

CITY OF MUSKEGON

CITY COMMISSION MEETING

NOVEMBER 8, 2005

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ **CALL TO ORDER:**
- ❑ **PRAYER:**
- ❑ **PLEDGE OF ALLEGIANCE:**
- ❑ **ROLL CALL:**
- ❑ **HONORS AND AWARDS:** PUBLIC SAFETY
- ❑ **INTRODUCTIONS/PRESENTATION:**
- ❑ **CONSENT AGENDA:**
 - A. Approval of Minutes. CITY CLERK
 - B. Resolution for Charitable Gaming License. CITY CLERK
 - C. Policy Change to "Policy for Sale of City Owned Residential Property".
PLANNING & ECONOMIC DEVELOPMENT
- ❑ **PUBLIC HEARINGS:**
 - A. Spreading of the Special Assessment Roll for Park Street, Young Ave. to Laketon Ave. ENGINEERING
 - B. Resolution for Class C Liquor License for Ciggzree Morris. PLANNING & ECONOMIC DEVELOPMENT
- ❑ **COMMUNICATIONS:**
- ❑ **CITY MANAGER'S REPORT:**
- ❑ **UNFINISHED BUSINESS:**
- ❑ **NEW BUSINESS:**
 - A. Defined Contribution Retirement Plan for New Hires (Fire, Non-Union).
FINANCE
 - B. Agreement between Nutritional Services for Older Americans, Inc. (NSOA) and the City for the Use of McGraft Park Community Building.
ASSISTANT CITY MANAGER
 - C. Sale of Buildable Vacant Lot at 445 Marquette. PLANNING & ECONOMIC DEVELOPMENT

❑ **ANY OTHER BUSINESS:**

❑ **PUBLIC PARTICIPATION:**

➤ **Reminder: Individuals who would like to address the City Commission shall do the following:**

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

❑ **ADJOURNMENT:**

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

Date: November 8, 2005
To: Honorable Mayor and City Commissioners
From: Gail A. Kunding, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, October 25, 2005.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

NOVEMBER 8, 2005

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, November 8, 2005.

Mayor Warmington opened the meeting with a prayer from Pastor Sarah Johnson of the Word of Truth Outreach after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Bill Larson, Commissioner Clara Shepherd, Lawrence Spataro, and Stephen Gawron, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Gail Kundinger.

Absent: Commissioner Chris Carter and Kevin Davis (both excused).

2005-100 HONORS AND AWARDS: Public Safety Director Tony Kleibecker presented a certificate of appreciation to Mr. Lee.

2005-101 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, October 25, 2005.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Resolution for Charitable Gaming License. CITY CLERK

SUMMARY OF REQUEST: Lakeside Business Association is requesting a resolution recognizing them as a non-profit organization operating in the City for the purpose of obtaining a gaming license. They would like to hold a raffle in connection with the Holiday's in Lakeside event on Saturday, December 3, 2005.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval.

C. Policy Change to "Policy for Sale of City Owned Residential Property".
PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the change to the "Policy for Sale of City-Owned Residential Property" definition of "commence construction" stating that at least 75% of the dwelling be completed as opposed to 25%.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and Clerk to sign said resolution.

COMMITTEE RECOMMENDATION: The Land Reutilization Committee recommended approval of the policy change at their regular meeting of October 25, 2005.

Motion by Commissioner Spataro, second by Commissioner Shepherd to approve the Consent Agenda as read.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Gawron, and Larson

Nays: None

MOTION PASSES

2005-102 PUBLIC HEARINGS:

A. Spreading of the Special Assessment Roll for Park Street, Young Ave. to Laketon Ave. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the spreading of the special assessment for Park Street, Young Avenue to Laketon Avenue, and to adopt the resolution confirming the special assessment roll.

FINANCIAL IMPACT: A total of \$44,739.22 would be spread against the ten (10) parcels abutting the project.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the special assessment roll and adopt the resolution.

The Public Hearing opened at 5:38 p.m. to hear and consider any comments from the public. Comments in opposition were heard from Patty Lowe, 1922 Park.

Motion by Commissioner Spataro, second by Commissioner Gawron to close the Public Hearing at 5:55 p.m. and spread the special assessment roll for Park Street, Young Avenue to Laketon Avenue.

ROLL VOTE: Ayes: Spataro, Warmington, Gawron, Larson, and Shepherd

Nays: None

MOTION PASSES

2005-103 NEW BUSINESS

A. Resolution for Class C Liquor License for Ciggzree Morris. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To hold a public hearing on the request for a Class C Liquor License for Ciggzree Morris and approve the resolution. The Liquor Control Code allows for additional liquor licenses within Downtown Development Authority Districts under certain conditions.

FINANCIAL IMPACT: Approval of the Liquor License will allow for a new restaurant in the downtown area which should result in increased revenue for the City.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution.

COMMITTEE RECOMMENDATION: The Downtown Development Authority approved the request on November 2, 2005.

Motion by Vice Mayor Larson, second by Commissioner Gawron to approve the resolution for a Class C Liquor License for Ciggzree Morris.

ROLL VOTE: Ayes: Warmington, Gawron, Larson, Shepherd, and Spataro

Nays: None

MOTION PASSES

B. Defined Contribution Retirement Plan for New Hires (Fire, Non-Union). FINANCE

SUMMARY OF REQUEST: The City Commission has previously approved a contract with the firefighters union that includes provision for new hires to be members of a defined contribution retirement program in lieu of membership in the defined benefit police and fire retirement system. The new fire DC plan calls for a fixed city contribution of 10% and an employee contribution of 6% of wages. Present employees may also join the DC plan on an elective basis during a window period. We are also recommending at this time implementation of a similar plan for new non-union employees. The outline of the program is the same except for lower contribution rates (6% city; 3% employee) reflecting the fact that these employees are covered by social security (fire employees are not). Approval of the resolutions and ordinance amendments is the final step in putting in place the mechanics of these new programs.

FINANCIAL IMPACT: Moving to a defined contribution plan will help stabilize and better define the City's annual pension costs. We are negotiating similar arrangements for other employee groups.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Approval.

Motion by Spataro, second by Gawron to approve the defined contribution retirement plan for new hires (fire, non-union).

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

C. Agreement between Nutritional Services for Older Americans, Inc. (NSOA) and the City for the Use of McGraft Park Community Building.

ASSISTANT CITY MANAGER

SUMMARY OF REQUEST: Staff recommends that the Mayor signs a one-year agreement with Nutritional Services for Older Americans, Inc. for the use of the Community Building at McGraft Park. The agreement calls for the City to provide Nutritional Services for Older Americans with the amount of \$8,317 for support staff time to offer recreation and wellness services for seniors at McGraft Park. Nutritional Services for Older Americans will in turn pay the monthly fee of \$200 for the use of the facility.

FINANCIAL IMPACT: McGraft Part: \$8,317.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval.

Motion by Vice Mayor Larson, second by Commissioner Shepherd to approve the agreement between Nutritional Services for Older Americans, Inc. and the City of Muskegon for the use of McGraft Park Community Building.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

D. Sale of Buildable Vacant Lot at 445 Marquette. PLANNING & ECONOMIC DEVELOPMENT

ITEM REMOVED BY STAFF REQUEST.

2005-104 ANY OTHER BUSINESS: Various comments were heard.

2005-105 PUBLIC PARTICIPATION: Bill Craner spoke reference 590 Catherine.

Motion by Commissioner Spataro, second by Vice Mayor Larson to allow Mr. Craner up until Friday, November 18, 2005, to file for a consent judgment for 590 Catherine which would include placing \$5,000 in escrow and to negotiate a timeline for completion.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 6:21 p.m.

Respectfully submitted,



Gail A. Kunding, MMC
City Clerk

Date: November 8, 2005
To: Honorable Mayor and City Commissioners
From: Gail Kunding, City Clerk
RE: Resolution for Charitable Gaming License

SUMMARY OF REQUEST: Lakeside Business Association is requesting a resolution recognizing them as a non-profit organization operating in the City for the purpose of obtaining a gaming license. They would like to hold a raffle in connection with the Holiday's in Lakeside event on Saturday, December 3, 2005.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval

Nov. 1, 2005

Dear City Council Members,

On behalf of the Lakeside Business Association I am requesting a permit to hold a raffle in connection with our Holiday's in Lakeside event on Saturday December 3, 2005 from 10am - 5pm. We would be raffling a basket filled with items donated by the Lakeside businesses. The tickets would be sold prior to and during this event with the drawing being held Saturday Dec.3 rd at approximately 5:30 pm. The proceeds from the raffle will be donated to the Lakeside Neighborhood Association and Mission for Area People. If more information is needed I can be reached at Turtle Bay Gallery 755-0685. Thank you for your consideration.

Sincerely,



Amy Couch Smith
Committee Chairperson,
Holidays in Lakeside event



CHARITABLE GAMING DIVISION
101 E. HILLSDALE, BOX 30023
LANSING, MICHIGAN 48909
(517) 336-6780
www.state.mi.us/milottery

2005-101(b)

LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES
(Required by MCL 432.103(9))

At a Regular meeting of the City Commission
REGULAR OR SPECIAL TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by Mayor Warmington on November 8, 2005
DATE

at 5:30 ~~a.m.~~ p.m. the following resolution was offered:
TIME

Moved by Commissioner Spataro and supported by Commissioner Shepherd

that the request from Lakeside Business Assoc. of Muskegon
NAME OF ORGANIZATION CITY

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

nonprofit organization operating in the community for the purpose of obtaining a charitable
gaming license, be considered for Approval
APPROVAL/DISAPPROVAL

APPROVAL	DISAPPROVAL
Yeas: <u>5</u>	Yeas: _____
Nays: <u>0</u>	Nays: _____
Absent: <u>2</u>	Absent: _____

I hereby certify that the foregoing is a true and complete copy of a resolution offered and
adopted by the Muskegon City Commission at a Regular
TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD REGULAR OR SPECIAL

meeting held on November 8, 2005
DATE

SIGNED: Gail A. Kunderger
TOWNSHIP, CITY, OR VILLAGE CLERK

Gail A. Kunderger, MMC, City Clerk
PRINTED NAME AND TITLE

933 Terrace, Muskegon, MI 49440
ADDRESS

Commission Meeting Date: November 8 2005

Date: October 26, 2005
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department *CBC*
RE: Policy change to "Policy for Sale of City-Owned Residential Property"

SUMMARY OF REQUEST:

To approve the change to the "Policy for Sale of City-Owned Residential Property" definition of "commence construction" stating that at least 75% of the dwelling be completed as opposed to 25%.

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the attached resolution and to authorize both the Mayor and the Clerk to sign said resolution.

COMMITTEE RECOMMENDATION:

The Land Reutilization Committee recommended approval of the policy change at their regular meeting of October 25, 2005

RESOLUTION NO. 2005-101(c)

MUSKEGON CITY COMMISSION

RESOLUTION TO ADOPT AN AMENDMENT TO THE "POLICY FOR SALE OF CITY-OWNED RESIDENTIAL PROPERTY"

WHEREAS, the City of Muskegon owns many lots and wishes to sell these lots, and;

WHEREAS, the City of Muskegon would like to change the definition of "Commence Construction" from 25% to 75%;

NOW, THEREFORE, BE IT RESOLVED that the City Commission hereby adopts the following policy amendment:

(to be changed on page 1)

¹ "Commence Construction" means that a buyer has been issued a residential building permit by the City of Muskegon and also (in the sole opinion of the City of Muskegon's Building Official) that at least seventy-five percent (75%) of the dwelling has been completed.

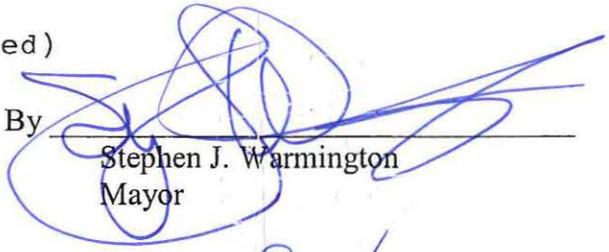
Adopted this 8th day of November, 2005.

Ayes: Shepherd, Spataro, Warmington, Gawron, and Larson

Nays: None

Absent: Carter and Davis (excused)

By



Stephen J. Warmington
Mayor

Attest



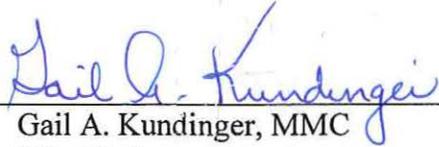
Gail A. Kunding, MMC
City Clerk

CERTIFICATION
2005-101(c)

This resolution was adopted at a regular meeting of the City Commission, held on November 8, 2005. 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:

A handwritten signature in blue ink, appearing to read "Gail A. Kunding", is written over a horizontal line.

Gail A. Kunding, MMC
City Clerk

City of Muskegon Policy for Sale of City-Owned Residential Property

Objective

The City of Muskegon (the City) wishes to expand its residential tax base while simultaneously alleviating itself of the significant cost burden associated with year-round maintenance of vacant lots. The City reserves the right to join and split lots to assist with this process. All property will be sold as is. All sales are subject to City Commission approval.

Pursuant to the above, the City will periodically implement neighborhood marketing strategies. Elements of this policy may be superseded by a marketing strategy, if said strategy is approved by the City Commission as an exception to this policy, and only while said strategy is being utilized to market properties identified by the strategy.

Non-Buildable Lots/Marginal Lots

- Non-Buildable lots are defined as lots that are insufficient in size or configuration for new construction under the Zoning Ordinance. Marginal lots are defined as residential lots that are between 50 and 60 feet of frontage, however it would not be in the best interest of the neighborhood to create increased density, or would create buildable lots for adjoining property owners. These lots may only be sold to adjacent property owners; neighborhood organizations; or valid non-profit agencies, to expand/improve or beautify existing property. In the event that both adjacent owners seek to purchase a property, the City shall divide the property in the most equitable manner. Factors considered before approvals of property sales include but are not limited to the following:
 - Amount of existing property owned by interested parties
 - Current upkeep of existing property owned by interested parties
 - Evidence of unresolved zoning issues.
 - Unpaid environmental invoices or delinquent property taxes.

These lots will be sold for \$1.

Buildable Lots

Buildable lots are defined as lots of legal record which are suitable in size and configuration under the Zoning Ordinance, for the construction of single-family homes, and may only be sold for such a purpose. As a condition of sale, structures built on these properties must be owner occupied for a minimum of 5 years. The buyer must¹ commence construction within 18 months of the date of purchase, or the property will revert back to the City's ownership, free and clear of any claim of the buyer. Buyers requiring frontage of 130' or more must build homes with a minimum of 2,500 square

¹ "Commence Construction" means that a buyer has been issued a residential building permit by the City of Muskegon and also (in the sole opinion of the City of Muskegon's Building Official) that at least ~~seventy-five percent (75%)~~ of the dwelling has been completed.

feet of living space and go before the Land Reutilization Committee (LRC) for a recommendation. All structures must conform to all City building and zoning requirements. These lots shall be sold for market value.

Home Design

Any person wishing to purchase land from the City for the purposes of constructing a single family or duplex structure (in areas zoned for duplexes) shall adhere to the following standards:

1. The structure shall have a minimum of 1,260 square feet of usable living space per unit (excluding all basement area).
2. The roof of the structure shall have a minimum pitch of 5/12, that is, for every twelve inches (12") of lateral run, the roof shall rise five inches (5").
3. A single-story home shall have a variable roof line on the front elevation (e.g. gable, dormer or offset).
4. The building design shall be approved by the City and shall include at least two of the following:
 - a. A covered front porch with design amenities (e.g., decorative railing). (potential \$300 lot credit)
 - b. A picture or bay window in the front elevation. (potential \$500 lot credit)
 - c. A starburst or other siding design features in roof gables or over doorways or windows. (potential \$200 lot credit)
 - d. Shutters or other acceptable outdoor window treatments (potential \$100 lot credit)
 - e. Brick or stone accents in the front elevation (potential \$1,000 lot credit)
 - f. Decorative windows (potential \$200 lot credit)
5. A second story may be a potential \$2,000 lot credit but may not be included as one of the two required design elements.
6. A "stick-built" home may be a potential \$2,000 lot credit but may not be included as one of the two required design elements.
7. In no case shall the total number of credits amount to more than \$2,500.
8. The house shall have a garage or at least an 8 foot x 8 foot painted or vinyl covered wood storage shed constructed as per City requirements for sheds.
9. All bedrooms shall have at least one hundred (100) square feet of livable floor area.

10. At the time the building permit application is submitted, the plot plan and building design will be reviewed to determine compliance with all requirements of this policy.
11. Removal of existing trees shall be approved by zoning staff prior to lot clearing. Trees shall only be taken to accommodate the structure and driveway. A performance guarantee may be required of the owner or contractor for tree protection.
12. At least two (2) shade trees shall be provided on site of at least two and one-half (2.5") inches in diameter four feet from the ground. Preservation of existing trees may be considered in lieu of this requirement.
13. The lot shall be established with appropriate grass, ground cover or other plantings within one year of occupancy or the city may arrange for such planting and bill the owner.

The aforementioned conditions and credits shall be incorporated into a sales contract between the city and the buyer.

Large Blocks of Land

This type of lot is defined as contiguous property that would allow for the construction of a minimum of 3 single-family residential structures. It is the preference of the City that these lots be sold as a single parcel to individuals with the means to develop the land for multiple single family units or multi-family units such as townhouses, site condos; and the like. Development must conform to either Single Family or Multiple Family building/zoning requirements. All interested parties must comply with preliminary site review requirements as determined by the Zoning Administrator.

Process for Purchasing Land

The procedure for purchasing city-owned property can be found in a brochure produced by the Planning Department, entitled "Purchase of City-Owned Residential Property".

Recording of the Deed

All property sales must be recorded with the Muskegon County Register of Deeds. This is the sole responsibility of the buyer. All sales will be handled as quit claim deeds.

Closing Costs

All closing costs will be split between the buyer and the seller.

Property Survey

All costs and activities associated with a survey are the sole responsibility of the buyer.

Environmental

Properties will be sold as is. Any environmental analysis is the sole responsibility of the buyer.

Title Evidence/Insurance

Quitting title of tax reverted properties sold and properties spit for minimal amounts such as non-buildable lots, shall be the responsibility of the buyer.

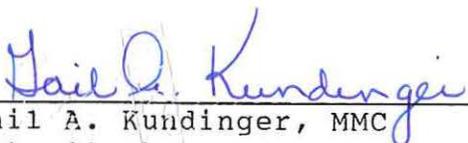
Financing

Financing the acquisition of City-owned property and subsequent construction (if applicable) is the sole responsibility of the buyer. Failure to provide proof of adequate financing may be used as a basis for denial of a sale.

Appeal Procedure

Any denial of a sale can be appealed to the LRC using the appeals procedure as defined by the LRC. All sales whether appealed or not go before the City Commission for approval before a sale can be initiated.

Adopted November 8, 2005.



Gail A. Kundinger, MMC
City Clerk

TO: Honorable Mayor and City Commissioners
FROM: Engineering
DATE: November 08, 2005
RE: Public Hearing
Spreading of the Special Assessment Roll
Park St., Young Ave. to Laketon Ave.

SUMMARY OF REQUEST:

To hold a public hearing on the spreading of the special assessment for **Park St., Young Ave. to Laketon Ave.**, and to adopt the attached resolution confirming the special assessment roll.

FINANCIAL IMPACT:

A total of \$44,739.22 would be spread against the ten - (10) parcels abutting the project.

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

To approve the special assessment roll and adopt the attached resolution.

COMMITTEE RECOMMENDATION:

CITY OF MUSKEGON

Resolution No. 2005-102(a)

Resolution Confirming Special Assessment Roll

For Park St., Young Ave. to Laketon Ave.

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 **February 8, 2005**, 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 each property a portion of the cost which has been determined to be appropriate, considering the improvements, the benefit to the assessed properties, and the policies of the City.
3. The City Commission has received final bids for the construction and/or installation of the improvements and determines it to be fair and reasonable.
4. 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 may be made in installments as follows: annual installments over ten (10) years. Any assessment that is paid in installments shall carry interest at the rate of five (5) percent per annum to be paid in addition to the principal payments on the special assessment.

RESOLUTION CONFIRMING SPECIAL ASSESSMENT ROLL

FOR **Park St., Young Ave. to Laketon Ave.**

Continued...

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 passed.

Ayes: Spataro, Warmington, Gawron, Larson, and Shepherd

Nays: None

City of Muskegon

By Gail A. Kunderger
Gail A. Kunderger, MMC

CERTIFICATE

This resolution was adopted at a meeting of the City Commission, held on **November 8, 2005**. 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 this resolution was confirmed on this date, being **November 8, 2005**.

City of Muskegon

By Gail A. Kunderger
Gail A. Kunderger, MMC

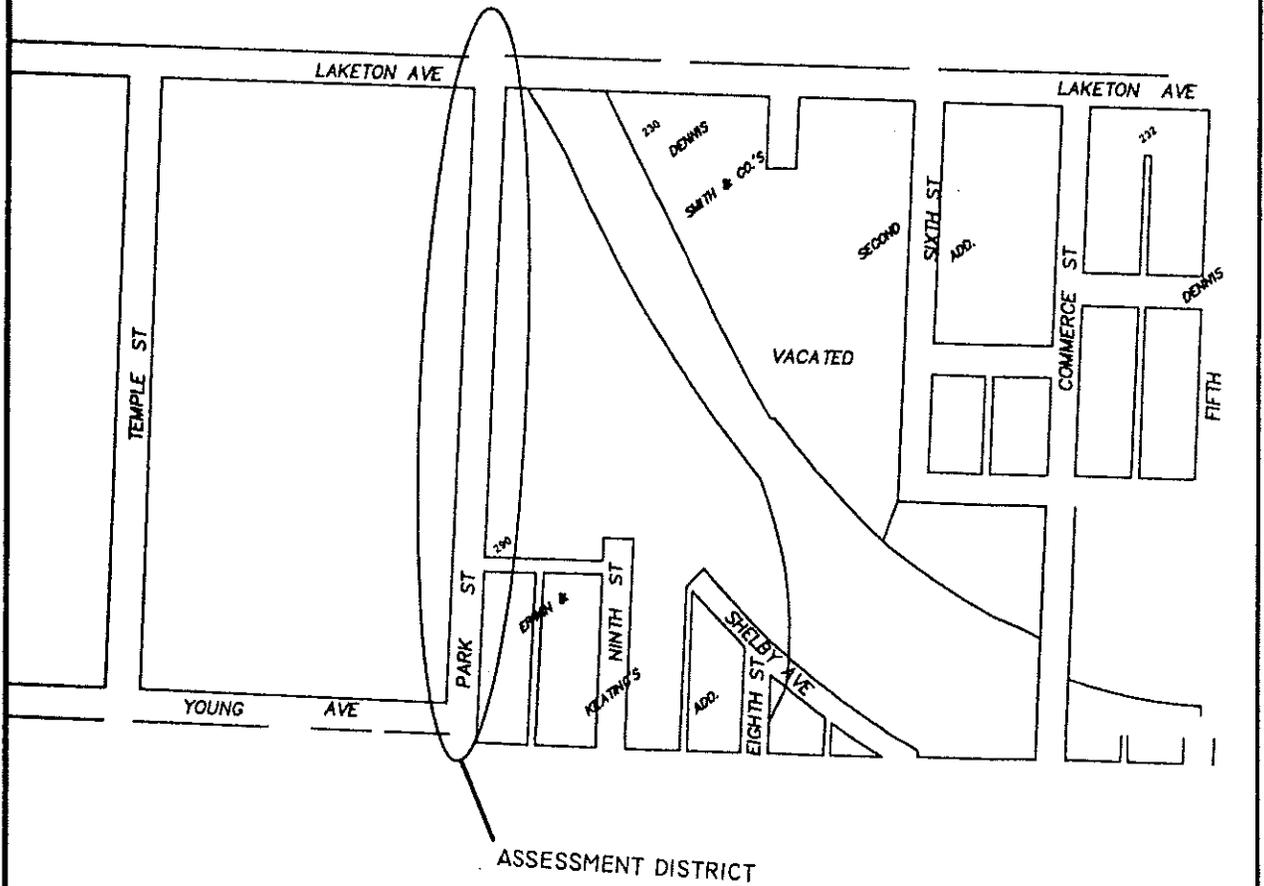
EXHIBIT A

PARK STREET, LAKETON TO YOUNG

SPECIAL ASSESSMENT DISTRICT

All properties abutting that section of Park Street between Laketon & Young

SPECIAL ASSESSMENT DISTRICT FOR PARK STREET
EXHIBIT "A"



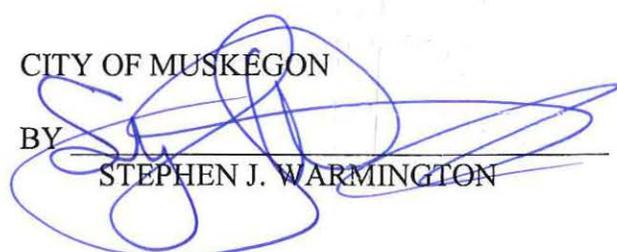
PARK ST., YOUNG AVE. TO LAKETON AVE.

MAYOR'S ENDORSEMENT AND WARRANT

I, STEPHEN J. WARMINGTON, MAYOR OF THE CITY OF MUSKEGON, HEREBY
ENDORSE THE ABOVE CONFIRMATION RESOLUTION AND HEREBY WARRANT TO
THE CITY TREASURER THIS DATE THAT HE SHALL PROCEED TO COLLECT THE
ASSESSMENTS AT THE TIME AND IN THE MANNER SET FORTH ABOVE.

CITY OF MUSKEGON

BY


STEPHEN J. WARMINGTON

AFFIDAVIT OF MAILING

STATE OF MICHIGAN)
) SS
COUNTY OF MUSKEGON)

**TO CONFIRM THE SPECIAL ASSESSMENT DISTRICT FOR THE
FOLLOWING:**

H-1588 Park St. , Young Ave. to Laketon Ave.

THE DEPONENT SAYS THAT THE NOTICE OF HEARING WAS SERVED UPON EACH OWNER OF OR PARTY IN INTEREST IN PROPERTY TO BE ASSESSED IN THE SPECIAL ASSESSMENT DISTRICT WHOSE NAME APPEARS UPON THE LAST TAX ASSESSMENT RECORDS OF THE CITY OF MUSKEGON BY MAILING SUCH NOTICE IN A SEALED ENVELOPE BY FIRST CLASS UNITED STATES MAIL, WITH POSTAGE PREPAID, ADDRESSED TO EACH SUCH OWNER OR PARTY IN INTEREST AT THE ADDRESS SHOWN ON SAID LAST TAX ASSESSMENT RECORDS BY DEPOSITING THEM IN AN OFFICIAL UNITED STATES MAIL RECEPTACLE ON THE 28th DAY OF OCTOBER 2005.

Gail A. Kunding
GAIL A. KUNDINGER, CITY CLERK

SUBSCRIBED AND SWORN TO BEFORE ME THIS
10th DAY OF November, 2005.

Linda S. Potter
NOTARY PUBLIC, MUSKEGON COUNTY, MICHIGAN
MY COMMISSION EXPIRES 9-25-06

October 29, 2005

OWNERS NAME
OWNERS ADDRESS
OWNERS CITY, OWNERS STATE OWNERS ZIPCODE

2

Property Parcel Number: 24-XXX-XXX-XXXX-XX at PROPERTY ADDRESS & STREET

NOTICE OF HEARING TO CONFIRM SPECIAL ASSESSMENT ROLL

Dear Property Owner:

The Muskegon City Commission has previously approved the project described below and will now consider final confirmation of the special assessment roll:

PARK ST., YOUNG AVE. TO LAKETON AVE.

Public Hearings

A public confirmation hearing will be held in the City of Muskegon Commission Chambers on Tuesday, NOVEMBER 8, 2005 at 5:30 P.M. You are entitled to appear at this hearing, either in person, by agent or in writing to express your opinion, approval, or objection concerning the special assessment. Written appearances or objections must be made at or prior to the hearing.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE THE RIGHT TO PROTEST YOUR ASSESSMENT EITHER IN WRITING OR IN PERSON AT THE HEARING. ALSO, IF THE SPECIAL ASSESSMENT IS CONFIRMED NOVEMBER 8, 2005 YOU WILL HAVE THIRTY (30) DAYS FROM THE DATE OF THE CONFIRMATION TO FILE A WRITTEN APPEAL WITH THE MICHIGAN TAX TRIBUNAL (517-334-6521). HOWEVER, UNLESS YOU PROTEST AT THIS HEARING EITHER IN WRITING OR BY AGENT, OR IN WRITING BEFORE OR AT THE HEARING, YOUR RIGHT TO APPEAL TO THE MICHIGAN TAX TRIBUNAL WILL BE LOST.

Costs

The final projected cost of the street improvement portion of the project is \$179,000.00 of which \$44,739.22 will be paid by special assessment. If the special assessment is confirmed, your property will be assessed \$2430 based on 100 feet assessable front footage at \$24.3 per assessable foot for the street improvements. In addition, you will be assessed \$0 for driveway approach and/or sidewalk improvements made to your property for a total special assessment cost of \$2430. Following are the terms of the special assessment:

Assessment Period: Ten (10) Years
Interest Rate: 5% per year
First Installment: \$243 PER YEAR
Due Date: January 9th, 2006

The total assessment may be paid in full any time prior to the due date shown above without interest being charged. After this date, interest will be charged at the rate shown above on the outstanding balance. Assessments also may be paid over a ten year period in ten equal principal installments. If you pay your assessment in installments, your annual installment (including interest) will be included as a separate item on your property tax bill each year. Therefore, if you pay your property taxes through a mortgage escrow agent, you should notify them of this change. Early payments may be made at any time and are encouraged.

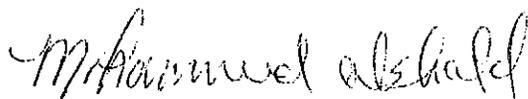
PLEASE NOTE THAT IF THE ASSESSMENT IS NOT CONFIRMED AT THE PUBLIC HEARING YOU WILL BE NOTIFIED. IF THE ASSESSMENT IS CONFIRMED, THIS LETTER WILL REPRESENT YOUR INITIAL BILLING IF YOU WISH TO PAY IN FULL PRIOR TO THE DUE DATE AND AVOID INTEREST COSTS. OTHERWISE, YOU WILL AUTOMATICALLY BE BILLED ON AN INSTALLMENT BASIS WITH THE FIRST INSTALLMENT SHOWN ON YOUR NEXT PROPERTY TAX BILL

If you have any specific questions about the work done please call the Engineering Department at 231- 724-6707 before the hearing date.

Please refer to the enclosed sheet entitled Special Assessment Payment Options for more information on the payment options and Application for Waiver of Special Assessment for financial assistance.

Sincerely,

Mohammed Al-Shatel, P.E.
City Engineer

A handwritten signature in cursive script that reads "Mohammed Al-Shatel".

Enclosures

Special Assessment Payment Options

Property owners in the City of Muskegon who are being specially assessed for street, sidewalk or other public improvements may pay their assessment in the following ways:

I. Lump Sum Payment in Full

Assessments may be paid in full within sixty (60) days of the confirmation of the special assessment roll *without interest*.

II. Installment Payments

Assessments not paid within the first sixty (60) days may be paid in installments over several years as follows:

Street and Alley Assessments – Ten (10) years equal annual principal payments. For example, if the amount of your assessment is \$850.00, you will be billed \$85.00 per year plus applicable interest as described below.

Driveway, Sidewalk, and Approach Assessments - Ten (10) years equal annual principal payments plus applicable interest as described below.

Interest – Simple interest is charged at the rate of 5.00% per year *unless* the City has borrowed money to complete the project for which you are assessed and has pledged you assessments for repayment of the borrowed money. In such cases, the interest you are charged is equal to the interest rate the City must pay on the borrowed money plus 1.00%.

III. Special Assessment Deferral (Low Income Seniors and Disabled Persons)

To qualify for a special assessment deferral you or your spouse (if jointly owned) must:

- Be 65 years or older or be totally or permanently disabled.
- Have been a Michigan resident for five (5) years or more and have owned and occupied the homestead being assessed for five (5) years or more.
- Be a citizen of the U.S.
- Have a total household income not in excess of \$16,823.00
- Have a special assessment of \$300.00 or more.

Under this program the State of Michigan will pay the entire balance owing of the special assessment, including delinquent, current, and further installments. At the time of payment a lien will be recorded on your property in favor of the State of Michigan. Repayment to the State must be made at the time the property is sold or transferred or after the death of the owner(s). During the time the special assessment is deferred interest is accrued at the rate of 6.00% per year.

IV. Further Information About the Above Programs

Further information about any of the above payment options may be obtained by calling either the **City Assessor's Office at 724-6708** or the **City Treasurer's Office at 724-6720**. Applications may be obtained at the **Muskegon County Equalization Office in the Muskegon County building** or **City of Muskegon Assessor's Office in City Hall**.

V. Additional Special Assessment Payment Assistance

Qualified low and moderate income homeowners who are being assessed may be eligible for payment assistance through the City of Muskegon Community Development Block Grant (CDBG) Program. Assistance from this program will be available to the extent that funds are available. To obtain further information and determine whether you are eligible, contact the **Community and Neighborhood Services Department at 724-6717**.

**CITY OF MUSKEGON
 PARK ST, YOUNG AVE. TO LAKETON AVE. - H-1588
 CDBG APPLICATION FOR WAIVER OF SPECIAL ASSESSMENT**

HOUSEHOLD INFORMATION

Name: _____ Birthdate: _____ Social Security # _____ - _____ - _____

Spouse: _____ Birthdate: _____ Social Security # _____ - _____ - _____

Address: _____ Phone: _____ Race: _____

Parcel # _____ Owner/Spouse Legally Handicapped Or Disabled? () Yes () No

(Please refer to your assessment letter for this information)

Number Living in Household: _____ List information for household members besides owner/spouse here.

Name _____ Birthdate _____ Social Security # _____ - _____ - _____

Name _____ Birthdate _____ Social Security # _____ - _____ - _____

Name _____ Birthdate _____ Social Security # _____ - _____ - _____

Name _____ Birthdate _____ Social Security # _____ - _____ - _____

INCOME INFORMATION

ANNUAL Household Income: \$ _____ Wage earner: _____

(Must include all household income)

_____ Wage earner: _____

_____ Wage earner: _____

_____ Wage earner: _____

Total: \$ _____

PROPERTY INFORMATION

Proof Of Ownership: () Deed () Mortgage () Land Contract

Homeowner's Insurance Co: _____ Expiration Date: _____

Property Taxes: () Current () Delinquent Year(s) Due

(Property taxes must be current to qualify and will be verified by CDBG staff)

OWNER'S SIGNATURE

Owner's Signature: _____ Date: _____

By signing this application, the applicant verifies he/she **owns and occupies** the dwelling. The Applicant/Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant/Owner's knowledge and belief. The property owner's signature will be required prior to the application being processed. **NO APPLICATION WILL BE ACCEPTED AFTER CONFIRMATION**

FOR OFFICE USE ONLY

APPROVED () DENIED () DATE _____ CENSUS TRACT NO. _____

SIGNATURE _____ TITLE _____

COMMENTS/REMARKS _____

****ATTENTION APPLICANT****

Please see reverse side for instructions on providing proof of income, ownership, and property insurance.

**CITY OF MUSKEGON
PARK ST. , YOUNG AVE. TO LAKETON AVE.
REQUEST FOR WAIVER OF SPECIAL ASSESSMENT**

Note: You may receive this application several times – If you have already applied, please discard.

Dear Resident:

The City of Muskegon has selected the street abutting your property for repairs. To assist homeowners, who may have difficulty paying the cost of street repairs, the City offers assessment waivers through the Community Development Block Grant (CDBG) Program for eligible households and families. If you meet the CDBG program qualifications, the City may pay the street assessment for you to the extent that funds are available.

Application Requirements:

- ✓ **Applicants must submit proof that their total household income does not exceed 65% of Area Median Income** (see chart below); Proof of income may include copies of Wage & Tax Statement (W-2's) from the year 2004, pension or other benefit checks, bank statements for direct deposits or agency statements for all household income.

2004

65% MEDIAN HOUSEHOLD INCOME CHART	
FAMILY SIZE	INCOME LIMIT
1	\$27,885
2	31,850
3	35,880
4	39,845
5	43,030
6	46,215
7	49,400
8	52,585
For each extra, add	3,185

- ✓ **Applicants must submit proof that they both own and occupy property at the time of application;** Land Contract purchasers must obtain approval of titleholder prior to receiving assistance. Proof of ownership should be a deed, mortgage, or land contract; proof of occupancy can be a copy of a driver's license or other official document showing both your name and address.
- ✓ **Applicants must submit proof of current property insurance.**

Please complete the first four (4) sections of the application on the reverse side of this notice, and return it, along with supporting documentation, to:

**City of Muskegon
Community & Neighborhood Services
933 Terrace Street, 2nd Floor
Muskegon, MI 49440**

For further information, please contact this office by calling 724-6717, weekdays from 8:30 a.m. and 5:00 p.m.

The City reserves the right to verify all application information, and to reject any applications that contain falsified information or insufficient documentation.

**CITY OF MUSKEGON
NOTICE OF PUBLIC HEARING
CONFIRMATION OF SPECIAL ASSESSMENT ROLL**

SPECIAL ASSESSMENT DISTRICT:

PARK ST., LAKETON AVE. TO YOUNG AVE.

The location of the special assessment district and the properties proposed to be assessed is:

All parcels abutting Park St. from Young Ave. to Laketon Ave.

PLEASE TAKE NOTICE that a hearing to confirm the special assessment roll (previously scheduled for October 25, 2005) will be held at the City of Muskegon Commission Chambers on **November 8, 2005 at 5:30 p.m.**

At the time set for the hearing the City Commission will examine and determine whether to approve the special assessment roll that has been prepared and submitted for the purpose of said hearing and for examination by those persons to be assessed. The special assessment roll is on file and may be examined during regular business hours at the City Engineer's office between 8:00 a.m. and 5:00 p.m. on weekdays, except holidays.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE A RIGHT TO PROTEST YOUR ASSESSMENT EITHER IN WRITING OR IN PERSON AT THE HEARING. IF THE SPECIAL ASSESSMENT ROLL IS CONFIRMED, YOU WILL HAVE THIRTY (30) DAYS FROM THE DATE OF CONFIRMATION OF THE ROLL TO FILE A WRITTEN APPEAL WITH THE MICHIGAN STATE TAX TRIBUNAL. HOWEVER, UNLESS YOU PROTEST AT THIS HEARING OR DID SO AT THE PREVIOUS HEARING ON THIS SPECIAL ASSESSMENT DISTRICT EITHER IN PERSON OR BY AGENT, OR IN WRITING BEFORE OR AT THE HEARING, YOUR RIGHT TO APPEAL TO THE MICHIGAN TAX TRIBUNAL WILL BE LOST.

You are further notified that at the first hearing the City Commission determined that the special assessment district should be created, the improvements made, and the assessments levied. The purpose of this hearing is to hear objections to the assessment roll and to approve, reject, or correct the said roll.

PUBLISH: **October 29, 2005**

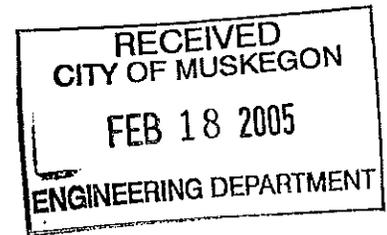
Gail Kunderinger, City Clerk

ADA POLICY

The City will provide necessary appropriate auxiliary aids and services, for example, signers for the hearing impaired, audiotapes for the visually impaired, etc., for disabled persons who want to attend the meeting, upon twenty-four hours notice to the City. Contact:

Gail A. Kunderinger, City Clerk
933 Terrace Street, Muskegon, MI 49440
(231) 724-6705 or TDD (231) 724-6773

CITY OF MUSKEGON
Resolution No. 2005-13(b)



Resolution At First Hearing Creating Special Assessment District
For **Park St., Laketon to Young**
Location and Description of Properties to be Assessed:
See Exhibit A attached to this resolution

RECITALS:

1. A hearing has been held on **February 8, 2005** at 5:30 o'clock p.m. at the City Commission Chambers. Notice was given by mail and publication as required by law.
2. That estimates of costs of the project, a feasibility report and valuation and benefit information are on file with the City and have been reviewed for this hearing.
3. At the hearing held **February 8, 2005**, there were 88.03% objections by the owners of the property in the district registered at the hearing either in writing received before or at the hearing or by owners or agents present at the hearing, and the Commission has considered the advisability of proceeding with the project.

FINDINGS:

1. The City Commission has examined the estimates of cost to construct the project including all assessable expenses and determines them to be reasonable.
2. The City Commission has considered the value of the property to be assessed and the value of the benefit to be received by each property proposed to be assessed in the district after the improvements have been made. The City Commission determines that the assessments of costs of the City project will enhance the value of the properties to be assessed in an amount at least equivalent to the assessment and that the improvement thereby constitutes a benefit to the property.

THEREFORE, BE IT RESOLVED:

1. The City Commission hereby declares a special assessment district to include the property set forth in Exhibit A attached to this resolution.
2. The City Commission determines to proceed with the improvements as set forth in the feasibility study and estimates of costs, and directs the City Engineer to proceed with project design, preparation of specifications and the bidding process. If appropriate and

if bonds are to be sold for the purposes of financing the improvements, the Finance Department shall prepare plans for financing including submission of application to the Michigan Department of Treasury and the beginning of bond proceedings.

3. The City Commission hereby appoints a Board of Assessors consisting of City Commissioners Spataro and Warmington and the City Assessor who are hereby directed to prepare an assessment roll. Assessments shall be made upon front foot basis.
4. Based on the City's Special Assessment policy and preliminary estimates it is expected that approximately **24.25%** of the cost of the street improvement will be paid by special assessments.
5. Upon submission of the special assessment roll, the City staff is hereby directed to notify all owners and persons interested in properties to be assessed of the hearing at which the City Commission will consider confirmation of the special assessment roll.

This resolution adopted.

Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, Spataro

Nays: None

CITY OF MUSKEGON

By Gail A. Kunderger
Gail A. Kunderger, Clerk

ACKNOWLEDGMENT

This resolution was adopted at a meeting of the City Commission, held on **February 8, 2005**. 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 Gail A. Kunderger
Gail A. Kunderger, Clerk

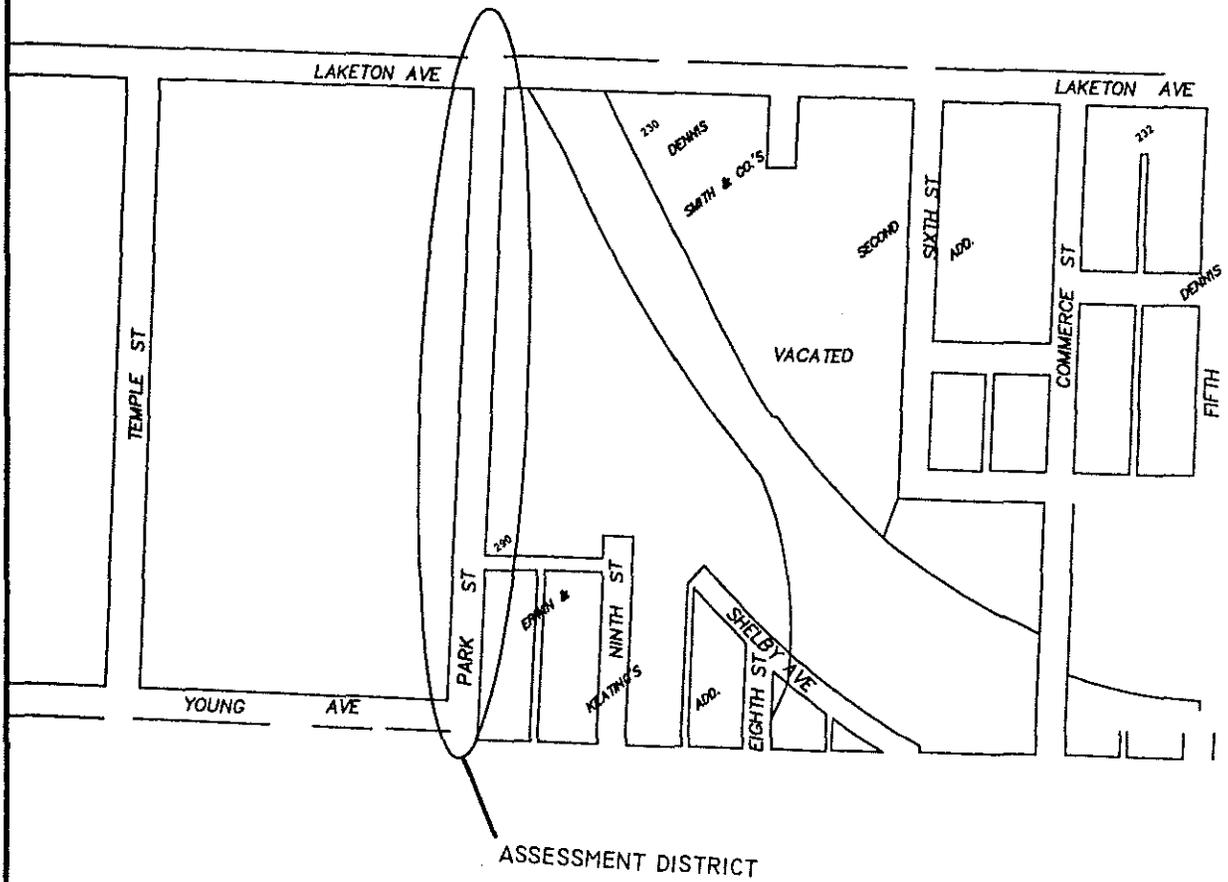
EXHIBIT A

PARK STREET, LAKETON TO YOUNG

SPECIAL ASSESSMENT DISTRICT

All properties abutting that section of Park Street between Laketon & Young

SPECIAL ASSESSMENT DISTRICT FOR PARK STREET EXHIBIT "A"



PARK ST., YOUNG AVE. TO LAKETON AVE.

SPECIAL ASSESSMENT ROLL

PARCEL	@	OWNER	MAILING ADDRESS				PAVING	DR APP / SW	TOTAL
24-131-100-0005-0	491.0	LAKETON AVE	ST MARYS CEMETERY PO BOX 4905	MUSKEGON	MI	49444	\$22,160.62	\$0.00	\$22,160.62
24-131-200-0004-0	391.0	LAKETON AVE	SHORELINE METAL FA 1880 PARK ST	MUSKEGON	MI	49441	\$1,866.00	\$0.00	\$1,866.00
24-131-200-0001-0	1850.0	PARK ST	LOVE JASPER 1850 PARK ST	MUSKEGON	MI	49441	\$6,736.26	\$0.00	\$6,736.26
24-131-200-0002-0	1880.0	PARK ST	SHORELINE METAL FA 1880 PARK ST	MUSKEGON	MI	49441	\$3,078.90	\$0.00	\$3,078.90
24-131-200-0003-0	1922.0	PARK ST	GREATER MUSK TRA 1922 PARK ST	MUSKEGON	MI	49441	\$4,478.40	\$0.00	\$4,478.40
24-290-001-0001-1	1956.0	PARK ST	GREATER MUSK TRA 1922 PARK ST.	MUSKEGON	MI	49441	\$1,847.34	\$0.00	\$1,847.34
24-290-001-0003-0	1968.0	PARK ST	GORAJEC GEORGE 2135 LINCOLN PK DR	MUSKEGON	MI	49441	\$1,866.00	\$0.00	\$1,866.00
24-290-001-0005-0	1974.0	PARK ST	STATE OF MICHIGAN 430 WEST ALLEGAN F LANSING		MI	48922	\$0.00	\$0.00	\$0.00
24-290-001-0006-0	1978.0	PARK ST	KITCHEN JAMES JR/M 1164 SANFORD ST	MUSKEGON	MI	49441	\$839.70	\$0.00	\$839.70
24-290-001-0007-0	1988.0	PARK ST	OLIVAREZ ALEJANDR 3510 W SKEELS RD A	MONTAGUE	MI	49437	\$933.00	\$0.00	\$933.00
24-290-001-0008-0	1996.0	PARK ST	KIEFT HENRY B 1996 PARK ST.	MUSKEGON	MI	49441	\$933.00	\$0.00	\$933.00

H 1588

HEARING DATE NOVEMBER 8, 2005

PARK ST., YOUNG AVE. TO LAKETON AVE.

SPECIAL ASSESSMENT ROLL

PARCEL	@	OWNER	MAILING ADDRESS	PAVING	DR APP / SW	TOTAL
TOTALS				\$44,739.22	\$0.00	<u>\$44,739.22</u>

PLEASE NOTE: PARCELS SHOWING \$0.00 IN THE TOTAL COLUMN ARE EXEMPT

BOARD OF ASSESSORS

LARRY MILLARD, ACTING DIRECTOR, COUNTY EQU DATE

LAWRENCE SPATARO CITY COMMISSIONER DATE

STEPHEN WARMINGTO CITY COMMISSIONER DATE

Laketon to Young St. (from FY 2005 TIP)	1300 Linear feet	Amount	Percentage
Original Cost Est.		250,000.00	
Fed money		159,450.00	63.78%
Local		90,550.00	36.22%

First city letter for special assessment

Street Est		270,000.00	
To be billed to property owners		65,481.60	24.25%
Cost per square foot 1300x2	2600	25.19	
Billed out linear feet	1900	\$34.46	

Second city letter for special assessment

Street Actual Cost		\$179,000.00	
Billed out linear feet	1841	\$44,739.22	24.99%
Cost per square foot 1300x2	2600	17.21	
Billed out linear feet	1841	\$24.30	
Suppose to be 24.25% per first letter		\$43,407.50	24.25%
Over charge of		\$1,331.72	

Third City letter for special assessment

Street Actual Cost		\$179,000.00	
Billed out linear feet	2398	\$44,739.22	24.99%
Cost per square foot 1300x2	2600	17.21	
Billed out linear feet	2398	\$18.66	
Suppose to be 24.25% per first letter		\$43,407.50	24.25%
Over charge of		\$1,331.72	

Overage of .50 cents per linear foot

True cost at 24.25% 2600 \$16.70

Our final proposed special assessment

Street Actual Cost		\$179,000.00	
Billed out linear feet	2398	\$43,407.50	24.25%
Cost per square foot 1300x2	2600	16.70	
Billed out linear feet 64	2536	\$17.12	Minus Young St and Shelby road

Discounts should be absorbed by City

St. Mary's	75
House in Heights	57
State of Michigan House	55

	Linear feet	1st billing	Cost per linear foot est	2nd billing	Cost per linear foot est	3rd billing	Cost per linear foot est	Proposed Final Billing	Cost per linear foot
		Linear feet billed		Linear feet billed		Linear feet billed		Linear feet billed	
West side of Park	1300		\$34.46		\$24.30		\$18.66		\$17.12
St. Mary's	1266	633	\$21,815.71	633	\$15,382.90	1191	\$22,220.35	1191	\$20,385.78
Young St.	34	0		0		0		0	
city discount		0		0		0		0	
East Side of Park	1300	0		0		0		75	\$1,283.74
Whittaker Building	626	626	\$21,574.46	626	\$15,212.79	626	\$11,679.21	626	\$10,714.94
GMT	339	339	\$11,683.30	339	\$8,238.24	339	\$6,324.69	339	\$5,802.50
Shelby Road	30	0		0		0		0	
2 Houses	199	247	\$8,512.61	247	\$6,002.49	247	\$4,608.25	199	\$3,406.19
House on corner of Ke	51	0		0		0		51	\$872.94
State of Michigan Hou	55	55	\$1,895.52					55	\$941.41
Total		1900	\$65,481.60	1845	\$44,836.43	2403	\$44,832.50	2536	\$43,407.50

Project Amount

270,000

179,000

179,000

179,000

Clerk

H 1588

HEARING DATE NOVEMBER 8, 2005

PARK ST., YOUNG AVE. TO LAKETON AVE.

SPECIAL ASSESSMENT ROLL

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24-290-001-0008-0	1996.0	PARK ST	KIEFT HENRY B 1996 PARK ST.	MUSKEGON MI 49441	\$933.00	\$0.00	\$933.00

PARK ST., YOUNG AVE. TO LAKETON AVE.

SPECIAL ASSESSMENT ROLL

PARCEL	@	OWNER	MAILING ADDRESS	PAVING	DR APP / SW	TOTAL
TOTALS				\$44,739.22	\$0.00	<u>\$44,739.22</u>

PLEASE NOTE: PARCELS SHOWING \$0.00 IN THE TOTAL COLUMN ARE EXEMPT

BOARD OF ASSESSORS

 11/9/05
 LARRY MILLARD, ACTING DIRECTOR, COUNTY EQU DATE

 11-10-05
 LAWRENCE SPATARO CITY COMMISSIONER DATE

 11-10-05
 STEPHEN WARMINGTON CITY COMMISSIONER DATE

Commission Meeting Date: November 8, 2005

Date: October 31, 2005

To: Honorable Mayor & City Commission

From: Planning & Economic Development Department *CBC*

RE: Public Hearing for Resolution for Class C Liquor License for Ciggzree Morris

SUMMARY OF REQUEST: To hold a public hearing on the request for a Class C Liquor License for Ciggzree Morris and approve the attached resolution. The Liquor Control Code allows for additional liquor licenses within Downtown Development Authority Districts under certain conditions.

FINANCIAL IMPACT: Approval of the Liquor License will allow for a new restaurant in the downtown area which should result in increased revenue for the City.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To hold the public hearing and approve the attached resolution.

COMMITTEE RECOMMENDATION: The Downtown Development Authority approved the request on November 2, 2005.

**CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN**

RESOLUTION NO. 2005-103(a)

A resolution concerning the issuance of a Development District On-Premise Liquor License pursuant to Sections 521 of the Liquor Control Code of 1998.

The City Commission of the City of Muskegon hereby RESOLVES:

Recitals

1. Ciggzree Morris has applied for a Development District On-Premise Liquor License for the premises at 790 Terrace Street.
2. It is required that the Downtown Development Authority and the City Commission approve the issuance of such license before application may be made to the Michigan Liquor Control Commission.
3. A hearing was held on November 2, 2005, at a special meeting of the DDA, and the said hearing was publicly noticed in *The Muskegon Chronicle*. Public notice was determined by the DDA to be sufficient.
4. A hearing was held November 8, 2005, at the regular meeting of the City Commission. Notice was deemed satisfactory.

DDA Findings

The DDA found the following facts to be true, based upon the application and the materials placed before the DDA in the public hearing:

1. The business shall be a full service restaurant, which prepares food on the premises, and shall be open to the public.
2. The business will be open for food service not less than ten (10) hours per day five (5) days per week.
3. At least 50% of the gross receipts of the business will be derived from the sale of food for consumption on the premises. "Food" does not include beer or wine.
4. The business has dining facilities that will seat more than twenty-five (25) persons.
5. The business is located in the Downtown Development Authority's Development District, which has a population of less than 50,000. The District is duly established under 1975 PA 197.
6. The DDA, after hearing, has found that the issuance of the license will prevent further deterioration within the Development District and will promote economic growth within the Development District.

7. It appears, based upon the showings at the hearing, that the City of Muskegon has issued all appropriate on-premise licenses that are available under Section 531(1) of the Liquor Control Code of 1998. Further, the DDA is satisfied, after hearing, that an appropriate on-premise escrowed license is not readily available in the City of Muskegon, where the entire Development District is located. The DDA has found that such license is not readily available, taking into account all appropriate economic feasibility factors, including the fair market value of any such license, which is not determinable, for the reason that no such license is available after diligent inquiry by the applicant. Further, the DDA has considered the size and scope of the proposed operation and applicant's efforts to purchase a license. No sale of any such license has been offered or available.
8. The DDA, after public hearing, held after notice on November 2, 2005, has approved the issuance of the said Development District On-Premise license.

NOW, THEREFORE, THE CITY COMMISSION RESOLVES:

The City Commission has reviewed the findings of the DDA and held its own hearing, and concurs with the findings of the Downtown Development Authority, and approved in concurrence with the Authority that the Class C license should be issued to Ciggzree Morris at 790 Terrace Street. The City Commission recommends to the Liquor Control Commission the issuance of the said requested license.

This resolution passed.

Ayes Warmington, Gawron, Larson, Shepherd, and Spataro

Nays None

CITY OF MUSKEGON

By Gail A. Kunderger
Gail A. Kunderger, MMC
City Clerk

CERTIFICATE

This resolution was adopted at a meeting of the City Commission, held on November 8, 2005. 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 Gail A. Kunding
Gail A. Kunding, MMC
City Clerk

*Ordinances
require
2nd Reading*

Date: November 8, 2005

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: Defined Contribution Retirement Plan for New Hires (Fire, Non-Union)

SUMMARY OF REQUEST: The city commission has previously approved a contract with the firefighters union that includes provision for new hires to be members of a defined contribution retirement program in lieu of membership in the defined benefit police and fire retirement system. The new fire DC plan calls for a fixed city contribution of 10% and an employee contribution of 6% of wages. Present employees may also join the DC plan on an elective basis during a window period.

We are also recommending at this time implementation of a similar plan for new non-union employees. The outline of the program is the same except for lower contribution rates (6% city; 3% employee) reflecting the fact that these employees are covered by social security (fire employees are not).

Approval of the attached resolutions and ordinance amendments is the final step in putting in place the mechanics of these new programs.

FINANCIAL IMPACT: Moving to a defined contribution plan will help stabilize and better define the city's annual pension costs. We are negotiating similar arrangements for other employee groups.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Approval.

COMMITTEE RECOMMENDATION: None.

PARMENTER O'TOOLE

Attorneys at Law

Memorandum

DATE November 1, 2005
TO: Tim Paul
FROM: Linda S. Kaare *LSK*
RE: Defined Contribution Plan

Attached documents for City Commission meeting on November 8, 2005.

1. Resolution to Adopt DC plan for Union Firefighters.
(MERS program resolution, Adoption Agreement and Decl. of Trust attached)
2. Resolution to Adopt DC plan for Non-Union Police and Fire Employees.
(MERS program resolution, Adoption Agreement and Decl. of Trust attached)
3. Resolution to Adopt DC plan for Non-Union General Employees.
(MERS program resolution, Adoption Agreement and Decl. of Trust attached)
4. Ordinance Amendment to the Police-Fire Retirement System.
(Excludes union firefighters and non-union police and fire employees)
5. Ordinance Amendment to the General Employee Retirement System.
(Excludes non-union general employees)

RESOLUTION # 2005-103(b¹)

**RESOLUTION TO ADOPT MERS DEFINED CONTRIBUTION PLAN
FOR UNION FIREFIGHTERS**

WHEREAS, it has been discussed and negotiated with the Firefighters Local 370 that a defined contribution money purchase plan should be adopted for the union members in lieu of continuing the Defined Benefit Plan for new hires effective January 1, 2005; and,

WHEREAS, it has further been discussed and negotiated that current union members will be given a one time, irrevocable opportunity to convert the greater of their employee contributions, and the present value of their accrued benefit, disregarding vesting, in the City's Defined Benefit Plan, and transfer the corresponding lump sum dollar present value to the defined contribution plan to the credit of the transferring member by January 1, 2006, and

WHEREAS, the City desires to adopt the defined contribution money purchase plan through MERS (with ICMA being the current Third Party Administrator administering the plan);

NOW, THEREFORE, BE IT RESOLVED that the City Commission deems it in the best interest of the City and the Firefighters Local 370 to adopt a defined contribution money purchase retirement plan ("Plan") in the form of the MERS and ICMA documents, effective January 1, 2005. The Plan shall be maintained for the exclusive benefit of eligible employees and their beneficiaries, those eligible employees being members of the Muskegon Firefighters Local 370.

Relevant provisions related to the plan are as follows:

All Local 370 employees hired on and after January 1, 2005 are mandatory participants in the Plan.

The City will contribute 10% of the eligible participant's Medicare taxable W-2 compensation each year and the eligible participant must contribute 6% of his or her Medicare taxable W-2 compensation.

Employees will become vested in the City's 10% annual Plan contributions under a five-year graded vesting schedule with credit given for all years of service since hire with the City, i.e.,

<u>Full Years of Service</u>	<u>Vesting Percentage</u>
< 1 year	0%
1 year	20%
2 years	40%
3 years	60%
4 years	80%
5 years	100%

Additional relevant provisions related to the plan and transfers to the plan are as follows:

Existing Local 370 employees may make a one time, irrevocable, election to transfer the greater of the employee's contributions to the City of Muskegon's Defined Benefit Plan, and the lump sum dollar present value, disregarding vesting, of the individual's accrued benefit in the City of Muskegon's Defined Benefit Plan (accrued benefit disregarding vesting) payable at their normal retirement date as a life annuity, to the Plan prior to January 1, 2006. If the defined benefit plan participant is eligible to receive an immediate benefit, the transfer will be based upon the present value of the individual's accrued benefit payable immediately as a life annuity.

Defined benefit plan participants shall have until November 15, 2005 to elect, in writing, to transfer. Failure to elect to transfer to the Plan constitutes a refusal to transfer. Upon an election to transfer to the Plan, that employee's participation in the defined benefit plan terminates effective December 17, 2005. Assets shall be transferred as soon as possible with values, specified above, as of December 31, 2005. Contributions will commence in the Plan with the pay period commencing December 18, 2005, with the first contribution occurring in January 2006. The Finance Director will work with MERS to develop any additional, detailed procedures and deadline dates for the transfer to the Plan.

BE IT FURTHER RESOLVED that the Mayor and Clerk are authorized to execute the MERS Revised Uniform Defined Contribution Program Resolution and the MERS Uniform Defined Contribution Program Adoption Agreement, copies of which are attached to this resolution along with the approved Declaration of Trust.

BE IT FURTHER RESOLVED that the City has investment direction under the Plan only for unvested employer contributions; each individual participant personally directs the investment for his/her account balance, including all employer contributions, which vest in the participant under the employer vesting schedule

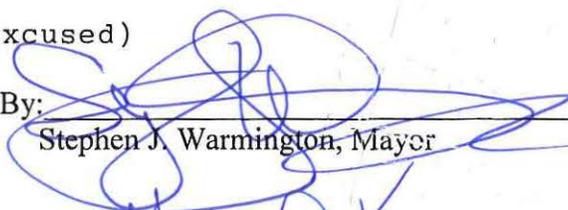
Adopted this 8 day of November, 2005.

Ayes: Gawron, Larson, Shepherd, Spataro, and Warmington

Nays: None

Absent: Carter and Davis (excused)

By:


Stephen J. Warmington, Mayor

Attest:


Gail A. Kunding, MMC, City Clerk

CERTIFICATION
(Adoption of defined contribution plan for union firefighters)

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 November 8, 2005.



Gail A. Kunding, MMC
Clerk, City of Muskegon

MERS REVISED UNIFORM DEFINED CONTRIBUTION PROGRAM RESOLUTION

WHEREAS, the MERS Plan Document of 1996, effective October 1, 1996, authorized a defined contribution option (Section 19A, Benefit Program DC) as a new benefit program that a participating municipality or court may adopt for MERS members to be administered under the discretion of the Municipal Employees' Retirement Board as trustee and fiduciary, directly by (or through a combination of) MERS or MERS' duly-appointed third-party administrator.

WHEREAS, as a new provision, Section 19A, along with the remainder of the Plan, received from the Internal Revenue Service a Letter of Favorable Determination (dated July 8, 1997) that the Plan is a qualified Plan under Section 401 of the Internal Revenue Code, and an exempt trust under Section 501.

WHEREAS, on May 5, 1997, the Municipal Employees' Retirement Board entered into an Alliance Agreement with ICMA-RC (the International City Management Association Retirement Corporation) as third-party administrator for the defined contribution plans under Plan Document Section 19A.

WHEREAS, on November 14, 2001, following MERS' due diligence search and review, the Retirement Board and ICMA-RC entered into the Amended and Restated Alliance Agreement (the "2001 Alliance Agreement") (Attachment 1) for third-party administrator services. Participating employees of MERS' municipalities and courts adopting Benefit Program DC receive enhanced services and favorable decreased participant fees under the 2001 Agreement. Additionally, such services and fees shall also be available where the participating municipality or court adopting Benefit Program DC has in effect (or subsequently establishes) an IRC section 457 deferred compensation plan or section 401(k) plan. Approval of this Revised Uniform Resolution by each MERS participating municipality and court which adopts or has adopted MERS Benefit Program DC is necessary and required in order that the benefits available under the 2001 Alliance Agreement may be extended to covered participants.

WHEREAS, this Revised Uniform Resolution has been approved by the Board under the authority of 1996 PA 220, Section 36(2)(a), MCL 38.1536(2)(a), declaring that the Retirement Board "shall determine . . . and establish" all provisions of the retirement system. Under this authority, the Board authorized Section 19A, the Defined Contribution Benefit Program, which shall not be implemented unless in strict compliance with the terms and conditions of this Revised Resolution.

- It is expressly agreed and understood as an integral and nonseverable part of this Revised Resolution that Section 43B of the Plan Document shall not apply to this Revised Uniform Resolution and its administration or interpretation.
- In the event any alteration of the terms or conditions stated in this Revised Uniform Resolution is made or occurs, under Section 43B or other plan provision or other law, it is expressly recognized that MERS and the Retirement Board, as sole trustee and fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the Defined Contribution Benefit

Program; to authorize the transfer of any defined benefit assets to the Defined Contribution Benefit Program; or to continue administration by the third-party administrator or by MERS directly.

WHEREAS, concurrent with this Revised Resolution, and as a continuing obligation, this governing body has completed and approved, and submitted to MERS documents necessary for adoption and implementation of the MERS Benefit Program DC. This obligation applies to any documents deemed necessary to the operation of the defined contribution program by MERS' third-party administrator.

NOW, THEREFORE, BE IT RESOLVED that the governing body adopts (or readopts) MERS Benefit Program Defined Contribution as provided below.

I. NEW EMPLOYEES

Effective January 1, 2005, (to be known as the **ADOPTION DATE**), the City of Muskegon hereby adopts Benefit Program (MERS municipality/court) DC (as set forth in the MERS Uniform Defined Contribution Program Adoption Agreement) for Members of Muskegon Firefighters Local 370 (specify employees/division #s) **first hired on and after the Adoption Date**, and optional participation for any employee or officer of this municipality otherwise eligible to participate in MERS under Sections 2B(3)(a) and 3(3) of the Plan Document who has previously elected to not participate in MERS. **ONLY THOSE EMPLOYEES ELIGIBLE FOR MERS MEMBERSHIP (SECTIONS 2B(3) AND 3 OF THE PLAN DOCUMENT) SHALL BE ELIGIBLE TO PARTICIPATE.**

- (A) **CONTRIBUTIONS** shall be as allowed and specified in the Adoption Agreement (Attachment 2, completed and approved and a certified copy submitted to MERS concurrent with and incorporated by reference in this Resolution) **subject to the provisions of MERS Plan Document:** Section 19A(2) that employer contributions shall be in any percentage of compensation from 1% to the maximum allowed by the Internal Revenue Code, in increments of 0.1%; and Section 19A(3), under which an employee member may voluntarily contribute additional amounts to the extent allowed by the Code.
- (B) **EARNINGS** under the Adoption Agreement shall include items of "Compensation" under Section 2A(6) of the MERS Plan Document, being the Medicare taxable wages reported on the member's W-2 statement.
- (C) **VESTING** shall be as allowed and specified under:
- (1) Plan Section 19A(12), whose text is set out in Section II(G) of this Revised Resolution: and
 - (2) the Adoption Agreement.

STOP

If covering new employees only, skip II and go to III on page 5.

STOP

II. OPTIONAL PROVISION FOR CURRENT MERS MEMBERS WHERE DC PROGRAM FOR NEW EMPLOYEES ESTABLISHED (PLAN SECTION 19A(8)-(11))

THIS OPTIONAL PROVISION SHALL ONLY BE SELECTED WHERE THE TOTAL FUNDED PERCENT OF AGGREGATE ACCRUED LIABILITIES AND VALUATION ASSETS OF ALL RESERVES SPECIFIED IN TABLE 11 (OR SUCCESSOR TABLE) OF THE MOST RECENT MERS ANNUAL ACTUARIAL VALUATION REPORT IS AT LEAST SIXTY PERCENT (60%).

IT IS ADDITIONALLY RESOLVED, as provided in each of the following paragraphs:

- (A) Effective on the **Adoption Date**, pursuant to Plan Section 19A(8)(b) all current MERS defined benefit members who are members of the same employee classification described in Section I above on the **Adoption Date** shall:

**THE GOVERNING BODY SHALL
SELECT ONLY ONE OF THE FOLLOWING**

- _____ where vested under this municipality's MERS vesting program (10, 8, or 6 years)
- _____ where the employee has at least the following number of years of credited service for this municipality on **Adoption Date**: _____ (insert whole number less than vesting program)
- _____ without regard to vesting

be offered the opportunity to irrevocably elect coverage under Benefit Program DC, under the detailed procedures specified in Plan Section 19A(9)-(11).

- (B) For each eligible employee, an opportunity to irrevocably elect to participate in Benefit Program DC shall be offered. Section 19A(9) specifies an employee's written election to participate shall be filed with MERS: (a) not earlier than the last day of the third month after this Resolution is adopted and received by MERS; and (b) not later than the first day of the first calendar month that is at least six months after MERS receives this Resolution. This means each eligible employee will have about 90 days to make the decision.

After MERS receives this Resolution, this governing body's authorized official and eligible employees will be advised by MERS of the election window timelines and other information to consider in making the irrevocable decision whether to participate in Benefit Program DC.

- (C) Participation for those electing coverage shall be effective the first day of the first calendar month at least seven (7) months after MERS' receipt of the Resolution, here designated as being the month of _____, 20____, (insert month and year) which shall be known as the "**CONVERSION DATE**."

- (D) The opportunity for current employees on the **Adoption Date** to participate in the DC Program shall:

**THE GOVERNING BODY SHALL
SELECT ONLY ONE OF THE FOLLOWING**

_____ apply to all employees who separate from or terminate employment with this municipality after the **Adoption Date** and before the **Conversion Date**, so long as the employee does not receive a retirement allowance from MERS based on service for this municipality.

_____ not apply to any employee who separates from or terminates employment with this municipality after the **Adoption Date**.

- (E) **CONTRIBUTIONS** shall be as provided in Section I (A) above.
- (F) **EARNINGS** shall be as provided in Section I (B) above.
- (G) **VESTING** shall be as provided in Section I (C) above, and participants shall be credited, on participant written request and MERS' verification of such service, with all eligible service, if any, specified in Plan Section 19A(12) which states:

Where a member has previously acquired in the employ of any participating municipality or participating court:

- (a) not less than 1 year of defined benefit service in force with a participating municipality or participating court;
- (b) eligible credited service where the participating municipality or participating court has adopted the Reciprocal Retirement Act, 1961 PA 88;
- (c) at least 12 months in which employer contributions by a participating municipality or participating court have been made on behalf of the member under Benefit Program DC,

such service shall on the member's written request to the employer and MERS' verification of such service be applied toward satisfying the vesting schedule for employer contributions. This requirement shall apply to all adoptions of Benefit Program DC on and after October 1, 2000; where previously adopted, the participating municipality or participating court may adopt this subsection (12) with full effectiveness as of the original defined contribution adoption date for the employer division involved.

- (H) For each employee irrevocably electing to participate in Benefit Program DC, then under Plan Section 19A(11), MERS shall transfer to the member's credit (as adjusted through MERS' records to the **Conversion Date**) the **greater** of:

- (1) The member's accumulated contributions; or
- (2) The actuarial present value (as determined in Paragraph (I) below).

The transfer shall be made approximately 30 calendar days after the **Conversion Date**, and the transfer amount shall include pro-rated regular interest at the regular Board-established

rate of (currently four percent (4%)) measured from the **Conversion Date** to the actual transfer date.

(I) Per Plan Section 19A(11)(b), the Retirement Board has established the assumptions for calculation of the actuarial present value of a member's accrued benefit that may be transferred. The assumptions are:

- (1) **The interest rate in effect as of the Adoption Date, to determine actuarial present value, shall be the Board-established investment earnings rate assumption (currently eight percent (8.00%)).**
- (2) **The funded level for the member's specific MERS division** (total funded percentage of the present value of accrued benefits and valuation assets of all reserves) **as of the Adoption Date** from the most recent MERS annual actuarial valuation report data provided by MERS' actuary. In the APV calculation, the funded level used shall be:

**THE GOVERNING BODY SHALL
SELECT ONLY ONE OF THE FOLLOWING**

_____ Funded level for the division (not to exceed 100% funded level).

_____ If greater than the division's funded level but not more than 100% funded level, then MERS is directed to compute the funded percentage for the transfer calculation on _____% funded basis (insert number not less than funded level percentage and not more than 100%). Where less than 100% funded level exists, this governing body recognizes that such direction shall increase its pension funding liability. MERS shall not implement such direction unless the governing body forwards to MERS sufficient cash up to the funded level selected for all members prior to the **Conversion Date**; if sufficient cash is not forwarded, then the governing body expressly covenants with MERS and directs, as a condition of this selection, to MERS billing and the governing body remitting to MERS all contributions necessary to fund the unfunded liability occasioned by the aggregate transfer of the difference between the actual funded level for the division and funded level directed above over a period of four (4) years.

**III. IMPLEMENTATION DIRECTIONS FOR MERS BENEFIT PROGRAM DC
THIRD-PARTY ADMINISTRATOR.**

- (A) The governing body of this MERS participating municipality or court as Employer desires that MERS Benefit Program DC be administered by MERS' duly-designated third-party administrator and that some or all of the funds held under such plan be invested in the TPA's retirement trust established for the collective investment of funds held under the Employer's retirement, defined contribution, and deferred compensation plans.
- (B) The Employer hereby establishes MERS Benefit Program Defined Contribution as authorized by Section 19A of the Municipal Employees' Retirement System of Michigan Plan Document, in the form of the third-party administrator's IRS-qualified retirement trust.

- (C) The Declaration of Trust (Attachment 2, Appendix A, approved and adopted concurrent with and incorporated by reference in this Resolution) is operative and applies with respect to any MERS Benefit Program DC plan or deferred compensation plan previously or subsequently established by the Employer, if the assets are to be invested in the third-party administrator's retirement trust.
- (D) Finance Director (use title of official, not name) shall be the Employer's MERS Benefit Program Defined Contribution Plan coordinator; shall receive necessary reports, notices, etc., from the third-party administrator or its retirement trust; shall cast, on behalf of the Employer, any required votes under the retirement trust; may delegate any administrative duties relating to the defined contribution plan to appropriate departments.
- (E) The Municipal Employees' Retirement Board retains full and unrestricted authority over the administration of MERS Benefit Program Defined Contribution, including but not limited to the appointment and termination of the third-party administrator, or MERS' self-administration of the defined contribution program in whole or in part.

IV. EFFECTIVENESS OF THIS REVISED RESOLUTION

BE IT FINALLY RESOLVED: This Resolution shall have no legal effect under the MERS Plan Document until a certified copy of this adopting Resolution shall be filed with MERS, and MERS determines that all necessary requirements under Plan Document Section 19A, the 2001 Alliance Agreement, the Adoption Agreement, and this Resolution have been met. All dates for implementation of Benefit Program DC under Section 19A shall be determined by MERS from the date of filing with MERS of this Revised Resolution in proper form and content. Upon MERS determination that all necessary documents have been submitted to MERS, MERS shall record its formal approval upon this Resolution, and return a copy to the Employer's defined contribution plan coordinator identified in Section III (D) above.

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

I hereby certify that the above is a true copy of a Resolution adopted at the official meeting held on November 8, 2005.



(Signature of authorized official)

Please send MERS fully executed copy of: ~~this Revised Resolution~~; Part II (Administrative Services Agreement) of the 2001 Alliance Agreement; Adoption Agreement with Declaration of Trust and certified minutes stating governing body approval, and/or union contract language.

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: _____, 2005 _____
 (Authorized MERS signatory)

Att.

**MERS UNIFORM DEFINED CONTRIBUTION PROGRAM
ADOPTION AGREEMENT**

The Employer, a participating municipality or participating court within the State of Michigan that has adopted MERS coverage, hereby establishes a Section 19A, Benefit Program DC to be known as Union Firefighters DC Retirement Plan

(the "MERS Plan") in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust and attached Declaration of Trust of VantageTrust, as amended and as authorized by Section 19A of the Municipal Employees' Retirement System of Michigan Plan Document.

I. EMPLOYER: City of Muskegon
(Name of municipality or court)

II. The Effective Date of the Benefit Program DC shall be the first day of the Plan Year during which the Employer adopts the Plan, unless an alternate Effective Date is hereby specified: January 1, 2005.

III. Normal Retirement Age shall be age 53 (not to exceed age 65).

IV. ELIGIBILITY REQUIREMENTS

1. The following group or groups of Employees are eligible to participate in the Program:

Members of Muskegon Firefighters Local 370
(Specify employee classification and division numbers)

2. Only those Employees eligible for MERS Membership (Section 3 of the MERS Plan) shall be eligible to participate. (A copy of ALL employee enrollment forms must be submitted to MERS as well as ICMA.)

V. CONTRIBUTION PROVISIONS

1. The Employer shall contribute on behalf of each Participant 10 % of Earnings or \$ n/a for the Plan Year (subject to the limitations of sections 415(c) and (e) of the Internal Revenue Code). Each Participant is required to contribute 6 % of Earnings for the Plan Year as a condition of participation in the Plan. (Write "0" if no contribution is required.)

If Employee contributions are required, an Employee shall not have the right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

The Employer hereby elects to "pick up" the Mandatory/Required Employee contribution. (Allows employee contributions to be made on a pre-tax basis)

Yes No

[**Note to Employer:** Picked up contributions are excludable from the Employee's gross income under Section 414(h)(2) of the Internal Revenue Code of 1986 only if they meet the requirements of Rev. Rul. 81-35, 1981-1 C.B. 255. Those requirements are (1) that the Employer must specify that the contributions, although designated as Employee contributions, are being paid by the Employer in lieu of contributions by the Employee; and (2) the Employee must not have the option of receiving the contributed amounts directly instead of having them paid by the Employer to the Plan.

Neither an advisory opinion letter issued by the Internal Revenue Service with respect to the MERS Plan, nor a determination letter issued to an adopting Employer, is a ruling by the Internal Revenue Service that Employee contributions that are picked up by the Employer are not includible in the Employee's gross income for federal income tax purposes. The Employer may seek such a ruling.]

2. Each Employee may make a voluntary (unmatched), after-tax contribution, subject to the limitations of Sections 415(c) and (e) of the Internal Revenue Code.
3. Employer contributions and Employee contributions shall be contributed to the Trust in accordance with the following payment schedule:

Bi-Weekly

VI. EARNINGS

Earnings shall be the Medicare taxable wages reported on the Employee's W-2 statement.

VII. VESTING PROVISIONS

The Employer hereby specifies the following vesting schedule:

***** **SEE NEXT PAGE** *****

<u>Years of Service Completed</u>	<u>Specified Vesting Requirements</u>
Zero	0 %
One	<u>20</u> %
Two	<u>40</u> %
Three	<u>60</u> %
Four	<u>80</u> %
Five	<u>100</u> %
Six	<u> </u> %
Seven or more	<u>100</u> %

VIII. Loans are permitted under the Program:

Yes No

IX. The Plan will accept an eligible rollover distribution from an eligible retirement plan described in Section 401(a)(including "401(k)") or 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, an eligible deferred compensation plan described in Section 457(b) of the Code maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code, including after-tax employee contributions, as applicable.

Yes No

X. The Employer hereby agrees to the provisions of the MERS Uniform Defined Contribution Program and agrees that in the event of any conflict between Section 19A and the MERS Plan, the provisions of Section 19A shall control.

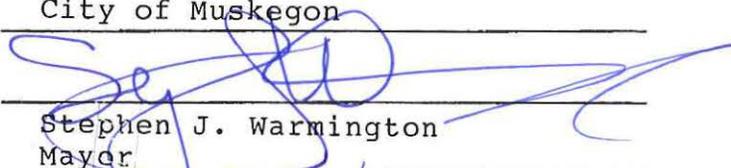
XI. The Employer hereby appoints the ICMA Retirement Corporation as the Plan Administrator pursuant to the terms and conditions of the Plan.

The Employer hereby agrees to the provisions of the Plan.

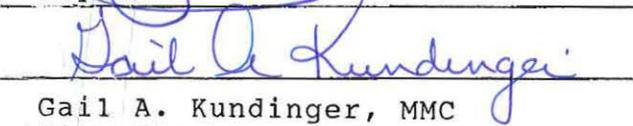
XII. The Employer hereby acknowledges it understands that failure to properly fill out this Adoption Agreement may result in the ineligibility of the Plan in the Benefit Program DC.

In Witness Whereof, the Employer hereby causes this Agreement to be executed on this
8th day of November, 20 05 .

Employer: City of Muskegon

By: 

Title: Stephen J. Warmington
Mayer

Attest: 

Gail A. Kunding, MMC
City Clerk

Appendix A

DECLARATION OF TRUST

This Declaration of Trust (the "Group Trust Agreement") is made as of the 19th day of May 2001, by **VantageTrust Company**, which declares itself to be the sole Trustee of the trust hereby created.

WHEREAS, the ICMA Retirement Trust was created as a vehicle for the commingling of the assets of governmental plans and governmental units described in Section 818(a)(6) of the Internal Revenue Code of 1986, as amended, pursuant to a Declaration of Trust dated October 4, 1982, as subsequently amended, a copy of which is attached hereto and incorporated by reference as set out below (the "ICMA Declaration"); and

WHEREAS, the trust created hereunder (the "Group Trust") is intended to meet the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, and is established as a common trust fund within the meaning of Section 391:1 of Title 35 of the New Hampshire Revised Statutes Annotated, to accept and hold for investment purposes the assets of the Deferred Compensation and Qualified Plans held by and through the ICMA Retirement Trust.

NOW, THEREFORE, the Group Trust is created by the execution of this Declaration of Trust by the Trustee and is established with respect to each Deferred Compensation and Qualified Plan by the transfer to the Trustee of such Plan's assets in the ICMA Retirement Trust, by the Trustees thereof, in accord with the following provisions:

1. **Incorporation of ICMA Declaration by Reference; ICMA By-Laws.** Except as otherwise provided in this Group Trust Agreement, and to the extent not inconsistent herewith, all provisions of the ICMA Declaration are incorporated herein by reference and made a part hereof, to be read by substituting the Group Trust for the Retirement Trust and the Trustee for the Board of Trustees referenced therein. In this respect, unless the context clearly indicates otherwise, all capitalized terms used herein and defined in the ICMA Declaration have the meanings assigned to them in the ICMA Declaration. In addition, the By-Laws of the ICMA Retirement Trust, as the same may be amended from time-to-time, are adopted as the By-Laws of the Group Trust to the extent not inconsistent with the terms of this Group Trust Agreement.

Notwithstanding the foregoing, the terms of the ICMA Declaration and By-Laws are further modified with respect to the Group Trust created hereunder, as follows:

- (a) any reporting, distribution, or other obligation of the Group Trust vis-à-vis any Deferred Compensation Plan, Qualified Plan, Public Employer, Public Employer Trustee, or Employer Trust shall be deemed satisfied to the extent that such

obligation is undertaken by the ICMA Retirement Trust (in which case the obligation of the Group Trust shall run to the ICMA Retirement Trust); and

(b) all provisions dealing with the number, qualification, election, term and nomination of Trustees shall not apply, and all other provisions relating to trustees (including, but not limited to, resignation and removal) shall be interpreted in a manner consistent with the appointment of a single corporate trustee.

2. **Compliance with Revenue Procedure 81-100.** The requirements of Revenue Procedure 81-100 are applicable to the Group Trust as follows:

(a) Pursuant to the terms of this Group Trust Agreement and Article X of the By-Laws, investment in the Group Trust is limited to assets of Deferred Compensation and Qualified Plans, investing through the ICMA Retirement Trust.

(b) Pursuant to the By-Laws, the Group Trust is adopted as a part of each Qualified Plan that invests herein through the ICMA Retirement Trust.

(c) In accord with the By-Laws, that part of the Group Trust's corpus or income which equitably belongs to any Deferred Compensation and Qualified Plan may not be used for or diverted to any purposes other than for the exclusive benefit of the Plan's employees or their beneficiaries who are entitled to benefits under such Plan.

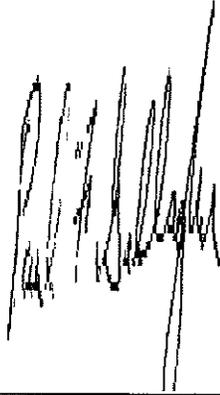
(d) In accord with the By-Laws, no Deferred Compensation Plan or Qualified Plan may assign any or part of its equity or interest in the Group Trust, and any purported assignment of such equity or interest shall be void.

3. **Governing Law.** Except as otherwise required by federal, state or local law, this Declaration of Trust (including the ICMA Declaration to the extent incorporated herein) and the Group Trust created hereunder shall be construed and determined in accordance with applicable laws of the State of New Hampshire.

4. **Judicial Proceedings.** The Trustee may at any time initiate an action or proceeding in the appropriate state or federal courts within or outside the state of New Hampshire for the settlement of its accounts or for the determination of any question of construction which may arise or for instructions.

IN WITNESS WHEREOF, the Trustee has executed this Declaration of Trust as of the day and year first above written.

VANTAGETRUST COMPANY

A handwritten signature in black ink, appearing to read "Paul F. Gallagher", written over a horizontal line.

By: _____

Name: Paul F. Gallagher

Title: Assistant Secretary

RESOLUTION # 2005-103(b²)

RESOLUTION TO ADOPT MERS DEFINED CONTRIBUTION PLAN
FOR NON-UNION POLICE AND FIRE EMPLOYEES

WHEREAS, it has been discussed that non-union police and fire employees, hired after July 1, 2005, shall participate in a defined contribution money purchase plan in lieu of continuing the Defined Benefit Plan for new hires; and,

WHEREAS, the City desires to adopt the defined contribution money purchase plan through MERS (with ICMA being the current Third Party Administrator administering the plan) for the non-union police and fire employees;

NOW, THEREFORE, BE IT RESOLVED that the City Commission deems it in the best interest of the City and the non-union police and fire employees to adopt a defined contribution money purchase retirement plan ("Plan") in the form of the MERS and ICMA documents, effective July 1, 2005. The Plan shall be maintained for the exclusive benefit of eligible employees and their beneficiaries, those eligible employees being non-union police and fire employees of the City of Muskegon.

Relevant provisions related to the plan are as follows:

All non-union police and fire employees hired on and after July 1, 2005 are mandatory participants in the Plan.

The City will contribute 10% of the eligible participant's Medicare taxable W-2 compensation each year and the eligible participant must contribute 6% of his or her Medicare taxable W-2 compensation.

Employees will become vested in the City's 10% annual Plan contributions under a five-year graded vesting schedule with credit given for all years of service since hire with the City, i.e.,

<u>Full Years of Service</u>	<u>Vesting Percentage</u>
< 1 year	0%
1 year	20%
2 years	40%
3 years	60%
4 years	80%
5 years	100%

Due to the fact that neither current police and fire employee desires to transfer their accrued vested interest in the City's Defined Benefit Plan to the defined contribution, the defined contribution plan will be activated when needed in the future.

BE IT FURTHER RESOLVED that the Mayor and Clerk are authorized to execute the MERS Revised Uniform Defined Contribution Program Resolution and the MERS Uniform Defined Contribution Program Adoption Agreement, copies of which are attached to this resolution along with the approved Declaration of Trust.

BE IT FURTHER RESOLVED that the City has investment direction under the Plan only for unvested employer contributions; each individual participant personally directs the investment for his/her account balance, including all employer contributions, which vest in the participant under the employer vesting schedule

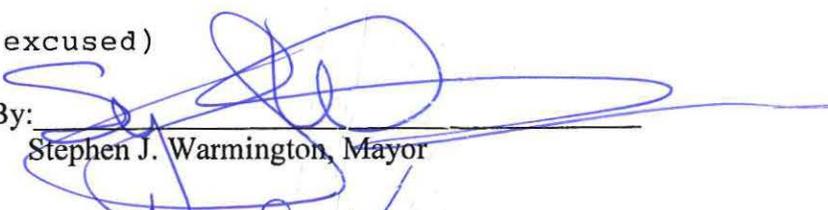
Adopted this 8th day of November, 2005.

Ayes: Gawron, Larson, Shepherd, Spataro, and Warmington

Nays: Nays

Absent: Carter and Davis (excused)

By:



Stephen J. Warmington, Mayor

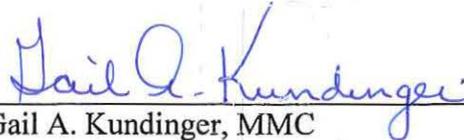
Attest:



Gail A. Kunding, MMC, City Clerk

CERTIFICATION
(Adoption of defined contribution plan for union firefighters)

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 November 8, 2005.



Gail A. Kunding, MMC
Clerk, City of Muskegon

MERS REVISED UNIFORM DEFINED CONTRIBUTION PROGRAM RESOLUTION

WHEREAS, the MERS Plan Document of 1996, effective October 1, 1996, authorized a defined contribution option (Section 19A, Benefit Program DC) as a new benefit program that a participating municipality or court may adopt for MERS members to be administered under the discretion of the Municipal Employees' Retirement Board as trustee and fiduciary, directly by (or through a combination of) MERS or MERS' duly-appointed third-party administrator.

WHEREAS, as a new provision, Section 19A, along with the remainder of the Plan, received from the Internal Revenue Service a Letter of Favorable Determination (dated July 8, 1997) that the Plan is a qualified Plan under Section 401 of the Internal Revenue Code, and an exempt trust under Section 501.

WHEREAS, on May 5, 1997, the Municipal Employees' Retirement Board entered into an Alliance Agreement with ICMA-RC (the International City Management Association Retirement Corporation) as third-party administrator for the defined contribution plans under Plan Document Section 19A.

WHEREAS, on November 14, 2001, following MERS' due diligence search and review, the Retirement Board and ICMA-RC entered into the Amended and Restated Alliance Agreement (the "2001 Alliance Agreement") (Attachment 1) for third-party administrator services. Participating employees of MERS' municipalities and courts adopting Benefit Program DC receive enhanced services and favorable decreased participant fees under the 2001 Agreement. Additionally, such services and fees shall also be available where the participating municipality or court adopting Benefit Program DC has in effect (or subsequently establishes) an IRC section 457 deferred compensation plan or section 401(k) plan. Approval of this Revised Uniform Resolution by each MERS participating municipality and court which adopts or has adopted MERS Benefit Program DC is necessary and required in order that the benefits available under the 2001 Alliance Agreement may be extended to covered participants.

WHEREAS, this Revised Uniform Resolution has been approved by the Board under the authority of 1996 PA 220, Section 36(2)(a), MCL 38.1536(2)(a), declaring that the Retirement Board "shall determine . . . and establish" all provisions of the retirement system. Under this authority, the Board authorized Section 19A, the Defined Contribution Benefit Program, which shall not be implemented unless in strict compliance with the terms and conditions of this Revised Resolution.

- It is expressly agreed and understood as an integral and nonseverable part of this Revised Resolution that Section 43B of the Plan Document shall not apply to this Revised Uniform Resolution and its administration or interpretation.
- In the event any alteration of the terms or conditions stated in this Revised Uniform Resolution is made or occurs, under Section 43B or other plan provision or other law, it is expressly recognized that MERS and the Retirement Board, as sole trustee and fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the Defined Contribution Benefit

Program; to authorize the transfer of any defined benefit assets to the Defined Contribution Benefit Program; or to continue administration by the third-party administrator or by MERS directly.

WHEREAS, concurrent with this Revised Resolution, and as a continuing obligation, this governing body has completed and approved, and submitted to MERS documents necessary for adoption and implementation of the MERS Benefit Program DC. This obligation applies to any documents deemed necessary to the operation of the defined contribution program by MERS' third-party administrator.

NOW, THEREFORE, BE IT RESOLVED that the governing body adopts (or readopts) MERS Benefit Program Defined Contribution as provided below.

I. NEW EMPLOYEES

Effective July 1, 2005, (to be known as the **ADOPTION DATE**), the City of Muskegon hereby adopts Benefit Program (MERS municipality/court) DC (as set forth in the MERS Uniform Defined Contribution Program Adoption Agreement) for Non-Union Police & Fire Employees (specify employees/division #s) **first hired on and after the Adoption Date**, and optional participation for any employee or officer of this municipality otherwise eligible to participate in MERS under Sections 2B(3)(a) and 3(3) of the Plan Document who has previously elected to not participate in MERS. **ONLY THOSE EMPLOYEES ELIGIBLE FOR MERS MEMBERSHIP (SECTIONS 2B(3) AND 3 OF THE PLAN DOCUMENT) SHALL BE ELIGIBLE TO PARTICIPATE.**

- (A) **CONTRIBUTIONS** shall be as allowed and specified in the Adoption Agreement (Attachment 2, completed and approved and a certified copy submitted to MERS concurrent with and incorporated by reference in this Resolution) **subject to the provisions of MERS Plan Document:** Section 19A(2) that employer contributions shall be in any percentage of compensation from 1% to the maximum allowed by the Internal Revenue Code, in increments of 0.1%; and Section 19A(3), under which an employee member may voluntarily contribute additional amounts to the extent allowed by the Code.
- (B) **EARNINGS** under the Adoption Agreement shall include items of "Compensation" under Section 2A(6) of the MERS Plan Document, being the Medicare taxable wages reported on the member's W-2 statement.
- (C) **VESTING** shall be as allowed and specified under:
- (1) Plan Section 19A(12), whose text is set out in Section II(G) of this Revised Resolution: and
 - (2) the Adoption Agreement.

STOP

If covering new employees only, skip II and go to III on page 5.

STOP

II. OPTIONAL PROVISION FOR CURRENT MERS MEMBERS WHERE DC PROGRAM FOR NEW EMPLOYEES ESTABLISHED (PLAN SECTION 19A(8)-(11))

THIS OPTIONAL PROVISION SHALL ONLY BE SELECTED WHERE THE TOTAL FUNDED PERCENT OF AGGREGATE ACCRUED LIABILITIES AND VALUATION ASSETS OF ALL RESERVES SPECIFIED IN TABLE 11 (OR SUCCESSOR TABLE) OF THE MOST RECENT MERS ANNUAL ACTUARIAL VALUATION REPORT IS AT LEAST SIXTY PERCENT (60%).

IT IS ADDITIONALLY RESOLVED, as provided in each of the following paragraphs:

- (A) Effective on the **Adoption Date**, pursuant to Plan Section 19A(8)(b) all current MERS defined benefit members who are members of the same employee classification described in Section I above on the **Adoption Date** shall:

**THE GOVERNING BODY SHALL
SELECT ONLY ONE OF THE FOLLOWING**

- _____ where vested under this municipality's MERS vesting program (10, 8, or 6 years)
- _____ where the employee has at least the following number of years of credited service for this municipality on **Adoption Date**: _____ (insert whole number less than vesting program)
- _____ without regard to vesting

be offered the opportunity to irrevocably elect coverage under Benefit Program DC, under the detailed procedures specified in Plan Section 19A(9)-(11).

- (B) For each eligible employee, an opportunity to irrevocably elect to participate in Benefit Program DC shall be offered. Section 19A(9) specifies an employee's written election to participate shall be filed with MERS: (a) not earlier than the last day of the third month after this Resolution is adopted and received by MERS; and (b) not later than the first day of the first calendar month that is at least six months after MERS receives this Resolution. This means each eligible employee will have about 90 days to make the decision.

After MERS receives this Resolution, this governing body's authorized official and eligible employees will be advised by MERS of the election window timelines and other information to consider in making the irrevocable decision whether to participate in Benefit Program DC.

- (C) Participation for those electing coverage shall be effective the first day of the first calendar month at least seven (7) months after MERS' receipt of the Resolution, here designated as being the month of _____, 20____, (insert month and year) which shall be known as the "**CONVERSION DATE.**"

- (D) The opportunity for current employees on the **Adoption Date** to participate in the DC Program shall:

**THE GOVERNING BODY SHALL
SELECT ONLY ONE OF THE FOLLOWING**

_____ apply to all employees who separate from or terminate employment with this municipality after the **Adoption Date** and before the **Conversion Date**, so long as the employee does not receive a retirement allowance from MERS based on service for this municipality.

_____ not apply to any employee who separates from or terminates employment with this municipality after the **Adoption Date**.

- (E) **CONTRIBUTIONS** shall be as provided in Section I (A) above.

- (F) **EARNINGS** shall be as provided in Section I (B) above.

- (G) **VESTING** shall be as provided in Section I (C) above, and participants shall be credited, on participant written request and MERS' verification of such service, with all eligible service, if any, specified in Plan Section 19A(12) which states:

Where a member has previously acquired in the employ of any participating municipality or participating court:

- (a) not less than 1 year of defined benefit service in force with a participating municipality or participating court;
- (b) eligible credited service where the participating municipality or participating court has adopted the Reciprocal Retirement Act, 1961 PA 88;
- (c) at least 12 months in which employer contributions by a participating municipality or participating court have been made on behalf of the member under Benefit Program DC,

such service shall on the member's written request to the employer and MERS' verification of such service be applied toward satisfying the vesting schedule for employer contributions. This requirement shall apply to all adoptions of Benefit Program DC on and after October 1, 2000; where previously adopted, the participating municipality or participating court may adopt this subsection (12) with full effectiveness as of the original defined contribution adoption date for the employer division involved.

- (H) For each employee irrevocably electing to participate in Benefit Program DC, then under Plan Section 19A(11), MERS shall transfer to the member's credit (as adjusted through MERS' records to the **Conversion Date**) the **greater** of:

- (1) The member's accumulated contributions; or
- (2) The actuarial present value (as determined in Paragraph (I) below).

The transfer shall be made approximately 30 calendar days after the **Conversion Date**, and the transfer amount shall include pro-rated regular interest at the regular Board-established

rate of (currently four percent (4%)) measured from the **Conversion Date** to the actual transfer date.

(I) Per Plan Section 19A(11)(b), the Retirement Board has established the assumptions for calculation of the actuarial present value of a member's accrued benefit that may be transferred. The assumptions are:

- (1) **The interest rate in effect as of the Adoption Date, to determine actuarial present value, shall be the Board-established investment earnings rate assumption (currently eight percent (8.00%)).**
- (2) **The funded level for the member's specific MERS division (total funded percentage of the present value of accrued benefits and valuation assets of all reserves) as of the Adoption Date from the most recent MERS annual actuarial valuation report data provided by MERS' actuary. In the APV calculation, the funded level used shall be:**

**THE GOVERNING BODY SHALL
SELECT ONLY ONE OF THE FOLLOWING**

_____ Funded level for the division (not to exceed 100% funded level).

_____ If greater than the division's funded level but not more than 100% funded level, then MERS is directed to compute the funded percentage for the transfer calculation on _____% funded basis (insert number not less than funded level percentage and not more than 100%). Where less than 100% funded level exists, this governing body recognizes that such direction shall increase its pension funding liability. MERS shall not implement such direction unless the governing body forwards to MERS sufficient cash up to the funded level selected for all members prior to the **Conversion Date**; if sufficient cash is not forwarded, then the governing body expressly covenants with MERS and directs, as a condition of this selection, to MERS billing and the governing body remitting to MERS all contributions necessary to fund the unfunded liability occasioned by the aggregate transfer of the difference between the actual funded level for the division and funded level directed above over a period of four (4) years.

**III. IMPLEMENTATION DIRECTIONS FOR MERS BENEFIT PROGRAM DC
THIRD-PARTY ADMINISTRATOR.**

- (A) The governing body of this MERS participating municipality or court as Employer desires that MERS Benefit Program DC be administered by MERS' duly-designated third-party administrator and that some or all of the funds held under such plan be invested in the TPA's retirement trust established for the collective investment of funds held under the Employer's retirement, defined contribution, and deferred compensation plans.
- (B) The Employer hereby establishes MERS Benefit Program Defined Contribution as authorized by Section 19A of the Municipal Employees' Retirement System of Michigan Plan Document, in the form of the third-party administrator's IRS-qualified retirement trust.

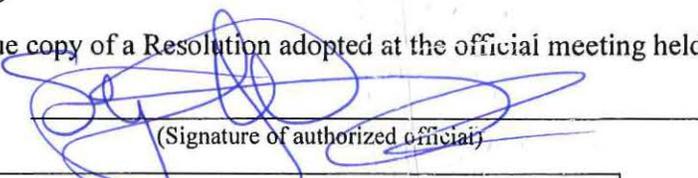
- (C) The Declaration of Trust (Attachment 2, Appendix A, approved and adopted concurrent with and incorporated by reference in this Resolution) is operative and applies with respect to any MERS Benefit Program DC plan or deferred compensation plan previously or subsequently established by the Employer, if the assets are to be invested in the third-party administrator's retirement trust.
- (D) Finance Director (use title of official, not name) shall be the Employer's MERS Benefit Program Defined Contribution Plan coordinator; shall receive necessary reports, notices, etc., from the third-party administrator or its retirement trust; shall cast, on behalf of the Employer, any required votes under the retirement trust; may delegate any administrative duties relating to the defined contribution plan to appropriate departments.
- (E) The Municipal Employees' Retirement Board retains full and unrestricted authority over the administration of MERS Benefit Program Defined Contribution, including but not limited to the appointment and termination of the third-party administrator, or MERS' self-administration of the defined contribution program in whole or in part.

IV. EFFECTIVENESS OF THIS REVISED RESOLUTION

BE IT FINALLY RESOLVED: This Resolution shall have no legal effect under the MERS Plan Document until a certified copy of this adopting Resolution shall be filed with MERS, and MERS determines that all necessary requirements under Plan Document Section 19A, the 2001 Alliance Agreement, the Adoption Agreement, and this Resolution have been met. All dates for implementation of Benefit Program DC under Section 19A shall be determined by MERS from the date of filing with MERS of this Revised Resolution in proper form and content. Upon MERS determination that all necessary documents have been submitted to MERS, MERS shall record its formal approval upon this Resolution, and return a copy to the Employer's defined contribution plan coordinator identified in Section III (D) above.

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

I hereby certify that the above is a true copy of a Resolution adopted at the official meeting held on November 8, 2005.



(Signature of authorized official)

Please send MERS fully executed copy of: this Revised Resolution; Part II (Administrative Services Agreement) of the 2001 Alliance Agreement; Adoption Agreement with Declaration of Trust and certified minutes stating governing body approval, and/or union contract language.

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: _____, 2005 _____
 (Authorized MERS signatory)

Att.

**MERS UNIFORM DEFINED CONTRIBUTION PROGRAM
ADOPTION AGREEMENT**

The Employer, a participating municipality or participating court within the State of Michigan that has adopted MERS coverage, hereby establishes a Section 19A, Benefit Program DC to be known as Non-Union Police/Fire DC
Retirement Plan

(the "MERS Plan") in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust and attached Declaration of Trust of VantageTrust, as amended and as authorized by Section 19A of the Municipal Employees' Retirement System of Michigan Plan Document.

I. EMPLOYER: City of Muskegon
(Name of municipality or court)

II. The Effective Date of the Benefit Program DC shall be the first day of the Plan Year during which the Employer adopts the Plan, unless an alternate Effective Date is hereby specified: July 1, 2005.

III. Normal Retirement Age shall be age 53 (not to exceed age 65).

IV. ELIGIBILITY REQUIREMENTS

1. The following group or groups of Employees are eligible to participate in the Program:

Non-Union Police & Fire Employees

(Specify employee classification and division numbers)

2. Only those Employees eligible for MERS Membership (Section 3 of the MERS Plan) shall be eligible to participate. (A copy of ALL employee enrollment forms must be submitted to MERS as well as ICMA.)

V. CONTRIBUTION PROVISIONS

1. The Employer shall contribute on behalf of each Participant 10 % of Earnings or \$ n/a for the Plan Year (subject to the limitations of sections 415(c) and (e) of the Internal Revenue Code). Each Participant is required to contribute 6 % of Earnings for the Plan Year as a condition of participation in the Plan. (Write "0" if no contribution is required.)

If Employee contributions are required, an Employee shall not have the right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

The Employer hereby elects to "pick up" the Mandatory/Required Employee contribution. (Allows employee contributions to be made on a pre-tax basis)

Yes No

[**Note to Employer:** Picked up contributions are excludable from the Employee's gross income under Section 414(h)(2) of the Internal Revenue Code of 1986 only if they meet the requirements of Rev. Rul. 81-35, 1981-1 C.B. 255. Those requirements are (1) that the Employer must specify that the contributions, although designated as Employee contributions, are being paid by the Employer in lieu of contributions by the Employee; and (2) the Employee must not have the option of receiving the contributed amounts directly instead of having them paid by the Employer to the Plan.

Neither an advisory opinion letter issued by the Internal Revenue Service with respect to the MERS Plan, nor a determination letter issued to an adopting Employer, is a ruling by the Internal Revenue Service that Employee contributions that are picked up by the Employer are not includible in the Employee's gross income for federal income tax purposes. The Employer may seek such a ruling.]

2. Each Employee may make a voluntary (unmatched), after-tax contribution, subject to the limitations of Sections 415(c) and (e) of the Internal Revenue Code.
3. Employer contributions and Employee contributions shall be contributed to the Trust in accordance with the following payment schedule:

Bi-Weekly

VI. EARNINGS

Earnings shall be the Medicare taxable wages reported on the Employee's W-2 statement.

VII. VESTING PROVISIONS

The Employer hereby specifies the following vesting schedule:

***** **SEE NEXT PAGE** *****

<u>Years of Service Completed</u>	<u>Specified Vesting Requirements</u>
Zero	<u>0</u> %
One	<u>20</u> %
Two	<u>40</u> %
Three	<u>60</u> %
Four	<u>80</u> %
Five	<u>100</u> %
Six	<u> </u> %
Seven or more	<u>100</u> %

VIII. Loans are permitted under the Program:

Yes No

IX. The Plan will accept an eligible rollover distribution from an eligible retirement plan described in Section 401(a)(including "401(k)") or 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, an eligible deferred compensation plan described in Section 457(b) of the Code maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code, including after-tax employee contributions, as applicable.

Yes No

X. The Employer hereby agrees to the provisions of the MERS Uniform Defined Contribution Program and agrees that in the event of any conflict between Section 19A and the MERS Plan, the provisions of Section 19A shall control.

XI. The Employer hereby appoints the ICMA Retirement Corporation as the Plan Administrator pursuant to the terms and conditions of the Plan.

The Employer hereby agrees to the provisions of the Plan.

XII. The Employer hereby acknowledges it understands that failure to properly fill out this Adoption Agreement may result in the ineligibility of the Plan in the Benefit Program DC.

In Witness Whereof, the Employer hereby causes this Agreement to be executed on this
8th day of November, 2005.

Employer: City of Muskegon

By: 

Title: Stephen J. Warmington
Mayor

Attest: 
Gail A. Kunding, MMC
City Clerk

Appendix A

DECLARATION OF TRUST

This Declaration of Trust (the "Group Trust Agreement") is made as of the 19th day of May 2001, by **VantageTrust Company**, which declares itself to be the sole Trustee of the trust hereby created.

WHEREAS, the ICMA Retirement Trust was created as a vehicle for the commingling of the assets of governmental plans and governmental units described in Section 818(a)(6) of the Internal Revenue Code of 1986, as amended, pursuant to a Declaration of Trust dated October 4, 1982, as subsequently amended, a copy of which is attached hereto and incorporated by reference as set out below (the "ICMA Declaration"); and

WHEREAS, the trust created hereunder (the "Group Trust") is intended to meet the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, and is established as a common trust fund within the meaning of Section 391:1 of Title 35 of the New Hampshire Revised Statutes Annotated, to accept and hold for investment purposes the assets of the Deferred Compensation and Qualified Plans held by and through the ICMA Retirement Trust.

NOW, THEREFORE, the Group Trust is created by the execution of this Declaration of Trust by the Trustee and is established with respect to each Deferred Compensation and Qualified Plan by the transfer to the Trustee of such Plan's assets in the ICMA Retirement Trust, by the Trustees thereof, in accord with the following provisions:

1. **Incorporation of ICMA Declaration by Reference; ICMA By-Laws.** Except as otherwise provided in this Group Trust Agreement, and to the extent not inconsistent herewith, all provisions of the ICMA Declaration are incorporated herein by reference and made a part hereof, to be read by substituting the Group Trust for the Retirement Trust and the Trustee for the Board of Trustees referenced therein. In this respect, unless the context clearly indicates otherwise, all capitalized terms used herein and defined in the ICMA Declaration have the meanings assigned to them in the ICMA Declaration. In addition, the By-Laws of the ICMA Retirement Trust, as the same may be amended from time-to-time, are adopted as the By-Laws of the Group Trust to the extent not inconsistent with the terms of this Group Trust Agreement.

Notwithstanding the foregoing, the terms of the ICMA Declaration and By-Laws are further modified with respect to the Group Trust created hereunder, as follows:

- (a) any reporting, distribution, or other obligation of the Group Trust vis-à-vis any Deferred Compensation Plan, Qualified Plan, Public Employer, Public Employer Trustee, or Employer Trust shall be deemed satisfied to the extent that such

obligation is undertaken by the ICMA Retirement Trust (in which case the obligation of the Group Trust shall run to the ICMA Retirement Trust); and

(b) all provisions dealing with the number, qualification, election, term and nomination of Trustees shall not apply, and all other provisions relating to trustees (including, but not limited to, resignation and removal) shall be interpreted in a manner consistent with the appointment of a single corporate trustee.

2. **Compliance with Revenue Procedure 81-100.** The requirements of Revenue Procedure 81-100 are applicable to the Group Trust as follows:

(a) Pursuant to the terms of this Group Trust Agreement and Article X of the By-Laws, investment in the Group Trust is limited to assets of Deferred Compensation and Qualified Plans, investing through the ICMA Retirement Trust.

(b) Pursuant to the By-Laws, the Group Trust is adopted as a part of each Qualified Plan that invests herein through the ICMA Retirement Trust.

(c) In accord with the By-Laws, that part of the Group Trust's corpus or income which equitably belongs to any Deferred Compensation and Qualified Plan may not be used for or diverted to any purposes other than for the exclusive benefit of the Plan's employees or their beneficiaries who are entitled to benefits under such Plan.

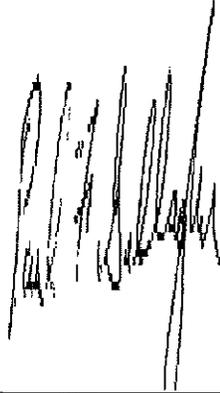
(d) In accord with the By-Laws, no Deferred Compensation Plan or Qualified Plan may assign any or part of its equity or interest in the Group Trust, and any purported assignment of such equity or interest shall be void.

3. **Governing Law.** Except as otherwise required by federal, state or local law, this Declaration of Trust (including the ICMA Declaration to the extent incorporated herein) and the Group Trust created hereunder shall be construed and determined in accordance with applicable laws of the State of New Hampshire.

4. **Judicial Proceedings.** The Trustee may at any time initiate an action or proceeding in the appropriate state or federal courts within or outside the state of New Hampshire for the settlement of its accounts or for the determination of any question of construction which may arise or for instructions.

IN WITNESS WHEREOF, the Trustee has executed this Declaration of Trust as of the day and year first above written.

VANTAGETRUST COMPANY



By: _____
Name: Paul F. Gallagher
Title: Assistant Secretary

RESOLUTION # 2005-103(b³)

**RESOLUTION TO ADOPT MERS DEFINED CONTRIBUTION PLAN
FOR NON-UNION GENERAL EMPLOYEES**

WHEREAS, it has been discussed that a defined contribution money purchase plan should be adopted for the non-union general employees in lieu of continuing the Defined Benefit Plan for new hires effective July 1, 2005; and,

WHEREAS, it has further been discussed that current non-union general employee members will be given a one time, irrevocable opportunity to convert the greater of their employee contributions, and the present value of their accrued benefit, disregarding vesting, in the City's Defined Benefit Plan, and transfer the corresponding lump sum dollar present value to the defined contribution plan to the credit of the transferring member by January 1, 2006, and

WHEREAS, the City desires to adopt the defined contribution money purchase plan through MERS (with ICMA being the current Third Party Administrator administering the plan);

NOW, THEREFORE, BE IT RESOLVED that the City Commission deems it in the best interest of the City and the non-union general employees to adopt a defined contribution money purchase retirement plan ("Plan") in the form of the MERS and ICMA documents, effective July 1, 2005. The Plan shall be maintained for the exclusive benefit of eligible employees and their beneficiaries, those eligible employees being non-union general employees of the City of Muskegon.

Relevant provisions related to the plan are as follows:

All non-union general employees hired on and after July 1, 2005 are mandatory participants in the Plan.

The City will contribute 6% of the eligible participant's Medicare taxable W-2 compensation each year and the eligible participant must contribute 3% of his or her Medicare taxable W-2 compensation.

Employees will become vested in the City's 6% annual Plan contributions under a five-year graded vesting schedule with credit given for all years of service since hire with the City, i.e.,

<u>Full Years of Service</u>	<u>Vesting Percentage</u>
< 1 year	0%
1 year	20%
2 years	40%
3 years	60%
4 years	80%
5 years	100%

Additional relevant provisions related to the plan and transfers to the plan are as follows:

Existing non-union general employees may make a one time, irrevocable, election to transfer the greater of the employee's contributions to the City of Muskegon's Defined Benefit Plan, and the lump sum dollar present value, disregarding vesting, of the individual's accrued benefit in the City of Muskegon's Defined Benefit Plan (accrued benefit disregarding vesting) payable at their normal retirement date as a life annuity, to the Plan prior to January 1, 2006. If the defined benefit plan participant is eligible to receive an immediate benefit, the transfer will be based upon the present value of the individual's accrued benefit payable immediately as a life annuity.

Defined benefit plan participants shall have until December 9, 2005 to elect, in writing, to transfer. Failure to elect to transfer to the Plan constitutes a refusal to transfer. Upon an election to transfer to the Plan, that employee's participation in the defined benefit plan terminates effective December 31, 2005. Assets shall be transferred as soon as possible with values, specified above, as of December 31, 2005. Contributions will commence in the Plan with the pay period commencing December 18, 2005, with the first contribution occurring in January 2006. The Finance Director will work with MERS to develop any additional, detailed procedures and deadline dates for the transfer to the Plan.

BE IT FURTHER RESOLVED that the Mayor and Clerk are authorized to execute the MERS Revised Uniform Defined Contribution Program Resolution and the MERS Uniform Defined Contribution Program Adoption Agreement, copies of which are attached to this resolution along with the approved Declaration of Trust.

BE IT FURTHER RESOLVED that the City has investment direction under the Plan only for unvested employer contributions; each individual participant personally directs the investment for his/her account balance, including all employer contributions, which vest in the participant under the employer vesting schedule

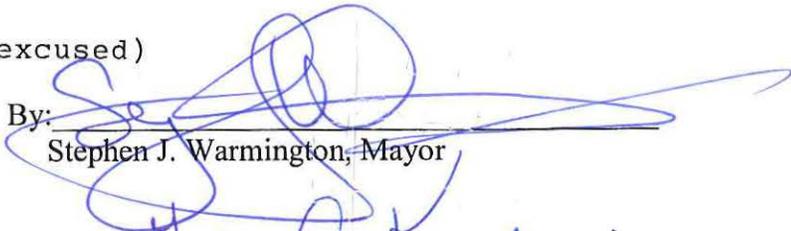
Adopted this 8th day of November, 2005.

Ayes: Gawron, Larson, Shepherd, Spataro, and Warmington

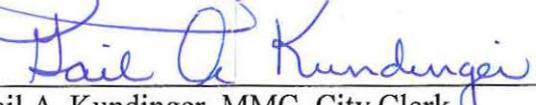
Nays: None

Absent: Carter and Davis (excused)

By:


Stephen J. Warmington, Mayor

Attest:


Gail A. Kundinger, MMC, City Clerk

CERTIFICATION
(Adoption of defined contribution plan for union firefighters)

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 November 8, 2005.



Gail A. Kunding, MMC
Clerk, City of Muskegon

MERS REVISED UNIFORM DEFINED CONTRIBUTION PROGRAM RESOLUTION

WHEREAS, the MERS Plan Document of 1996, effective October 1, 1996, authorized a defined contribution option (Section 19A, Benefit Program DC) as a new benefit program that a participating municipality or court may adopt for MERS members to be administered under the discretion of the Municipal Employees' Retirement Board as trustee and fiduciary, directly by (or through a combination of) MERS or MERS' duly-appointed third-party administrator.

WHEREAS, as a new provision, Section 19A, along with the remainder of the Plan, received from the Internal Revenue Service a Letter of Favorable Determination (dated July 8, 1997) that the Plan is a qualified Plan under Section 401 of the Internal Revenue Code, and an exempt trust under Section 501.

WHEREAS, on May 5, 1997, the Municipal Employees' Retirement Board entered into an Alliance Agreement with ICMA-RC (the International City Management Association Retirement Corporation) as third-party administrator for the defined contribution plans under Plan Document Section 19A.

WHEREAS, on November 14, 2001, following MERS' due diligence search and review, the Retirement Board and ICMA-RC entered into the Amended and Restated Alliance Agreement (the "2001 Alliance Agreement") (Attachment 1) for third-party administrator services. Participating employees of MERS' municipalities and courts adopting Benefit Program DC receive enhanced services and favorable decreased participant fees under the 2001 Agreement. Additionally, such services and fees shall also be available where the participating municipality or court adopting Benefit Program DC has in effect (or subsequently establishes) an IRC section 457 deferred compensation plan or section 401(k) plan. Approval of this Revised Uniform Resolution by each MERS participating municipality and court which adopts or has adopted MERS Benefit Program DC is necessary and required in order that the benefits available under the 2001 Alliance Agreement may be extended to covered participants.

WHEREAS, this Revised Uniform Resolution has been approved by the Board under the authority of 1996 PA 220, Section 36(2)(a), MCL 38.1536(2)(a), declaring that the Retirement Board "shall determine . . . and establish" all provisions of the retirement system. Under this authority, the Board authorized Section 19A, the Defined Contribution Benefit Program, which shall not be implemented unless in strict compliance with the terms and conditions of this Revised Resolution.

- It is expressly agreed and understood as an integral and nonseverable part of this Revised Resolution that Section 43B of the Plan Document shall not apply to this Revised Uniform Resolution and its administration or interpretation.
- In the event any alteration of the terms or conditions stated in this Revised Uniform Resolution is made or occurs, under Section 43B or other plan provision or other law, it is expressly recognized that MERS and the Retirement Board, as sole trustee and fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the Defined Contribution Benefit

Program; to authorize the transfer of any defined benefit assets to the Defined Contribution Benefit Program; or to continue administration by the third-party administrator or by MERS directly.

WHEREAS, concurrent with this Revised Resolution, and as a continuing obligation, this governing body has completed and approved, and submitted to MERS documents necessary for adoption and implementation of the MERS Benefit Program DC. This obligation applies to any documents deemed necessary to the operation of the defined contribution program by MERS' third-party administrator.

NOW, THEREFORE, BE IT RESOLVED that the governing body adopts (or readopts) MERS Benefit Program Defined Contribution as provided below.

I. NEW EMPLOYEES

Effective July 1, 2005, (to be known as the **ADOPTION DATE**), the
City of Muskegon hereby adopts Benefit Program

(MERS municipality/court)

DC (as set forth in the MERS Uniform Defined Contribution Program Adoption Agreement) for
Non-Union General Employees (specify employees/division #s)

first hired on and after the Adoption Date, and optional participation for any employee or officer of this municipality otherwise eligible to participate in MERS under Sections 2B(3)(a) and 3(3) of the Plan Document who has previously elected to not participate in MERS. **ONLY THOSE EMPLOYEES ELIGIBLE FOR MERS MEMBERSHIP (SECTIONS 2B(3) AND 3 OF THE PLAN DOCUMENT) SHALL BE ELIGIBLE TO PARTICIPATE.**

- (A) **CONTRIBUTIONS** shall be as allowed and specified in the Adoption Agreement (Attachment 2, completed and approved and a certified copy submitted to MERS concurrent with and incorporated by reference in this Resolution) **subject to the provisions of MERS Plan Document**: Section 19A(2) that employer contributions shall be in any percentage of compensation from 1% to the maximum allowed by the Internal Revenue Code, in increments of 0.1%; and Section 19A(3), under which an employee member may voluntarily contribute additional amounts to the extent allowed by the Code.
- (B) **EARNINGS** under the Adoption Agreement shall include items of "Compensation" under Section 2A(6) of the MERS Plan Document, being the Medicare taxable wages reported on the member's W-2 statement.
- (C) **VESTING** shall be as allowed and specified under:
- (1) Plan Section 19A(12), whose text is set out in Section II(G) of this Revised Resolution: and
 - (2) the Adoption Agreement.

STOP

If covering new employees only, skip II and go to III on page 5.

STOP

II. OPTIONAL PROVISION FOR CURRENT MERS MEMBERS WHERE DC PROGRAM FOR NEW EMPLOYEES ESTABLISHED (PLAN SECTION 19A(8)-(11))

THIS OPTIONAL PROVISION SHALL ONLY BE SELECTED WHERE THE TOTAL FUNDED PERCENT OF AGGREGATE ACCRUED LIABILITIES AND VALUATION ASSETS OF ALL RESERVES SPECIFIED IN TABLE 11 (OR SUCCESSOR TABLE) OF THE MOST RECENT MERS ANNUAL ACTUARIAL VALUATION REPORT IS AT LEAST SIXTY PERCENT (60%).

IT IS ADDITIONALLY RESOLVED, as provided in each of the following paragraphs:

- (A) Effective on the **Adoption Date**, pursuant to Plan Section 19A(8)(b) all current MERS defined benefit members who are members of the same employee classification described in Section I above on the **Adoption Date** shall:

**THE GOVERNING BODY SHALL
SELECT ONLY ONE OF THE FOLLOWING**

- _____ where vested under this municipality's MERS vesting program (10, 8, or 6 years)
- _____ where the employee has at least the following number of years of credited service for this municipality on **Adoption Date**: _____ (insert whole number less than vesting program)
- _____ without regard to vesting

be offered the opportunity to irrevocably elect coverage under Benefit Program DC, under the detailed procedures specified in Plan Section 19A(9)-(11).

- (B) For each eligible employee, an opportunity to irrevocably elect to participate in Benefit Program DC shall be offered. Section 19A(9) specifies an employee's written election to participate shall be filed with MERS: (a) not earlier than the last day of the third month after this Resolution is adopted and received by MERS; and (b) not later than the first day of the first calendar month that is at least six months after MERS receives this Resolution. This means each eligible employee will have about 90 days to make the decision.

After MERS receives this Resolution, this governing body's authorized official and eligible employees will be advised by MERS of the election window timelines and other information to consider in making the irrevocable decision whether to participate in Benefit Program DC.

- (C) Participation for those electing coverage shall be effective the first day of the first calendar month at least seven (7) months after MERS' receipt of the Resolution, here designated as being the month of _____, 20____, (insert month and year) which shall be known as the "**CONVERSION DATE**."

- (D) The opportunity for current employees on the **Adoption Date** to participate in the DC Program shall:

**THE GOVERNING BODY SHALL
SELECT ONLY ONE OF THE FOLLOWING**

- _____ apply to all employees who separate from or terminate employment with this municipality after the **Adoption Date** and before the **Conversion Date**, so long as the employee does not receive a retirement allowance from MERS based on service for this municipality.
- _____ not apply to any employee who separates from or terminates employment with this municipality after the **Adoption Date**.

(E) **CONTRIBUTIONS** shall be as provided in Section I (A) above.

(F) **EARNINGS** shall be as provided in Section I (B) above.

(G) **VESTING** shall be as provided in Section I (C) above, and participants shall be credited, on participant written request and MERS' verification of such service, with all eligible service, if any, specified in Plan Section 19A(12) which states:

Where a member has previously acquired in the employ of any participating municipality or participating court:

- (a) not less than 1 year of defined benefit service in force with a participating municipality or participating court;
- (b) eligible credited service where the participating municipality or participating court has adopted the Reciprocal Retirement Act, 1961 PA 88;
- (c) at least 12 months in which employer contributions by a participating municipality or participating court have been made on behalf of the member under Benefit Program DC,

such service shall on the member's written request to the employer and MERS' verification of such service be applied toward satisfying the vesting schedule for employer contributions. This requirement shall apply to all adoptions of Benefit Program DC on and after October 1, 2000; where previously adopted, the participating municipality or participating court may adopt this subsection (12) with full effectiveness as of the original defined contribution adoption date for the employer division involved.

(H) For each employee irrevocably electing to participate in Benefit Program DC, then under Plan Section 19A(11), MERS shall transfer to the member's credit (as adjusted through MERS' records to the **Conversion Date**) the **greater** of:

- (1) The member's accumulated contributions; or
- (2) The actuarial present value (as determined in Paragraph (I) below).

The transfer shall be made approximately 30 calendar days after the **Conversion Date**, and the transfer amount shall include pro-rated regular interest at the regular Board-established

rate of (currently four percent (4%)) measured from the **Conversion Date** to the actual transfer date.

(I) Per Plan Section 19A(11)(b), the Retirement Board has established the assumptions for calculation of the actuarial present value of a member's accrued benefit that may be transferred. The assumptions are:

- (1) **The interest rate in effect as of the Adoption Date, to determine actuarial present value, shall be the Board-established investment earnings rate assumption (currently eight percent (8.00%)).**
- (2) **The funded level for the member's specific MERS division (total funded percentage of the present value of accrued benefits and valuation assets of all reserves) as of the Adoption Date from the most recent MERS annual actuarial valuation report data provided by MERS' actuary. In the APV calculation, the funded level used shall be:**

**THE GOVERNING BODY SHALL
SELECT ONLY ONE OF THE FOLLOWING**

_____ Funded level for the division (not to exceed 100% funded level).

_____ If greater than the division's funded level but not more than 100% funded level, then MERS is directed to compute the funded percentage for the transfer calculation on _____% funded basis (insert number not less than funded level percentage and not more than 100%). Where less than 100% funded level exists, this governing body recognizes that such direction shall increase its pension funding liability. MERS shall not implement such direction unless the governing body forwards to MERS sufficient cash up to the funded level selected for all members prior to the **Conversion Date**; if sufficient cash is not forwarded, then the governing body expressly covenants with MERS and directs, as a condition of this selection, to MERS billing and the governing body remitting to MERS all contributions necessary to fund the unfunded liability occasioned by the aggregate transfer of the difference between the actual funded level for the division and funded level directed above over a period of four (4) years.

**III. IMPLEMENTATION DIRECTIONS FOR MERS BENEFIT PROGRAM DC
THIRD-PARTY ADMINISTRATOR.**

- (A) The governing body of this MERS participating municipality or court as Employer desires that MERS Benefit Program DC be administered by MERS' duly-designated third-party administrator and that some or all of the funds held under such plan be invested in the TPA's retirement trust established for the collective investment of funds held under the Employer's retirement, defined contribution, and deferred compensation plans.
- (B) The Employer hereby establishes MERS Benefit Program Defined Contribution as authorized by Section 19A of the Municipal Employees' Retirement System of Michigan Plan Document, in the form of the third-party administrator's IRS-qualified retirement trust.

- (C) The Declaration of Trust (Attachment 2, Appendix A, approved and adopted concurrent with and incorporated by reference in this Resolution) is operative and applies with respect to any MERS Benefit Program DC plan or deferred compensation plan previously or subsequently established by the Employer, if the assets are to be invested in the third-party administrator's retirement trust.
- (D) Finance Director (use title of official, not name) shall be the Employer's MERS Benefit Program Defined Contribution Plan coordinator; shall receive necessary reports, notices, etc., from the third-party administrator or its retirement trust; shall cast, on behalf of the Employer, any required votes under the retirement trust; may delegate any administrative duties relating to the defined contribution plan to appropriate departments.
- (E) The Municipal Employees' Retirement Board retains full and unrestricted authority over the administration of MERS Benefit Program Defined Contribution, including but not limited to the appointment and termination of the third-party administrator, or MERS' self-administration of the defined contribution program in whole or in part.

IV. EFFECTIVENESS OF THIS REVISED RESOLUTION

BE IT FINALLY RESOLVED: This Resolution shall have no legal effect under the MERS Plan Document until a certified copy of this adopting Resolution shall be filed with MERS, and MERS determines that all necessary requirements under Plan Document Section 19A, the 2001 Alliance Agreement, the Adoption Agreement, and this Resolution have been met. All dates for implementation of Benefit Program DC under Section 19A shall be determined by MERS from the date of filing with MERS of this Revised Resolution in proper form and content. Upon MERS determination that all necessary documents have been submitted to MERS, MERS shall record its formal approval upon this Resolution, and return a copy to the Employer's defined contribution plan coordinator identified in Section III (D) above.

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

I hereby certify that the above is a true copy of a Resolution adopted at the official meeting held on November 8, 2005. _____
 (Signature of authorized official)

Please send MERS fully executed copy of: this Revised Resolution; Part II (Administrative Services Agreement) of the 2001 Alliance Agreement; Adoption Agreement with Declaration of Trust and certified minutes stating governing body approval, and/or union contract language.

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: _____, 2005 _____
 (Authorized MERS signatory)

Att.

**MERS UNIFORM DEFINED CONTRIBUTION PROGRAM
ADOPTION AGREEMENT**

The Employer, a participating municipality or participating court within the State of Michigan that has adopted MERS coverage, hereby establishes a Section 19A, Benefit Program DC to be known as Non-Union General Employees

DC Retirement Plan

(the "MERS Plan") in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust and attached Declaration of Trust of VantageTrust, as amended and as authorized by Section 19A of the Municipal Employees' Retirement System of Michigan Plan Document.

I. EMPLOYER: City of Muskegon
(Name of municipality or court)

II. The Effective Date of the Benefit Program DC shall be the first day of the Plan Year during which the Employer adopts the Plan, unless an alternate Effective Date is hereby specified: July 1, 2005.

III. Normal Retirement Age shall be age 55 (not to exceed age 65).

IV. ELIGIBILITY REQUIREMENTS

1. The following group or groups of Employees are eligible to participate in the Program:

Non-Union General Employees

(Specify employee classification **and** division numbers)

2. Only those Employees eligible for MERS Membership (Section 3 of the MERS Plan) shall be eligible to participate. (A copy of ALL employee enrollment forms must be submitted to MERS as well as ICMA.)

V. CONTRIBUTION PROVISIONS

1. The Employer shall contribute on behalf of each Participant 6 % of Earnings or \$ n/a for the Plan Year (subject to the limitations of sections 415(c) and (e) of the Internal Revenue Code). Each Participant is required to contribute 3 % of Earnings for the Plan Year as a condition of participation in the Plan. (Write "0" if no contribution is required.)

If Employee contributions are required, an Employee shall not have the right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

The Employer hereby elects to "pick up" the Mandatory/Required Employee contribution. (Allows employee contributions to be made on a pre-tax basis)

Yes No

[**Note to Employer:** Picked up contributions are excludable from the Employee's gross income under Section 414(h)(2) of the Internal Revenue Code of 1986 only if they meet the requirements of Rev. Rul. 81-35, 1981-1 C.B. 255. Those requirements are (1) that the Employer must specify that the contributions, although designated as Employee contributions, are being paid by the Employer in lieu of contributions by the Employee; and (2) the Employee must not have the option of receiving the contributed amounts directly instead of having them paid by the Employer to the Plan.

Neither an advisory opinion letter issued by the Internal Revenue Service with respect to the MERS Plan, nor a determination letter issued to an adopting Employer, is a ruling by the Internal Revenue Service that Employee contributions that are picked up by the Employer are not includible in the Employee's gross income for federal income tax purposes. The Employer may seek such a ruling.]

2. Each Employee may make a voluntary (unmatched), after-tax contribution, subject to the limitations of Sections 415(c) and (e) of the Internal Revenue Code.
3. Employer contributions and Employee contributions shall be contributed to the Trust in accordance with the following payment schedule:

Bi-Weekly

VI. EARNINGS

Earnings shall be the Medicare taxable wages reported on the Employee's W-2 statement.

VII. VESTING PROVISIONS

The Employer hereby specifies the following vesting schedule:

***** **SEE NEXT PAGE** *****

<u>Years of Service Completed</u>	<u>Specified Vesting Requirements</u>
Zero	<u>0</u> %
One	<u>20</u> %
Two	<u>40</u> %
Three	<u>60</u> %
Four	<u>80</u> %
Five	<u>100</u> %
Six	<u> </u> %
Seven or more	<u>100</u> %

VIII. Loans are permitted under the Program:

Yes No

IX. The Plan will accept an eligible rollover distribution from an eligible retirement plan described in Section 401(a)(including "401(k)") or 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, an eligible deferred compensation plan described in Section 457(b) of the Code maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code, including after-tax employee contributions, as applicable.

Yes No

X. The Employer hereby agrees to the provisions of the MERS Uniform Defined Contribution Program and agrees that in the event of any conflict between Section 19A and the MERS Plan, the provisions of Section 19A shall control.

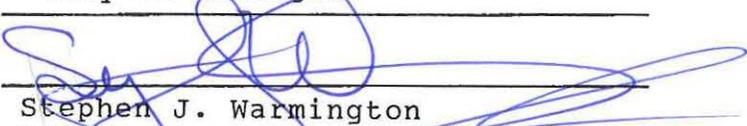
XI. The Employer hereby appoints the ICMA Retirement Corporation as the Plan Administrator pursuant to the terms and conditions of the Plan.

The Employer hereby agrees to the provisions of the Plan.

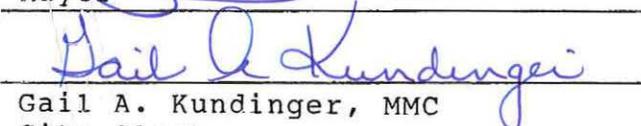
XII. The Employer hereby acknowledges it understands that failure to properly fill out this Adoption Agreement may result in the ineligibility of the Plan in the Benefit Program DC.

In Witness Whereof, the Employer hereby causes this Agreement to be executed on this
8th day of November, 2005.

Employer: City of Muskegon

By: 
Stephen J. Warmington

Title: Mayor

Attest: 
Gail A. Kunding, MMC
City Clerk

Appendix A

DECLARATION OF TRUST

This Declaration of Trust (the "Group Trust Agreement") is made as of the 19th day of May 2001, by **VantageTrust Company**, which declares itself to be the sole Trustee of the trust hereby created.

WHEREAS, the ICMA Retirement Trust was created as a vehicle for the commingling of the assets of governmental plans and governmental units described in Section 818(a)(6) of the Internal Revenue Code of 1986, as amended, pursuant to a Declaration of Trust dated October 4, 1982, as subsequently amended, a copy of which is attached hereto and incorporated by reference as set out below (the "ICMA Declaration"); and

WHEREAS, the trust created hereunder (the "Group Trust") is intended to meet the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, and is established as a common trust fund within the meaning of Section 391:1 of Title 35 of the New Hampshire Revised Statutes Annotated, to accept and hold for investment purposes the assets of the Deferred Compensation and Qualified Plans held by and through the ICMA Retirement Trust.

NOW, THEREFORE, the Group Trust is created by the execution of this Declaration of Trust by the Trustee and is established with respect to each Deferred Compensation and Qualified Plan by the transfer to the Trustee of such Plan's assets in the ICMA Retirement Trust, by the Trustees thereof, in accord with the following provisions:

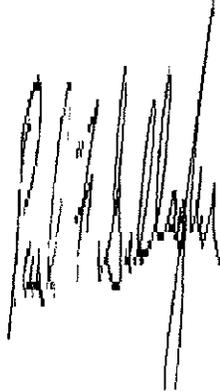
1. **Incorporation of ICMA Declaration by Reference; ICMA By-Laws.** Except as otherwise provided in this Group Trust Agreement, and to the extent not inconsistent herewith, all provisions of the ICMA Declaration are incorporated herein by reference and made a part hereof, to be read by substituting the Group Trust for the Retirement Trust and the Trustee for the Board of Trustees referenced therein. In this respect, unless the context clearly indicates otherwise, all capitalized terms used herein and defined in the ICMA Declaration have the meanings assigned to them in the ICMA Declaration. In addition, the By-Laws of the ICMA Retirement Trust, as the same may be amended from time-to-time, are adopted as the By-Laws of the Group Trust to the extent not inconsistent with the terms of this Group Trust Agreement.

Notwithstanding the foregoing, the terms of the ICMA Declaration and By-Laws are further modified with respect to the Group Trust created hereunder, as follows:

- (a) any reporting, distribution, or other obligation of the Group Trust vis-à-vis any Deferred Compensation Plan, Qualified Plan, Public Employer, Public Employer Trustee, or Employer Trust shall be deemed satisfied to the extent that such

IN WITNESS WHEREOF, the Trustee has executed this Declaration of Trust as of the day and year first above written.

VANTAGETRUST COMPANY

A handwritten signature in black ink, appearing to read "Paul F. Gallagher", written over a horizontal line.

By: _____
Name: Paul F. Gallagher
Title: Assistant Secretary

**City of Muskegon
Muskegon County, Michigan
Ordinance Amendment No. _____**

THE CITY OF MUSKEGON HEREBY ORDAINS:

Chapter 62-233 of the Code of Ordinances of the City of Muskegon concerning the Police-Fire Retirement System is amended to state as follows:

- (a) The membership of the retirement system shall include all police officers and firefighters who are in the employ of the City and all police officers and firefighters who become employed by the City, except as provided in subsection (b) of this section.
- (b) The membership of the retirement system shall not include:
 - (1) Temporary or civilian employees of the police or fire departments;
 - (2) Special officers or special firefighters; ~~or~~
 - (3) Privately employed police officers or firefighters;
 - (4) *All unionized firefighters who become employed by the City as firefighters after December 31, 2004;*
 - (5) *All unionized firefighters who elect to transfer their interest in the City's defined benefit plan to the City's defined contribution retirement system effective January 1, 2006; or*
 - (6) *All non-unionized police officers and firefighters who become employed by the City as police officers or firefighters after July 1, 2005.*
- (c) Except as provided in subsection (d) of this section and except for the purpose of subsection 62-234(c), should any member cease to be employed by the City as a police officer or a firefighter he shall thereupon cease to be a member.
- (d) A member who remains in the employ of the City but ceases to be a police officer or a firefighter shall remain a member of the retirement system for the duration of his city employment. A member who retains membership in this retirement system pursuant to Section 62-233(d) shall be required to make contributions and is afforded retirement benefits as if the member had not left employment within the Police or Fire Department.

- (e) In any case of doubt as to the membership status of any person the board shall decide the question within the meaning of the provisions of this article.

This ordinance adopted:

Ayes: _____
Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By _____
Gail A. Kunding, 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 _____ day of _____, 2005, 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: _____, 2005

Gail A. Kunding, 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**

TO: ALL PERSONS INTERESTED

Please take notice that on _____, 2005, the City Commission of the City of Muskegon adopted an amendment to Section 62-233, Retirement System Membership, under the Police-Fire Retirement System ordinance of the City of Muskegon, summarized as follows:

- (b) The membership of the retirement system shall not include:
- (1) Temporary or civilian employees of the police or fire departments;
 - (2) Special officers or special firefighters; ~~or~~
 - (3) Privately employed police officers or firefighters;
 - (4) *All unionized firefighters who become employed by the City as firefighters after December 31, 2004;*
 - (5) *All unionized firefighters who elect to take part in the City's defined contribution retirement system effective January 1, 2006; or*
 - (6) *All non-unionized police officers and firefighters who become employed by the City as police officers or firefighters after July 1, 2005.*

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.

CITY OF MUSKEGON

Published: _____, 2005

By _____
Gail A. Kundinger, MMC, Its Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

**City of Muskegon
Muskegon County, Michigan
Ordinance Amendment No. _____**

THE CITY OF MUSKEGON HEREBY ORDAINS:

Chapter 62-34 of the Code of Ordinances of the City of Muskegon concerning the General Employee Retirement System is amended to state as follows:

(a) A person who is in the employ of the city in a membership position shall be a member of the retirement system. A membership position is a city position normally requiring 1,500 or more hours of work in a calendar year, except as provided in subsection (b) of this section.

- (b) The following types of city employment are not membership positions:
- (1) Contractual employment;
 - (2) Employment compensated on a fee basis;
 - (3) Employment as an elected official; and
 - (4) Employment as a policeman or fireman as defined by the city police-fire retirement system established and maintained in accordance with Chapter XIX of the Charter of the city.

(c) A member who ceases to be employed by the city in a membership position shall thereupon cease to be a member.

(d) The membership of the retirement system shall not include city non-union employees who become employed by the City after July 1, 2005, and city non-union employees who elect to transfer their interest in the City's defined benefit plan to the City's defined contribution retirement system effective January 1, 2006.

(e) (d) The board of trustees shall decide all questions concerning the membership status of any person.

(f) (e) The city manager may elect to be excluded from membership in the retirement system. The election shall be made in writing in the form prescribed by the retirement system within 90 days after the date the individual becomes city manager. As used in this subsection, "city manager" means the individual who is appointed by, serves at the pleasure of and is designated by the city commission to be the city manager. The following conditions shall apply to a city manager regarding membership in the retirement system:

- (1) If the city manager fails to elect to be excluded from membership in the retirement system within 90 days after becoming the city manager, the city manager shall remain a member of the retirement system.
- (2) Upon becoming a member in the retirement system, the city manager shall not have the option to elect to be excluded from the retirement system unless the election is made within the 90-day period.

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 _____, 2005, 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: _____, 2005

Gail A. Kunding, 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**

TO: ALL PERSONS INTERESTED

Please take notice that on _____, 2005, the City Commission of the City of Muskegon adopted an amendment to Section 62-34, Membership of Retirement System, under the General Employee Retirement System ordinance of the City of Muskegon, summarized as follows:

(d) The membership of the retirement system shall not include city non-union employees who become employed by the City after July 1, 2005, and city non-union employees who elect to transfer their interest in the City's defined benefit plan to the City's defined contribution retirement system effective January 1, 2006.

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.

CITY OF MUSKEGON

Published: _____, 2005

By _____
Gail A. Kunding, MMC, Its Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

Commission Agenda Item: # _____

MEMORANDUM

To: Mayor and City Commissioners
From: Lee Slaughter, Assistant City Manager
Date: November 1, 2005
Re: Agreement between Nutritional Services for Older Americans, Inc
(NSOA) and the City for the Use of McGraft Park Community Building.

SUMMARY OF REQUEST

Staff recommends that the Mayor signs a one-year agreement with Nutritional Services for Older Americans, Inc. for the use of the Community Building at McGraft Park. The agreement calls for the City to provide NSOA with the amount of \$8,317 for support staff time to offer recreation and wellness services for seniors at McGraft Park. NSOA will in turn pay the monthly fee of \$200 for the use of the facility.

FINANCIAL IMPACT

McGraft Park: \$8,317

BUDGET ACTION REQUIRED

None.

STAFF RECOMMENDATION

Staff recommend approval.

AGREEMENT BETWEEN

NUTRITIONAL SERVICES FOR OLDER AMERICANS, INC. (NSOA)

AND

The City of Muskegon

FOR THE MCGRAFT PARK COMMUNITY BUILDING and Senior Citizen Programs

The purpose of the agreement is to establish the working arrangements for the occupancy of the City owned McGraft Park Community Building by the Senior Nutrition Program operated by Nutritional Services for Older American, Inc. (NSOA). The specifics of this agreement shall be as follows:

1. The City of Muskegon agrees to allow use of the McGraft Park Community Building to NSOA to operate as a location for senior meals and support services for seniors in the area.
2. NSOA will pay to the City \$200.00 per month as a fee for expenses of rent and utilities including garbage service.
3. A telephone will be provided at the expense of NSOA.
4. The City will provide a locked office for the program. A locked cupboard for storage in the kitchen will also be provided.
5. NSOA will provide all materials for the program meal. NSOA has full and complete responsibility for the operation of the program.
6. NSOA agrees to work with City personnel to promote recreational opportunities for seniors.
7. NSOA agrees to try to secure grants if available towards facility improvements.
8. The building will be available to NSOA from Monday through Friday during business hours – typically 9 - 3. Exceptions are voting days and the third Wednesday of the month “Shuffleboard Potlucks” during the summer. NSOA may use the building for an evening event when approved by the City.
9. The care and maintenance of the facility is the City’s responsibility with NSOA responsible for routine daily clean-up; which is wiping tables, counters, sinks, and spills, and disposing of food and supply waste; leaving kitchen and dining area ready for use by any other tenants.
10. NSOA provides liability insurance for its centers. Written evidence is available upon request.

11. The City agrees to financial support in the amount of \$ 8,317 staff time for recreational programs provided at McGraft Park for the city of Muskegon seniors. These activities are wellness programs including exercise and health and a diversity of enrichment programs.

12. Either party with sixty- (60) day notice may terminate this agreement.

The inclusive dates of this agreement are October 1, 2005 through September 30, 2006.

FOR: City of Muskegon

933 Terrace Street
Muskegon, MI 49440

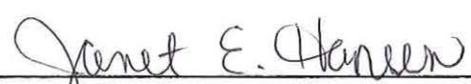


Steve Warmington
Mayor of Muskegon

11-10-05
Date

FOR: Nutritional Services

Meals on Wheels
1540 W. Sherman Blvd.
Muskegon, MI 49441



Janet E. Hansen
Chairperson of the Board

1-04-06
Date

Commission Meeting Date: November 8, 2005

*Remover
per Staff*

Date: October 26, 2005
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department *CBC*
RE: Sale of Buildable Vacant Lot at 445 Marquette

SUMMARY OF REQUEST:

To deny the sale of a vacant buildable lot at 445 Marquette Avenue (Parcel #24-205-012-0001-00) to the Fountain of Love Church, 289 E Isabella Street, Muskegon, MI. The lot is about an acre. The Fountain of Love Church proposed to construct a church with recreation center and parking on the property. The True Cash Value (TCV) for the property listed in the Assessor's office is \$8,080, and our price is set at \$6,060 which is 75% of that amount.

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the attached resolution and to authorize both the Mayor and the Clerk to sign said resolution.

COMMITTEE RECOMMENDATION:

The Land Reutilization Committee recommended denial of the sale at their regular meeting of October 25, 2005.

Resolution No. _____

MUSKEGON CITY COMMISSION

RESOLUTION DENYING THE SALE OF A BUILDABLE LOT AT 445 MARQUETTE AVENUE IN JACKSON HILL NEIGHBORHOOD FOR \$6,060 as recommended by the Land Reutilization Committee at their regular meeting of October 25, 2005.

WHEREAS, Fountain of Love Church has not placed any deposit for the parcel designated as parcel number 24-205-012-0001-00, located at 445 Marquette Avenue; and

WHEREAS, the price for parcel number 24-205-012-0001-00 is set by the City at \$6,060, which is 75% of the True Cash Value (TCV) listed in the City Assessor's Office; and

WHEREAS, the sale would not generate additional tax revenue for the City; and

WHEREAS, the sale is not consistent with City policy regarding the disposition of buildable lots, in that, the proposal was to construct a church with a recreation center and parking on this property.

NOW THEREFORE BE IT RESOLVED, that parcel number 24-205-012-0001-00, located at 445 Marquette Avenue not be sold to the Fountain of Love Church for \$6,060.

**CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 1, 2, 3, 6 & 7 & W 16 ½ FT
OF THAT PART OF CHARLES ST VACATED ADJACENT TO LOTS 1 & 7 BLK 12**

Adopted this _____ day of November 2005

Ayes:

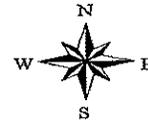
Nays:

Absent

By: _____
Stephen J. Warmington
Mayor

Attest: _____
Gail Kunding, MMC
City Clerk

City owned property



445 Marquette (Charles/Marquette)



445 Marquette (Charles)



445 Marquette (From Jackson Hill Baptist Church)

CITY OF MUSKEGON
LAND REUTILIZATION COMMITTEE
REGULAR MEETING
MINUTES (Excerpt)

October 25, 2005

Vice-Chairman J. Martin Jr. called the meeting to order at 4:12 p.m. and roll was taken.

MEMBERS PRESENT: J. Martin Jr., K. Davis, R. Allen, C. Shepherd

MEMBERS ABSENT: R. Hill, excused, M. Amrhein, J. McClain,

STAFF PRESENT: H. Mitchell, D. Leafers

OTHERS PRESENT: Muskegon High School Students

Request to sell the City owned property at 445 Marquette Ave. for the construction of a church, by Scottie McKinley for Fountain of Love Church. H. Mitchell presented the staff report. The property is about 1 acre in size and has frontage on Wood St., Charles St., and Marquette Ave. It is zoned R-1, Single Family Residential, as are the adjacent properties, with the exception of the park bounded by Wood, Marquette, Erickson, and Cross which is zoned OSR, Open Space Recreation. Churches are allowed in an R-1 zoning district with a Special Use Permit (SUP) granted by the Planning Commission. The church would be 8,500 square feet and would include a recreation center. No one would reside on the property. The true cash value of this property is \$8,080 and the selling price is \$6,060 (75% of the TCV). The property is adjacent to a convenience store located at the corner of Wood and Marquette. Staff found that there are 5 churches within just over a quarter mile radius of this property. The Jackson Hill Neighborhood Association was sent a copy of the LRC agenda. Should the LRC recommend approval of the sale, staff would suggest the following conditions: 1) the City Commission must approve the sale, 2) the sale would be contingent upon Planning Commission approval of the Special Use Permit and any conditions placed on it, and 3) the church would have to be constructed within the policy requirement of 18 months.

C. Shepherd stated that there were already several churches in this area. R. Allen stated he had several questions about the proposed church; however, the applicant was not present to answer them. He would have liked to see something showing that the financial means to construct the church was in place. K. Davis pointed out that this was a large lot that could support several houses, and if another church were built there, the property would be taken off the tax rolls as churches are tax exempt. He also stated that the City had had success with the in-fill housing program in this area. J. Martin Jr. asked H. Mitchell if she had spoken to the applicant about attending the meeting. H. Mitchell stated she had advised Mr. McKinley that he or a church representative should attend to answer questions.

A motion to recommend that the City Commission deny the request to purchase the vacant city lot at 445 Marquette to build a church, was made by C. Shepherd, supported by R. Allen and approved, with J. Martin Jr. voting nay.