-635-0001-00	8154.432	\$ 407.72
BTBG Investments LLC	1991	61-24-205-635-0002-00	46121.328	\$ 2,000.00
Zaloma's Pizza/Anchor Property Management	2009	61-24-205-635-0006-00	6037.416	\$ 301.87
Ghezzi's Market	2017	61-24-205-635-0007-00	8076.024	\$ 403.80
Gawkowski Properties Lakeshore LLC	2020	61-24-205-596-0007-00	5654.088	\$ 282.70
Apple Knits and Purls	2033	61-24-205-636-0001-00	7531.524	\$ 376.58
Complete Automotive Servies	2034	61-24-205-597-0001-00	9487.368	\$ 237.18
Auto Body Clinic	2054	61-24-205-597-0004-00	7614.288	\$ 190.36
Cannon Service Center/ Shoreline Service Bait	2080	61-24-205-597-0005-00	15071.76	\$ 376.79
Lakeshore Federal Credit Union	2182	61-24-205-597-0017-00	32569.812	\$ 1,628.49
Daniel C. Swarwar D.D.S P.C	2187	61-24-205-641-0005-00	10807.236	\$ 540.36
Lakeshore Environmental Inc.	2341	61-24-205-664-0011-00	7923.564	\$ 396.18
Lotta Lakeshore	2445	61-24-205-677-0005-00	9474.3	\$ 473.72
Waters Edge Fitness	2465	61-24-205-678-0001-02	16552.8	\$ 827.64
Frosty Cove	2565	61-24-205-693-0001-01	39012.336	\$ 1,950.62
TOTAL			1681864.668	\$ 24,011.03

Total # of Parcels		84	Lakeside BID assessment rates
Commercial	32	5 cents a square foot/capped at \$2,000	
Automotive and Utility	4	2.5 cents a square foot/capped at \$1,000	
Nonprofit	2	no assessment	
Governmental	8	no assessment	
Residential	38	no assessment	

Proposed Lakeside BID budget

Snow removal	\$12,000
Landscaping	\$4,500
Promotions/marketing	\$4,000
Administration	\$3,750
Contingency	\$683
Total	\$24,933.00



From: [Deb Workman](#)
To: [Jake Eckholm](#)
Subject: Lakeside BID
Date: Tuesday, December 15, 2020 4:37:12 PM

Hello Jake,

I am writing today to oppose Lakeshore Federal Credit Union, FKA Central Paper Employees FCU, being included in the Lakeside BID program. I understand the BID, and our previous CEO was on the BID committee that is trying to bring the BID program to Lakeside. However, I believe the BID should end at the business district which has always been considered McCracken. None of the business west of McCracken are the type of businesses that would benefit directly from the BID in my opinion other than having our sidewalks plowed in the winter. Our board of directors agree that \$1882.21 is a hefty bill for sidewalk plowing. I do not see the mill property being developed in the next 3 years to warrant the few businesses west of McCracken as an actual business district. I have been told it is a done deal but still wanted to make my opinion as the CEO of the credit union known.

We have been Lakeshore Federal Credit Union since 1998, I will have to figure out getting our name changed I guess with the tax/zoning/tax department. Thank you for listening to me and we of course will abide by what is ultimately decided. Our Parcel Number is 61-24-205-597-0017-00

Sincerely,

Deb

Debra L Workman
Chief Executive Officer
Lakeshore Federal Credit Union
Email: manager@lakeshorefcu.com
Website: www.lakeshorefcu.com
Phone: 231-755-1202
Fax: 231-755-0539
NMLS #810943

2182 Lakeshore Drive
Muskegon, MI 49441-1414

WARNING: This email originated outside of the City of Muskegon email system!
DO NOT CLICK links if the sender is unknown.
NEVER provide your User ID or Password.

From: [SHEILA THORSEN](#)
To: [Jake Eckholm](#)
Subject: LAKESIDE BUSINESS IMPROVEMENT DISTRICT
Date: Sunday, December 20, 2020 12:36:15 PM

I am Sheila Thorsen and own properties 1748 and 1945 Lakeshore Drive. I hereby are notifying you that I object to the assessed amount against my property at 1945 Lakeshore Drive. The city has been given ample opportunities to collect money from property owners astronomical times therefore the city should bear these costs. Timing under covid restrictions is not a smart economical opportunity when people are already struggling financially.
Sheila Thorsen

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DO NOT CLICK links if the sender is unknown.
NEVER provide your User ID or Password.

From: [Ed Bodman](#)
To: [Jake Eckholm](#)
Subject: Lakeside Improvement
Date: Wednesday, December 23, 2020 12:28:02 AM

Hi Jake,
I own properties at 1910 Lakeshore Dr., and 2205 Lakeshore Dr. I'm in favor of the Lakeside Business District Special Assessment plan. Thanks for all you and the city are doing

Nils Bodman
517.930.1525



Virus-free. www.avast.com

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NEVER provide your User ID or Password.

From: [Tammy Rasey](#)
To: [Jake Eckholm](#)
Subject: Re:
Date: Sunday, December 13, 2020 9:36:59 AM

Jake,

John and I have already notified you by email about our answer to the lakeside business improvement district. The answer then was "no". If you are required to send the second and final notice out to the neighborhood, then this is our answer this time. No. We will not be able to attend the virtual live meeting on January 12th. Even though your letter states our assessment will be "0", we do not have much faith in the voting system.

John and Tammy Rasey
2125 Lakeshore drive
Muskegon MI 49441

From: Tammy Rasey
Sent: Saturday, October 10, 2020 1:48 PM
To: Jake.Eckholm@shorelinecity.com <Jake.Eckholm@shorelinecity.com>
Subject:

Tammy and John Rasey
2125 Lakeshore drive

Received your letters. Funds are tight for everyone during this epidemic. We say no, and no to the LAKESIDE CORRIDOR IMPROVEMENT AUTHORITY. We say no and no to the LAKESIDE BUSINESS IMPROVEMENT DISTRICT. My husband is on a fixed income (social security), and my place of employment has just been dissolved.

Would like some kind of confirmation that you received our answer. We will not be able to attend the online meeting.

Thank you for your time
Tammy and John Rasey

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DO NOT CLICK links if the sender is unknown.
NEVER provide your User ID or Password.



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Amendment to the Marihuana Facilities Overlay District – 965 W Western Ave, 920 Washington Ave and 1330 Division St
Submitted By: Mike Franzak	Department: Planning
Brief Summary: Request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for Growing, Processing and Provisioning/Retail license types at 965 W Western Ave, 920 Washington Ave and 1330 Division St by P & G Holdings, LLC.	
Detailed Summary: After discussing at the Planning Commission meeting, the applicant agreed that they did not need to include 1330 Division St as part of the request. A motion that that request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for Growing, Processing and Provisioning/Retail license types at 965 W Western Ave and 920 Washington Ave be recommended to the City Commission for approval. The motion was amended to include a recommendation that the approval be reviewed in 24 months to allow staff or the Planning Commission to consider revocation of the zoning approval if the condo development had not proceeded as stated. The motion was approved by a 6-3 vote.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for Growing, Processing and Provisioning/Retail license types at 965 W Western Ave and 920 Washington Ave by P & G Holdings, LLC.	

Planning Commission Excerpt

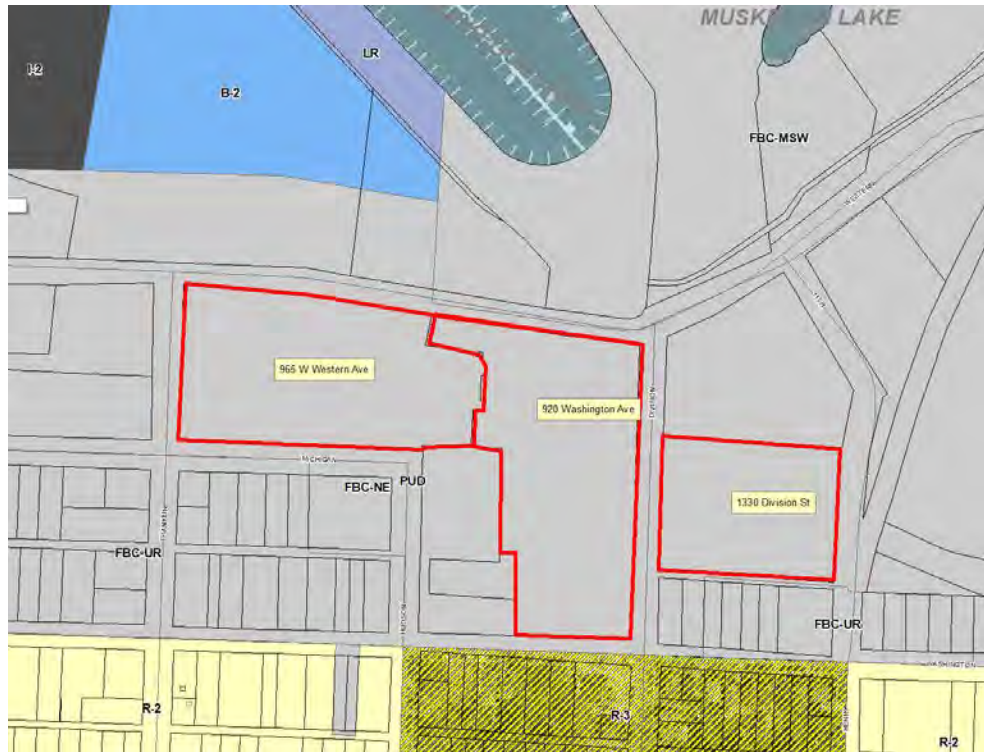
Case 2020-20: Request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for MMFLA and MRMTA Growing, Processing and Provisioning/Retail license types at 965 W Western Ave, 920 Washington Ave and 1330 Division St by P & G Holdings, LLC.

SUMMARY

1. This case was tabled in November. The public hearing was closed.
2. The property at 920 Washington Ave was recently approved as part of the marihuana facilities overlay district for retail/provisioning license types.
3. The property owner would now like to expand the types of marihuana licenses allowed on site, which also includes 965 W Western Ave and 1330 Division St.
4. This request would allow all growing licenses types, processing licenses and provisioning/retail licenses at 965 W Western, 920 Washington Ave and 1330 Division St.



Zoning Map



Aerial Map



CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for Growing, Processing and Provisioning/Retail license types at 965 W Western Ave and 920 Washington Ave.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

965 W Western Ave and 920 Washington Ave will be added to the Marihuana Facilities Overlay District as a location allowed for Growing, Processing and Provisioning/Retail license types.

CITY OF MUSKEGON REVISED PLAT 1903 BLK 468 AND PT OF BLK 467 VAC ALLEY IN BLK 468 PART OF FORMER C & O RAILROAD R/W IN BLK 467 & 468 AND VAC HUDSON ST BET BLK 467 AND 468 AND ALL BEING DESC AS BEG AT THE SW COR OF SAID BLK 468 TH N 00D 19M 25S W 351.64 FT ALG E R/W LN OF FRANKLIN ST TH N 89D 58M 00S E 278.5 FT ALG THE S R/W LN OF WESTERN AVE TH S 82D 42M 42S E 284.66 FT ALG SD R/W LN TH S 07D 28M 33S W 75.55 FT ALG THE WLY LN & EXTENSION TH'OF OF A 5 STORY BRICK BLDG TH S 82D 30M 04S E 112.12 FT ALG SD BLDG LN & THE EXTENSION TH'OF TH S 09D 23M 07S W 9.68 FT ALG SD BLDG LN TH S 83D 24M 04S E 13.72 FT ALG SD BLDG LN TH N 00D 30M 04S E 8.71 FT TH S 00D 30M 20S W 24.63 FT TH S 88D 25M 41S E 8.72 FT ALG SD BLDG LN TH S 01D 34M 19S W 0.30 FT ALG SD BLDG LN TH S 88D 25M 41S E 0.40 FT ALG SD BLDG LN TH S 00D 42M 58S W 29.45 FT ALG SD BLDG LN TH N 88D 25M 41S W 8.43 FT ALG SD BLDG LN TH S 00D 42M 58S W 57.92 FT ALG SD BLDG LN TH S 88D 38M 32S E 12.93 FT ALG SD BLDG LN TH S 02D 11M 01S W 21.28 FT ALG SD BLDG LN TH N 87D 48M 59S W 28.01 FT ALG SD BLDG LN TH S 02D 23M 08S W 85.09 FT ALG E SIDE OF A 4 IN WALL TH N 87D 51M 37S W 111.67 FT ALG SLY SIDE OF SD 5 STY B

CITY OF MUSKEGON REVISED PLAT 1903 PT OF BLKS 467 AND 468 AND ENTIRE BLK 474 TOGETHER WITH PT OF THE C & O RR R/W IN SD BLK 467 VAC MICHIGAN AVE BET SD BLKS 467 & 474 THE 2 VAC ALLEYS IN SD BLK 474 DESC AS BEG ON THE N R/W LN OF MICHIGAN AVE AT A POINT BEING N 89D 48M 11S E 549.04 FT FROM THE SW COR OF SD BLK 468 TH N 02D 11M 01S E 7.87 FT TH S 87D 51M 37S E 111.67 FT ALG SLY LN OF A 5 STY BLDG TH N 02D 23M 08S E 85.09 FT ALG E SIDE OF A 4 IN WALL TH S 87D 48M 59S E 28.01 FT ALG NLY LN OF SD 5 STY BLDG TH N 02D 11M 01S E 21.28 FT ALG SD BLDG TH N 88D 38M 32S W 12.93 FT ALG SD BLDG LN TH N 00D 42M 58S E 57.92 FT ALG SD BLDG LN TH S 88D 25M 41S E 8.43 FT ALG SD BLDG LN TH N 88D 25M 41S W 0.40 FT ALG SD BLDG LN TH N 01D 34M 19S E 0.30 FT ALG SD BLDG LN TH N 88D 25M 41S W 8.72 FT ALG SD BLDG LN TH N 00D 30M 20S E 24.63 FT TH N 82D 30M 04S W 8.71 FT TH S 00D 30M 20S W 9.53 FT TH N 83D 24M 04S W 13.72 FT ALG SD 5 STY BLDG LN TH N 09D 23M 07S E 9.68 FT ALG SD 5 STY BLDG LN TH N 82D 30M 04S W 112.12 FT ALG SD BLDG LN & THE EXTENSION TH'OF TH N 07D 28M 33S E 75.55 FT ALG SD BLDG LN & THE EXTENSION TH'OF TH S 82D 42M 42S E 474.11 FT ALG THE SLY R/W LN OF WESTERN AVE

This ordinance adopted:

Ayes: _____

Nayes: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____
Ann Meisch, 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 12th day of January 2021, 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 2006, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2020.

Ann Meisch, 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 21, 2021, the City Commission of the City of Muskegon adopted an ordinance to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for Growing, Processing and Provisioning/Retail license types at 965 W Western Ave and 920 Washington Ave.

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 _____, 2021.

CITY OF MUSKEGON

By _____

Ann Meisch, MMC

City Clerk

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

Account No. 101-80400-5354

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Amendment to the Marihuana Facilities Overlay District – 420 S Harvey St (1)
Submitted By: Mike Franzak	Department: Planning
Brief Summary: Request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for microbusiness, designated consumption establishment and event license types at 420 S Harvey St, by Michigan Canna House, LLC.	
Detailed Summary: This case was tabled at the October Planning Commission. It was brought back to the Planning Commission in December. A motion to approve the request failed by a 2-7 vote.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for microbusiness, designated consumption establishment use and event license types at 420 S Harvey St, by Michigan Canna House, LLC.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend the Marihuana Facilities Overlay District to include 420 S Harvey St as a location allowed for microbusiness, designated consumption establishment and event license types.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

420 S Harvey St will be added to the Marihuana Facilities Overlay District as a location allowed for microbusiness, designated consumption establishment and event license types.

CITY OF MUSKEGON W 436 FT OF N 436 FT OF SW 1/4 OF NW 1/4 SEC 22 T10N R16W EXC N 33 FT & W 33 FT FOR ROAD (DESCR FOR ASSESSMENTS - DEED CLAIMS ONLY N 400 FT)

This ordinance adopted:

Ayes: _____

Nayes: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____
Ann Meisch, 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 12th day of January 2021, 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 2006, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2020.

Ann Meisch, 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 21, 2021, the City Commission of the City of Muskegon adopted an ordinance to amend the Marihuana Facilities Overlay District to include 420 S Harvey St as a location allowed for microbusiness, designated consumption establishment and event license types

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 _____, 2021.

CITY OF MUSKEGON

By _____

Ann Meisch, MMC

City Clerk

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

Account No. 101-80400-5354

PLANNING COMMISSION STAFF REPORT

December 10, 2020

Hearing, Case 2020-18: Request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for microbusiness and designated consumption establishment at 420 S Harvey St, by Michigan Canna House, LLC.

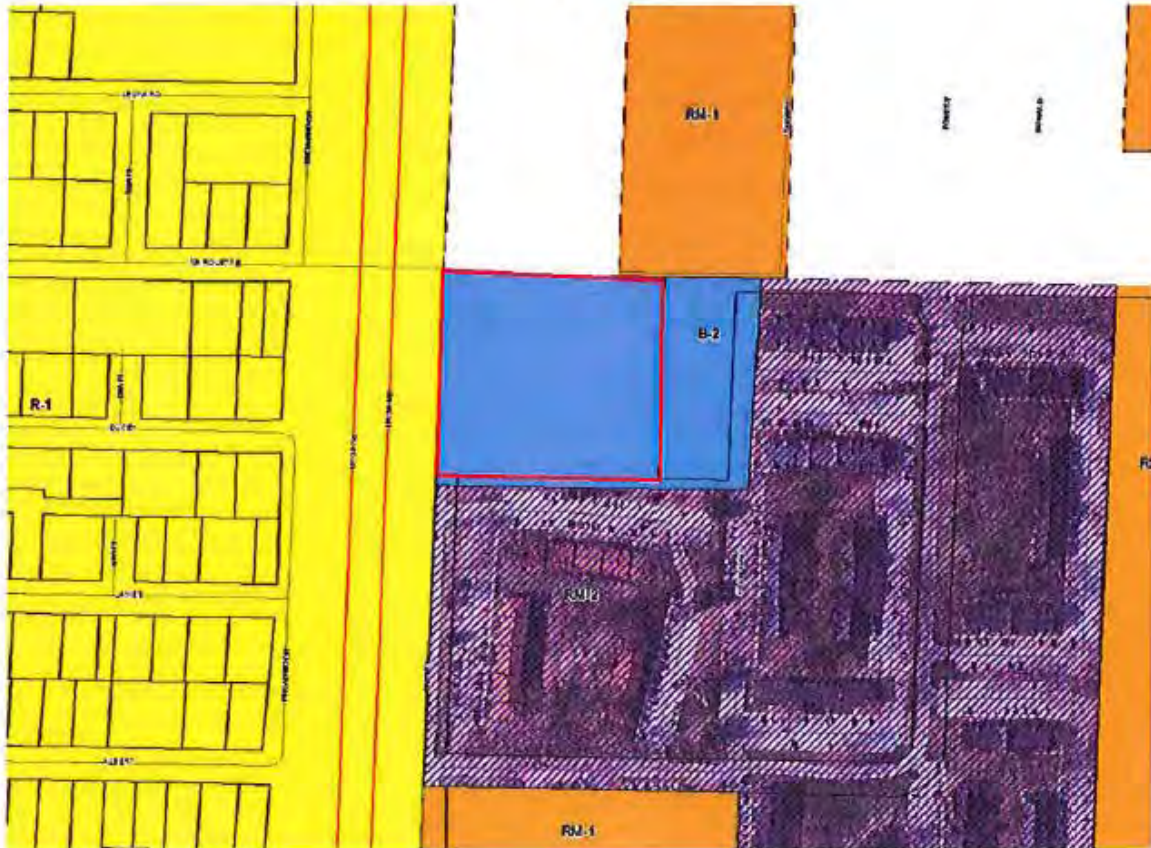
SUMMARY

1. The property is zoned B-2, Convenience & Comparison Business District.
2. The applicant is requesting to expand the marihuana overlay district to allow for the microbusiness and consumption license types.
3. The applicant is not the owner of the property.
4. Notice was sent to properties within 300 feet of the property. At the time of this writing staff had not received any comments.

420 S Harvey St



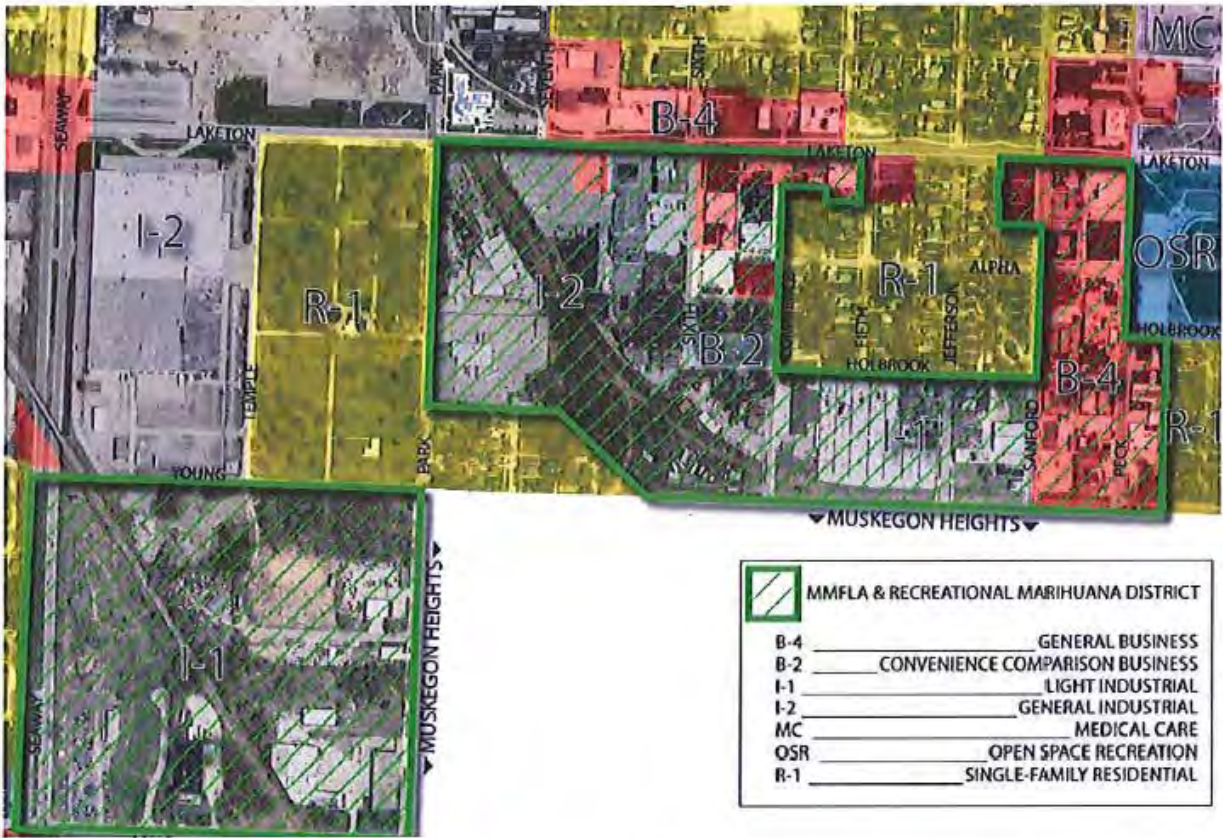
Zoning Map



Aerial Map



Properties in the Current Marihuana Overlay District





Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Amendment to the Marihuana Facilities Overlay District – 420 S Harvey St (2)
Submitted By: Mike Franzak	Department: Planning
Brief Summary: Request to amend Section 2331 of the zoning ordinance to include 420 Harvey St in the marihuana facilities overlay district and allow class B grower, processor, retailer, designated consumption establishment and marihuana special events license types, by Michigan CannaHouse, LLC.	
Detailed Summary: While the applicant's first case was tabled by the Planning Commission, they decided to apply for another amendment that would allow them additional license types (Class B Grower, Processor, Retailer) instead of microbusiness.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the request to amend Section 2331 of the zoning ordinance to include 420 Harvey St in the marihuana facilities overlay district and allow class B grower, processor, retailer, designated consumption establishment and marihuana special events license types, by Michigan CannaHouse, LLC.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend the Marihuana Facilities Overlay District to include 420 S Harvey St as a location allowed for class B grower, processor, retailer, designated consumption establishment and marihuana special events license types.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

420 S Harvey St will be added to the Marihuana Facilities Overlay District as a location allowed for class B grower, processor, retailer, designated consumption establishment and marihuana special events license types.

CITY OF MUSKEGON W 436 FT OF N 436 FT OF SW 1/4 OF NW 1/4 SEC 22 T10N R16W EXC N 33 FT & W 33 FT FOR ROAD (DESCR FOR ASSESSMENTS - DEED CLAIMS ONLY N 400 FT)

This ordinance adopted:

Ayes: _____

Nayes: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____
Ann Meisch, 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 12th day of January 2021, 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 2006, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2020.

Ann Meisch, 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 21, 2021, the City Commission of the City of Muskegon adopted an ordinance to amend the Marihuana Facilities Overlay District to include 420 S Harvey St as a location allowed for class B grower, processor, retailer, designated consumption establishment and marihuana special events license types license types.

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 _____, 2021.

CITY OF MUSKEGON

By _____

Ann Meisch, MMC

City Clerk

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

Account No. 101-80400-5354



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Hartford Terrace Development Agreement
Submitted By: LeighAnn Mikesell	Department: Development Services
Brief Summary: Staff is seeking approval of the development agreement and associated PILOT and municipal services agreements with the Muskegon Housing Commission.	
Detailed Summary: The proposed agreement is based on Low Income Housing Tax Credits being awarded by the Michigan State Housing Development Authority for work at Hartford Terrace. If the LIHTC is not awarded by March 31, 2022, the agreement is voided. The proposed PILOT rate is 2% of contract rents with a municipal services fee of an additional 2% of contract rents. The city can expect to more than double the annual payment received from this development. Hartford Terrace serves some of the most vulnerable of our city's population, including elderly, persons with disabilities, and those making 30% or less of the area median income. The developer is planning to invest \$18,000,000 into the property including major building systems, elevators, apartment interiors, common areas, windows, and sitework. Ten of the existing 160 apartments are currently accessible, and the renovation will add another 6 accessible units.	
Amount Requested: None	Amount Budgeted: None
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: to approve the development agreement and associated PILOT and municipal services fee agreements with the Muskegon Housing Commission.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

DEVELOPMENT AGREEMENT

This Agreement between **HARTFORD TERRACE LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP**, 1080 Hartford Street, Muskegon, Michigan, (“Hartford LDHA”), and **MUSKEGON HOUSING COMMISSION**, 1080 Hartford, Muskegon, Michigan (“MHC”) (Hartford LDHA and MHC are jointly referred to as “Developer”) and **CITY OF MUSKEGON**, 933 Terrace Street, Muskegon, Michigan (“City”) is made pursuant to the following terms:

Background

- A. MHC was a department of City. The City owned Hartford Terrace, a housing development located at 1080 Hartford Street in Muskegon, Michigan for persons with an annual income of less than 30% of the county’s average medium income at the time of initial occupancy and are either elderly or have a disability (“Hartford Terrace”), and a scattered site housing program. MHC operated Hartford Terrace, the scattered site housing project and Section 8 housing vouchers, which was a program to pay private landlords to rent properties to eligible individuals at below market rate.
- B. With adoption of Public Act 338 of 1996, being MCL Section 125.661a, MHC became a separate legal entity and real property owned by City and managed by MHC was transferred to MHC. Contemporaneous with the separation, the City and MHC entered into an agreement whereby MHC would pay an annual service fee equal to 10% of “annual shelter rents” to the City, which included rents from both Hartford Terrace and the scattered sites.
- C. All of the above referenced programs are funded, at least in part, by the US Department of Housing and Urban Development (“HUD”). HUD is proposing to have the MHC convert Hartford Terrace from a grant funded housing project to a Section 8 rental subsidy in the form of project based vouchers, through the federal Rental Assistance Demonstration (“RAD”) process.
- D. As part of the current proposed RAD transition, MHC has applied to the Michigan State Housing Development Authority (“MSHDA”) for federal Low Income Housing Tax Credits (“LIHTC”). The rehabilitation, through securing and investment in the LIHTC, will result in approximately an \$18 million investment in Hartford Terrace.
- E. Contingent upon MSHDA awarding approximately \$1,440,000.00 in LIHTC, the current Muskegon City Code Section 18-83 and agreement to pay an annual service fee shall be limited to assets held by MHC, but specifically excluding Hartford Terrace.
- F. Contingent upon MSHDA awarding approximately \$1,440,000.00 in LIHTC to Hartford LDHA, a Contract for Housing Exemption Agreement (“PILOT”) and a

Municipal Services Agreement between Hartford LDHA and City shall become effective.

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

1. City shall amend Muskegon Code Section 18-83 to exclude Hartford Terrace from the annual service fee. The Amendment shall become effective only after MSHDA awards approximately \$1,440,000.00 in LIHTC. If such award is not made March 31, 2022, the ordinance amendment shall be voided nunc pro tunc. A form of the ordinance amendment is attached as Exhibit 1.
2. City and Developer shall execute a PILOT Agreement, which shall become effective only after MSHDA awards approximately \$1,440,000.00 in LIHTC to Hartford LDHA. If such award is not made by March 31, 2022, the PILOT Agreement shall be voided. The PILOT Agreement shall require an annual payment of 2% of "contract rents" less "utilities". "Contract rents" and "Utilities" shall be defined as provided in Muskegon Code Section 82-46 in effect as of January 1, 2021. A form of the PILOT Agreement is attached as Exhibit 2.
3. City and Developer shall execute a Municipal Services Agreement. The Municipal Services Agreement shall become effective only after MSHDA awards approximately \$1,440,000.00 in LIHTC to Hartford LDHA. The Municipal Services Agreement shall require an annual payment of 2% of "contract rents" less "utilities". "Contract rents" and "utilities" shall be defined as provided in Muskegon Code Section 82-46 in effect as of January 1, 2021. A form of the Municipal Services Agreement is attached as Exhibit 3.
4. If MSHDA does not award approximately \$1,440,000.00 in LIHTC to Hartford LDHA by March 31, 2022, this Development Agreement shall be terminated and any obligations pursuant to this Agreement shall be null and void.

IN WITNESS WHEREOF, the parties have signed this Agreement on the dates indicated below.

CITY OF MUSKEGON

Dated: _____, 2021

By: _____
Steve Gawron, Mayor

Dated: _____, 2021

By: _____
Ann Marie Meisch, Clerk

HARTFORD TERRACE LIMITED DIVIDEND
HOUSING ASSOCIATION LIMITED
PARTNERSHIP

Dated: _____, 2021 By: _____
Angela Mayeaux, Its Authorized Agent

Dated: _____, 2021 By: _____

MUSKEGON HOUSING COMMISSION

Dated: _____, 2021 By: _____
_____, Its President

Dated: _____, 2021 By: _____
_____, Its Secretary

EXHIBIT 1

PROPOSED ORDINANCE AMENDMENT

EXHIBIT 2

PROPOSED PAYMENT OIN LIEU TO TAXES

EXHIBT 3

PROPOSED MUNICIPAL SERVICE AGREEMENT

DRAFT
1/7/21

CITY OF MUSKEGON

CONTRACT FOR HOUSING EXEMPTION

This Agreement between **HARTFORD TERRACE LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP**, 1080 Hartford Street, Muskegon Michigan, (“Hartford LDHA”), and **MUSKEGON HOUSING COMMISION**, 1080 Hartford, Muskegon, Michigan (“MHC”) (Hartford LDHA and MHC are jointly referred to as “Developer”) and **CITY OF MUSKEGON**, 933 Terrace Street, Muskegon, Michigan (“City”) is made pursuant to the following terms

RECITALS

A. The City has adopted Chapter 82, Article II “Taxation” of the City Code of Ordinances, providing for tax exemption (the “Ordinance”).

B. It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for low income persons and families is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

C. MHC is the owner of Hartford Terrace, located at 1080 Hartford, Muskegon, Michigan, and operates Hartford Terrace as a housing project for households with an annual income of less than 30% of the county’s average medium income and are either elderly or have a disability, at the time of their initial occupancy (the “Project”).

D. MHC has formed Hartford Terrace Limited Dividend Housing Association Limited Partnership, of which MHC is the sole member of the General Partner, and has entered into an agreement to function as manager of the Project.

E. The City encourages rehabilitation of Hartford Terrace, which is to be funded by Low Income Tax Credits (“LIHTC”) awarded by the Michigan State Housing Development Authority (“Authority”).

F. To further enable and encourage the construction of the Project, the Developer, MHC and the City enter into this Agreement.

G. The legal description of the Project is set forth in Exhibit A attached to this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Grant of Exemption. As contemplated and pursuant to Act 346 of the Public Acts of 1966, being MCL Section 125.1415a, as amended, (the “Act”), the City hereby grants an exemption from all ad valorem property taxes attributable to the Project which consist of rental units offered to eligible low income persons and families as defined by the Authority.

2. Term of Exemption. This exemption shall continue for the period of time the housing units remain subject to income and rent restrictions pursuant to Section 42 of Internal Revenue Service Codes of 1986, as amended (IRS Codes), or the Authority Regulatory Agreement not to exceed 25 years. The City agrees to be contractually bound by this Agreement to honor the exemption status of the proposed Project as provided herein and in this Agreement for the entire period during which the Project is financed by the Authority or receives low income housing tax credits under Section 42 of the IRS Codes, provided that the said loan or a loan originally financed by the LIHTC continues outstanding and not in default as more particularly set forth in Section 82-50(3) of the Ordinance, not to exceed 25 years.

3. Responsibilities of the Developer. The Developer agrees to perform the following:

3.1 The Developer shall pay the service charge and payment in lieu of taxes on or before July 1, of each year during the time the exemption is in effect. The service charge shall equal two percent (2%) of the Contract Rents less Utilities, as defined in the Ordinance, for the total of all units in the Project, whether the units are occupied or not and whether or not the rents are paid.

3.2 The Developer agrees to file all information required by the Ordinance and further to meet its obligations to the Authority in connection with the Authority’s administration of the LIHTC program.

3.3 In lieu of the requirement to submit a statement of contract rents within 30 days after December 31, as required by the Ordinance, Developer shall submit an annual audit by April 1st. If not timely filed, and 30 days after notice to Developer of said delinquency, a penalty of 1.25% of the service charge shall be imposed. This penalty shall be collectible in the same manner provided in Section 82-54 of the Ordinance.

4. Term. This Agreement shall continue in effect for the entire period of eligibility for the exemption as set forth in the Ordinance, not to exceed 25 years.

5. Interpretation of Financing. The City agrees that the use of LIHTC constitutes financing of the loan by the Authority in fulfillment of the requirements of Section 82-50(3) of the Ordinance.

6. Third Party Beneficiary. This Agreement shall benefit the parties named and further shall benefit the Authority, or such other mortgagee as may have financed the Project, which may enforce this Agreement, both as its interest may appear, and on behalf of the Developer and its successors and assigns. No other party is a beneficiary of this Agreement.

7. Limitation on the Payment of Annual Service Charge. Notwithstanding Section 3, the service charge to be paid each year in lieu of taxes for the part of the Project that is tax exempt but which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the Project if the Project were not tax exempt.

8. Counterparts. This Agreement may be executed in several counterparts and an executed copy hereof may be relied upon as an original.

9. Binding and Benefit. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, personal representatives, successors and assigns.

10. Effective Date. The effective date of this Agreement is the date that the Authority awards Developer approximately \$1,440,000.00 in LIHTC to be used for rehabilitation of Hartford Terrace.

11. Severability. The various sections and provisions of this Agreement shall be deemed to be severable, and should any section or provision of this Agreement be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Agreement as a whole or any section or provision of this Agreement, other than the section or provision so declared to be unconstitutional or invalid.

12. Inconsistent Ordinances. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Agreement are of no effect to the extent of such inconsistency or conflict.

13. Choice of Law; Venue. This Agreement is executed in accordance with, shall be governed by, and construed and interpreted in accordance with the laws of the State of Michigan. The parties agree that for purposes of any dispute in connection with this Agreement, the Muskegon County Circuit Court shall have exclusive personal and subject matter jurisdiction and venue.

IN WITNESS WHEREOF, the parties have signed this Agreement on the dates indicated below.

CITY OF MUSKEGON

Dated: _____, 2021

By: _____
Steve Gawron, Mayor

Dated: _____, 2021

By: _____
Ann Marie Meisch, Clerk

HARTFORD TERRACE LIMITED DIVIDEND
HOUSING ASSOCIATION LIMITED
PARTNERSHIP

Dated: _____, 2021

By: _____
Angela Mayeaux, Its Authorized Agent

Dated: _____, 2021

By: _____

MUSKEGON HOUSING COMMISSION

Dated: _____, 2021

By: _____
_____, Its President

Dated: _____, 2021

By: _____
_____, Its Secretary

DRAFT
1/7/21

MUNICIPAL SERVICES AGREEMENT

This Agreement between **HARTFORD TERRACE LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP**, (“Hartford LDHA”), 1080 Hartford Street, Muskegon, Michigan and **MUSKEGON HOUSING COMMISSION**, 1080 Hartford, Muskegon, Michigan (“MHC”) (Hartford LDHA and MHC are jointly referred to as “Developer”) and **CITY OF MUSKEGON**, 933 Terrace Street, Muskegon, Michigan (“City”) is made pursuant to the following terms:

Background

- A. Upon the Michigan State Housing Development Authority (“Authority”) awarding approximately \$1,440,000.00 in federal Low Income Housing Tax Credits (“LIHTC”) to Hartford LDHA and/or MHC, this Municipal Services Agreement between Hartford LDHA, MHC and City shall become effective.
- B. If the Authority does not award approximately \$1,440,000.00 in LIHTC’s to Hartford LDHA and/or MHC by March 31, 2022, this Agreement shall be deemed void, without any notice.
- C. MHC is the owner of Hartford Terrace, located at 1080 Hartford, Muskegon, Michigan, and operates Hartford Terrace as a housing development for households with an annual income of less than 30% of the county’s average medium income and are either elderly or have a disability, at the time of their initial occupancy (the “Project”).
- D. MHC has formed Hartford Terrace Limited Dividend Housing Association Limited Partnership, of which MHC is the sole member of the General Partner, and has entered into an agreement to function as manager of the Project.
- E. The City encourages rehabilitation of Hartford Terrace, which is to be funded by LIHTC awarded by the Authority.
- F. To further enable and encourage the construction of the Project, Developer and the City enter into this Agreement.
- G. The legal description of the Project is set forth in Exhibit A attached to this Agreement

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

1. In lieu of the City’s requirement that MHC pay annual service fee of 10% of “annual shelter rents” at Hartford Terrace pursuant to Muskegon Code Section 18-83, Developer shall pay to City a Municipal Services Fee of 2% of “Contract Rents” less “Utilities”

from Hartford Terrace, as defined in Chapter 82, Article II “Taxation” of the City Code of Ordinances, providing for tax exemption (the “Ordinance”), Section 82-46. The Municipal Services Fee is to partially compensate City for essential services such as police and fire protection.

2. The obligation to pay the Municipal Services Fee shall commence upon the Authority awarding approximately \$1,440,000.00 in LIHTC to Hartford LDHA and/or MHC, but if not awarded by March 31, 2022 this Agreement, with no additional action necessary, shall be terminated.
 - a. The Developer agrees to file all information required by the Ordinance and further to meet its obligations to the Authority in connection with the Authority’s administration of the LIHTC program.
 - b. In lieu of the requirement to submit a statement of Contract Rents within 30 days after December 31, as required by the Ordinance, Developer shall submit an annual audit by April 1st. If not timely filed, and 30 days after notice to Developer of said delinquency, a penalty of 1.25% of the service charge shall be imposed.
3. Term. This Agreement shall continue in effect for the entire period of eligibility for the exemption as set forth in the Ordinance, not to exceed 25 years.
4. Third Party Beneficiary. This Agreement shall benefit the parties named, or such other mortgagee as may have financed the Project, which may enforce this Agreement, both as its interest may appear, and on behalf of the Developer and its successors and assigns. No other party is a beneficiary of this Agreement.
5. Counterparts. This Agreement may be executed in several counterparts and an executed copy hereof may be relied upon as an original.
6. Binding and Benefit. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, personal representatives, successors and assigns.
7. Severability. The various sections and provisions of this Agreement shall be deemed to be severable, and should any section or provision of this Agreement be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Agreement as a whole or any section or provision of this Agreement, other than the section or provision so declared to be unconstitutional or invalid.
8. Inconsistent Ordinances. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Agreement are of no effect to the extent of such inconsistency or conflict.
9. Choice of Law; Venue. This Agreement is executed in accordance with, shall be governed by, and construed and interpreted in accordance with the laws of the State of Michigan. The parties agree that for purposes of any dispute in connection with this

Agreement, the Muskegon County Circuit Court shall have exclusive personal and subject matter jurisdiction and venue.

IN WITNESS WHEREOF, the parties have signed this Agreement on the dates indicated below.

CITY OF MUSKEGON

Dated: _____, 2021

By: _____
Steve Gawron, Mayor

Dated: _____, 2021

By: _____
Ann Marie Meisch, Clerk

HARTFORD TERRACE LIMITED DIVIDEND
HOUSING ASSOCIATION LIMITED
PARTNERSHIP

Dated: _____, 2021

By: _____
Angela Mayeaux, Its Authorized Agent

Dated: _____, 2021

By: _____

MUSKEGON HOUSING COMMISSION

Dated: _____, 2021

By: _____
_____, Its President

Dated: _____, 2021

By: _____
_____, Its Secretary

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 1/12/2021	Title: Housing Commission Ordinance Amendment
Submitted By: LeighAnn Mikesell	Department: Development Services
Brief Summary: Staff are seeking approval of an amendment to Chapter 18, Article IV of the Code of Ordinances in coordination with the Hartford Terrace development agreement.	
Detailed Summary: The Muskegon Housing Commission proposes to rehabilitate Hartford Terrace Apartments through HUD's Rental Assistance Demonstration program. This program allows private capital to be raised for rehabilitation of low income housing projects. The calculation of Payments In Lieu Of Taxes for this program differs from the typical public housing program, and changes to the city's ordinance for housing commission owned properties requires a change to accommodate the development.	
Amount Requested: None	Amount Budgeted: N/A
Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: To amend and adopt Chapter 18, Article IV, Section 83 and approve the resolution for Muskegon Housing Commission.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

**CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN
ORDINANCE NO. ____**

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

1. Chapter 18, Article IV of the Code of Ordinances of the City of Muskegon, Michigan, Section 18-83 is amended by adding subpart (d) to read as follows:

Section 18-83. Payment of annual service fee in lieu of taxes; amount.

(d) Upon the awarding of approximately \$1,440,000.00 in low income housing tax credits by the Michigan State Housing Development Authority to the Muskegon Housing Commission and/or Hartford Terrace Limited Dividend Housing Association Limited Partnership, of which the Muskegon Housing Commission is the sole member of its General Partner, the annual shelter rents attributable to Hartford Terrace, located at 1080 Hartford Street in the City of Muskegon, shall no longer be included in “annual shelter rents” required above and in lieu shall be required to make a payment in lieu of taxes pursuant to Muskegon Code Section 82-46, et. seq., of 2% of the “contract rents” less “utilities” and a municipal service fee of 2% of “contract rents” less “utilities”. If the award from the Michigan State Housing Development Authority does not occur by March 31, 2022, Muskegon Code Section 18-83(d) shall become automatically rescinded, with no further action by the City Commission.

2. This Ordinance is to become effective ten (10) days after adoption.

Ayes:

Nays:

First Reading:

Second Reading:

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 ____ day of _____, 2021, at which meeting a quorum was present and remained throughout, and that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Date: _____, 2021

Ann Marie Meisch, MMC
City Clerk

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

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on _____, 2019, the City Commission of the City of Muskegon amended Chapter 18, Article IV of the Muskegon City Code, summarized as follows:

1. Section 18-83(d) is added to exclude the Muskegon Housing Commission's Hartford Terrace from calculating the annual service fee paid by the Muskegon Housing Commission upon an award of low income tax credits and to pay a payment in lieu of taxes and a municipal service fee pursuant to Muskegon Code Section 82-46, et.

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 (10) days from the date of this publication.

Published: _____, 2021

CITY OF MUSKEGON

By _____
Ann Marie Meisch, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

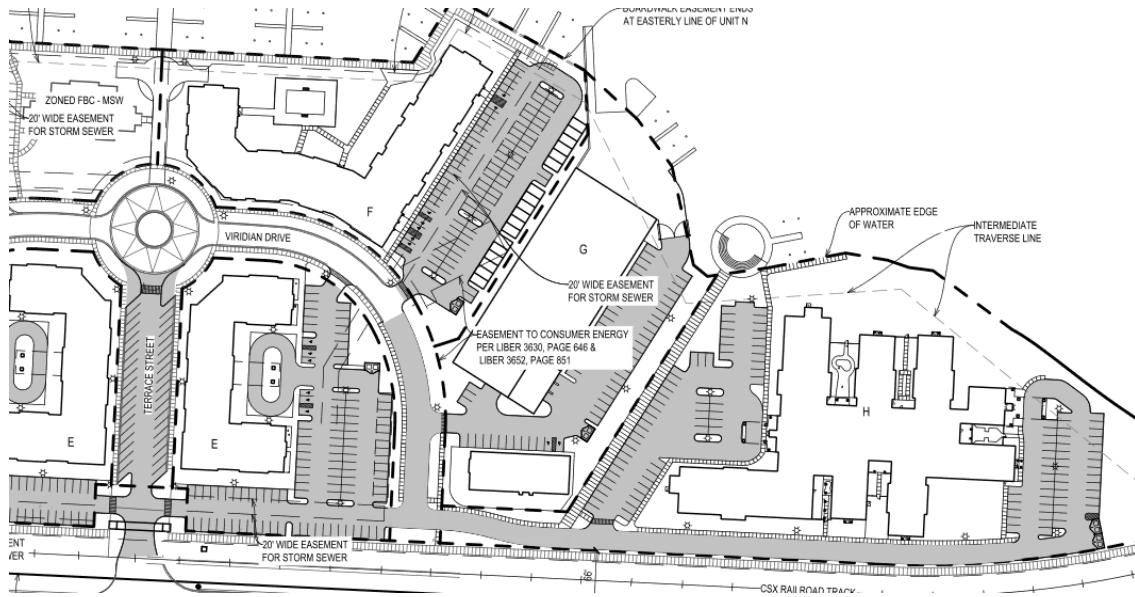
Commission Meeting Date: January 12, 2021	Title: Street Vacation – Harbor 31
Submitted By: Mike Franzak	Department: Planning
Brief Summary: Request to vacate a portion of Viridian Dr, east of Terrace St, by Harbor 31, LLC.	
Detailed Summary: The Planning Commission unanimously recommended vacation of the alley as requested.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the request to vacate a portion of Viridian Dr, east of Terrace St, by Harbor 31	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

Planning Commission Excerpt

Hearing, Case 2020-29: Request to vacate a portion of Viridian Dr, east of Terrace St, by Harbor 31, LLC.

SUMMARY

1. The applicant has requested to vacate a portion of Viridian Dr, depicted below, in an effort to develop the property.
2. Access to the proposed developments would be through a new private drive.



CITY OF MUSKEGON

RESOLUTION No. _____

RESOLUTION TO VACATE A PORTION OF A PUBLIC ST

WHEREAS, a petition has been received to vacate a portion of Viridian Dr, east of Terrace St; and

WHEREAS, the Planning Commission held a public hearing on January 12, 2021 to consider the petition and subsequently recommended the vacation; and

WHEREAS, due notice had been given of said hearing as well as the January 12, 2021 City Commission meeting to consider the recommendation of the Planning Commission;

NOW, THEREFORE, BE IT RESOLVED that the City Commission deems it advisable for the public interest to vacate a portion of Viridian Dr, east of Terrace St; and

BE IT FURTHER RESOLVED that the City Commission does hereby declare the said portion of the alley vacated and discontinued provided, however, that this action on the part of the City Commission shall not operate so as to conflict with any fire access or the utility rights heretofore acquired by the City or by any public service utility in the City of Muskegon, operating in, over and upon said portion of street hereby vacated, and it is hereby expressly declared that any such rights shall remain in full force and effect;

BE IT FURTHER RESOLVED that after any maintenance and repair by the City, the city shall restore the disturbed area to the grade and paving in existence at the time of vacation. The City shall not be responsible to replace special planting, landscaping, fences or any structure. No structure shall be placed in the vacated street which, in the sole judgment of the City, will interfere with the repair or maintenance of utilities in the easement, public or private.

Adopted this 12th day of January 2021.

Ayes:

Nays:

Absent:

By: _____

Stephen J. Gawron, Mayor

Attest: _____

Ann Meisch, MMC, City Clerk

CERTIFICATE (Vacation of a portion of Viridian Dr, east of Terrace St)

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan, at a regular meeting held on January 12, 2021.

Ann Meisch, MMC

Clerk, City of Muskegon



Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: January 12, 2021	Title: Amendment to the PUD at Harbor 31
Submitted By: Mike Franzak	Department: Planning
Brief Summary: Request to amend the final Planned Unit Development at 600 Shoreline Dr (Harbor 31), by Harbor 31, LLC.	
Detailed Summary: Staff consulted with the attorneys at Miller Canfield regarding the public boardwalk issue. It does not appear that Condominium documents make the Boardwalk Easement available for public use. If the easement had a public use component, the Master Deed would have had to stated that expressly. The Master Deed does suggest that tenants of the units, guests, employees, and invitees are permitted to use the easement. Since the developer owns most of the land in the condo agreement, it appears that guests of future developments will be able to access the entire boardwalk. Also, the developer proposes to develop the entire shoreline with boat slips. Units A, B, H and I have what appear to be identical riparian rights under Riparian easements recorded in 2006, which grant each unit owner the right to use the entire lakeshore "to the same extent as if the Benefitted Parcel was adjacent to the Lake," including for the installation of permanent docks and marinas. The land area described as falling with the easement area, however, is the "Common Areas" of the condominium project, an apparent (though not certain) reference to the General Common Elements, which consist of the Boardwalk Easement running along the shoreline and the Walkway Easement between units H and I. Unless Units A, B, H and I are all owned by the developer of the marina, the developer's right to develop beyond the shoreline running parallel to units owned by the developer appears to be an open question. A motion was made to request to amend the final Planned Unit Development at 600 Shoreline Dr be recommended for approval to the City Commission, with the following conditions as listed in the staff recommendation: 1) that public easements for access to the existing boardwalk and new waterfront gathering space shall be recorded with the Register of Deeds before any building permits are issued, and 2) each separate use/building needs to individually obtain site plan approval. Any variation from the PUD, in terms of use or building placement, is acceptable as long as it meets the underlying zoning (FBC, Mainstreet Waterfront) requirements. The motion was unanimously approved.	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):

Recommended Motion: To approve the amendments to the Planned Unit Development as requested.

Check if the following Departments need to approve the item first:

Police Dept. ☐

Fire Dept. ☐

IT Dept. ☐

For City Clerk Use Only:

Commission Action

Hearing, Case 2020-28: Request to amend the final Planned Unit Development at 600 Shoreline Dr (Harbor 31), by Harbor 31, LLC.

SUMMARY

1. In the year 2000, Lakefront Development LLC was approved for a mixed-use PUD at this site. Only a couple of the developments from the plan were built and the remaining developable lots were sold to a new developer.
2. While the original site plan cannot be located, the enclosed resolution states the conditions put on the PUD for approval.
3. The original PUD also described the publicly accessible boardwalk, however, staff cannot located any actual recording of the said publicly accessible land. This proposed development project meets most of the standards of the underlying zoning (FBC, Mainstreet Waterfront), however, the original PUD should still be honored because of the publicly accessible boardwalk agreement.
4. Please see the enclosed Project Narrative and Site Plans.
5. The plan calls for two public access points to the water. One to the boardwalk, located north of the traffic circle. The other to a seating area west of the traffic circle, between buildings G and H.
6. The plan assumes the successful vacation of a portion of Viridian Dr, which is the topic of the following case.
7. Additional staff comments will be presented at the meeting.

STAFF RECOMMENDATION

Staff recommends approval of the special use permit with the following conditions:

1. Public easements for access to the existing boardwalk and new waterfront gathering space shall be recorded with the Register of Deeds before any building permits are issued.
2. Each separate use/building needs to individually obtain site plan approval. Any variation from the PUD, in terms of use or building placement, is acceptable as long as it meets the underlying zoning (FBC, Mainstreet Waterfront) requirements.

**CITY OF MUSKEGON
RESOLUTION #2021-**

**RESOLUTION TO APPROVE THE AMENDED FINAL PLANNED UNIT DEVELOPMENT FOR
600 SHORELINE DR (Harbor 31)**

WHEREAS, a petition to amend the Planned Unit Development at 600 Shoreline Dr has been received; and,

WHEREAS, proper notice was given by mail and publication and public hearings were held by the City Planning Commission and by the City Commission to consider said petition, during which all interested persons were given an opportunity to be heard in accordance with provisions of the Zoning Ordinance and State Law; and

WHEREAS, the Planning Commission and staff have recommended approval of the Final Planned Unit Development and associated site plan with the following conditions 1) that public easements for access to the existing boardwalk and new waterfront gathering space shall be recorded with the Register of Deeds before any building permits are issued, and 2) each separate use/building needs to individually obtain site plan approval. Any variation from the PUD, in terms of use or building placement, is acceptable as long as it meets the underlying zoning requirements; and

NOW, THEREFORE, BE IT RESOLVED that the recommendation by staff and the Planning Commission be accepted and the amendment to the final Planned Unit Development is hereby approved.

Adopted this 12th day of January, 2021

Ayes:

Nays:

Absent:

By: _____
Stephen J. Gawron
Mayor

Attest: _____
Ann Meisch
Clerk, City of Muskegon

CERTIFICATE
(Amendment to Final PUD at 600 Shoreline Dr)

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 a resolution adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 12th day of January, 2021, 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 Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2021.

Ann Meisch
Clerk, City of Muskegon



PROJECT NARRATIVE HARBOR 31 PUD AMENDMENT

Located on the Shores of Muskegon Lake in Muskegon Michigan, Harbor 31 (H31) will create various residential living opportunities as well as provide additional Hotel and Retail and Office space. H31 will incorporate the scale and materials of a traditional central business district in a contemporary architectural style.

The connectivity to Muskegon Lake is a key component of the Harbor 31 project. H31 will create additional public connectivity to the Lake as well as establish the Harbor 31 marina to serve the residents of Harbor 31 as well as the public. As part of this effort, our plan is to create an in-out boat storage and retail sales facility as an added amenity.

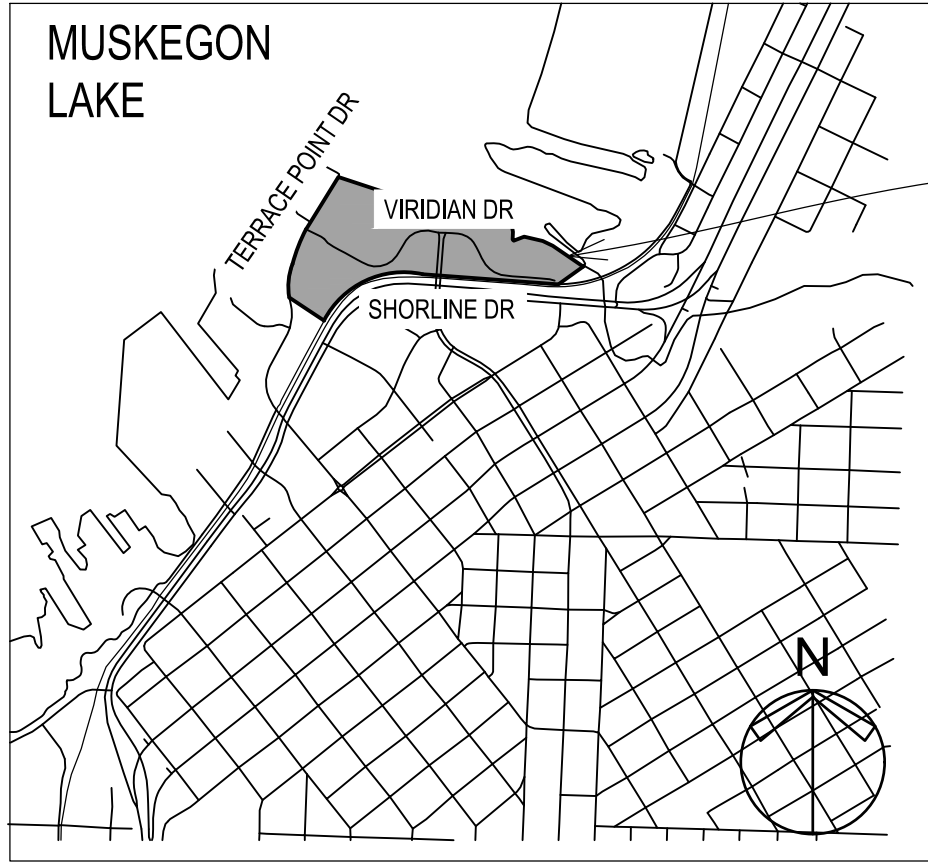
Harbor 31 master plan will consist of the following projects:

- Viridian Shores:
 - o 15 single family homes and 16 duplex units adjacent to the boardwalk with direct access to boat docks. A community pool will be built to serve the Viridian Shores and Viridian Place projects
- Boardwalk Flats:
 - o Four Story / 130 units market rate apartments with views of Muskegon Lake and direct access to the marina.
- Harbor 31 Dry Dock:
 - o Interior boat storage building and a separate retail boat sales and rental building
- Trilogy Assisted Living:
 - o 105 Bed Assisted Living Facility
- Harbor 31 Commons:
 - o Four story / Mixed use. Ground floor retail with 88 apartment units above.
- Viridian Place:
 - o 48 Unit Multi Story Residential Townhouse project
- Hotel:
 - o Flag hotel with proximity to the new Muskegon Convention Center
- Office Building:
 - o 16,000 square foot multi-tenant office building
- Harbor 31 Marina:
 - o 100+/- Boat docks

Harbor 31 will bring additional residents and services to the rapidly growing downtown Muskegon market. Our goal is to develop a project that will add to the reimagined shoreline and be a vital component of downtown Muskegon.



SITE LOCATION MAP
NOT TO SCALE



600 SHORELINE DRIVE
CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

SECTION 19, TOWN 10 N, RANGE 16 E
42°14'34" N, 86°15'11.3" W
PARCEL #: 61-24-607-000-0000-00



Know what's below.
Call before you dig.

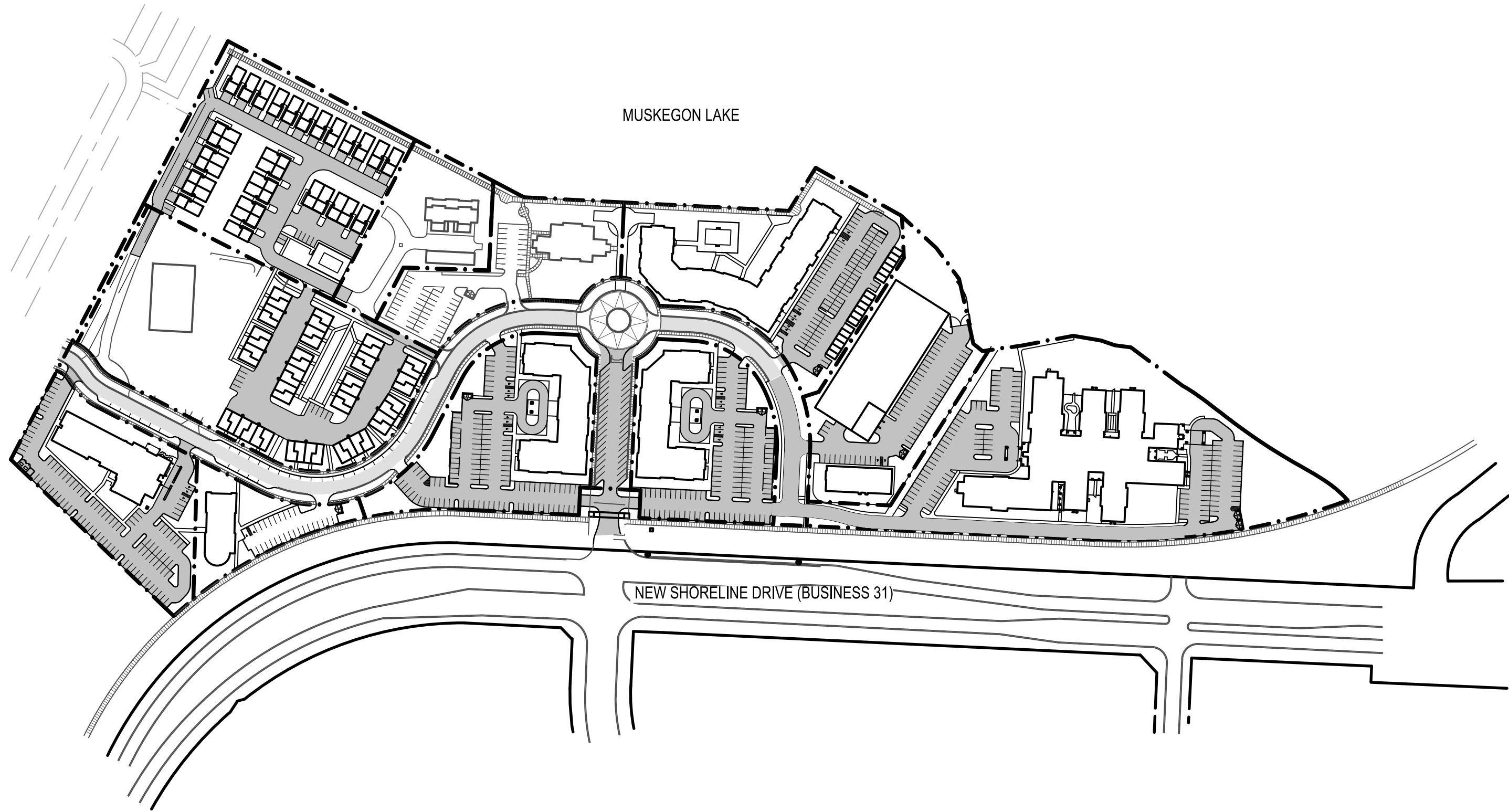
THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITY PIPES, CONDUITS OR STRUCTURES SHOWN ON THESE PLANS WAS OBTAINED BY A SEARCH OF THE AVAILABLE RECORDS. THE CONTRACTOR IS REQUIRED TO TAKE DUE PRECAUTIONARY MEASURES TO PROTECT THE UTILITY LINES SHOWN ON THESE DRAWINGS. THE CONTRACTOR FURTHER ASSUMES ALL LIABILITY AND RESPONSIBILITY FOR THE UTILITY PIPES, CONDUITS OR STRUCTURES SHOWN OR NOT SHOWN ON THESE DRAWINGS. THE CONTRACTOR SHALL POTHOLE ALL EXISTING UTILITIES TO VERIFY THE LOCATION AND ANY DISCREPANCY BETWEEN THE PLANS SHALL BE BROUGHT TO THE ATTENTION OF THE DESIGN ENGINEER.

HARBOR 31

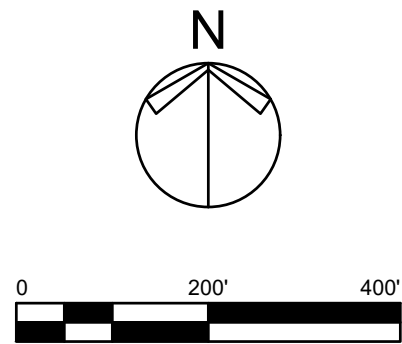
PLANNED UNIT DEVELOPMENT

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN



KEY MAP
1"=200'



CIVIL SHEET INDEX:

- C-001 CIVIL COVER SHEET
- C-101 CIVIL EXISTING CONDITIONS & DEMOLITION PLAN
- C-102 CIVIL OVERALL LAYOUT PLAN
- C-103 CIVIL DETAILED LAYOUT PLAN - WEST
- C-104 CIVIL DETAILED LAYOUT PLAN - EAST
- C-105 CIVIL UTILITY & GRADING PLAN - WEST
- C-106 CIVIL UTILITY & GRADING PLAN - EAST
- C-107 FIRE ACCESS PLAN
- C-108 CIVIL OVERALL LIGHT PLAN
- L-101 LANDSCAPE PLAN

DEVELOPMENT REFERENCE:

OWNER/
APPLICANT: HARBOR 31, LLC.
2325 BELMONT CENTER DRIVE, SUITE B
BELMONT, MI 49306
CONTACT: DAN HENRICKSON
PH: (616)-458-5554
EMAIL: DAN@HENRICKSONAP.COM

CIVIL ENGINEER: PARADIGM DESIGN
550 3 MILE ROAD N.W., SUITE B
GRAND RAPIDS, MI 49544
CONTACT: STEVE ACHRAM
PH: (616) 785-5587
EMAIL: SACHRAM@PARADIGMAE.COM

SURVEYOR: BURGESS SURVEYING
8375 RIDGESTONE DR
SW BYRON CENTER, MI 49315
CONTACT: JORDAN BURGESS
PH: (616) 437-2249
EMAIL: BURGESSSURVEYING@GMAIL.COM

LEGAL DESCRIPTION:

PROPERTY DESCRIPTION:
PART OF BLOCKS 554 AND 558 OF THE REVISED PLAT OF THE CITY OF MUSKEGON, AS RECORDED IN LIBER 3 OF PLATS, PAGE 71, MUSKEGON COUNTY RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST SOUTHERLY CORNER OF BLOCK 556 OF SAID PLAT; THENCE NORTH 62°44'00" WEST 1248.69' ALONG THE NORTHERLY LINE OF TERRACE STREET EXTENDED; THENCE WESTERLY 269.86' ALONG SAID NORTHERLY LINE ON A 302.48' RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS NORTH 88°17'30" WEST 261.00'; THENCE NORTH 46°09'15" WEST 85.84' ALONG THE LINE BETWEEN LOTS 5 AND 6 OF SAID BLOCK 558 TO THE TRUE PLACE OF BEGINNING, SAID POINT BEING ON THE NORTHERLY LINE OF THAT PARCEL OF LAND TAKEN BY THE CITY OF MUSKEGON FOR THE CONSTRUCTION OF SHORELINE DRIVE, A PEDESTRIAN WALKWAY AND THE RELOCATION OF THE RAILROAD RIGHT OF WAY, (SAID NORTHERLY LINE BEING DESCRIBED IN SCHEDULE A ATTACHED TO CITY OF MUSKEGON RESOLUTION NO. 98-87(F) AND ADOPTED BY THE CITY COMMISSION ON JULY 28, 1998); THENCE CONTINUING ALONG SAID LINE BETWEEN LOTS 5 AND 6 OF SAID BLOCK 558, NORTH 46°09'15" WEST 448.41'; THENCE NORTH 27°25'55" EAST 899.22' TO AN INTERMEDIATE TRAVERSE LINE ALONG THE SHORE OF MUSKEGON LAKE, SAID POINT BEING CALLED "A", (SAID POINT "A" BEING APPROXIMATELY 36' FROM THE WATERS EDGE OF MUSKEGON LAKE; (THE FOLLOWING SEVEN (7) CALLS BEING ALONG SAID INTERMEDIATE TRAVERSE LINE) THENCE SOUTH 62°21'32" EAST 649.57'; THENCE SOUTH 87°04'39" EAST 570.78'; THENCE NORTH 31°56'32" EAST 81.67'; THENCE SOUTH 60°03'28" EAST 191.75'; THENCE SOUTH 26°40'26" EAST 292.27'; THENCE NORTH 88°15'34" EAST 381.58'; THENCE SOUTH 50°57'54" EAST 490.90' TO A POINT ON THE NORTHERLY LINE OF SAID PARCEL TAKEN BY THE CITY, SAID POINT BEING CALLED "B"; THENCE NORTHEASTERLY 95.33' ALONG A 1272.34' RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS NORTH 71°48'08" EAST 95.30' TO THE NORTHEASTERLY LINE OF SAID BLOCK 554; THENCE NORTHWEST ALONG SAID NORTHEASTERLY LINE TO THE WATERS EDGE OF MUSKEGON LAKE; THENCE RECOMMENCING AT SAID POINT "B" (THE FOLLOWING SEVEN (7) CALLS BEING ALONG THE NORTHERLY LINE OF SAID PARCEL TAKEN BY THE CITY), THENCE SOUTHWESTERLY 416.86' ALONG A 1272.34' RADIUS CURVE TO THE RIGHT, THE CHORD OF WHICH BEARS SOUTH 83°20'04" WEST 415.00'; THENCE NORTH 87°16'46" WEST 904.15'; THENCE NORTH 02°43'14" EAST 55.00'; THENCE NORTH 87°16'46" WEST 120.00'; THENCE SOUTH 02°43'14" WEST 55.00'; THENCE NORTH 87°16'46" WEST 222.59'; THENCE SOUTHWESTERLY 635.15' ALONG A 803.25' RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS SOUTH 70°04'05" WEST 618.73' TO THE PLACE OF BEGINNING.

TOGETHER WITH ALL LANDS LYING BETWEEN THE INTERMEDIATE TRAVERSE LINE AND THE WATERS EDGE OF MUSKEGON LAKE AND THE NORTHEASTERLY LINE OF SAID BLOCK 554, CONTAINING 34.2 ACRES MORE OR LESS.

SURVEY PROVIDED BY:

BOUNDARY & TOPOGRAPHIC SURVEY PROVIDED BY BURGESS SURVEYING ON A DRAWING DATED 10-29-2020.

BENCHMARKS:

ASSUMED BENCHMARK AS DENOTED ON MUSKEGON LAKEFRONT DEVELOPMENT PLANS DEVELOPED BY FELIX AND VANDENBRINK.
BM#1: TOP OF FLANGE BOLT UNDER THE "E" OF EJIW ON HYDRANT; LOCATED +- 70 FEET WEST & ±10 FEET SOUTH OF SOUTHEAST PROPERTY CORNER.
ELEVATION = 594.88 (BASIS PLAN ELEVATION SHOWN)
NAVD88 ELEV = (PLAN ELEVATION)-(0.42 FEET)

COORDINATE SYSTEM:

COORDINATES & BEARINGS ARE BASED ON MICHIGAN STATE PLANE SOUTH ZONE, NAD83(HARN), INTERNATIONAL FEET.

NAVD88 ELEVATIONS ARE 0.42 FEET LOWER THAN THE SITE.

FLOODPLAIN DATA:

ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP (FIRM), NUMBER 26121C0257D, EFFECTIVE DATE: JULY 6 2015, NATIONAL FLOOD INSURANCE PROGRAM, AS PUBLISHED BY FEMA.

THE SUBJECT PROPERTY IS IN ZONE AE DEFINED AS AREA INUNDATED BY THE BASE FLOOD WITH BASE FLOOD ELEVATIONS DETERMINED WITH A BASE FLOOD ELEVATION OF 584.82. (ASSUMED)

WETLAND DATA:

THERE ARE DELINEATED WETLANDS WITHIN THE PROJECT LIMITS. A PART 301 AND PART 303 PERMIT ARE IN PROCESS WITH EGLE.

PROJECT DESCRIPTION:

THIS PROJECT ADDRESSES AMENDING THE EXISTING PLANNED UNIT DEVELOPMENT FOR MUSKEGON LAKESHORE SMARTZONE CONDOMINIUM.

PARADIGM DESIGN
ARCHITECTS | ENGINEERS

550 3 Mile NW, Suite B
Grand Rapids, MI 49544
(616) 785-5656

Grand Rapids | Phoenix | Traverse City
www.paradigmae.com

STEVE J. ACHRAM
MI - REGISTRATION #6201054728
EXP. DATE 10/03/2023

PROJECT

HARBOR 31

PLANNED UNIT DEVELOPMENT

CITY OF MUSKEGON, MICHIGAN

APPLICANT

HARBOR 31, LLC
2325 BELMONT
CENTER DRIVE
BELMONT, MI 49306

616-458-5554

RELEASE DATE
DATE DESCRIPTION
11/19/2020 PUD AMENDMENT

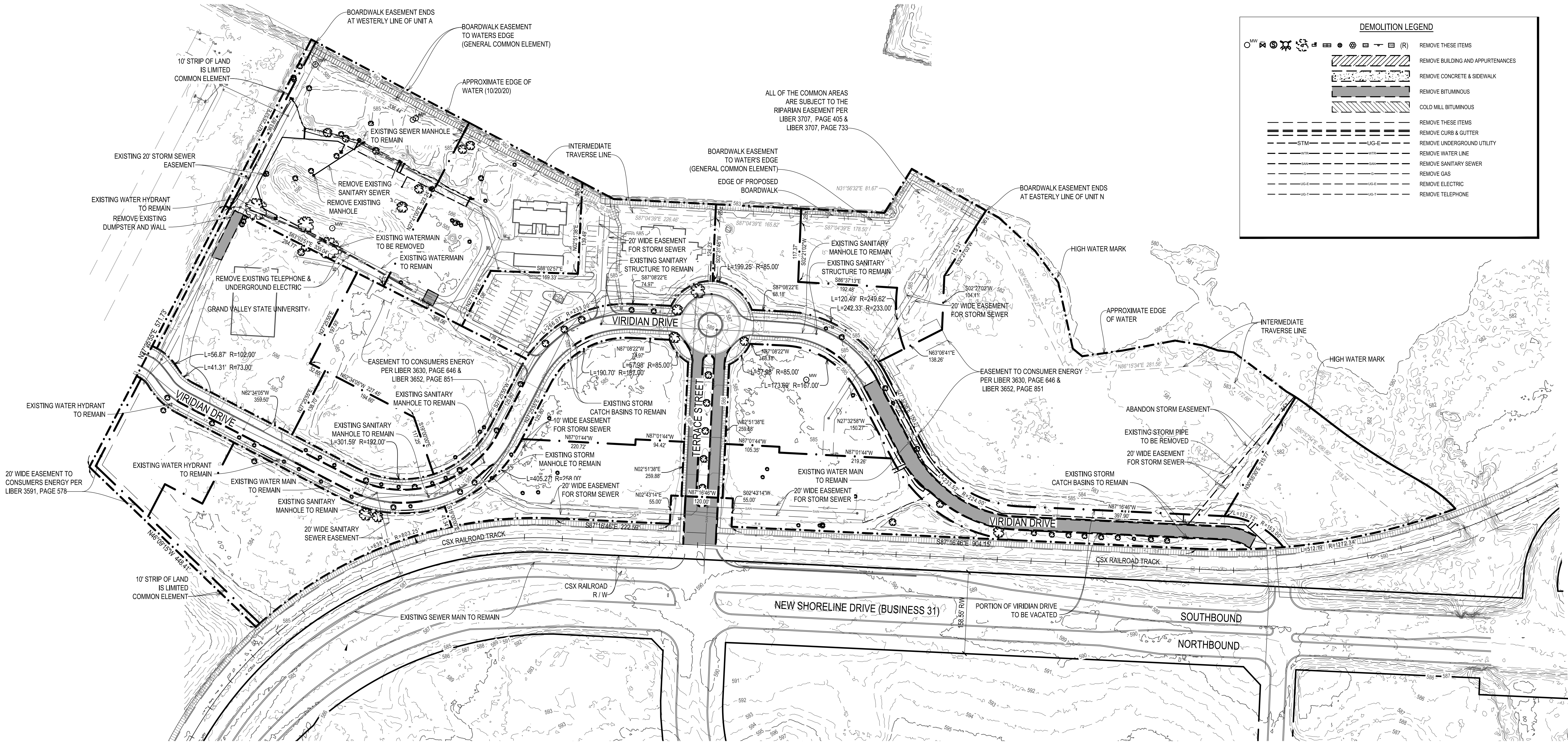
PROJECT

2009082GR

SHEET

CIVIL COVER SHEET

C-001



DEMOLITION LEGEND

	REMOVE THESE ITEMS
	REMOVE BUILDING AND APPURTENANCES
	REMOVE CONCRETE & SIDEWALK
	REMOVE BITUMINOUS
	COLD MILL BITUMINOUS
	REMOVE THESE ITEMS
	REMOVE CURB & GUTTER
	REMOVE UNDERGROUND UTILITY
	REMOVE WATER LINE
	REMOVE SANITARY SEWER
	REMOVE GAS
	REMOVE ELECTRIC
	REMOVE TELEPHONE

DEMOLITION NOTES:

ALL MATERIAL THAT IS NOT SUITABLE AS BACKFILL AND MATERIALS THAT ARE EXCESS SHALL BE REMOVED FROM THE SITE AND DISPOSED OF IN ACCORDANCE WITH ALL LOCAL, STATE, AND FEDERAL REGULATIONS.

ALL AREAS OF UNDERGROUND DEMOLITION; UTILITY LINE REMOVAL; AND UNDERGROUND TREE, STUMP, AND VEGETATION REMOVAL SHALL BE BACKFILLED.

BACKFILLING SHALL PROMPTLY FOLLOW UNDERGROUND DEMOLITION OR REMOVAL WORK AND SHALL CONTINUE AS THE DEMOLITION PROGRESSES.

CONTRACTOR SHALL BE RESPONSIBLE FOR APPLYING FOR AND OBTAINING ALL NECESSARY DEMOLITION PERMITS AND PAYING FOR ANY ASSOCIATED PERMIT FEES.

NOTIFY ARCHITECT/ENGINEER OF ANY OTHER UNDERGROUND MATERIALS OR EQUIPMENT ENCOUNTERED DURING EXCAVATION NOT SPECIFICALLY NOTED ON THE DRAWING(S).

PRIVATE UTILITY REMOVAL - CONTRACTOR TO COORDINATE PRIVATE UTILITY (GAS, ELECTRIC, PHONE, CABLE, ETC.) REMOVAL WITH APPROPRIATE AUTHORITY. ALTHOUGH ALL PRIVATE UTILITY SERVICES MAY NOT BE SHOWN ON THIS DRAWING, CONTRACTOR IS RESPONSIBLE FOR REMOVAL OF SERVICE AS NECESSARY.

PUBLIC UTILITY REMOVAL - CONTRACTOR TO COORDINATE PUBLIC UTILITY (WATER, SEWER, STORM) REMOVAL WITH APPROPRIATE UTILITY COMPANY. ALTHOUGH ALL PUBLIC UTILITY SERVICES MAY NOT BE SHOWN ON THIS DRAWING, CONTRACTOR IS RESPONSIBLE FOR REMOVAL OF SERVICE AS NECESSARY.

WHERE CURBING OR PAVEMENT IS INDICATED TO BE REMOVED, IT SHALL BE SAWCUT FULL DEPTH. REMOVE TO THE NEAREST JOINT. IF THE JOINT IS WITHIN 3 FEET OF THE REMOVAL LINE. VERIFY REMOVAL LIMITS WITH ENGINEER PRIOR TO BEGINNING WORK.

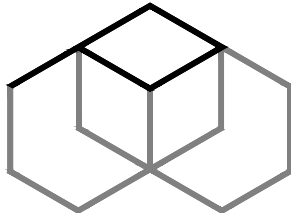
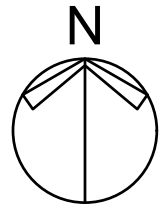
EXISTING MONITORING WELLS TO BE ABANDONED PER EGLE REGULATIONS

EXISTING VEGETATION SHALL BE SAVED IF PRACTICAL.

OUTDOOR AND ROOFTOP MECHANICAL EQUIPMENT AND OUTDOOR STORAGE WILL BE SCREENED.



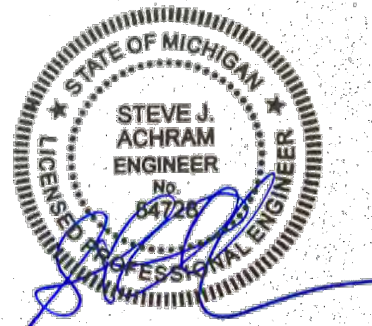
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STEVE J. ACHRAM
MI - REGISTRATION #6201054728
EXP. DATE 10/03/2023

PROJECT

HARBOR 31

**PLANNED UNIT
DEVELOPMENT**

CITY OF MUSKEGON, MICHIGAN

APPLICANT

HARBOR 31, LLC
2325 BELMONT
CENTER DRIVE
BELMONT, MI 49306

616-458-5554

RELEASE DATE

DATE	DESCRIPTION
11/19/2020	PUD AMENDMENT

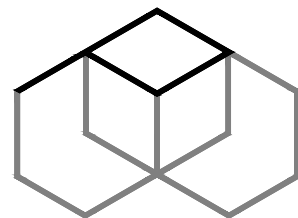
PROJECT

2009082GR

SHEET

**CIVIL EXISTING
CONDITIONS &
DEMOLITION PLAN**

C-101

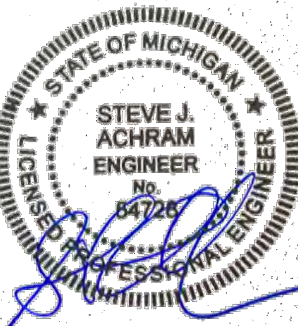


PARADIGM DESIGN

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STEVE J. ACHRAM
MI - REGISTRATION #6201054728
EXP. DATE 10/31/2023

PROJECT

HARBOR 31

PLANNED UNIT
DEVELOPMENT

CITY OF MUSKOGON, MICHIGAN

APPLICANT

HARBOR 31, LLC
2325 BELMONT
CENTER DRIVE
BELMONT, MI 49306

616-458-5554

RELEASE DATE

DATE DESCRIPTION

11/19/2020 PUD AMENDMENT

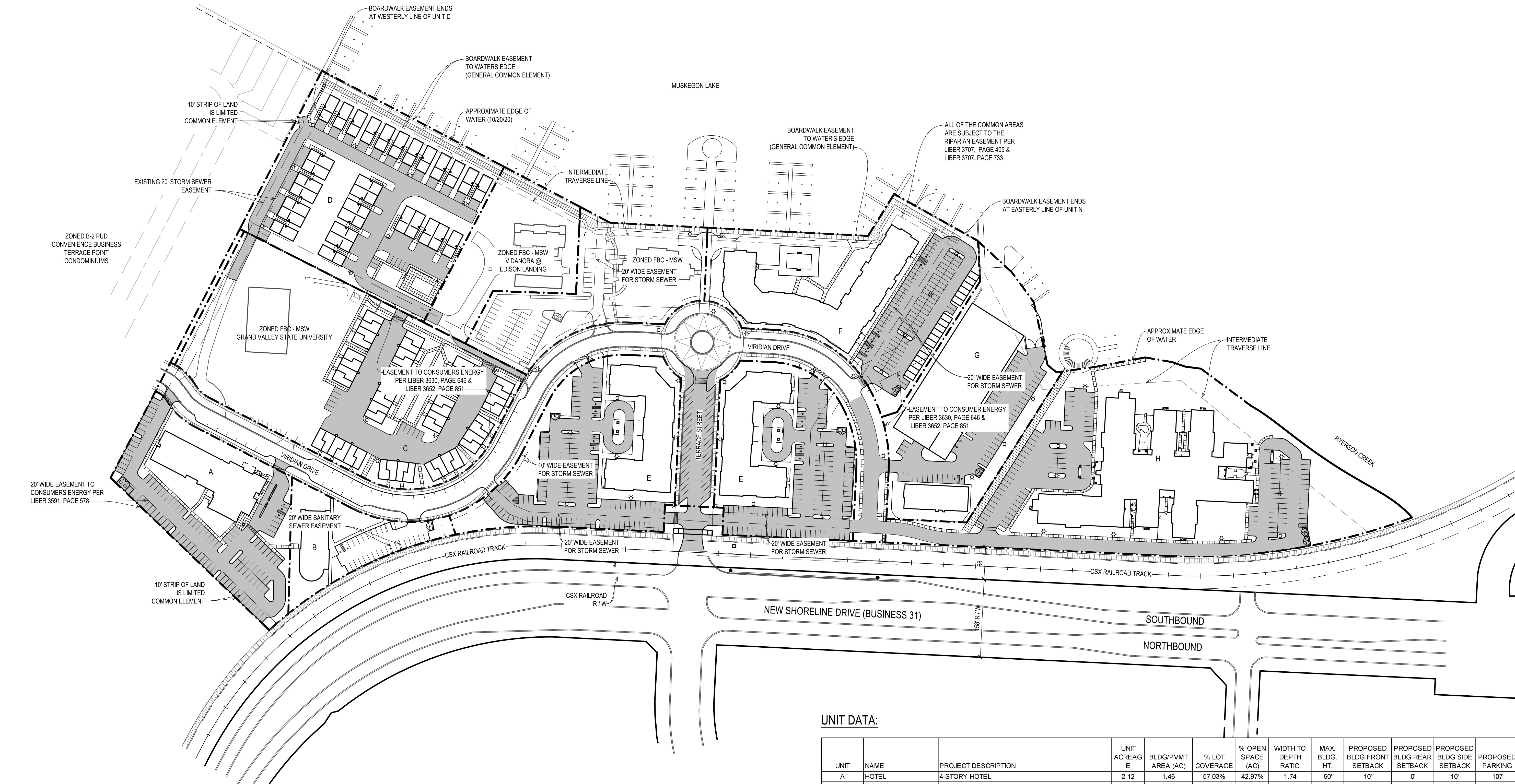
PROJECT

2009082GR

SHEET

CIVIL OVERALL LAYOUT
PLAN

C-102



UNIT DATA:

UNIT	NAME	PROJECT DESCRIPTION	UNIT ACREAG E	BLDG/PVMT AREA (AC)	% LOT COVERAGE	% OPEN SPACE (AC)	WIDTH TO DEPTH RATIO	MAX. BLDG. HT.	PROPOSED BLDG FRONT SETBACK	PROPOSED BLDG REAR SETBACK	PROPOSED BLDG SIDE SETBACK	PROPOSED PARKING
A	HOTEL	4-STORY HOTEL	2.12	1.46	57.03%	42.97%	1.74	60'	10'	0'	10'	107
B	HARBOR 31 OFFICE	2-STORY OFFICE BLDG	0.89	0.42	12.07%	87.93%	20.5	50'	10'	0'	10'	29
C	VIRIDIAN PLACE	48 UNIT RENTAL TOWNHOUSE	2.56	1.58	33.47%	66.53%	1.01	50'	10'	0'	10'	58
D	VIRIDIAN SHORES	31 SINGLE FAMILY HOME	3.48	1.95	56.03%	43.97%	2.45	40'	10'	0'	10'	73
E	HARBOR 31 COMMONS	4 STORY MIXED USE-RETAIL AND 88 APARTMENTS	4.72	3.38	71.61%	28.39%	1.25	55'	10'	0'	10'	237
F	BOARDWALK FLATS	130 WATERFRONT APARTMENTS	3.15	1.74	55.24%	44.76%	2.5	55'	10'	0'	10'	124
G	H31 DRY DOCK	IN/OUT BOAT SERVICE/SALE & RENTALS	2.55	1.97	77.25%	22.75%	2.27	55'	10'	0'	10'	60
H	TRILOGY	105 UNIT SENIOR LIVING COMMUNITY	5.64	2.08	36.88%	63.12%	2.06	50'	10'	0'	10'	110
I	HARBOR 31 MARINA	100+/- BOAT SLIPS	n/a									--
--	ON STREET											76

SITE DATA:

SITE:
OVERALL 34.30 ACRES
GVSU (EXST) 2.28 ACRES
CONDO (EXST) 1.35 ACRES
OFFICE (EXST) 1.77 ACRES
RIGHT OF WAY 3.79 ACRES

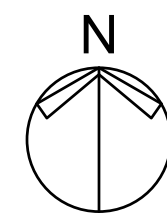
ZONED: FORM BASED CODE-MAINSTREET WATERFRONT (FBC-MSW)
USE: MIXED USE

PARKING DATA:

PROPOSED PARKING: 874 SPACES

PARKING SPACE: 8' x 18'
DRIVE AISLE: 12' ONE WAY
22' TWO WAY

THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITY PIPES, CONDUITS OR STRUCTURES SHOWN ON THESE PLANS WAS OBTAINED BY A SEARCH OF THE AVAILABLE RECORDS. THE CONTRACTOR IS REQUIRED TO TAKE DUE PRECAUTIONARY MEASURES TO PROTECT THE UTILITY LINES SHOWN ON THESE DRAWINGS. THE CONTRACTOR FURTHER ASSUMES ALL LIABILITY AND RESPONSIBILITY FOR THE UTILITY PIPES, CONDUITS OR STRUCTURES SHOWN OR NOT SHOWN ON THESE DRAWINGS. THE CONTRACTOR SHALL POTHOLE ALL EXISTING UTILITIES TO VERIFY THE LOCATION AND ANY DISCREPANCY BETWEEN THE PLANS SHALL BE BROUGHT TO THE ATTENTION OF THE DESIGN ENGINEER.



GENERAL LAYOUT NOTES:

REFER TO ARCHITECTURAL PLANS FOR DETAILS OF CONCRETE DOOR STOOPS, TRUCK DOCK AND WALLS, AND DUMPSTER ENCLOSURE.

REFER TO ARCHITECTURAL FOUNDATION PLAN FOR DETAILING OF BUILDING AND EXACT BUILDING DIMENSIONS.

REFER TO LANDSCAPE PLAN FOR RESTORATION OF ALL NON PAVED SURFACES.

ALL DIMENSIONS SHOWN TO CONCRETE CURB AND GUTTER ARE TO BACK OF CURB UNLESS OTHERWISE NOTED.

CONCRETE GUTTER PAN TO TIP IN THE SAME DIRECTION AS THE ADJACENT PAVEMENT.

THE LAST THREE FEET OF ALL CURBS SHALL BE DUBBED DOWN UNLESS OTHERWISE NOTED.

ALL PAVEMENT MARKINGS SHALL BE 4" WIDE. STANDARD PARKING SPACES SHALL BE MARKED IN YELLOW AND BARRIER FREE SPACES IN BLUE. EACH BARRIER FREE SPACE SHALL BE PROVIDED WITH A PAINTED PAVEMENT SYMBOL, A PRECAST CONCRETE BUMPER BLOCK, AND A SIGN PER THE MANUAL OF UNIFORM TRAFFIC CONTROLS.

PARKING & LOADING AREAS MUST BE PAVED & STRIPED.

ALL BUILDINGS MUST BE CONSTRUCTED 1-FOOT ABOVE THE 100 YEAR FLOOD PLAIN

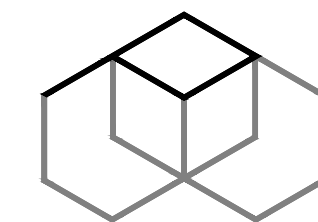
OUTDOOR AND ROOFTOP MECHANICAL EQUIPMENT AND OUTDOOR STORAGE WILL BE SCREENED.

ALL COMMERCIAL & INDUSTRIAL USES HAVE A DESIGNATED LOADING AREA FOR DELIVERY TRUCKS.

FINAL LAYOUT DESIGN WILL BE PART OF EACH INDIVIDUAL LOTS SITE PLAN

PROPOSED LEGEND		
SIGN	SIGN WITH BASE	BUMPER BLOCK
ELECTRIC METER	LANDING AREA	SIDEWALK RAMP
FIRE DEPARTMENT CONNECTION	HYDRANT	TRANSFORMER
WATER METER	LIGHT POLE	TRASH ENCLOSURE
MONUMENT SIGN		
CONCRETE SIDEWALK		
CONCRETE PAVEMENT		
STANDARD DUTY BITUMINOUS		
HEAVY DUTY BITUMINOUS		
GRAVEL		
BRICK / STAMPED CONCRETE		
STANDARD CURB & GUTTER		
CENTER LINE		
PROPERTY LINE		
DITCH		
FENCE		

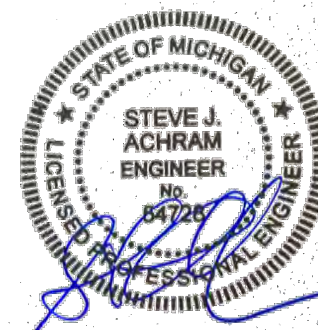
EXISTING LEGEND	
SIGN	TRASH ENCLOSURE
CURB & GUTTER	
CENTER LINE	
PROPERTY LINE	
DITCH	



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STEVE J. ACHRAM
MI - REGISTRATION #6201054728
EXP. DATE 10/31/2023

PROJECT

HARBOR 31

PLANNED UNIT
DEVELOPMENT

CITY OF MUSKEGON, MICHIGAN

APPLICANT

HARBOR 31, LLC
2325 BELMONT
CENTER DRIVE
BELMONT, MI 49306

616-458-5554

RELEASE DATE

DATE	DESCRIPTION
11/19/2020	PUD AMENDMENT



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Grand Rapids, MI 49544
(616) 785-5656

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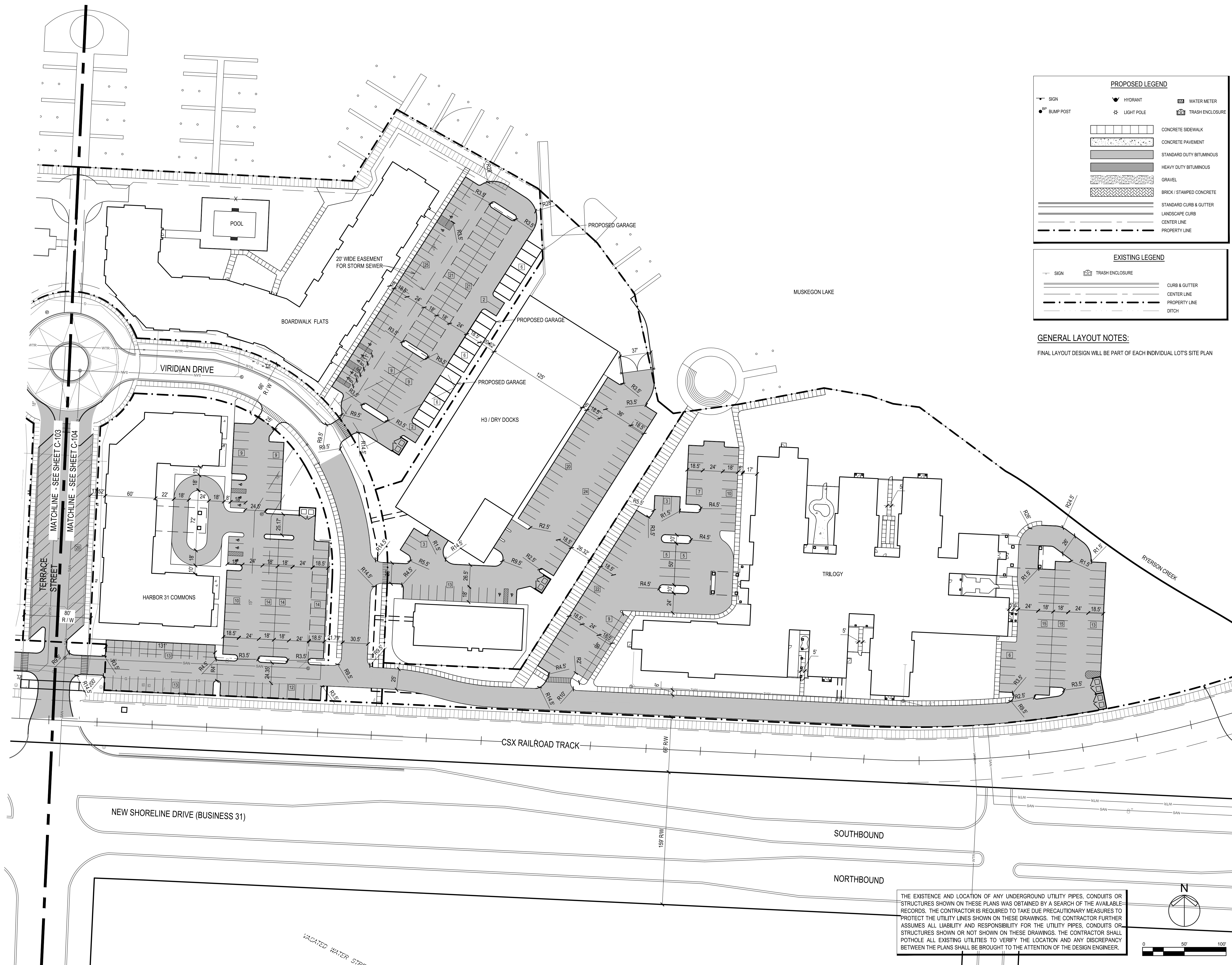
PROJECT

2009082GR

SHEET

CIVIL DETAILED LAYOUT
PLAN - EAST

C-104



Thursday, November 19, 2020 at 1:53pm W:\200908\GR Harbor 31 - Overall Site Drawings - 200908\GR Harbor\31\PUID\04C-103.dwg r1ce

GENERAL SANITARY SEWER NOTES:

SITE CONTRACTOR TO END SANITARY LATERAL 5' FROM BUILDING WITH A CLEAN-OUT AND TEMPORARY CAP. COORDINATE CONNECTION WITH BUILDING PLUMBING CONTRACTOR.

SANITARY SEWER PIPE AND FITTINGS SHALL BE PVC PER ASTM D3034, SDR 35 PVC. JOINTS TO BE ELASTOMERIC SEALS IN ACCORDANCE WITH ASTM F477.

SANITARY SEWER LATERALS AND FITTINGS SHALL BE PVC PER ASTM D3034, SDR 35 PVC. JOINTS TO BE ELASTOMERIC SEALS IN ACCORDANCE WITH ASTM F477.

MATERIALS, INSTALLATION, AND TESTING OF SANITARY SEWER SHALL CONFORM TO CITY OF MUSKEGON STANDARDS.

GENERAL WATER SERVICE NOTES:

SITE CONTRACTOR TO END WATER SERVICE(S) AT 5' FROM BUILDING WITH A TEMPORARY CAP. COORDINATE CONNECTION WITH BUILDING PLUMBING CONTRACTOR.

WATER MAIN SHALL BE DUCTILE IRON PER ANSI/AWWA C151/A21.51, THICKNESS CLASS 52 PER ANSI/AWWA C110/A21.50. FITTINGS SHALL BE DUCTILE IRON PER ANSI/AWWA C110/A21.10, PRESSURE CLASS 350.

DOMESTIC SERVICE SHALL BE COPPER, TYPE K, ANNEALED AND SOFT TEMPER PER ASTM B-88. FITTINGS SHALL CONFORM TO ASTM B-88.

MINIMUM DEPTH OF BURY SHALL BE 5.5 FEET.

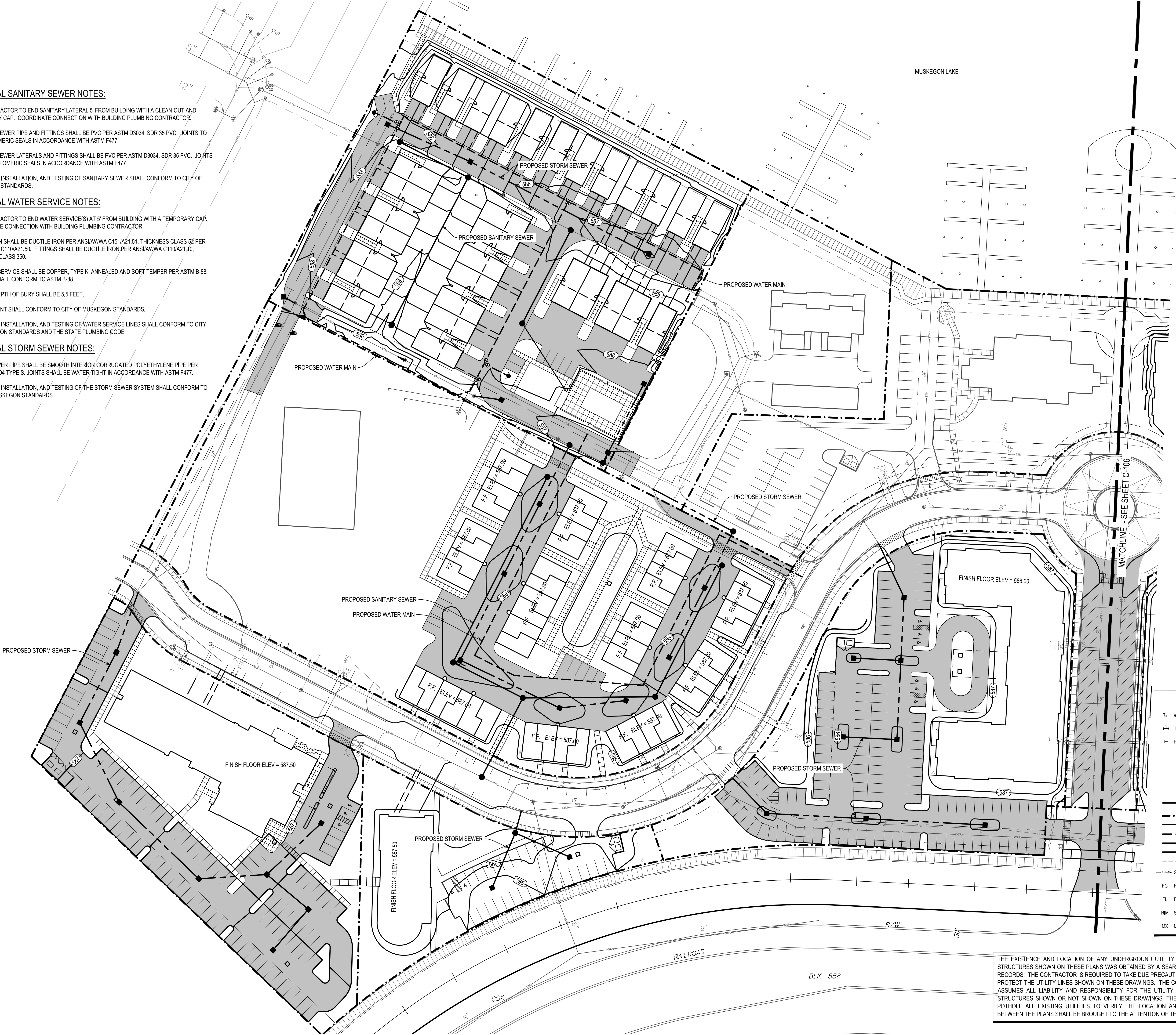
FIRE HYDRANT SHALL CONFORM TO CITY OF MUSKEGON STANDARDS.

MATERIALS, INSTALLATION, AND TESTING OF WATER SERVICE LINES SHALL CONFORM TO CITY OF MUSKEGON STANDARDS AND THE STATE PLUMBING CODE.

GENERAL STORM SEWER NOTES:

STORM SEWER PIPE SHALL BE SMOOTH INTERIOR CORRUGATED POLYETHYLENE PIPE PER AASHTO M294 TYPE S. JOINTS SHALL BE WATER TIGHT IN ACCORDANCE WITH ASTM F477.

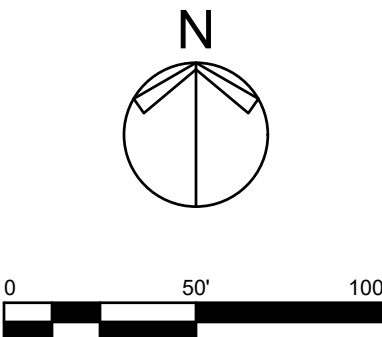
MATERIALS, INSTALLATION, AND TESTING OF THE STORM SEWER SYSTEM SHALL CONFORM TO CITY OF MUSKEGON STANDARDS.



PROPOSED LEGEND

90° BEND	MANHOLE	CLEAN OUT
TEE	CATCH BASIN	WATER VALVE
PIPE PLUG	HYDRANT	
CONCRETE SIDEWALK		
CONCRETE PAVEMENT		
STANDARD DUTY BITUMINOUS		
STANDARD CURB & GUTTER		
PROPERTY LINE		
CONTOUR LINE		
WATER MAIN		
SANITARY SEWER		
STORM SEWER		
UNDERDRAIN		
SURFACE FLOW ARROW	PROPOSED SPOT GRADE	
FG FINISHED GROUND	TC TOP OF CURB GRADE	
FL FLOW LINE GRADE	SW SIDEWALK GRADE	
RIM STRUCTURE RIM ELEVATION	CON CONCRETE GRADE	
MX MATCH EXISTING ELEVATION	BIT BITUMINOUS GRADE	

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STEVE J. ADHRAM
MI - REGISTRATION #6201054728
EXP. DATE 10/31/2023

PROJECT

HARBOR 31

PLANNED UNIT DEVELOPMENT

CITY OF MUSKEGON, MICHIGAN

APPLICANT

HARBOR 31, LLC
2325 BELMONT
CENTER DRIVE
BELMONT, MI 49306

616-458-5554

RELEASE DATE		
DATE	DESCRIPTION	
11/19/2020	PUD AMENDMENT	

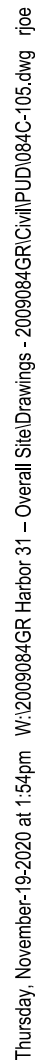
PROJECT

2009082GR

SHEET

CIVIL UTILITY & GRADING
PLAN - WEST

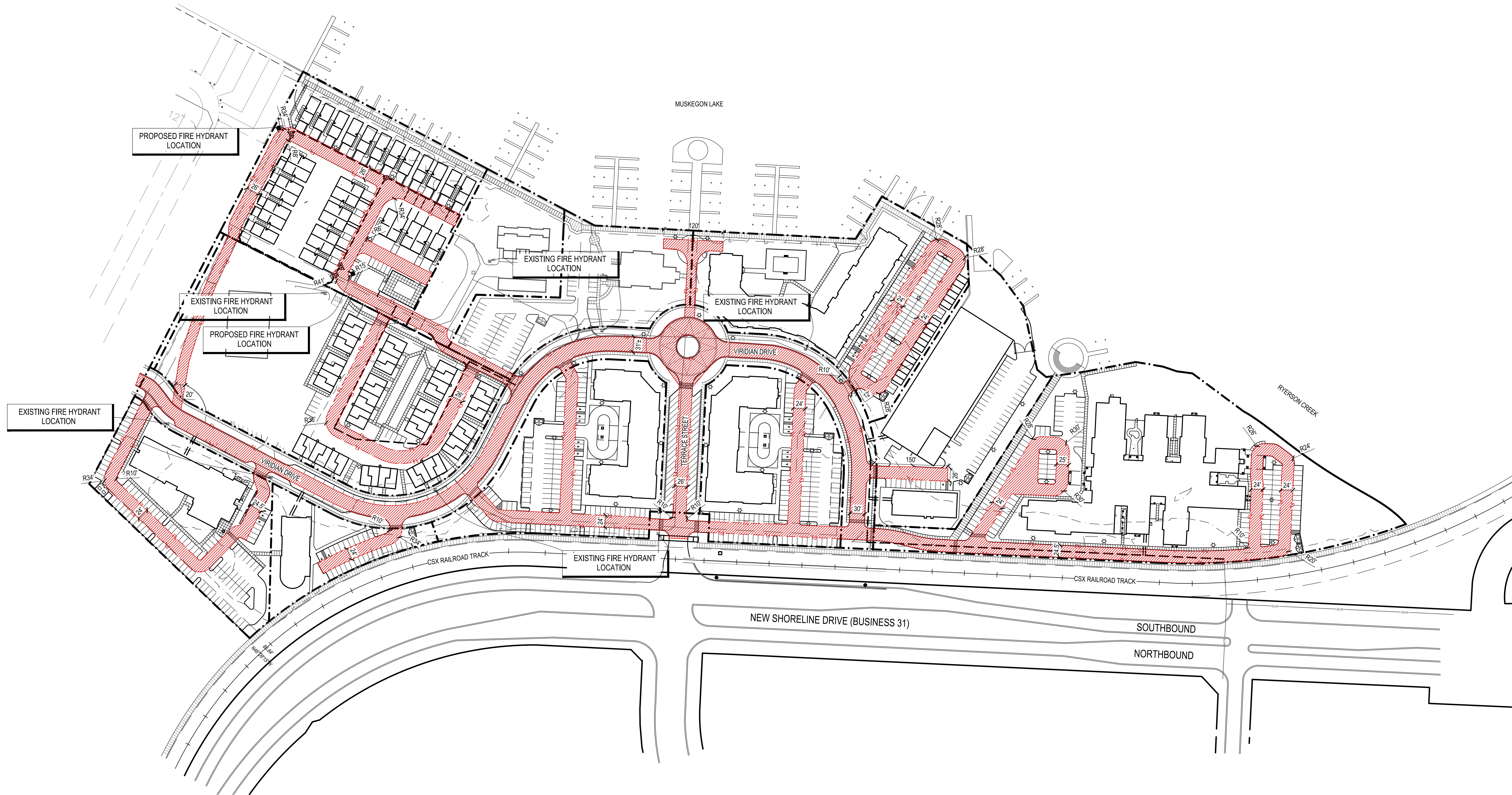
C-105



MATERIALS, INSTALLATION, AND TESTING OF THE STORM SEWER SYSTEM SHALL CONFORM TO CITY OF MUSKEGON STANDARDS.

C-106

Thursday, November 15, 2024 at 1:54pm W:\2009082GR Harbor 31 - Overall Site Drawings - 2009082GR\DWG\082GR\082GR.dwg 10/16/24

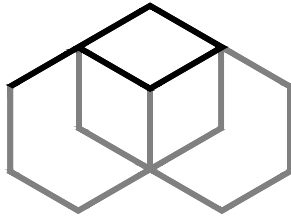
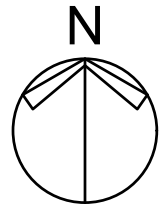


GENERAL NOTES:

FINAL HYDRANT DESIGN WILL BE PART OF EACH INDIVIDUAL LOT'S SITE PLAN

PROPOSED LEGEND	
	FIRE APPARATUS ACCESS ROAD
	WATER MAIN
	FIRE LANE (NOT MARKED IN FIELD)

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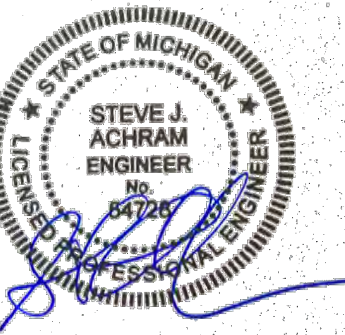


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STEVE J. ACHRAM
MI - REGISTRATION #6201054728
EXP. DATE 10/31/2023

PROJECT

HARBOR 31

**PLANNED UNIT
DEVELOPMENT**

CITY OF MUSKEGON, MICHIGAN

APPLICANT

HARBOR 31, LLC
2325 BELMONT
CENTER DRIVE
BELMONT, MI 49306

616-458-5554

RELEASE DATE

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11/19/2020	PUD AMENDMENT

PROJECT

2009082GR

SHEET

FIRE ACCESS PLAN

C-107



Jeff E. Wise

Landscape Plan Drawn By
Joyce E. Weise PLA, ASLA

PROJECT

HARBOR 31

PLANNED UNIT DEVELOPMENT

CITY OF MUSKEGON,
MICHIGAN

APPLICANT

HARBOR 31, LLC
2325 BELMONT
CENTER DRIVE
BELMONT, MI
49306

616-458-5554

RELEASE DATE

	DATE	DESCRIPTION
	11/28/20	Review

Site Plan Review Notes:

All landscaping will be developed based on City of Muskegon Ordinance and Form Based Code.

All landscaping shall be irrigated

Notes:

1. All landscaping shall be installed by a qualified Landscape Contractor to the size specified on the landscape plan. Smaller sizes will be rejected.
2. All plantings shall be mulched with 3" shredded premium hardwood bark mulch.
3. Trees in excess shall receive a 3" layer of mulch.
4. The Landscape contractor shall remove any wire that is wrapped around the trunk of a tree or shrub as well as the top third of any burlap. Remove excess soil from the top of the root ball to expose the root flare or first layer of roots prior to planting.
5. When planting trees in existing lawn or soil loosen the soil within 10 feet of the proposed tree location by lifting or similar and amend with composted manure or peat at a depth of 6"-12".
6. All trees shall be edged with a mechanical bed edger at a depth of 4" to define border for shredded bark mulch.
7. Parking islands shall be back filled with at least 24" of topsoil. Amend the topsoil with 20% organic matter and mix with 20% compost. Topsoil shall be removed prior to specification.
8. Lawn areas shall receive at least 4" of topsoil and hydroseeded. Check with specifications for seed mix and fertilizer application. Topsoil shall be amended with 20% perlite for growing and sustaining a healthy lawn. All lawns including the detention pond shall be hydroseeded with a seed blend consisting of 30% Kentucky Bluegrass, 20% Perennial Ryegrass, 10% Hard Fescue, 20% Creeping Red Fescue and 20% Chewings Fescue.
9. Amend the landscape soil with 20% organic matter and include fertilizer for the application of lawn and plant material, yearly pruning, top dressing of mulch areas every other year and provide 1" of water per week during the growing season.
10. All plants shall be chosen from the list of plants with standards recommended by the County Cooperative Extension Service or American Nursery Association.

Landscape Legend



Crimson Sentry Maple (2 1/2" cal.)



Ginkgo Tree (2 1/2" cal.)



Aristocrat Pear (2 1/2" cal.)



Red Pointe Maple (2 1/2" cal.)



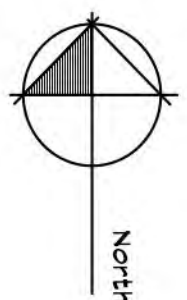
Black Hills Spruce (6' ht.)



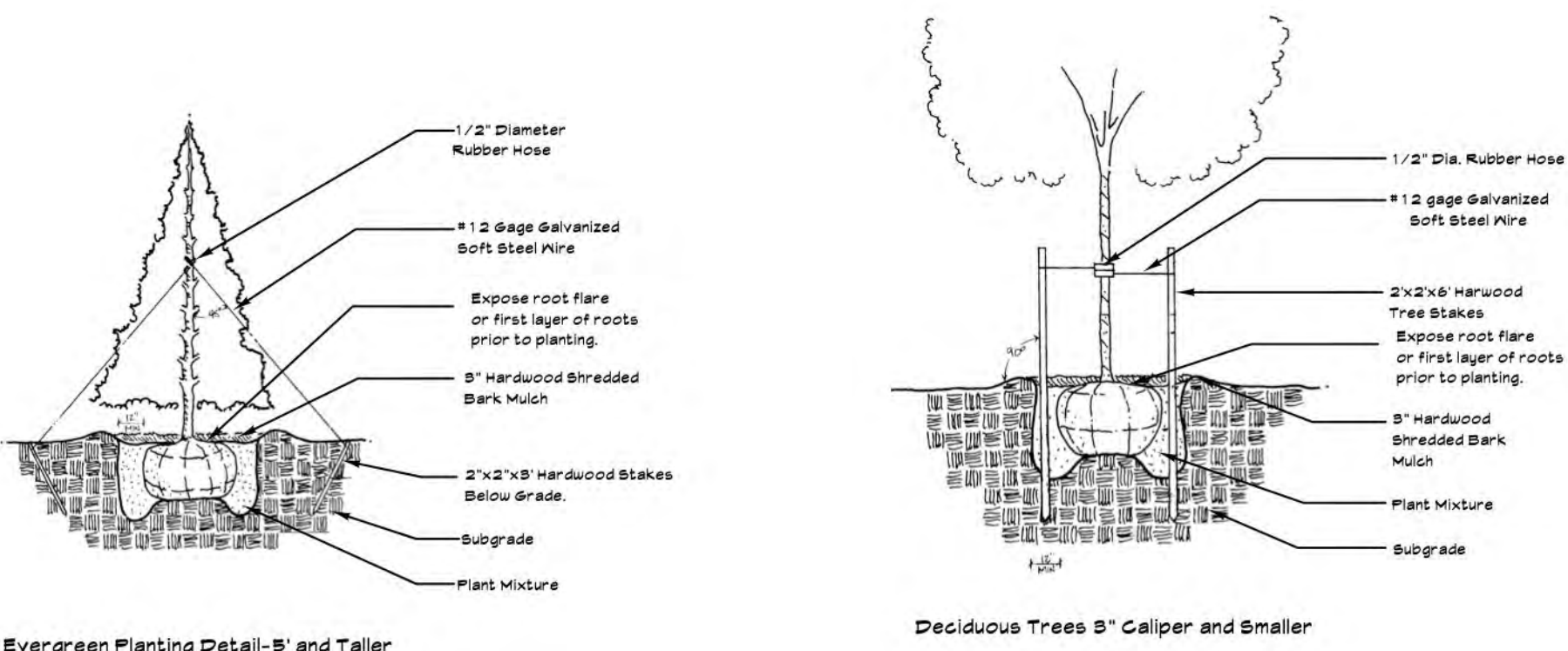
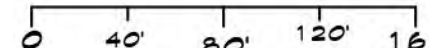
Douglas Fir (6' ht.)



Hydroseed & Irrigated Lawn



Landscape Plan
(scale: 1"=80')



Evergreen Planting Detail-5' and Taller

Deciduous Trees 3" Caliper and Smaller

CITY OF MUSKEGON

RESOLUTION 2000-75(a)

RESOLUTION FOR A PLANNED UNIT DEVELOPMENT FOR 700 TERRACE ST. (34.2 ACRES OF THE FORMER TELEDYNE PROPERTY)

WHEREAS, a petition for a planned unit development was received from Lakefront Development, LLC; and,

WHEREAS, a planned unit development will allow a mixed-use development, containing office, retail, condominium and marina uses; and,

WHEREAS, proper notice was given by mail and publication and public hearings were held by the City Planning Commission and by the City Commission to consider said petition, during which all interested persons were given an opportunity to be heard in accordance with provisions of the Zoning Ordinance and State Law; and

WHEREAS, the Planning Commission and staff have recommended approval of the Planned Unit Development and associated site plan with conditions as follows:

1. Fire Department issues will be addressed at the building plan review stage.
2. The approval of the easternmost entrance (across from the realigned Western/Spring St.) is contingent upon MDOT approval.
3. Each separate use/building needs to individually obtain staff site plan approval, meeting the landscaping and site plan review standards of the zoning ordinance, before it goes in. Setbacks, landscaping and parking needs for each individual building/lot need to be shown before approval will be given for that building/lot.
4. The terms of the master deed will be incorporated into the PUD by reference, to help provide compliance with building design and common private open space requirements.
5. As much of the open space as possible, especially near the marina and lakeshore pathway areas, should be either left natural, or planted with native species in order to retain and enhance the habitat.
6. Signage will meet the requirements of the WM, Waterfront Marine district.

NOW, THEREFORE, BE IT RESOLVED that the recommendation by staff and the City Planning Commission be accepted and the final planned unit development is hereby approved with conditions.

Adopted this 25th day of July, 2000

Ayes: Aslakson, Benedict, Nielsen, Schweifler, Shepherd, Sieradzki, Spataro

Nays: None

Absent: None

By: Fred J. Nielsen
Fred J. Nielsen, Mayor

Attest: Gail A. Kunding
Gail A. Kunding, 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 a resolution adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 25th day of July, 2000, 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 Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: 7-27, 2000.



Gail Kunding, CMC/AAE
Clerk, City of Muskegon



900 Third Street, Suite 204
Muskegon, MI 49440
Phone: 231-724-4320 Fax: 231-724-4330

Kevin B. Even
Direct: 231-724-4336
keven@shrr.com

December 10, 2020

Mr. Mike Franzak
City of Muskegon
Planning Director
933 Terrace St.
Muskegon, MI 49440-1397

VIA EMAIL: mike.franzak@shorelinecity.com

RE: Harbor 31, proposed PUD Amendment.

Dear Mr. Franzak:

Please be advised that the law firm of Smith Haughey Rice & Roegge represents Lake Front Condominium Association, Inc., who owns property affected by the proposed Harbor 31 PUD Amendment. I write to you now regarding the hearing to take place later this afternoon regarding the proposed amendment. In reviewing the proposal, I note the applicant is proposing a marina allowing for 100+/- boat docks. From what I can see the proposed boat docks appear to trespass upon my client's riparian rights.

Please note for the record that my client objects to the proposed amendment and I submit it would be irresponsible for the City to approve the PUD Amendment without the benefit of a riparian survey. The City should require that the applicant provide the planning department with a certified riparian survey prior to acting on the application. Failure to do so will only invite unnecessary litigation that could potentially be avoided by addressing this issue now rather than later.

Mr. Thomas Vitale from my office will be participating in the hearing this afternoon and will be available to answer any questions regarding any of the foregoing or to address any issues that might come up during the hearing.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin B. Even', written over a light blue background.

Kevin B. Even

KBE

cc: Client
Thomas Vitale